



## Derek A. Sutton

### Associate

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## OVERVIEW

Derek Sutton is an associate in the firm's Raleigh office, where he focuses on antitrust and complex commercial litigation. He has tried cases in state and federal courts and before arbitral tribunals.

Derek's antitrust experience includes representing clients in single-plaintiff, class action, and multidistrict litigation involving claims brought under state and federal antitrust and unfair competition laws. He defends corporations and individuals in civil and criminal enforcement actions brought by the US Department of Justice Antitrust Division (DOJ), Federal Trade Commission (FTC), and state attorneys general.

Derek also is a member of the firm's merger clearance practice, representing clients before the DOJ and FTC in all phases of merger review and advising on all aspects of the deal process including risk assessment, negotiations, due diligence, information exchanges, gun jumping, Second Request compliance, and integration planning.

Derek's commercial litigation experience includes representing clients in M&A litigation, patent licensing disputes, trade secrets litigation, securities litigation, and contract disputes.

## PROFESSIONAL BACKGROUND

Prior to joining the firm, Derek was a litigation associate at law firms in New York and Raleigh.

## PROFESSIONAL / CIVIC ACTIVITIES

- North Carolina Bar Association, Antitrust and Complex Business Disputes Law Section, Pro Bono Committee

## EDUCATION

- J.D., New York University School of Law, 2017
- B.A., University of Michigan, 2012

## ADMISSIONS

- Bar of New York
- Bar of North Carolina
- United States District Court for the Eastern District of New York
- United States District Court for the Eastern District of North Carolina
- United States District Court for the Middle District of North Carolina
- United States District Court for the Southern District of New York
- United States District Court for the Western District of North Carolina

## THOUGHT LEADERSHIP *POWERED BY HUB*

- 20 September 2023, Antitrust and AI: US Antitrust Regulators Increasingly Focused on the Potential Anticompetitive Effects of AI
- 20 July 2023, FTC and DOJ Release Draft of Updated Merger Guidelines: What this Means for Companies' M&A Plans Now and in the Future

## OTHER PUBLICATIONS

- Co-author, "Competitive Implications of Pricing Algorithms Under the United States Antitrust Laws," CPI Antitrust Chronicle, 28 February 2024
- Co-author, "Ninth Circuit: Apple Case Leads to Additional Clarity on Section 1 Claims," GCR US Courts Annual Review, Ch. 7 (4th ed.), 2023
- "No-Poach Guilty Plea Flags How to Mitigate Risks," *Bloomberg Law*, 22 September 2022

## NEWS & EVENTS

- 9 May 2023, K&L Gates Advises SPX Technologies on Agreement to Purchase Electrical Heating Solutions Leader

## AREAS OF FOCUS

- Antitrust, Competition, and Trade Regulation
- Class Action Litigation Defense
- Commercial Disputes

## REPRESENTATIVE EXPERIENCE

- Representing SK Trading International Co., Ltd., a global trading company, and its U.S. affiliate in state and federal antitrust actions brought by the California Attorney General and various purchasers of gasoline in California alleging anticompetitive market manipulation in trading in California gasoline spot markets.
- Represented investment firm in response to a grand jury subpoena from the U.S. Department of Justice, Antitrust Division, concerning anticompetitive “no-poach” agreements.
- Represented Nichicon Corporation, a Japanese electronic components manufacturer, and its U.S. subsidiary in multidistrict litigation brought by various purchasers alleging a global price-fixing cartel.
- Defended contact lens manufacturer in multidistrict litigation involving allegedly illegal resale price maintenance policies.
- Represented technology company in wide-ranging antitrust, contract, tortious interference, and patent licensing dispute with its largest customer.
- Defended technology company in civil enforcement action brought by the FTC alleging novel “tax” theory of antitrust liability.
- Represented consumer products company in statutory appraisal proceeding in connection with a \$40 billion merger, the first judicial appraisal of a public company tried to decision outside of Delaware.