

Michael B. Silverstein

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Overview

Michael is a trial and appellate litigator who represents clients in high-stakes, bet-the-company disputes. He has experience handling complex litigation matters, including false advertising and copyright infringement cases, and advises clients across a broad range of commercial and business disputes.

Michael is many things: an obsessive nerd, a former theatre kid, and a genuine person. He brings all of this to the table in the world of high-stakes, bet-the-company litigation.

Obsessive Nerd: Michael homes in on what cases are truly about. Every case is an intellectual problem, and he lives it until it's solved. This obsession lets him take cases that some might think are dead in the water and transform them into winners for his clients through unique arguments and tactics.

Michael has proved this time and time again in his career. He did it when winning a significant class-certification victory in a unique competitor-based false-advertising case seeking hundreds of millions of dollars in damages. Michael crafted summary-judgment arguments on a rarely interpreted state statute that won the case on the eve of trial. And he's used summary-judgment briefing to flip cases of alleged willful copyright infringement on their head to leverage favorable settlement.

Former Theatre Kid: Before becoming an attorney, Michael harbored hopes of working in theatre. He still bears the scars from those days in the form of a still-shattered thumbnail from breaking his thumb during a sword fight (ask him about it). But he takes these theatre skills and applies them to the standup components of advocacy.

Whether Michael is arguing in trial and appellate courts, or deposing witnesses and plaintiffs, he brings an engaging, atypical-for-a-lawyer energy to arguments and examinations. This style cuts out the legalese so that he can get down to brass tacks with the Court and the witnesses.

A Genuine Person: What separates Michael is not just his accomplishments, but his style and his values. The legal world is full of over-the-top, unnecessary formalism. He rejects these archaic notions as incompatible with the modern world and modern problems clients face.

Michael also lets this guide his values. He maintains an active pro bono practice. As a member of the Sixth Circuit's CJA Panel, Michael represents individuals who cannot afford counsel in their criminal and habeas appeals. He has also authored amicus briefs in state Supreme Courts, one of which convinced the Ohio Supreme Court to rectify issues in its postconviction proceedings under constitutional standards.*

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At bottom, Michael works tirelessly for his clients using all his unique skills to win.

*Matter completed prior to joining Benesch.

Representative Matters

- Secured precedent-setting rulings in the Washington and New Jersey Supreme Courts that alleged "fake discounts" do not, without more, establish injury under those states' consumer-protection statutes. Those victories narrowed a common theory in retail class actions and significantly limited all retailers' exposure to similar claims.
- Represented a national retailer before the Washington Supreme Court in a class action challenging reference prices in product markdowns. The team successfully argued that alleging a false reference price does not satisfy the injury requirement under Washington's Consumer Protection Act, setting precedent that significantly limits retailer exposure to similar claims.
- Authored amicus brief before Ohio Supreme Court that convinced it to lower burden for post-conviction proceedings based on Brady claims.*
- Secured dismissal with prejudice of action accusing client of fraud and breaches of fiduciary duties allegedly owed through shared investment in real estate development project.
- Represented company accused of willful copyright infringement and obtained favorable settlement after summary judgment briefing.
- Represents former officers and executives of teledentistry company in multiple securities cases and mass consumer arbitrations.
- As special counsel to the Ohio Attorney General, and lead private counsel for Ohio University, won a complete defense victory for Ohio University in a case stemming from the death of a student at an off-campus property. Set statewide precedent regarding statutory duties, as well as wrongful death and negligence claims owed by schools and universities.

- Defeated class certification and prevailed on Daubert arguments dismissing the opinions of class plaintiffs' damages and consumer survey experts, successfully arguing on behalf of telehealth company that plaintiffs' claims involved too many individualized questions regarding injury and damages, rendering class treatment inappropriate.

Credentials

EDUCATION

- Case Western Reserve University School of Law, 2018, J.D., *summa cum laude*
  - Order of the Coif
  - CALI Award for Highest Grade in Contracts, Legislation & Regulation, Constitutional Law, International Law, Legal Writing III, Civil Rights, and Criminal Procedure I
  - Symposium Editor, Case Western Reserve Law Review, Volume 68
- University of Pennsylvania, 2012, B.A. in Political Science, *cum laude*

BAR & COURT ADMISSIONS

- Ohio
- U.S. District Court for the Southern District of Ohio
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Northern District of Ohio

Awards & Recognition

- Listed, Ohio Super Lawyers – Rising Stars, 2025

News & Insights

- Michael Silverstein Featured in Columbus Business First on Email Marketing Compliance
  November 3, 2026 | Media Mentions
- Michael Silverstein and David Hopkins Published in Law360 on Second Circuit Tylenol Decision and Expert Testimony Standards
  August 11, 2026 | Contributed Content & Presentations

- Law360 Highlights Benesch's Continued Success Defeating Fake Price Markdown Class Actions
  May 1, 2026 | Media Mentions
- Five Stars, Zero Tolerance: FTC Turns Up Enforcement Under Consumer Review Rule
  April 6, 2026 | Client Alerts & Insights
- What's in a Name?: Courts Refuse to Stretch Product Names into Promises
  April 6, 2026 | Client Alerts & Insights
- Benesch Secures Major Victory for Retailers in the Washington Supreme Court
  April 6, 2026 | Press Releases
- 48 Benesch Attorneys Selected to 2026 Ohio Super Lawyers and Rising Stars
  January 27, 2026 | Press Releases
- Early Evidence? Not in This Court!: Supreme Court Clarifies Federal Rules Govern Over State Law
  January 22, 2026 | Client Alerts & Insights
- Not Quite Full of It: The Risk of "Shrinkflation" Lawsuits
  December 22, 2025 | Client Alerts & Insights
- Using the Funnel-Folgers' Decision Key To Avoiding Certified False-Advertising Classes
  December 5, 2025 | Client Alerts & Insights

Speaking & Events

PAST EVENTS

- Lessons from the Trenches | Michael B. Silverstein
  November 3, 2026 | Speaking Engagement
- Avoiding Certification of False Advertising Classes: Building Defense Strategies Based on the Advertising Funnel | Michael D. Meuti, Michael B. Silverstein, Ruddy S. Abam
  February 5, 2026 | Speaking Engagement
- Preserving Privilege: A Guide for In-House Counsel on Establishing & Maintaining Privilege | Michael B. Silverstein, Noelle B. Torrice
  May 17, 2023 | Firm Events