



Whitney J. Smith

Partner

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OVERVIEW

Whitney Smith is a partner in the New York office and a member of K&L Gates' corporate/M&A group. His practice focuses on domestic and cross-border M&A, joint venture, and private equity transactions, including negotiated mergers, auction bid processes, distressed asset sales, leveraged buyouts, and the acquisition and divestiture of divisions and subsidiaries. In addition to corporate transactions, Whitney advises public companies in connection with SEC reporting, corporate governance, and executive compensation matters. Whitney has represented clients in a wide range of industries, including life sciences, media services, technology, financial services, manufacturing, and logistics, with a particular focus on the pharmaceutical industry.

In the pharmaceutical space, Whitney has represented clients in all types of business development and M&A transactions, from single product Co-Development and Commercialization Agreements to acquisitions and divestitures of manufacturing facilities and baskets of products to full company acquisitions and FTC-mandated product divestitures. A number of his transactions have involved acquisitions in India.

EDUCATION

- J.D., Albany Law School, 1994 (*cum laude*; *Associate Editor, Albany Law Review*)
- B.A., Boston College, 1989

ADMISSIONS

- Bar of New York

THOUGHT LEADERSHIP POWERED BY HUB

- 7 May 2020, Windfall or Fair? Breach of Fiduciary Duty and Unjust Enrichment Claim Survives Motion to Dismiss (*Research Surveys*)
- 30 August 2017, Chancery Court Denies Motion to Dismiss and Allows Derivative Suit Against Board Members to Continue (*Research Surveys*)

- 7 July 2017, Chancery Court Preserves Advancement for Corporate Officers Despite Exclusive Remedies and Seller Release Provisions in Stock Purchase Agreement (*Research Surveys*)
- 31 May 2017, Chancery Court Cites Inelegent Drafting When Allowing an Indemnification Claim to Proceed (*Research Surveys*)
- 5 April 2017, Chancery Court Rejects Stockholder's Demand for Books and Records (*Research Surveys*)
- 11 March 2016, Chancery Court Denies Motions for Summary Judgment in Case Brought by Minority Stockholders against Controlling Stockholders for Diversion of Equity as a Result of Breach of Duties (*Research Surveys*)
- 5 January 2016, Delaware Supreme Court Affirms Financial Advisor Liability for Aiding and Abetting (*Research Surveys*)

OTHER PUBLICATIONS

- Contributing author, Securities Practice Guide (Lexis Nexis, 2014 editions)

NEWS & EVENTS

- 11 June 2019, K&L Gates Once Again Top Ranked in the United States in Middle Market M&A by *The Legal 500 (Rankings & Recognitions)*

AREAS OF FOCUS

- Mergers and Acquisitions
- Private Equity Transactions

REPRESENTATIVE EXPERIENCE

- Series A financing and corporate restructuring and governance advice for a Canadian company with operations in Uruguay and the first government license to grow and export medical cannabis in Uruguay
- Acquisition of Lighting Technologies International, a specialty lighting company
- Acquisition of Digital Lifestyle Outfitters, an electronics peripherals and accessories distribution company
- Acquisition of Ethic Bio Lab, a clinical trials business
- Acquisition of a basket of 14 products in an FTC-mandated divestiture related to Watson Pharmaceuticals' acquisition of Actavis
- Acquisition of six branded foam dermatology products from GSK

- Acquisition of 42 generic products in an FTC-mandated divestiture related to Teva's acquisition of Allergan's generic pharmaceutical business
- Divestiture of multiple offices and insurance brokerage businesses
- Management buyout of PE portfolio company and subsequent restructuring involving an equity investment by TPG, a tax-exempt bond offering, a credit facility and a real estate purchase for the purpose of constructing and commissioning a biosolids-to-fertilizer plant
- Divestiture of Solvay's formulated resins business
- Acquisition of Somerset Therapeutics, a sterile injectible business, and its affiliate Wintac Limited, a Bangalore, India-based CDMO listed on the Bombay Stock Exchange (pending regulatory approval)
- Acquisition of Nuray Chemicals Private Limited, an India-based developer and manufacturer of API
- Acquisition of Baliho, a provider of digital advertising technology enabling national brands to execute hyper-local campaigns
- Acquisition of Clearstream.tv, a demand-side digital advertising technology company
- Acquisition of bRealTime, a supply-side digital advertising technology company that helps publishers monetize inventory through real-time bidding exchanges
- Acquisition of Bonds.com, a publicly traded U.S. broker-dealer
- Acquisition of Raytel Medical Corporation, a U.S. remote cardiac monitoring company from an Israeli telemedicine company
- Sale of Par Pharmaceutical's Charlotte, North Carolina and Huntsville, Alabama manufacturing facilities
- Advised NYSE-listed company in connection with a significant restatement of past financial statements and related SEC and NYSE inquiries
- Acquisition of Edict Pharmaceuticals, an India-based R&D company
- Acquisition of Innoteq, a developer and manufacturer of transdermal patch and thin film pharmaceutical products
- Advised a publicly traded company and its Board of Directors in connection with an unsolicited proposal to merge the company and subsequently in connection with negotiations with an activist hedge fund that had acquired a 10% stake in the company
- Acquisition of Westlock Controls, a manufacturer of switchboxes, position transmitters and other solutions for networking, monitoring and controlling process valves