



MY BENESCH MY TEAM

MEETING THE CHALLENGE

2008 Annual Review

 **BENESCH**
Attorneys at Law

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During the fourth quarter of 2008, our firm adopted its most recent strategic plan. Our plan focuses on both growth and client service. At about the same time, the business environment changed in a meaningful way. I believe it can be said without hyperbole that the changing credit markets have made doing business more challenging, not only for law firms but also for businesses in general as well as for the communities in which we live and work. Certainly, the civic and charitable sectors face their own significant tests during 2009.

Notwithstanding the difficult economy, we are committed to our growth plan and to emerging stronger as business improves. We have identified our core strengths and intend to focus our resources on growth in those areas. One such area is client service. We spent a lot of time during the last year talking with and surveying our clients with the goal of continuing to improve service and provide value. Many of our clients shared ideas with us. We are grateful for their time and candor and intend to implement many of their suggestions. One suggestion we have incorporated into our plan is to increase our involvement in alternative fee arrangements. We understand, especially now, that budgeting and predictability are important, and we are anxious to partner with our clients to achieve this goal. Also, as we have over the past several years, we look forward to hearing from our clients about how we can serve them better. We will do so by continuing to meet with them and asking them in writing how we are doing.

During the last several months, we have added to our core strengths by creating a Public Finance Group and increasing our capacity in our Public Law and Intellectual Property Groups. We plan to continue to add strength in several areas, including health care, intellectual property, real estate, corporate, private equity and litigation, including construction and transportation.

Among the core values that are woven into the fabric of our firm is community involvement, which we encourage and expect among our attorneys. We are and will remain active in all of our communities. We understand that the strength of our firm is enhanced by and dependent upon the strength of the cities in which we live.

Benesch is focused on improving client service and working to assist our clients in value-added ways. Again, I would like to thank all of our business partners, friends and family for their contributions to our firm and for helping us achieve our goals.

A handwritten signature in black ink that reads "Ira Kaplan". The signature is fluid and cursive.

Ira Kaplan
Managing Partner

FIRM HIGHLIGHTS

Bradford Sandler was appointed Co-Chair of the **Special Projects Task Force of the Asset Sales Committee of the American Bankruptcy Institute**. He was also appointed to the **Board of Directors for the Philadelphia Art Alliance**, and was named one of 101 **Top Connectors by Leadership Philadelphia**.

Frank Reed, Jr. was appointed to the **Ohio State Bar Association Council of Delegates**, one of two major governing bodies of the Ohio State Bar Association, a statewide organization of over 17,000 lawyers in Ohio.

Peter Kirsanow returned to Benesch after serving on the five-member, President-appointed **National Labor Relations Board** in Washington, D.C., for two years. While serving on the NLRB, he was involved with significant decisions including Oakwood Healthcare, Inc., Dana/Metaldyne and Oil Capital Sheet Metal, Inc. Peter was also reappointed by President Bush to the **U.S. Commission on Civil Rights**, where he will serve his second six-year term. This is a part-time position.

Victor Goodman was appointed to a three-year term on **The Board on the Unauthorized Practice of Law of the Supreme Court of Ohio**. The Board is established by Rule VII of the Supreme Court Rules for the Government of the Bar of Ohio and consists of 12 members who are appointed to a three-year term by the Supreme Court. The Board conducts hearings, preserves the record and makes findings and recommendations to the Supreme Court in cases involving the alleged unauthorized practice of law.

Ryan Hooper was appointed to a one-year term as Chair of the **Health Law Section of the Cleveland Metropolitan Bar Association**.

Norman Gutmacher was elected Secretary of the **American College of Real Estate Lawyers (ACREL)**. ACREL is the premier organization of U.S. real estate lawyers. Admission is by invitation only after a rigorous screening process. ACREL's distinguished, nationally known lawyers have been elected to fellowship for their outstanding legal ability, experience and high standards of professional and ethical conduct in the practice of real estate law.



Despite the challenging situation we've been facing in every type of business, we continue to believe in adding good attorneys to our core and finding opportunistic situations to add value to our clients. As Ira has mentioned, we are spending a lot of time with our current clients as their own businesses face challenges, not only in the credit markets but also in the areas of employment and other regulation. Yet, as we continue to expand our business base beyond just our region, we are able to translate our experiences and skill sets into new relationships, while never forgetting about those clients who have helped us achieve our success to date. We are up to the challenge of the next 12 to 18 months and want to help current clients and new clients with their own challenges during that period and beyond.


James Hill
Executive Chairman

Eric Zalud was elected **President of the Transportation Lawyers Association**, an independent international organization of attorneys, serving the transportation industry since 1937. He was also invited to join the **Council on Litigation Management**.

Membership in the Council is limited and by invitation only. The Council is a nonpartisan alliance committed to furthering the highest standards of litigation management.

Benesch was ranked ninth nationally and second in the state of Ohio out of 157 law firms by **The American Lawyer Mid-Level Associate Survey**. The annual survey examined 11 areas that contribute to job satisfaction for associates, including: relationships with partners and other associates, the interest and satisfaction level of work, training and guidance, policy on billables, management openness about firm strategies and partnership opportunities, compensation and benefits, and the respondents' inclination to stay at their firm for at least two more years.

