

Environmental & Toxic Tort Litigation

Benesch's Environmental & Toxic Tort Litigation Group has repeatedly prevailed in highly contentious, high-stakes and precedent-setting cases filed in federal and state courts across the nation. We have successfully defended clients in billion-dollar CERCLA/Superfund and natural resource damage cases, some of the highest-ticket toxic tort, mass tort matters and class actions, and government investigations and enforcement actions.

Our firm is repeatedly recognized by Chambers USA in the Environment practice area.

An Exceptional Team

Our group includes lawyers with extensive trial experience, science and engineering backgrounds and active practices in environmental compliance counseling, private dispute resolution, cleanup/remediation and rulemaking. With broad perspective, varied experience and deep insight, we readily identify emerging issues and trends, such as climate change-induced damages, understand and explain technical complexities, manage risks and favorably resolve complex environmental challenges, both in and out of court.

Extensive Experience With Winning Results

Representing businesses in wide-ranging industries, including chemical, electronics, energy, healthcare, manufacturing, metals, petroleum, pharmaceutical, transportation, public utilities and others, our environmental litigators regularly achieve victories handling cases involving matters under federal, state and local environmental laws, including:

- The Clean Air Act
- The Clean Water Act
- CERCLA/Superfund
- The Resource Conservation and Recovery Act (RCRA)

We have also favorably resolved personal injury and property damage cases, indemnification, reimbursement and insurance recovery disputes, rulemaking challenges, hazardous material remediation claims, and claims related to land use, permitting,

Related Practices

Litigation

Key Contacts



John A. Rego

Chair, Environmental
Litigation
Litigation

T. 216.363.4542

jrego@beneschlaw.com



Nicholas J. Secco

Chair, Trial Practice
Group
Litigation

T. 312.212.4955

nsecco@beneschlaw.com

entitlements and zoning. Additionally, our team regularly represents clients in government investigations, enforcement actions and hearings before federal, state and local regulatory authorities.

Our Approach

In each instance, we apply our technical expertise and decades of experience, devising solutions based on the facts of the case and each client's particular needs and objectives. We develop aggressive positions grounded in sound science and our clear understanding of the legal complexities. Utilizing the latest technologies, we streamline document review and cost-efficiently manage litigation. In this way, we achieve better-than-expected outcomes for our clients.

Representative Matters

- Defended a metallurgical manufacturing company in a Clean Water Act and Superfund natural resource damage lawsuit brought jointly by the United States, Ohio and West Virginia alleging that a wastewater treatment chemical used by our client had killed fish and freshwater mussels in the Ohio River. We assembled a team of scientific experts that collectively rebutted the governments' causation theory, leading the governmental plaintiffs to settle the case just before trial for a small fraction of their claim.
- Obtained dismissal with prejudice of toxic tort claims against our client in a multi-plaintiff "cancer cluster" case based on evidence from an environmental investigation that demonstrated there was no causal connection between our client's former rubber manufacturing facility and the plaintiffs.
- Obtained complete dismissal of a foreign company from a billion-dollar California Superfund case via a detailed factual demonstration proving that our client could not be deemed the corporate "alter ego" of the U.S. company that previously owned the site at issue, thus establishing that our client was not subject to the personal jurisdiction of a California court.
- Successfully defended the former owner of a secondary lead smelter against an \$800 million Superfund claim seeking the cleanup of over 8,000 off-site residential properties allegedly contaminated by the aerial deposition of lead emitted from the smelter. The court agreed with our arguments that (1) a cutting-edge geostatistical analysis of the site data demonstrated that no detectable lead emissions reached the residential properties and (2) air emissions from the former facility were not legally actionable.
- Successfully defended an Ohio manufacturing company against an enforcement action brought by the Ohio Environmental Protection Agency regarding a groundwater contamination plume emanating from the client's property,

even though our client was addressing the matter under Ohio's Voluntary Action Program. On appeal to Ohio's Environmental Review Appeals Commission, we obtained summary judgment that the voluntary cleanup program's "safe harbor" provision barred Ohio EPA's claims.

- Successfully defended a petroleum company against claims by the Ohio EPA seeking remediation of an 80-year-old former petroleum refinery site. The settlement was based on our negotiation of a novel "risk-based" remedial approach, which saved our client millions of dollars in cleanup costs compared to the cost of a traditional approach.
- Negotiated the settlement of a U.S. EPA Superfund claim for costs incurred to replace residential drinking water wells with municipal water lines in an area in New Hampshire contaminated with 1,4-dioxane.