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# Press Release

**FOR IMMEDIATE RELEASE**

## **David 2, Goliath 0**

Small LI law firm wins landmark decision

NY State Court of Appeals rules against insurance giant MetLife

***Ruling may help thousands of disabled people recover previously denied monetary claims***

WOODBURY, NY, JULY 20, 2007: The law firm of Gisonni and Harms announced today a major victory for many disabled employees who have been denied disability benefits. In the precedent setting case of Benesowitz v. MetLife et al., the NY State Court of Appeals, NY's highest court, issued a decision construing a statute against MetLife whereby the insurance giant refused to pay disability benefits to disabled policy holders suffering from a pre-existing condition

This decision will have a positive impact on already disabled employees whose benefits MetLife had previously denied for this reason. In addition to the immediate impact on MetLife, this ruling will also force insurance companies offering group insurance in New York to change the way they are doing business.

Mr. Benesowitz, who suffers from kidney disease and is the recipient of a donor kidney, has fought a long legal battle which brought him to the federal Second Circuit Court of Appeals and ultimately to the New York State Court of Appeals on a certified question. "All too often disabled insureds like Mr. Benesowitz must fight their illnesses and at the same time, battle their disability carriers. Mr. Benesowitz showed extraordinary courage in dealing with his disease while pressing on with his case against MetLife. This decision is a victory for the underdog and renews our faith in the legal system" said Eve-Lynn Gisonni, counsel for Benesowitz.

For Richard Harms, Eve-Lynn's partner, this case hit close to home as he watched his own sister suffer with kidney disease for over 20 years. Two years ago he unselfishly donated his own kidney to save his sister's life. "Knowing first hand the toll kidney disease takes on people, Eve-Lynn and I were determined not to allow this type of injustice to continue."

A law protecting those insureds with a pre-existing condition who are covered by a group insurance policy was enacted by the New York State legislature in 1993. However, group disability insurance carriers, including MetLife and UNUMProvident, have used their own interpretation and refused to follow the spirit of the law. The New York State Court of

Appeals agreed with the interpretation advanced by Gisonni & Harms for the Plaintiff Mitchell Benesowitz that disabled New Yorkers insured under these policies need only wait a total of 12 months before their benefits for pre-existing conditions will commence. Previously, MetLife and other insurers refused to pay benefits at all when an employee's disability arose in the first 12 months of coverage.

In the case, Benesowitz v. MetLife, et al., 2007 NY Slip Op 05580, Judge Graffeo delivered a strongly-worded opinion in favor of the Plaintiff, relying on the legislative history of Insurance Law Section 3234 and the similarities between Section 3234 and its sister health insurance counterpart Section 3232. There has never been a dispute that Section 3232 covered medical insurance claims for services for pre-existing conditions. Disability insurance companies resisted employing the correct interpretation to preserve their bottom line in a challenging economy. The Court stated that insurance companies may still underwrite individual risks and charge comparable premiums as authorized under the statute.

Mr. Benesowitz is represented by Gisonni & Harms of Woodbury, New York, a socially responsible firm whose mission is to protect the rights of individuals. In addition, the firm specializes in Labor Law, Wrongful Death, Property Damage, Wills, Estate Planning, Estate Administration, Real Estate, Business Transactions, and Contracts. The office is located at 20 Crossways Park North, Suite 412, Woodbury, New York 11797,

You can phone Ms. Gisonni and Mr. Harms at 516-921-7773. Direct all email correspondence to [elgisonni@gisonniandharms.com](mailto:elgisonni@gisonniandharms.com) or [rharms@gisonniandharms.com](mailto:rharms@gisonniandharms.com).

Mr. Benesowitz is available to be interviewed through the firm. Contact attorney Eve-Lynn Gisonni or Richard Harms at above numbers and email address.

For more information go to [www.gisonniandharms.com](http://www.gisonniandharms.com).