



MY BENESCH MY TEAM

COUNSEL FOR THE  
ROAD AHEAD<sup>®</sup>

 **Benesch**  
Attorneys at Law



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## Benesch Covers Transportation From End to End

Benesch's Transportation & Logistics Practice Group has the established capability to maximize growth and enhance profitability for anyone involved in this dynamic industry. Shippers, carriers of all modes of transportation (motor carrier, rail, air and maritime), third-party intermediaries, warehousers and consignees benefit from Benesch's seamless and comprehensive end-to-end experience.

We regularly advise clients regarding transportation and logistics issues relating to the entire transportation continuum—from before the goods even reach the shippers' or manufacturers' docks, through transit, to the consignee/recipients' docks and beyond. Benesch's extensive knowledge helps clients avoid unnecessary risks that constitute obstacles to growth.



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## Step One

### At the Point of Origination

Benesch advises its clients on a host of issues that must be considered even before the goods leave the point of origination.

#### **Real Estate and Environmental**

Do you need a new terminal or warehouse? Are you fighting with the landlord about those repairs? Is the EPA after you because of those underground storage tanks or because of spills? We can assist you through your real estate and environmental issues, including real estate transactions, general consultation, spill damage control and wetlands issues.

#### **Transportation Contracting, Independent Contractors/Owner-Operators**

Want to do a deal with the carrier or freight forwarder? Not satisfied with the standard bill of lading? Benesch has experience in preparing, reviewing and negotiating contracts for transportation services, in all modes. Our Transportation & Logistics Practice Group includes attorneys who have handled transportation contracting in-house for large publicly held transportation and logistics service providers, and also includes a former international maritime shipper, a former airfreight forwarder and a U.S. customs broker with hands-on industry experience. We also have experience in preparing, reviewing and negotiating contracts between shippers and carriers, between shippers and freight intermediaries, between carriers and freight intermediaries, and between intermediaries and other intermediaries. We have drafted owner-operator agreements and other vehicle leasing agreements, vehicle maintenance contracts, manpower agreements, and a variety of other contracts aimed at protecting the interests of those involved in the transportation and logistics industry.

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### **Warehousing**

Benesch has a thorough understanding of the role of the warehousing function throughout the transportation continuum. We have drafted a variety of public and private warehousing contracts, including transloading, cross docking and warehouse receipt documents, and have negotiated and analyzed warehouse liability in a variety of contexts, including light assembly.

### **Loading and Securement**

Benesch has expertise in loading and securement liability issues, federal regulations relating to loading and securement, and the drafting of policies for both carriers and shippers relating to loading and securement.

### **Regulations**

If you want to operate trucks, ships, planes or other transportation equipment, you have to pay close attention to the government regulations controlling the safety aspects of transportation operations. New food safety, transportation security and import/export regulations will require new operating practices. Benesch lawyers can walk you through the requirements, help you with your compliance programs, and deal with compliance issues if they arise.

## **STEP TWO**

### **Transporting the Product/Cargo**

#### **Casualty Litigation/Product Liability**

Personal injury actions arising out of vehicle collisions or improperly loaded freight often have product liability elements. Benesch has provided counsel not only in transportation matters but also in the product liability aspects of vehicular engine, tractor, trailer and tanker component parts. These issues come into play in freight loss and damage situations and also in situations alleging personal injury to employees of shippers, carriers, consignees and third parties.

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### **Freight Loss and Damage**

Benesch has assisted the industry in all aspects of freight loss, damage and delay litigation. We have handled multimodal freight damage, loss and delay claims, which combine various liability limitation regimes, including the Carmack Amendment, the Carriage of Goods by Sea Act, the Pomerene Act and the Warsaw Convention/Montreal Protocol.

### **Freight Charge Disputes**

Benesch has also handled freight charge dispute litigation involving prepaid shipments, collect shipments, Section 7 liability issues, and broker, shipper and carrier default scenarios.

### **Bankruptcy Issues**

What if your carrier files for bankruptcy with your goods on its truck? What if your broker goes under holding your cash? Benesch has assisted in dealing with bankruptcy and reorganization issues and preference claims involving all modes of transportation.

## **STEP THREE**

### **Freight Intermediaries**

There are many links in the distribution chain for any particular shipping sequence. Complicated freight operations and deregulated fee structures have fueled the growth of third-party intermediaries. Benesch has experience in the various liability regimes that relate to all types of freight intermediaries, including surface, air and ocean freight forwarders, transportation brokers, shippers' agents, logistics managers, 3PLs, 4PLs, reverse logistics managers, NVOCCs, and shippers' consortiums. We have also dealt with issues that arise from the juxtaposition of these intermediaries and their respective liability regimes in situations involving freight loss and damage, personal injury, and freight charge issues.



