

## Paul E. Benson

Partner

### Overview

For more than 25 years, Paul has specialized in product liability defense, class action defense, insurance litigation, and complex commercial litigation. He is particularly well known for his work in the class action and food and beverage sectors, where he is a nationally and locally recognized speaker and thought leader on product liability issues and regulatory trends.

In all of these areas, Paul has established a reputation for outstanding results. He has used motion practice to obtain summary judgment and/or dismissal in more than half of the cases he has defended in Wisconsin State and Federal Court. He has argued multiple cases before the Wisconsin Supreme Court and the Seventh Circuit Court of Appeals, and handled numerous matters that have resulted in reported decisions across the country.

Paul's national product liability defense practice is extremely diverse. He has defended clients against claims of injuries involving industrial and construction equipment, consumer products, drugs and pharmaceuticals, medical implements and devices, petroleum products, food and beverage products, and toxic chemicals and substances. He has successfully litigated significant exposure cases involving industrial accident liability, automobile liability, toxic tort liability, and all types of general negligence and strict liability claims.

He has defended clients in a variety of class actions, collective actions and multi-district litigation (MDL) cases. Paul is lead defense counsel in class actions involving allegations of deceptive advertising and consumer fraud, violations of the Fair Labor Standards Act (FLSA), and violations of the consumer protection laws of various states. He has handled FLSA collective actions concerning wage and hour claims, employee versus independent contractor disputes, and disputes over employee exemption status. He also has substantial experience in MDL matters, serving as lead Wisconsin counsel for medical device manufacturers and pharmaceutical companies, consumer products companies, and chemical companies in major cases.



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### Industries

Food & Beverage

### Practices

Class Action, Collective Action &  
Multidistrict Litigation  
Environmental Enforcement  
Defense & Litigation  
Litigation  
Products Liability Defense  
Wage and Hour Compliance &  
Defense

Paul has prosecuted and defended a wide variety of complex commercial cases, including those involving all types of torts, fraud, false advertising, unfair competition, contract actions and Uniform Commercial Code disputes, employment actions, and real estate litigation. Additionally, some of the world's leading insurance companies have turned to Paul for representation in cases involving claims under both individual and group insurance contracts. He has extensive experience litigating claims involving ERISA applicability, and has defended numerous clients against allegations of bad faith and breach of fiduciary duty in matters relating to claims handling and adjudication and insurance-agent conduct. He has also successfully prosecuted claims under policies involving commercial general liability insurance coverage, directors and officers coverage, environmental insurance coverage and professional liability coverage.

Paul's work in the food and beverage sector includes not only litigation, but a range of activities that help companies stay ahead of the regulatory and litigation curves. He has defended personal injury and property damage claims, as well as class action cases, and has overseen and assisted with food product recalls and related litigation. He is often sought out as both an author and speaker by various food and beverage trade associations on topics including safety, regulatory compliance, nanotechnology, false advertising, and claims related to labeling and packaging.

## **Experience**

### **Protecting a leader in consumer data collection**

As lead national trial counsel, Paul is assisting the creator of one of the world's best-known consumer databases of household information in vigorous efforts to combat data piracy. With his guidance, the company has initiated lawsuits across the country to prevent the misappropriation of data by third parties who obtain and resell this data illegally. Litigation is ongoing but has already resulted in numerous substantial settlements.

### **Defending a precedent-setting class action**

As lead trial counsel for one of the world's largest independent iron foundries, Paul is defending a "hybrid" collective action and class action involving claims under the Federal Fair Labor Standards Act (FLSA) and Wisconsin state law that production employees should be compensated for time spent "donning" and "doffing" the protective gear required for work in an environment allegedly containing silica dust. The only case of its kind in the country, its outcome hinges on the safety of the work environment and will set an important precedent.

### **Defending cutting-edge toxic tort lawsuits**

Paul is lead national trial counsel for a flavor and fragrance company, defending it in one of the cases brought against companies industry-wide involving the butter-flavoring chemical diacetyl, which allegedly causes respiratory injury to workers and consumers. Paul is also Wisconsin trial counsel defending one of the world's best known chemical companies, currently being sued in over 170 cases in Wisconsin state and federal courts for allegedly selling lead pigment decades ago. The cases are being brought under Wisconsin's "risk contribution" theory of liability, making these cases unlike any others in the country.

### **Combating claims of false advertising**

Paul is defending a major food producer and a national retailer against claims of false advertising and mislabeling of a dietary supplement. Defense of this case involves cutting-edge issues of Federal Food, Drug and Cosmetic Act (FDCA) pre-emption and FDA primary jurisdiction.