34 Benesch attorneys were named **Best Lawyers in America**.[®] Best Lawyers describes itself as the definitive guide to legal excellence in the United States. Additionally, Benesch was ranked No.1 in Ohio in the areas of Administrative Law and Government Relations Law. The firm ranked No.1 in Cleveland in the areas of Administrative Law, Corporate Law, Health Care Law, Securities Law and Venture Capital Law. The firm ranked No.1 in Columbus in the areas of Administrative Law, Appellate Law, Government Relations Law and Non-Profit/Charities Law.

Jeremy Gilman was reappointed Co-Chair of the **Professional Liability Subcommittee of the Commercial & Business Litigation Committee of the American Bar Association Section of Litigation** for the 2008–2009 program year.

Benesch was named one of the 99 Best Places to Work in Northeast Ohio for the sixth time. **NorthCoast 99** is an annual recognition program that honors 99 great workplaces for top talent in Northeast Ohio.

Benesch ranked first in Cleveland for the second consecutive year in the **2008 American Lawyer Summer Associate Survey**. The average of nine job satisfaction questions was used to determine a firm's composite score. Respondents were also asked to rate the firm overall as a place to work.

Janet Feldkamp was presented with the **Distinguished Service Award** by **The American Association of Nurse Attorneys (TAANA)**. The award is intended to serve as an expression of sincere gratitude for the member's committed leadership, participation in and contributions to the purposes of TAANA and its growth as the professional association for nurse attorneys.

Michael Swearingen was elected Chairman of the **Board of Directors of The Historic Gateway Neighborhood Corporation**.

Steven Auvil was named **President-Elect of the Cleveland Intellectual Property Law Association (CIPLA)** for 2008–2009 and will serve as President from 2009–2010. Additionally, **Susan Clady** has been named **Secretary for CIPLA** for a two-year term from 2008–2010.

GIVING BACK TO OUR COMMUNITIES

At Benesch, we recognize the importance of giving back to the communities in which we live and work. During 2008, we contributed to an array of organizations and are proud to have supported causes that positively affect the lives of others in such trying economic times.

The organizations supported by Benesch's time and resources in 2008 include:

- Anti-Defamation League
- American Heart Association
- American Jewish Committee
- Bellefaire Jewish Children's Bureau
- Central Ohio YMCA
- Children's Miracle Network
- Cleveland Scholarship Programs
- Crohn's & Colitis Foundation Of America, Inc.
- Cystic Fibrosis Foundation
- Detroit Shoreway Project
- E City
- Fairmount Temple Brotherhood
- Family Unity in the Park
- First Tee of Cleveland
- Geauga Humane Society
- Hands for Hospice at Home
- Isabelle Ridgway Care Center
- Jewish Community Center of Cleveland
- Juvenile Diabetes Research Foundation
- Harvest for Hunger
- Kidney Foundation of Ohio
- Legal Aid
- Multiple Myeloma Research Foundation
- National Council of Jewish Women
- Nature Center at Shaker Lakes
- Ohio Association of Nonprofit Organizations
- Ohio Governors Residence Support Association
- Richard F. Celeste Scholars Fund
- Rick Stalzer Memorial Fund
- Seeds of Literacy
- Southwest Community Health Foundation
- St. Mary's Food Bank
- St. Vincent Charity Hospital
- Suicide Prevention Education Alliance
- The Broadway School of Music & Arts
- The Center for Community Solutions
- The Chinese Red Cross Foundation
- The Cleveland Play House
- The Diversity Center
- The Gathering Place
- The Gilligan Institute
- The Montefiore Foundation
- The Ratner School
- The Women's Fund of Central Ohio
- United Way
- Women's Christian Alliance

Assisting Others Through Pro Bono Efforts

Benesch proudly provides pro bono services to clients who might otherwise not be able to pay for legal services. Our attorneys are encouraged to lend their skills and help pro bono clients overcome the unique difficulties they face.

Benesch has teamed up with The Legal Aid Society of Cleveland and the Bankruptcy & Commercial Law Section of the Cleveland Metropolitan Bar Association to bring a new pro bono project to Cleveland designed to aid the elderly or disabled of our community in obtaining debt relief without the burdens of a bankruptcy filing.

The Bankruptcy By-Pass Initiative, created by **Will Kohn**, identifies individuals who have no nonexempt assets that would be reachable by creditors and actively contacts their creditors in an attempt to have the creditors essentially "write off" the debt. These "judgment proof" individuals thus obtain the same benefit they would receive through a Chapter 7 bankruptcy filing, while avoiding payment of attorney, filing and other fees as well as avoiding the eight-year ban on a future bankruptcy discharge.

Among the many pro bono projects Benesch attorneys handled in 2008 was senior associate **Ryan Hooper's** representation of Waiting

Child Fund (WCF), a Cleveland charity that coordinates funding for adoptions of children with special needs. Following placement from Business Volunteers Unlimited (BVU), Ryan reviewed for WCF a county request for proposals and advised on a major funding agreement for the organization. He also participated in the non-profit board training and placement program conducted by BVU, resulting in his election to the Board of Trustees of Neighborhood Family Practice, a federally qualified health center in Cleveland, and the board of trustees of Welcome House, Inc., a provider of housing and services to the developmentally disabled.

