



Richard B. Benenson

Managing Partner

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Denver, Colorado Washington, DC

Rich Benenson is the managing partner of the firm and member of its Executive Committee. He formerly served as co-chair of the firm's Litigation Department.

Prior to taking the full-time leadership role of managing partner, Rich's practice focused on defending companies in complex litigation, antitrust, consumer protection, class actions and regulatory matters. A highly respected senior litigator and problem solver, Rich has played a lead role in headline and groundbreaking cases. He's known for his enviable track record of successfully resolving problems and his strategic and thoughtful approach to compliance, audits, examinations and investigations.

Rich represents clients in a variety of other industries, including consumer goods, financial services, real estate, manufacturing, health care, technology, supplement/nutrition, cannabis, political, telecommunications and energy.

After originally joining the firm in 2002, Rich left from 2005 through 2007 to become the senior vice president and general counsel of The Schaffer Companies, a privately held, midsize company. There, he was part of the executive management team that oversaw the company's significant growth and eventual sale.

Rich frequently lectures before businesses, trade associations and the firm's shareholders and associates and provides industry commentary to national legal publications.

Previous Experience

Senior Vice President and General Counsel, The Schaffer Companies

Judicial Clerk to the Honorable William J. Connelly, United States District Court for the District of Maryland

Summer Intern, Honors Program, U.S. Department of Justice Antitrust Division

Richard Benenson is widely commended for his practical and strategic approach. A client says: "He's just extremely practical and he understands our business and priorities." Another source notes his "great expertise in consumer protection" and ability as "a strong business litigator." One particular area of focus is the Telephone Consumer Protection Act. - Chambers USA, 2018

Practices

Antitrust, Class Action Litigation, Commercial Litigation, Consumer Protection, Political & Regulatory Law, Privacy & Cybersecurity

Consumer Protection

An extensive body of state and federal law protects consumers against fraudulent, deceptive, abusive and unfair business practices. These practices include misleading advertising and sales tactics, faulty credit financing and reporting, harassing or unfair debt collection practices, poor product quality, and unfair trade competition, fraud, deception, and unfair business practices. Rich uses his experience with high-stakes consumer protection litigation to assist clients in navigating today's risky regulatory and litigation landscape.

In recent years, the risk of consumer protection claims for companies that manufacture, distribute, advertise and service consumer and financial goods or products and services has grown exponentially. Driven by the Consumer Financial Protection Bureau (CFPB), state attorneys general and an aggressive plaintiff's bar, consumer protection theories are increasingly being applied to a broader scope of goods and services – particularly in the financial services sector. Challenges include misleading advertising and sales tactics, faulty credit financing and reporting, harassing or unfair debt collection practices, poor product quality, unfair trade competition, fraud, deception and unfair business practices. Understanding the current and trending challenges is critical to successfully navigating today's risky regulatory and litigation landscape.

Rich has represented companies defending individual and class action claims under state and federal antitrust laws, state unfair deceptive trade practices acts, state and federal fair debt collection practices acts, and in other consumer protection and competition disputes. Rich also regularly represents companies in examinations, investigations and enforcement actions by the CFPB and state attorneys' general. For example, Rich led the Brownstein team that facilitated a historic settlement with the Colorado Attorney General's Consumer Protection Office and the state's largest foreclosure firm resolving the state's two-year long consumer protection and antitrust investigation of foreclosure fees and costs. Likely the largest settlement of its kind, the case has significant implications for how foreclosures are handled in Colorado and nationwide.

Compliance

Rich has the perspective and skills to help clients comply with the myriad state and federal consumer protection statutes and regulations, develop effective compliance strategies and strengthen their existing compliance programs. Since the enactment of the Dodd-Frank Act and the creation of the Consumer Financial Protection Bureau (CFPB) in 2012, ensuring compliance with consumer protection laws and regulations has become increasingly challenging as new technologies, product innovation, and aggressive investigations and enforcement actions from the CFPB have changed the nature of consumer protection compliance efforts. Rich has vast experience helping clients resolve consumer protection investigations, enforcement actions and consumer class action. Applying his experience with regulatory and litigation pitfalls and drawing on his countless hours in the courtroom, he represents companies undergoing CFPB, state attorney general and other regulatory examinations, investigations and enforcement actions. He also conducts mock examinations and internal auditing of existing compliance programs.

