

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION  
CASE NO.: 1:05-CV-00121

ALICE J. ALSTON, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 METROPOLITAN LIFE INSURANCE )  
 COMPANY and THE IBM LONG-TERM )  
 DISABILITY PLAN, )  
 )  
 Defendants. )

DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT

NOW COMES Defendants Metropolitan Life Insurance Company (“MetLife”) and the IBM Long-Term Disability Plan (the “Plan”), pursuant to the provisions of Rule 56 of the Federal Rules of Civil Procedure, and hereby move the Court for entry of Summary Judgment against Plaintiff, for that the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that Defendants are entitled to a judgment thereon as a matter of law.

This 30<sup>th</sup> day of November, 2005.

*Attorneys for Defendants MetLife  
and the Plan*

/s/ Stephen A. Dunn  
Stephen A. Dunn  
State Bar No. 12389

/s/ James M. Mason

James M. Mason

State Bar No. 32815

EMANUEL & DUNN, PLLC

130 South Salisbury Street

Post Office Box 426

Raleigh, North Carolina 27602

(919) 832-0329 (PHONE)

(919) 832-0731 (FAX)

CERTIFICATE OF SERVICE

The undersigned hereby certifies the foregoing MOTION FOR SUMMARY JUDGMENT was served on Plaintiff by deposit in the United States Mail, Postage prepaid, addressed to her attorney of record as follows:

Andrew O. Whiteman  
Hartzell & Whiteman, L.L.P.  
2626 Glenwood Avenue, Suite 500  
Raleigh NC 27608

This 30<sup>th</sup> day of November, 2005.

/s/ James M. Mason  
James M. Mason