Associate **Jayne Juvan** presented before about 500 members of the legal community in November 2008 at the Legal Aid Society's Annual Luncheon and Report to the Community. Her presentation, entitled "Preserving Rights, Maintaining Dignity, Ensuring Justice: Individual Stories of Legal Aid's Impact," highlighted a pro bono case in which she, associate **Tamara Karel** and partner **David Mellott** defended an elderly couple against a foreclosure action. Jayne reflected on the profound impact the case had on her personally, and encouraged others in the community to become involved with Legal Aid.



OUR COMMITMENT TO DIVERSITY

Benesch is proud of its dedication to creating a diverse and inclusive work environment. Our firm remains committed to welcoming diversity and embracing people of various races, ethnicities, genders, sexual orientations, ages and religions. The Benesch Diversity Committee, consisting of partners, associates and senior staff, leads this commitment through a focus on recruiting, retention and education.

Benesch continued over the past year to extend the reach of its diversity initiatives outside of the firm. The firm was involved with many local and national diversity events, organizations and initiatives, such as:

- Anti-Defamation League
- ATHENA Foundation
- Cleveland and Columbus Bar Association Minority Programs
- Cook County Minority Law Student Job Fair
- Diversity Center of Northeast Ohio
- E City
- Human Rights Campaign of Northeast Ohio
- Midwest Minority Recruitment Conference
- Minority Corporate Counsel Association
- National Association of Women Business Owners
- YWCA

During 2008, the Diversity Committee began actively reaching further into the legal community. **Evelyn Holmer**, an associate in the Corporate & Securities Practice Group, and **Luis Carrion**, an associate in the Intellectual Property Practice Group, joined the Cleveland

Metropolitan Bar Association's Diversity Action Committee and began working within the community to develop ongoing programming. Luis, along with **Niki Schaefer**, an associate in the Litigation Practice Group, assisted with the Cleveland Metropolitan Bar Association's Minority Clerkship Program.

Betsy Dellinger, a partner and the firm's Diversity Chair, **Tamara Karel**, an associate in the Litigation Practice Group and **Laura Beresh**, an associate in the Intellectual Property Practice Group, became involved with speaking engagements to women's law groups, including at the University of Akron and University of Toledo, and also on a "Women in the Law" panel cohosted by the law schools at Cleveland State University and Case Western Reserve University, as well as the Cleveland Metropolitan Bar Association.

Looking ahead to 2009, Benesch will maintain its integration of diversity initiatives both within the firm and within our communities. Diversity programming planned for 2009 includes "family talk" brown bag lunches and a summer panel program for the firm's women attorneys and summer associates.

GREEN INITIATIVE

Benesch's Green Initiative has taken great strides as we continue our dedication to environmental responsibility and preserving the world in which we live. As part of our ongoing efforts, the firm's Green Initiative Committee supplied all employees with "Go Green!" reusable shopping bags and coffee mugs for sustainable office use. All Styrofoam-related products have been removed from the offices, light timers and motion detecting sensors have been installed, and we have replaced many lights with compact fluorescent bulbs. The Committee has donated hundreds of pieces of obsolete technical equipment to recycling companies, and has supplied the firm with recycle bins for plastics, in addition to bins already in place for paper and aluminum.

Benesch welcomes the opportunity to partner with eco-minded clients and friends who are also committed to responsible stewardship of the earth's resources. Through the use of environmentally friendly products, such as those made by our client, Technical Consumer Products, Inc. (TCP), a leader in energy-efficient lighting, we can all make a difference.



NEW HIRES

As Benesch continues to serve its clients, the firm is always seeking out new talent and growth opportunities. We welcomed the following attorneys in 2008.