Class Actions

Class actions present clients with great risk to reputation and finances. In an ever-changing technological and regulatory landscape, businesses and institutions are increasingly at risk for class-action litigation. State consumer protection statutes are becoming a popular vehicle for the plaintiff's bar to bring high-stakes, high-publicity litigation against corporations.

Rich has extensive experience defending and successfully resolving class actions, representing clients in putative class action lawsuits and negotiating consumer class settlements. He has served as lead trial counsel in more than a dozen matters. Rich has defended companies against class action claims under state and federal antitrust laws, state unfair deceptive trade practices acts, and state and federal fair debt collection practices acts, California's Proposition 65, and the Magnuson-Moss Warranty Act. His experience makes him a go-to attorney for companies looking to limit their exposure in high-stakes, class action litigation.

Representative Matters

- Obtained dismissal with prejudice of complaint by student loan borrower alleging various forms of fraud.
- Drafted successful motion to dismiss client from real estate development dispute in Colorado District Court.
- Represented hospitality company in litigation suit alleging fraud and other common law claims regarding the

location of the certain utility lines. Negotiated a walk-away settlement for client.

- Developed and conducted a consumer protection audit for public hospitality company in the time-share market. The audit entailed reviewing every consumer-facing aspect of the company's business including its compliance with state and federal consumer protection laws. Following the audit, conducted multiple training sessions for all of the company's consumer-facing employees and management.
- Successfully moved to dismiss Colorado Consumer Protection Act (CCPA) case brought by a competitor in Colorado against two Florida companies in the automobile ancillary insurance industry and their officers and directors. The court ruled that the plaintiff failed to plead the requisite elements of a CCPA claim and failed to establish personal jurisdictions over the individual officers and directors. Notably, the court rejected plaintiff's argument that the harm element was satisfied by merely pleading that the plaintiff was a competitor and therefore suffered injury.
- Designed and conducted due diligence on behalf of venture capital fund that specializes in the educational fin tech space. Also advised client on compliance with state and federal consumer protection laws and regulations.
- Developed and conducted a consumer protection audit for a for-profit education company specializing in technology and coding bootcamps. The audit entailed reviewing every consumer-facing aspect of the company's business including its compliance with state and federal consumer protection laws. Following the audit, conducted multiple training sessions for all of the company's consumer-facing employees and management.
- Successfully represented one of the largest health insurance companies in the country in a lawsuit alleging violations of the Sherman Act and Colorado Antitrust Act. Asserted counterclaims under the Sherman Act, Colorado Antitrust Act, Colorado Consumer Protection Act, and ERISA, in addition to various tort claims.
- Obtained summary judgment in favor of defendant loan servicer on all claims in action brought by borrower for alleged violations of the Telephone Consumer Protection Act and the Fair Debt Collection Practices Act in connection with serving of loans.
- Counsel to investment management client in defending state and federal class action lawsuits brought by music festival ticket purchasers and vendors seeking damages for alleged breaches of contract, unjust enrichment, and deceptive trade practices in connection with the cancellation of the event.
- Represented a client in matters concerning alleged violations of consumer protection and fair debt collection laws, in addition to private contract and tort claims.
- Represented a law firm in defense of a federal class action alleging claims under the federal Fair Debt Collection Practices Act.
- Represented client in putative class action lawsuit regarding disputed foreclosure practices and alleged violations of the Colorado Consumer Protection Act, the Fair Debt Collection Practices Act, and the Colorado Antitrust Act.
- Successfully resolved a class action lawsuit for defendant in which the alleged violations included violations of the California Unfair Competition Law and the Consumer Legal Remedies Act for alleged false and deceptive advertising related to the printed and online advertising of a particular personal care product.
- Represented client in litigation in disputed foreclosure action, asserting claims of breach of contract, violations of the Colorado Consumer Protection Act, the Fair Debt Collection Practices Act, intentional infliction of emotional distress, and civil conspiracy.
- Conducted an antitrust review for a public company.
- Litigated to open the Torcido Creek road as means of access to Taylor Ranch property for beneficiaries of Colorado Supreme Court decree in the landmark case of *Lobato v. Taylor* 70 P.3d 1152 (Colo. 2003), which confirmed rights of descendants of Mexican settlers to access to land under Spanish land grant of 1884 and confirmed in the Treaty of Guadalupe Hidalgo ending the Mexican/American war.

