

TRIAL

KEEPING THE REINS ON PRODUCT LIABILITY



 **BENESCH**
Friedlander Coplan & Aronoff LLP

Attorneys at Law

We can't predict the future; but we can help you look ahead, to prevent serious claims and lawsuits. We vigorously represent companies not only in aggressive defense of product liability litigation, but also help our clients look ahead, with foresight, to prevent litigation from even arising. If it's broken, we help fix it. If it's not broken, we help improve it.

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At Benesch, we approach product liability defense with the understanding that the future of an entire product line, and sometimes an entire company, can hinge upon finding the right litigation strategy. Our product liability litigators consider not only the pending case, but its long-lasting implications on our client's business and method of doing business. Accordingly, our product liability team has extensive experience in regulatory compliance and claims prevention as well as in vigorous claims defense. In addition, our attorneys monitor nationwide developments in product liability litigation and product recalls to spot trends and reduce the number and size of future claims.

We are experienced in a wide variety of products and industries, including, among others:

- Engines and generators
- Maritime products
- Medical devices
- Pharmaceuticals and vaccines
- Industrial equipment
- Electrical appliances
- Power tools and other consumer goods
- Chemicals
- Asbestos, benzene, and toxic torts
- Vehicles



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Product Liability Litigation

Our litigators have handled product liability claims in courts throughout the United States, in ADR negotiations, and in both domestic and international arbitrations. We work side by side with our clients to maximize the cost savings that can be achieved through effective case management and discovery. Our litigators use technology whenever possible to benefit our clients and can effectively guide clients through electronic discovery issues. We offer not only a team of skilled trial attorneys, but also a group which has in-depth product liability experience, including:

- Successful defense of actions brought against medical device manufacturers, involving catheters, implantable pumps, prosthetics and replacements, ambulatory equipment and remote-controlled surgical devices, laser surgical devices, vaccines, and pharmaceuticals.
- Extensive experience with fire origination and causation determination and in defending product manufacturers in cases involving fire damage claims.
- Coordination of large, complex multiparty cases involving engine and generator manufacturers and suppliers, asbestos toxic tort defendants, and cordless telephone and appliance product manufacturers.
- Defense of multimillion-dollar actions brought against manufacturers and distributors of construction and building materials.

Product Liability Prevention/CPSC/FTC

We also have considerable experience in dealing with the Consumer Products Safety Commission (CPSC) and handling product recalls.

We are skilled in a broad range of consumer product safety prevention matters, such as the formation and orchestration of monthly product safety committee meetings and product liability prevention programs, record retention programs, reviews of product warnings, reviews of privilege of self-critical analysis applications, recall procedures and notifications, responses to CPSC incident reports and Freedom of Information Act requests, and internal seminars for claims departments and engineering departments. This expertise is particularly suited to manufacturers who produce products that are sold to end user consumers.



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We have significant experience concerning manufacturing operations and quality control programs. We understand that these programs are designed to result not only in the production of high-quality products, but also, when appropriate, to demonstrate to the courts that attention is being given to safety concerns both during production and in anticipation of consumer use.

We have successfully handled numerous nationwide product recalls in the United States. Our lawyers routinely counsel clients on issues involving product instructions and warnings, warranties, disclaimers, limitations of remedies, and other terms and conditions in sales, leasing, and licensing documents. A sampling of our experience follows.

- Responding (or not, as appropriate) to over 1,000 CPSC incident reports.
- Completing lengthy and detailed CPSC reporting, including completing more than 100 decision tree analyses, as well as fulfilling reporting obligations for vendors, manufacturers, licensees, and distributors.
- Involvement in at least seven Voluntary Correction Actions or potential VCAs, including extensive and elaborate recall proceedings and protocols.
- Responding to broad-based and specific CPSC investigations, including client meetings, and investigating the safety of specific products with respect to substantial product hazard determinations.



- Involvement in active follow-up reporting to the CPSC on specific products.
- Submitting FOIA Requests to the CPSC regarding competitive products.
- Defending against FOIA Requests to the CPSC regarding clients' products.
- Reviewing over 100 prototype products for product safety, product testing, and warnings.
- Authoring warnings for at least 30 products, both on product and in manual.
- Making numerous trips to the CPSC to meet with all departments, as well as the head of the CPSC, on all aspects of reporting and compliance.
- Holding in-house seminars for engineers/customer service representatives/quality controllers regarding preparation of internal documents to prevent smoking guns.

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We also have Federal Trade Commission (FTC) experience involving:

- Authoring and critically reviewing marketing materials for in excess of 50 products.
- Screening Web sites and radio, TV, and print media programs for FTC compliance.
- Orchestrating responses to six FTC and state attorney general investigations/inquiries, including meetings, with no enforcement actions as a result.

Keeping You In Control

Given the potential for jeopardizing your company's reputation and even its existence, product liability is an issue that deserves the highest attention—yours and ours. Trust the Benesch team to represent your interests and guide you in avoiding runaway claims and costs. With thorough knowledge of preventive practices and skillful case management and representation when needed, our attorneys will help you stay in control and out of danger.



Benesch, Friedlander, Coplan & Aronoff LLP has been providing sophisticated legal and business advice to regional and national middle market and emerging companies, public companies, entrepreneurs, venture capitalists, and private equity funds and their portfolio companies since 1938. We are committed to building relationships with clients, and strive to be counselors, advocates, and partners in all aspects of a transaction or litigation issue. Playing an instrumental part in clients' successes is the goal of each member of the Benesch team. Today, we have offices in Cleveland and Columbus, and our subsidiary, Benesch Pacific LLC, has a representative office in Shanghai.

Principal Practice/Industry Areas

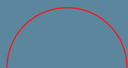
- Business Reorganization
- China
- Compensation and Benefits
- Construction
- Corporate and Securities
- e-Document Discovery and Retention
- Estate Planning and Probate
- Franchising
- Health Care
- Insurance
- Intellectual Property
- Labor and Employment
- Loan Transactions
- Polymer, Plastics and Packaging
- Private Equity
- Public Law
- Real Estate and Environmental
- Tax
- Transportation and Logistics
- Trial
- White Collar Crime



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