## Honors & Recognitions

- Leading Litigation: General Commercial Lawyer, Chambers USA, 2019
- Litigation Star, *Benchmark Litigation*, 2013-present
- *Who's Who Legal: Product Liability Defense*, ABA Section of International Law, 2014-present
- Martindale-Hubbell® AV Preeminent Rated
- *The Best Lawyers in America*®, Commercial Litigation, Mass Tort Litigation/Class Actions – Defendants, Personal Injury Litigation – Defendants and Product Liability Litigation – Defendants, 2007-present
- Ranked Top Rated Lawyer™ in litigation by Martindale-Hubbell®, 2015
- Included in Wisconsin's Best Lawyers: A Guide to Wisconsin's Top Attorneys
- "Leading Lawyers" list, Milwaukee's *M Magazine*
- Leaders in the Law, *Wisconsin Law Journal*, 2010

## Professional Activities

- Board of Directors, Vice Chair, Milwaukee Bar Association Foundation
- Member, The Fellows of the American Bar Foundation
- Law360 Product Liability Editorial Advisory Board Member, 2012-2017
- Sustaining Member, Product Liability Advisory Council
- Member, FaB Wisconsin (Food Safety Committee, Leader of Food Safety & Regulations Group)
- Member, American Bar Association (multiple sections)
- Member, Defense Research Institute (multiple sections)
- Member, Food and Drug Law Institute
- Member, Midwest Food Processors Association
- Member, Seventh Circuit Bar Association
- Member, Wisconsin Association for Justice
- Member, Wisconsin Bar Association (multiple sections)
- Member, United States Supreme Court Historical Society
- Former Board Member, Milwaukee Bar Association
- Former Board Member, Eastern District of Wisconsin Bar Association

## Education

- University of Minnesota Law School, Juris Doctor (J.D.), *cum laude*, 1990; Member & Director, International Moot Court Team
- Macalester College, Bachelor of Science (B.S.), *magna cum laude*, 1987; Political Science, Speech Communication and Philosophy, Member, Phi Beta Kappa; two time national debate champion

## **Admissions**

- Wisconsin
- United States Supreme Court
- United States Court of Appeals, Seventh Circuit
- United States District Court, Eastern District of Wisconsin
- United States District Court, Northern District of Illinois
- United States District Court, Western District of Wisconsin

## **Community Involvement**

- Council Member, FaB Wisconsin
- Member, Milwaukee Athletic Club
- Lector and Usher, Fox Point Lutheran Church
- Volunteer, The Gathering

## **Related News**

### **NEWS**

May 1, 2019

*Law360*

Benson quoted in Law360 article "States Not Waiting On Feds To Decide What Makes Meat Meat"

### **NEWS**

April 26, 2019

Chambers USA Recognizes Twenty-Four Michael Best Partners in 2019 Rankings

### **PUBLICATION**

April 5, 2019

Failure to Act Exeditiously in Recalling a Defective Product Has Civil and Criminal Implications

### **EVENT**

March 4, 2019

Benson presents Key Developments in the Food, Beverage, Personal Care and Household Products Industry

### **PUBLICATION**

March 1, 2019

*Law360*

Benson quoted in Law360's article "Will The FDA Bite On CBD Foods?"

### **NEWS**

January 1, 2019

*Law360*

Product Liability Regulation & Legislation To Watch In 2019

**NEWS**

December 11, 2018

The 2018-2019 “Judicial Hellholes Report” Includes New Faces Among The Repeat Offenders

**EVENT**

November 28, 2018

Emerging Trends in U.S. Food and Beverage Litigation from A to Z

**EVENT**

October 16, 2018

From Soup to Nuts: A Complete Guide to the Proper Handling of a Food and Beverage Recall Crisis

**NEWS**

September 28, 2018

Six Michael Best Attorneys Recognized by Benchmark Litigation

**EVENT**

September 12, 2018

*FaB Wisconsin’s Food Safety Committee Feature Presentation*

Why You Keep it Clean: The Legal Consequences of Recalls and Failing to Protect the Public Health

**PUBLICATION**

September 6, 2018

“Beware the Dragon’s Breath” – FDA Warns about the Potential Dangers of Food and Beverage Products Prepared with Liquid Nitrogen

**NEWS**

August 15, 2018

88 Michael Best Attorneys Named The Best Lawyers in America© 2019

**NEWS**

June 25, 2018

*Law360*

Benson quoted in, “Trump Food Safety Proposal Unlikely To Have Legs”

**PUBLICATION**

May 29, 2018

What does the “best Wisconsin Law Decision ever” mean for the state’s opioid litigation?

**PUBLICATION**

April 9, 2018

Wisconsin Becomes First State to Require Plaintiffs to Disclose Third-Party Litigation Financing Arrangements

**EVENT**

February 27, 2018

*2018 GMA Legal Conference*

Benson Presents "Recent Developments in Food, Beverage, and Consumer Products Law"

**NEWS**

November 22, 2017

*Law360*

Benson quoted in "4 Tips For Safe Meal Kit Delivery Services"

**EVENT**

November 22, 2017

*UW-Whitewater*

A Defense Perspective on Product Liability Law

**EVENT**

November 15, 2017

Products Liability for Dummies, Geniuses, & Everyone In-Between

**NEWS**

September 29, 2017

Benchmark Litigation Recognizes Six Michael Best Partners

**NEWS**

August 15, 2017

87 Michael Best Attorneys Named The Best Lawyers in America© 2018