

Sports and Entertainment

Benesch attorneys represent some of the world's best-known sports figures, brands and celebrities, as well as their strategic partners, helping them negotiate, implement and, when necessary, enforce deals ranging from global merchandising and licensing agreements to employment contracts and performance terms.

Our lawyers excel at navigating the many challenges associated with the parties' celebrity, the unpredictability of decision-making in this space, and the intangible nature of the rights and issues at stake when negotiating and enforcing talent and marketing deals. Whether establishing and enforcing the terms of a contract, conducting arbitration or mediation, or defending agents at trial against claims of fiduciary breach, Benesch has the experience and resources to negotiate industry-leading deals and resolve complex disputes cost-effectively, with a steady eye on the many business concerns involved.

Transactions

Clients rely on Benesch to create, negotiate and enforce an array of sophisticated transactions—from option agreements and service deals to promotional and IP licensing arrangements. We represent clients across the sports and entertainment industry, talent, agents and management companies, as well as fashion, beauty, technology, software and consumer product entities looking to build opportunities using a vast range of media, music, film and other creative content. We are also engaged by a growing array of Internet music, media and entertainment companies to draft and execute streaming and distribution licensing agreements, provide general copyright and trademark counsel, and enforce their rights in and out of court.

Whether the matter involves big apparel brands negotiating sponsorship and endorsement deals with star college athletes and country music stars; allocating risk and securing revenue for world-class concert promotion companies and festivals; or finalizing licensing deals with consumer-product companies and major recording and publishing outlets, Benesch has the experience and creativity to protect all the rights clients seek to exploit and defend. Each year, Benesch lawyers draft and negotiate all of the sponsorship and driver services agreements

that help Kaulig Racing compete in NASCAR’s Xfinity races and Cup Series races. Building on this work, in 2022, Benesch assisted Kaulig in its acquisition of several NASCAR Cup Series franchises.

Our group brings particular expertise to music licensing and sales deals, as well as musical composition/sound recording infringement matters. Recently, BEMA Music chose Benesch to oversee the sale of its entire publishing catalog (including the iconic song “Play that Funky Music”) to Warner Chappell Music.

We focus steadily on our clients’ business objectives, helping to develop and maintain targeted, compliant and effective marketing, social media campaigns and promotions—all essential ingredients in building a brand. Our lawyers ensure the underlying contracts are enforceable in every aspect, with remedies designed to maximize leverage in case of a dispute. We also frequently handle “new media”-related issues impacting our clients and their industries.

In an industry sector rife with all types of disputes, Benesch takes a proactive approach based on experience and foresight—identifying, addressing and preventing potential problems early on. Our team routinely counsels top-tier creative content companies and talent on fair use/First Amendment issues. We structure deals to avoid future strife and, when they arise, resolve all types of business and intellectual property disputes.

Litigation Savvy

Credible, fierce and highly experienced, we are great at the nuts and bolts of litigation. We conduct a thorough case and law assessment with a focus on the other side’s psychology and then build the strongest case possible—founded on cogent arguments and grounded in industry economics rather than abstractions. We provide our clients with leverage to resolve disputes and return their focus to their other business goals.

Benesch litigators drive hard bargains, anticipating and dissecting all the other side’s arguments and using early motions to win case dismissals. Our opponents know that we are deft and tenacious, well-prepared to take cases to trial and finish them out on appeals. Often, our reputation, coupled with creative and diligent early advocacy in a dispute, enables us to avoid litigation entirely.