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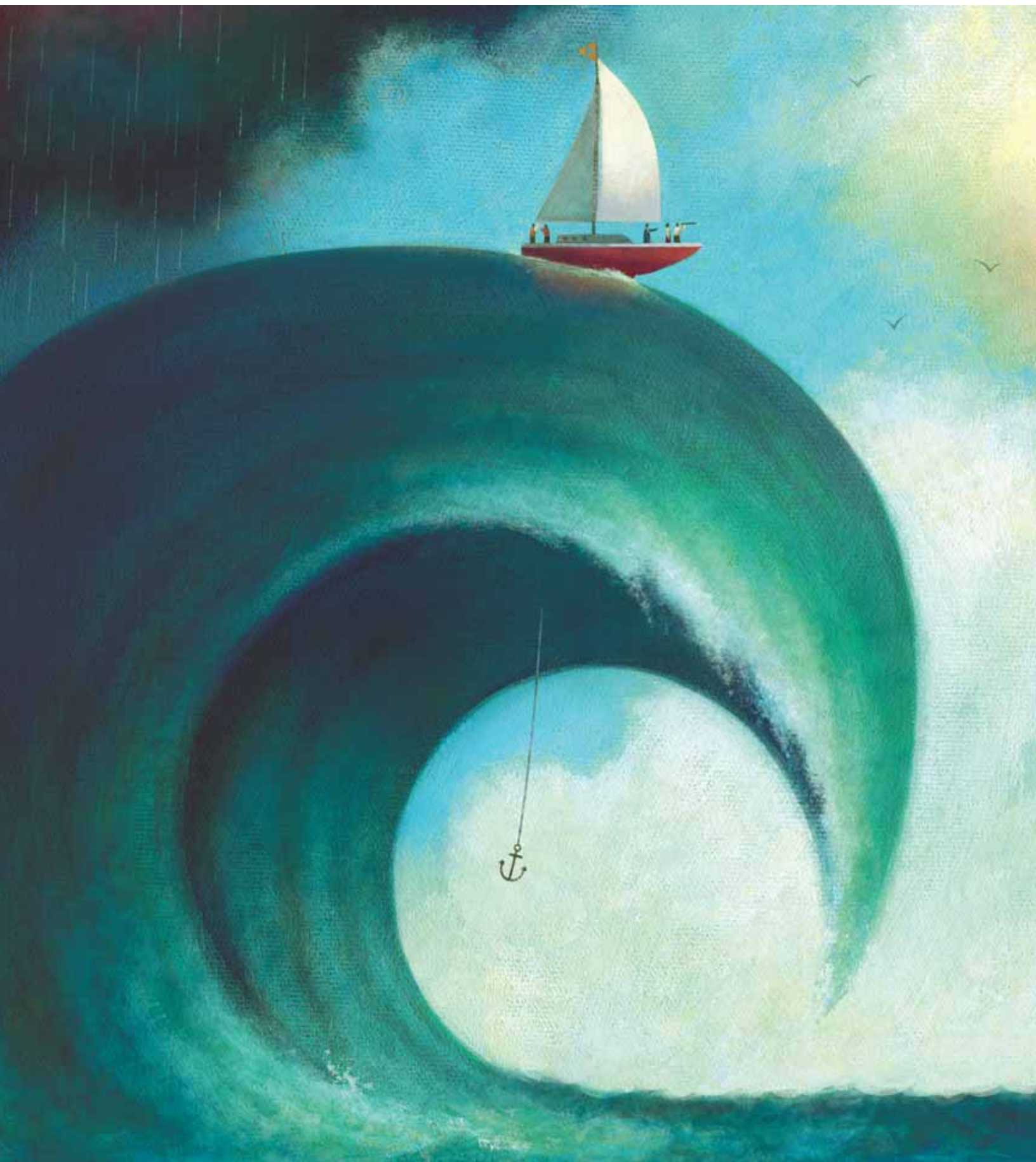
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MEETING THE CHALLENGE

Corporate & Securities Practice Group

Clients of Benesch's Corporate & Securities Practice Group faced the obvious challenge of 2008's economic turmoil. Specifically, the lack of available financing constrained businesses' abilities to pursue M&A deals as well as to make strategic plans for the future. Significant strain in the auto industry rippled through to businesses at every level.

Our Corporate & Securities Practice Group worked to overcome these challenges by being proactive business partners and helping our clients develop appropriate strategies. We have counseled clients on managing supplier and customer relationships, and managing or restructuring banking relationships. We have advised many distressed businesses and helped clients navigate deals and find financing in these uncertain times.

On a brighter note, our Corporate & Securities Practice Group also had the opportunity to work with clients whose businesses and industries are flourishing. Examples include an advanced materials recycling business and clients active in the renewable energy sector. With green initiatives becoming increasingly important in today's world, companies in these industries are thriving despite economic conditions. Investors and companies comfortable in the distressed arena are beginning to find opportunities. We are actively assisting these clients to take advantage of what many view as a unique time for investing. It has been our privilege to advise them and be part of their journey.

Intellectual Property Practice Group

Throughout this recession, Benesch's Intellectual Property Practice Group has been proactively helping our clients manage their intellectual assets with a value-based approach. Moreover, as companies streamline operations in a down economy, many decide to generate cash by monetizing patents, trademarks and copyrights. Conversely, we have advised entrepreneurial clients regarding the acquisition of intellectual property and brands of others.

In an environment where maintaining a competitive edge is paramount to survival, we have defended intellectual property in suits that defend market position. In addition, because of the fluidity of the labor market, we are assisting clients to protect their confidential business information and trade secrets, as we know that intangible assets often comprise the lion's share of our clients' enterprise value. Our Intellectual Property Practice Group takes pride in being the stewards of that intellectual property during good and bad times.

Business Reorganization Practice Group

The current recession led to many challenging projects for the Business Reorganization Practice Group over the past year. Benesch is representing an international manufacturer of protein bars that was impacted by the national recall of peanut products. The company was able to negotiate a recall program for its many mass-retailers and filed a Chapter 11 reorganization proceeding to restructure its senior indebtedness and vendor obligations to meet the specific credit needs of financing replacement manufacturing for the recalled goods. The company expects to exit bankruptcy this summer as a more efficient company with substantially fewer debt obligations.