- Successfully and efficiently represented international personal care product company in a California Proposition 65 class action lawsuit alleging that upon application, the particular cosmetic product released a previously bound chemical, which required a Proposition 65 warning.
- Successfully defended a nutritional supplement company and its officers in Colorado and New York Attorney General's Consumer Protection and Deceptive Trade Practices investigations and related civil litigation.
- Successfully defended a company and its officers in derivative and direct shareholder litigation against claims of breach of fiduciary duty, negligence and civil conspiracy.
- Represented the officers and directors of Teletech Holdings, Inc. in the \$11 million settlement of a class action securities fraud case in the Southern District of New York and a shareholder derivative case in Delaware involving allegations of options backdating.
- Successfully represented Madison Capital in an oil and gas case involving properties in Colorado and New Mexico.
- Represented Metalwest, one of six defendants, in a large antitrust case in Federal Court in Oklahoma City. The plaintiff, Champagne Metals, sought more than \$500 million in lost profits in damages, alleging a group boycott under Section 1 of the Sherman Act. After seven years of litigation, including an important decision by the Federal Appeals Court, the case settled during trial. *Champagne Metals v. Ken-Mac Metals et al.*
- Represented national company in lawsuit stemming from the purchase of multiple multi-million dollar assets.

Community

- Board of Directors, Denver Metro Chamber Leadership Foundation
- Board of Directors, Global Livingston Institute
- Governor Appointee, Colorado Limited Gaming Control Commission
- Executive Committee, Metro Denver Economic Development Corporation (2017-2019)
- Board of Directors, Colorado Judicial Institute (2016-2019)
- Mayor's Drug Strategy Commission (2008-2014)
- American Israel Public Affairs Committee (AIPAC) (2002-2012)
- Board of Directors, Great Education Colorado (2005-2008)
- Board of Directors, Anti-Defamation League, Mountain States Region (2008-2012)
- Board of Directors, Friends of the Denver Fire Department (2007-2012)
- University of Denver Law School Mentoring Program (2007-2011)
- Board of Directors, Colorado Youth Symphony Orchestra (2002-2005)

Publications & Presentations

- United States Supreme Court: Foreclosure Law Firms Likely Exempt from Federal Fair Debt Law, *Brownstein Client Alert*, March 22, 2019
- A Broad Approach To Opt-Out Texts, Co-author, *Law360*, February 11, 2019
- A Victory for Home Rule Independence: Court Limits Jurisdiction Over Home Rule Municipalities, *Brownstein Client Alert*, January 10, 2018
- Brownstein Government Relations Podcast Series: TCPA Reform, *Brownstein Podcast Series*, September 19, 2018
- FCC Seeks to Address Critical TCPA Issues after D.C. Circuit Loss, *Brownstein Client Alert*, May 21, 2018
- Making Federal Preemption stick: SLSA v. Taylor, et al, Speaker, SLSA/SLSA PLC Meeting, Baltimore, Maryland, May 17, 2018
- California Proposes New Liability Regime for Companies That Deal in Credit Reports, *Brownstein Client Alert*, May 10, 2018

- The D.C. Circuit Issues a Split Ruling on the FCC's 2015 Omnibus TCPA Order, *Brownstein Client Alert*, March 19, 2018
- Recent Increase in Internet Tax Freedom Act Class Action Lawsuits Calls for Defensive Strategies, *Brownstein Client Alert*, March 12, 2018
- FTC's Unfairness Claim is Dismissed in Closely Watched Device Data Privacy-Based Action, *Brownstein Client Alert*, October 10, 2017

Education

- J.D., 1996, University of Maryland Francis King Carey School of Law, valedictorian
- M.B.A., 1995, with honors, University of Baltimore, Merrick School of Business
- B.A., 1991, Miami University

Admissions

- Colorado, 2001
- District of Columbia, 1998
- Maryland
- U.S. District Court, District of Colorado
- U.S. District Court, District of Maryland
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Fourth Circuit

Recognition

- *Best Lawyers of America*, 2017-2020
- *Chambers USA*, 2014-2019
- *5280 Top Lawyers*, Litigation – Antitrust, 2015, 2018, 2019
- *Law Week Colorado's* 2015 Top Litigators
- *Law Week Colorado*, Barrister's Best People's Choice "Best Antitrust Lawyer", 2015
- *Benchmark Litigation* Future Star Award, 2015
- Leadership Denver, Class of 2012
- 50 for Colorado, Class of 2010

Membership

American Bar Association
Bar Association of the District of Columbia
Colorado Bar Association
Denver Bar Association
Maryland Bar Association
Federal Bar Association