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## STEP FOUR

### At the Destination

When the product reaches the docks or the consignee's location, Benesch has specific and extensive experience in litigating disputes relating to unloading liability in freight loss and damage and personal injury situations. Benesch also has experience in dealing with freight loss and damage and delay claims in all modes, sealed container issues, and shipper's load and count issues.

Benesch's range of experience is a unique package, on a continuum. If any party along this continuum is not thinking "end to end," then it is not thinking strategically about the legal exposures and opportunities in the logistics business. We can help our clients anywhere in the supply chain.



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## Corollary Areas on the Continuum

### 1. Mergers & Acquisitions/Corporate Structure/Corporate Finance

Mergers, acquisitions and divestitures have been a way of life in the transportation industry. If you are buying, we can assist you in getting the business you expected with no hidden liabilities. We are adept at working with both strategic and financial buyers and sellers. Whether you are buying, selling or financing, our corporate and tax attorneys will help set up the best structure to fit your situation.

Because of their many years of experience representing clients in the transportation and logistics industry, Benesch lawyers are uniquely qualified to represent private equity firms who want to invest in that industry. Benesch lawyers have handled acquisitions and divestitures of a wide variety of logistics businesses. Transactions have included purchases and/or sales of motor carriers, freight intermediaries, public and private warehouses, bulk commodity storage and distribution facilities, personnel service providers, freight bill audit firms, trailer manufacturers, and pipelines. Some of these companies were closely held family businesses, while others were affiliates of publicly held companies. Annual revenues for these businesses ranged from a few hundred thousand dollars to over \$400 million and were both asset based and non-asset based.

There are also huge risks in the transportation sector. Many of our clients have grown from small operations to multiservice, multibillion-dollar entities. Our corporate lawyers provide counsel to restructure corporate entities and operations to minimize risk across the board.



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## **2. Labor and Employment**

As a full-service multidisciplinary law firm, Benesch also has a broad-based Labor & Employment Practice Group with extensive transportation-related experience, including a former labor counsel at a major transportation and logistics service provider, a former NLRB member, and a former in-house counsel at a warehouse company. Benesch can assist you in dealing with OSHA issues, EEOC claims, independent contractor issues, wage issues and workers' compensation, and in preventing employment claims.

## **3. Environmental**

Benesch has handled the gamut of environmental issues, including environmental regulatory compliance, underground storage tank matters, highway spills (clean-up issues, enforcement and litigation), CERCLA, RCRA, environmental litigation and land use planning issues.

## **4. Taxation**

Benesch provides counsel on sales and use tax, fuel tax, and other tax issues as they relate to transportation.

## **5. Finance**

Need to lease a new fleet of trucks or buy a new terminal? Benesch has handled the different forms of equipment leasing and general business financing in hundreds of transactions.

## **6. Intellectual Property**

Businesses in transportation and logistics rely heavily upon proprietary and confidential information, including rates, customer lists and computer software. Businesses have to be constantly wary of software licenses and of nondisclosure and confidentiality agreements with their employees and suppliers. Transportation businesses must also protect their valuable

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trademarks. Benesch lawyers have been at the forefront of intellectual property law and can help you develop a compliance program and fight for the protection you need.

## **7. Governmental Relations**

Benesch's Public Law Group can help you define your objectives and develop strategies for achieving your goals at the regulatory agencies, in the state legislatures, and in Washington.

## **8. China**

Benesch offers an experienced team of legal professionals, both on the ground in Shanghai and in the United States, dedicated to helping U.S. and foreign companies successfully do business across borders as well as assisting Chinese companies to expand, raise capital, and protect their interests in the United States. We help companies establish strategic alliances and joint ventures for manufacturing, distribution and other purposes. We help them deal with product import, export and customs-related issues along with transportation, logistics and other legal aspects of sourcing-related matters.

## **9. Customs and International Trade**

Global end-to-end supply chains, and the shippers and service providers across that continuum, necessarily require the movement of goods across borders in compliance with complex and rapidly changing customs and international trade laws and regulations. The risk of noncompliance is significant beyond supply chain disruptions and relationship or reputational harm, including fines, penalties, forfeitures and even jail time. Benesch lawyers take great pride in providing actionable advice based on industry knowledge and experience to resolve issues involving customs compliance, EAR and ITAR export compliance, and trade agreements, including NAFTA. Benesch's team includes the former senior counsel from a global forwarder and customs broker, who is a licensed U.S. customs broker in addition to an attorney.





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