We are representing an international supplier of specialized gases in the Chapter 11 proceeding of its largest customer. Members of the Business Reorganization Practice Group worked with a special team of the client's internal experts to prioritize those aspects of the relationship to maintain while working to exit unprofitable agreements. The goal was to ultimately strengthen the ongoing business between the client and its financially troubled key customer.

Members of the group were invited to speak before many industry and financial groups to discuss weathering the recession and early warning signs of distress among suppliers and customers of clients. Groups addressed included the Plastic News Executive Forum in Las Vegas, the Cleveland Foreign Credit Group, the Ohio State Bar Association and a number of client management meetings. Members of the group have leadership roles with the American Bar Association and the American Bankruptcy Institute, and one member is serving as president of the American Board of Certification, the only nationally recognized certification authority for attorneys practicing in business bankruptcy, consumer bankruptcy and creditors' rights.

The group continues to look for unique but effective solutions for client financial issues. In many situations, bankruptcy proceedings can be avoided using composition agreements, assignments and other special techniques. The Business Reorganization Practice Group often draws on the firm's expertise in other practice areas to address all aspects of clients' financially distressed situations.

Litigation Practice Group

Benesch's Litigation Practice Group continued its decades-long practice of litigating a wide variety of commercial and business issues, including shareholder disputes, buy and sell agreements, earn-out agreements, contractual disputes and overall business matters. While business litigation experience forms the core of our group's expertise, the group also litigated various matters in several of its specialty practice areas, including supply chain and distributorship relationships, construction-related matters, transportation and logistics-related matters and insurance coverage aspects.

During the latter half of 2008, and continuing into 2009, and as reflected by the turbulence in the national and global economy, the litigation department had significant involvement in commercial litigation disputes, such as negotiating forbearance agreements in the context of litigation, and assisting clients with creditors rights, commercial foreclosure and forfeiture, and high-stakes collection actions. We also worked closely with the firm's Business Reorganization Practice Group on numerous commercial/bankruptcy-related litigation matters across the country. The department's expertise in various aspects of product liability prevention and defense continued in 2008 with several victories on behalf of consumer products manufacturers, medical device manufacturers and industrial equipment manufacturers. The group also assisted many of those clients with supply chain issues, indemnity issues relating to alleged product defects, potential product recall issues and import/export issues related to product liability and the Consumer Product Safety Commission. The Litigation Practice Group also engaged in significant toxic tort litigation in 2008, and successfully extricated several clients from toxic tort litigation in various states.

The group continues to foster its various subspecialty groups, which include transportation and logistics, construction, e-discovery, energy and environmental, insolvency, commercial litigation and insurance. The group's subspecialty in compliance and internal investigations continued to proceed apace, as did its specialty in land use development/tax abatement construction issues, in which we have a unique confluence of governmental interface and commensurate litigation skills. Finally, the group added import/export and customs expertise to its skill set.

China Practice Group

Benesch's China Group Practice continued its commitment to assisting the firm's clients both in the U.S. and China during 2008. Our lawyers traveled extensively throughout China in order to meet with and represent our clients as they pursued their growth objectives and business expansion plans. Of course, along with the U.S. economy (among others), China's economy is currently undergoing a significant slowdown. Indeed, China's GNP, which has experienced double-digit growth in recent years, is predicted to grow at between 6 and 8 percent in 2009. While that growth looks robust to most of the rest of the world, the relative slowdown poses a serious question about China's continuing ability to create the more than 10 million new jobs each year necessary to employ the millions of workers moving from the countryside to the cities. Not only will fewer jobs be created due to reduced GNP growth, but also, as a result of worldwide economic conditions and various policy changes in China over the last several years, thousands of businesses in China have closed. Adding to the problem is the ongoing privatization of state-owned enterprises (SOEs), which, as part of the privatization process, must shed unnecessary workers in order to become more efficient.

Accordingly, tension will increase between China's commitment to protect and improve the conditions of its workers through measures such as the Labor Contract Law (LCL), which went into effect at the beginning of 2008, and the need to cope with reduced job creation capacity and resulting unemployment.

We have been helping our clients navigate the LCL and other applicable laws as they find it necessary to lay off workers in their China-based operations—in some cases to eliminate redundancies as part of the integration process following an acquisition and in other cases due to adverse economic conditions.

China will continue to be important as a "workshop" that produces a significant portion of the world's goods. It will become even more important as a market for goods and services provided by companies from around the world, including the U.S. An increasing number of our clients are improving their access to China and its growing consumer class by availing themselves of relatively new forms of business structures (such as Foreign Invested Commercial Enterprises [FICEs]) or by creating distribution networks through joint ventures with, or acquisitions of, their best China-based suppliers. On the manufacturing side, such business structures or combinations with suppliers can help stabilize and streamline supply chains and help establish more control over quality and intellectual property. These arrangements can help lock in the value associated with the China-based distribution and/or manufacturing piece of a U.S. (or other foreign) company, which is particularly important when the company goes through an exit event.

As both China-based and U.S.-based companies increasingly find themselves deeply imbedded in each others' supply chains, we are increasingly called upon by our clients as creditors seeking to better understand and enforce their rights—both China-based companies requiring help to deal with U.S. bankruptcy laws and U.S. companies coping with China's new Enterprise Bankruptcy Law, which went into effect on June 1, 2007.