Our lawyers have achieved winning results in state and federal courts across the nation, in matters at the U.S. Patent & Trademark Office, and in Trademark Trial and Appeal Board (TTAB) proceedings. We have filed numerous music copyright infringement litigations involving top artists and producers, as well as other matters defending against charges of infringement involving both visual and musical assets. Our experience also includes resolving disputes involving:

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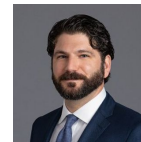
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- Licensing (including music composition and sound recording)
- Specialized noncompetes in the entertainment space
- Sponsorship, promotion, endorsement and other marketing-related deals
- Rights to name, image and likeness (NIL)
- Stock car racing deals
- Big brands looking to license entertainment assets
- Artist, recording, personal manager and publisher agreements
- Business divorces
- Employment matters
- Trademark, copyright and merchandising
- Breach of fiduciary duty allegations
- Sponsorship deals, including with Live Nation, AEG and the Rock & Roll Hall of Fame
- Defamation allegations

An Unrivaled Team With a Winning Approach

Our highly experienced team includes a Grammy-nominated and American Music Award-winning musician, producer and songwriter who has written more than 500 songs and produced or performed on more than 35 albums for some of the world's best-known artists, including three inducted into the Rock & Roll Hall of Fame. Each year, a member of our team joins copyright experts Peter Menell and David Nimmer in a judicial conference in Berkeley, California, that teaches federal judges the unique ins and outs of music industry copyright law.

Representative Matters

- Following a month-long trial in Florida state court, Benesch soundly defeated claims of fiduciary breach—asserted in prior decades by an international tennis star—against our client, the legendary sports management company IMG, and won a sizable cash judgment for IMG on an affirmative claim.
 - Piercing the tennis player's attorney/client privilege, we unearthed critical documents refuting the plaintiff's family members' story and undercutting their credibility.
 - The jury deliberated for less than three hours before returning a defense verdict accompanied by a \$400,000 judgment in IMG's favor.
- Defeated a high-profile college athlete's case in federal court litigation addressing the rights to benefit from his name, image and likeness.
 - Chris Spielman, NFL commentator and former Ohio State linebacker, sued Benesch client IMG College alongside his own alma mater, with a copycat complaint based on

antitrust actions in California.

- We prevailed on our motion to dismiss the entire complaint for failure to state a claim and failure to join an indispensable party (the state governments whose universities' commercial rights were at issue).
- Without access to the limelight, Spielman dropped his case on appeal.
- Recovered a highly favorable settlement through hard-fought discovery in a dispute over a nationwide sponsorship deal for an international fitness brand.
 - An Australian fitness franchisor had retained IMG College to run a nationwide marketing strategy at college football games and then attempted to escape the contract without paying.
 - When IMG College sued in Delaware, the defendant asserted \$20 million in counterclaims for breach and fraud. Benesch methodically disproved all these theories with third-party testimony.
 - Through motion practice in discovery, Benesch eventually extracted a "smoking gun" document that showed the two CEOs of the defendant had purposely arranged for the sponsorship contract to be signed in the name of "a shelf company with no assets," so the company could not be held accountable for its commitment.
 - Using a North Carolina state statute, we were able to triple IMG's affirmative claims, demanded veil-piercing and secured a highly favorable settlement.
- Asserted antitrust counterclaims that reversed the leverage and prevented the sport's governing body from seizing total control and effective ownership of a massive international athletic event held every year.
 - The governing body had balked at a renewal of the event's sanctioning contract, demanding outrageous concessions with the threat that all the athletes would be forbidden from participating if Benesch's client retained control of its event.
 - Benesch's team was retained to defend an arbitration that the governing body filed, demanding control of key assets based on a contract clause.
 - Rather than simply defending that claim, we developed a monopsony theory and, within weeks, filed counterclaims that forced the governing body to hire new counsel.
 - After a full briefing established that Benesch was right about the arbitrability—and the merit—of the antitrust claims, the case settled, preserving the event and its independence on highly favorable terms.
- Recovered damages for our client whose sound recordings and musical compositions were used without permission.

- Negotiated sponsorship deals for several of our big-brand apparel clients with major festivals.
- Negotiated product endorsement and concert participation agreements with the new “queen of country music” on behalf of our big-brand apparel client.
- Finalized several NIL rights agreements with college superstar athletes and our apparel company clients.