Benesch's China Practice Group includes both U.S.- and China-educated and trained lawyers, including several who hold advanced law degrees. From our Shanghai and U.S. offices, we are well prepared to assist our clients with both the challenges and the opportunities they face in their U.S. to China (and China to U.S.) business matters.





MEETING THE CHALLENGE

Real Estate & Environmental Practice Group

The Real Estate & Environmental Practice Group at Benesch faced many new challenges in 2008. As the year progressed, the availability of credit diminished, and our clients found that deals became much more difficult to complete. "Transaction risk" became a greater part of the lexicon for real estate deal makers. Nonetheless, our group stayed quite busy with a good flow of acquisition, disposition, leasing and refinancing work, particularly until the steep decline in the credit markets in the fourth quarter. At that time, we found that sophisticated work for clients involved with distressed real property began to simultaneously increase. This is a trend we expect will grow as we move through 2009.

Our current real estate clients tend to be national and local developers and real estate owners in the retail, industrial and office segments of the market. As a result, the precipitous fall-off in the residential real estate market has had little direct effect on our practice. As the U.S. economy moved into recession in 2008, the principal challenge for our clients was to manage their businesses until a recovery takes hold. For our group, that means our clients called on us to help them move quickly into a new transaction to buy, sell or refinance either a real estate asset or, in some cases, acquire the underlying financial instruments supporting an asset. Further, in many instances, we were asked to provide strategies and solutions in all phases of troubled loan resolutions and to provide guidance and counsel in effectively dealing with distressed assets in a wide range of contexts. Because of the difficult economic environment, many transactions emerged quickly and required us to swiftly create a sophisticated team to help our clients. We then analyzed the asset (or collateral) and the related transaction documents and provided our comments and legal counsel.

Commercial Finance & Banking Practice Group

In 2008, clients of Benesch's Commercial Finance & Banking Practice Group were on the front lines of the economic issues facing America. What first began as a sub-prime lending problem quickly turned into a liquidity crisis. The economy stumbled in the second half of 2008, and our lending clients quickly encountered challenged borrowers and nonperforming loans. Our borrowing clients had to deal with a softening economy and a lack of readily available financing.

Our Commercial Finance & Banking Practice Group assisted lending clients in determining the best manner in which to protect the lender and its position while working to provide existing borrowers with the liquidity and flexibility to "weather the storm." We advised our clients' lending officers of the myriad of possible solutions, and were involved with creative solutions that met the goals of the various parties involved.

Throughout 2008, we were also very actively involved with the firm's corporate clients as they wrestled with the challenges of the economy and the relative lack of liquidity. We assisted our clients in discussions with their lenders in order to preserve their current lending relationships and position themselves for the recovery of the U.S. economy. We provided counsel and ideas to our corporate clients to help them through these challenging times.

The group's creative problem solving assisted our clients in putting themselves in the best possible position for long-term stability and future growth. The U.S. economy has proven its resiliency many times, and we are certain the economy will once again recover and thrive.

The environmental side of our practice found an uptick in state and federal enforcement action in 2008. Superfund cases that were long dormant had spikes of meaningful activity, and new cases naming our clients suddenly appeared. Regulatory enforcement cases at the state and federal levels also increased, and the regulators showed less flexibility and willingness to compromise than in the past in working out fair settlements. As a result, we employed a settlement strategy using a highly active negotiating approach and offering unique solutions so we could promptly resolve these matters for our clients. If settlement was not viable, as advocates for our clients we took these matters through the appropriate administrative or judicial proceedings. We also continue to be day-to-day counsel to many of our clients in regulated industries including landfills, manufacturing and construction (storm water and wetlands). As the economy began to tighten its grip on these clients, we worked with them to formulate proactive and cost-effective solutions that meet the requirements of applicable laws.

Health Care Practice Group

In 2008, Benesch's Health Care Practice Group continued to provide legal, regulatory and business solutions to a wide range of clients. Attorneys in the group worked throughout the year to design and implement strategies for integrated delivery systems, physician joint ventures, acute, post-acute and long-term care providers and ancillary service providers. Additional counsel was provided on health care facility construction, financing and operation, fraud and abuse, HIPAA and privacy issues, contractual arrangements, Medicare and Medicaid reimbursement matters, antitrust, licensure and certification. Benesch's Health Care Practice Group also conducted numerous contract negotiations for HMOs, PPOs, indemnity health insurance providers, self-insured payors, third-party administrators, health care clearinghouses and network access providers.

Health care clients saw continued downward pressure on reimbursement and increased regulatory compliance expectations across all sectors of the industry during 2008. The lack of a fluid credit market made it difficult for clients to finance capital projects, acquisitions and joint ventures. Clients interested in selling their businesses were also affected, as the state of the economy created downward pressure on valuations. These changes, along with the uncertainty of reimbursement and many other significant statutory and regulatory changes, will continue to alter the compliance burdens of businesses moving forward.

Looking ahead, there will be an internal focus on improving operational efficiencies and quality of care delivery. The stimulus funds designed as a catalyst to move to electronic health record technology will potentially improve the care model and save money. During this time of transition, our Health Care Practice Group anticipates partnering with clients in investing in such efforts so they are able to realize results in the future.

Employee Benefits & Compensation Practice Group

Benesch's Employee Benefits & Compensation Group clients faced significant challenges in 2008. Notably, 401(k) plan asset values were down due to the state of the economy and the stock market. As a result, fiduciaries were required to work extra hard to make sure investment fundamentals were sound. Benesch attorneys counseled clients to process fiduciary decisions and helped put protections in place for employers in this difficult environment.

Employers were also forced to cut back staff and reduce benefits this past year. Our Employee Benefits & Compensation Practice Group worked with many of our clients to help execute appropriate cutback strategies to balance the tension between legal compliance and direct business needs. Our attorneys worked closely with clients on creating, updating and implementing severance packages, plans and appropriate communications concerning such arrangements. We also helped them work to reduce exposure to litigation regarding separations and reductions in benefits.

On the dispute and litigation front, our group (which consults, provides technical compliance and also litigates ERISA and benefits disputes) has noted an increase in disability income claims. We also saw a significant uptick in benefits litigation and, interestingly, an increase in government audits of retirement plans and self-insured health plans by both the IRS and the U.S. Department of Labor. Our attorneys assisted by getting involved early on to manage these audits, and therefore helped clients avoid or reduce penalty exposure. Even though the economic conditions are difficult, our government seems to have increased its scrutiny.

Overall, clients have found value in our technical and consultative approach that includes litigation-savvy strategies to reduce overall cost and exposure in this challenging time.



Transportation & Logistics Practice Group

Transportation and logistics touch every business enterprise in some way and are the lifeblood of the economy. Consequently, current economic turmoil presents both opportunities and challenges for all involved. For instance, shippers are increasingly looking for opportunities to outsource their transportation and logistics needs. Likewise, carriers of all modes are fiercely competing with one another in an effort to survive and ultimately flourish when the economy does revive. Similarly, our carrier and third-party logistics provider clients are being asked by their customers to provide a broader range of value-added services at a lower cost. Of course, whether you are a shipper, a carrier or a third-party logistics provider, these difficult economic times necessarily test the strength and value of all supply chain relationships—sometimes leading to workouts, business reorganizations and litigation.

Over the last year, our Transportation & Logistics Practice Group worked with our clients to develop creative strategies aimed at responding to the world as it is. For instance, we have been helping our logistics clients understand the constantly changing legal landscape, including the risks and rewards of offering a new and growing range of services. We have advised our clients regarding the most effective ways to contract for their transportation and logistics needs. We have helped numerous clients involved in transportation and logistics—both domestically and internationally—to restructure their businesses in order to achieve legal, operational and financial advantages. We have vigorously defended clients in litigation—from the relatively modest commercial disputes arising from the provision of services (whether nonpayment, damage to goods or otherwise) to complex, multimillion-dollar class action litigation targeting freight charge billing practices. Likewise, we have commenced affirmative litigation on our clients' behalf in order to protect their economic interests where necessary. Of course, we have kept all of our clients abreast of political and regulatory developments touching on the environment, licensing, fuel surcharges and security as related to transportation and logistics.

Whatever our clients' business—shipper, carrier, or third-party logistics provider—Benesch's Transportation & Logistics Practice Group understands their perspectives and will continue to be a steady hand as they travel down the road ahead.

Construction Practice Group

The Benesch clients served by the firm's Construction Practice Group faced a number of challenges in 2008. Lack of private capital, scarcity of traditional funding sources and a highly competitive bidding market have compressed the construction industry nationwide and thinned its ranks. Regional private development was virtually nonexistent over the past calendar year, and clients have been impacted by shrinking credit availability and cash flow disruptions at all project levels.

Our Construction Practice Group provided up-to-the-minute guidance and counseling to clients on appropriate due diligence and planning in the procurement and performance of construction services. Despite economic challenges, the initial response to always favor the lowest-priced bidder has not uniformly been followed. Many projects have been modified or delayed to avoid being shelved indefinitely.

On the claims side, our attorneys helped to manage expectations and look for creative solutions for clients when there were disruptions in cash flow that, in years past, would have been cured on their own over time. These efforts include careful consideration of alternative financing arrangements to allow projects to commence and stay on track despite the lack of traditional financing arrangements. Our clients have begun feeling the ripple of the auto industry distresses, yet are poised to counteract the downturn with the influx of stimulus money, mostly in the infrastructure, power, health care and education industry segments.

We had the opportunity in 2008 to be project counsel on a billion-dollar institutional building expansion renovation program and to represent our contractor clients on various public works, on infrastructure, and in the alternative energy market segments.

We will continue to keep clients' projects on track, use our industry knowledge to match clients' capabilities with the appropriate project delivery methods and use alternative approaches to manage disputes. When litigation cannot be prevented, we remain prepared to vigorously pursue our clients' objectives.



MEETING THE CHALLENGE

Public Law Practice Group

The Public Law Practice Group continued to provide full-service public policy and lobbying counsel on major Ohio policy initiatives in 2008. We represented a Fortune 500 energy company during the electric restructuring debate in Ohio. We provided the company with legislative and grassroots strategy, including coalition development and management, public relations and advertising campaigns.

The Public Law Group also represented an industry coalition that wanted to repeal a law enacted by the Ohio General Assembly. Benesch organized the petition collection the group needed to qualify for the ballot referendum and drafted the constitutional amendment. We provided complete campaign direction, including legal and grassroots strategy, as well as public and media relations.

In addition, we represented a nursing home client when it objected to a production plant being built on a site adjacent to its property due to the adverse impact the facility could have on its residents. A coke plant operator and wholly owned subsidiary of a Fortune 100 firm wanted to build a plant adjacent to a local steel production facility. The steel producer would purchase all of the coke plant's production. A lawsuit was filed against the city and the steel producer, and the coke plant operator joined in as well. We helped our nursing home client initiate a referendum to reverse the city's approval of the project and implement revised zoning, as well as to uninitiate a referendum and a Charter amendment. The case was resolved when the coke plant operator agreed to re-site

its plant 4,000 feet east of the nursing home, a favorable result for our client.

Labor & Employment Practice Group

Rather than diminishing in difficult economic times, the challenges facing employers in the area of labor and employment regulation tend to increase during such periods. This is particularly so this time around, as Washington continues to impose new employment regulations despite the economic downturn. Benesch's Labor & Employment lawyers work daily with our clients in meeting these challenges.

For example, our lawyers are advising clients on the potential impact of the Employee Free Choice Act and how to structure their union-free initiatives in the face of the new union certification procedures likely to become law this year. Helping clients stay abreast of the new Family Medical Leave Act (FMLA) regulations and the recently enacted Lilly Ledbetter Fair Pay Restoration Act has been another area of focus for the group as well as other labor and employment legislation currently being proposed in Congress.

We are also assisting clients with structuring and implementing workforce reductions when necessary in light of prevailing business conditions. Declining markets have also sparked an increase in competitors' predatory activity, and we have been representing clients in crafting and enforcing noncompetition agreements and ensuring the protection of trade secrets in response.

The economic downturn has made recurring business issues even more prominent. As always, we have been negotiating collective bargaining agreements on behalf of employers faced with ever-increasing health care and retirement plan costs and union demands to insulate employees from those costs. Employers have weathered tough times before, and Benesch's Labor & Employment Practice Group remains committed to helping our clients through the current downturn.

Looking ahead to the coming year, we expect to assist our clients through the state budget process and in applying for federal stimulus monies allocated to Ohio. In doing so, we will be launching a new Web site (www.publicpolicyadvocates.com) and providing our clients with weekly blog updates on the activity taking place at the statehouse. As the economy continues to transform, we will be working alongside our clients to keep them informed and ahead of the curve.

Public Finance Practice Group

Benesch has established a Public Finance Practice Group that provides tax-exempt financing counsel as well as advice on how issuers and bankers can take advantage of the tax-exempt provisions that are part of the new federal stimulus program. Our new group allows the firm to expand into the financing market, complementing our Public Law Practice. The Public Finance Group focuses on several aspects of public financing, largely in Ohio with some work in surrounding states, and plans to work as counsel for issuers, bankers, and non-profit and for-profit companies looking to take advantage of the federal stimulus funds expected to start rolling in over the next few months.

On the government side, issuers are showing a lot of interest in the federal cash subsidies that are part of the Build America Bonds program. On the banking side, we have already started to work with some commercial banks interested in the new ability to buy into larger tax-exempt deals under a provision that expands to \$30 million from \$10 million the "small issuer" exception for bank-deductible bonds. The provision will allow some banks to participate in the municipal market at a time when they are not able to provide letters of credit to issuers in the current tight credit market. Another provision generating quite a bit of interest is the Recovery Zone Facility Bonds program, which allows private, for-profit borrowers to obtain tax-exempt financings for property in so-called recovery zones. However, nearly all participants, from issuers to bankers to non-profit and for-profit organizations, are largely in a wait-and-see mode until the government provides more detail. Our Public Finance Practice Group will continue to help clients navigate through these uncertain issues.

Estate Planning & Probate Practice Group

While 2008 provided plenty of economic hardship, many estate planning opportunities were created as a product of recent developments. As a result of decreases in the values of assets, this past year was a great time to be gifting those assets. We helped our clients take advantage of the down economy by advising them to make gifts that will eventually increase in value. Along the same lines, business values were very low because of economic conditions. The low valuations coupled with discounts available in valuing minority interests in closely held family businesses made 2008 an ideal time to make gifts of interest in family businesses.

We saw a surge in probate litigation over the past year. The backdrop of economic difficulties made 2008 a very litigious year, with people becoming more aggressive than ever over inheritances. Our Estate Planning & Probate Practice Group helped clients sort through difficult issues, including probate litigation, will and trust contest, interference with an expected inheritance or gift, abuses of power of attorney, post-probate property disputes and guardianship litigation.

Looking forward to 2009, the group will continue to assist clients in minimizing the probate process, reducing exposure to estate taxes and addressing unique planning situations that arise in many families and businesses. Our attorneys will continue to help ensure that important life events and decisions are handled in ways that respect our clients' wishes, protect their assets and benefit the people they choose.



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