

## Jason M. Wenker

### Partner

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### Services

Complex Commercial Litigation

Trade Secrets

Government & Regulatory

Consumer Product Safety

### Industries

Retail & Consumer Goods

Jason Wenker focuses his practice on complex commercial litigation in federal and state courts across the country, with significant experience in multi-count cases involving contract, intellectual property, and technology disputes. Mr. Wenker has handled cases with claims for breach of contract (such as supply agreements, software implementation agreements, and non-disclosure agreements), fraud, unfair trade practices, misappropriation of trade secrets, patent infringement, trademark infringement, and copyright infringement. He works closely with clients from the outset to conduct early case assessments and identify cost-effective dispute resolution strategies. He also assists companies with product safety issues, including evaluating and implementing product recalls in conjunction with the U.S. Consumer Product Safety Commission.

Mr. Wenker was listed by *The Best Lawyers in America*® in 2025 and the six years immediately preceding for Commercial Litigation. He was recognized in 2025 and the 11 years immediately preceding as a North Carolina "Super Lawyer" for Business Litigation by *Super Lawyers* magazine and was named to the *Triad Business Journal's* "40 Leaders Under 40" list. Mr. Wenker was listed in the 2022, 2023 and 2024 editions of *Chambers USA: America's Leading Lawyers for Business* for General Commercial Litigation. In 2022, he received the Association of Fundraising Professionals North Carolina Triad Chapter's "Outstanding Volunteer Fundraisers – Winston-Salem" Award.

### Experience

Lead defense counsel for subsidiary of one of the U.S.'s largest banks in federal court action in Arkansas alleging negligent failure to procure adequate insurance in violation of special relationship between corporate plaintiff and defendant insurance broker related to commercial property damage claim. Plaintiff alleged that the failure to obtain appropriate insurance coverage for a renovation of the hotel led to the failure of the renovation project and ultimately foreclosure on the hotel that had wide-ranging damages in excess of \$17 million. After



contentious discovery including dozens of fact and expert depositions, the Court granted defendants motion for summary judgment in full, which was affirmed by the Eighth Circuit on appeal.

Lead defense counsel for global apparel company in litigation against licensor related to ownership and licensing of a word mark for footwear. Licensor terminated the 30+ year old license agreement and sued licensee for a variety of contract, bad faith, deceptive business practice, and trademark claims. Case resolved during pendency of motion to dismiss Licensor's claims.

Lead counsel in complex trade secret misappropriation lawsuit in the North Carolina Business Court against clients former head of research and development. Worked closely with computer forensic experts to uncover misappropriation of 4,000 product formulas and spoliation of evidence. Obtained a temporary restraining order and a preliminary injunction.

Defended transportation company in federal court against eight separate causes of action arising from \$22 million deal, including breach of a non-disclosure agreement and confidentiality obligations, fraud, negligent misrepresentation, and deceptive trade practices. Moved to dismiss seven of the eight claims, which was granted in full, and plaintiff then voluntarily dismissed its remaining claim.

Defended software company in the North Carolina Business Court against claims for breach of contract, negligent misrepresentation, and unjust enrichment related to the replacement of the plaintiffs existing software system. Resolved shortly after early mediation while Defendant's motion to dismiss was pending.

Lead counsel for Krispy Kreme Doughnut Corporation in multi-count litigation brought by plaintiffs alleging that KKDC breached an agreement to permit it to function as its agent to locate a franchisee in the Philippines and conspired with co-defendants to commit fraud and unfair trade practices. The trial court dismissed all claims brought by two individual plaintiffs against KKDC, as well as the sole remaining plaintiffs fraud and unfair trade practices claims. The trial court subsequently granted summary judgment for KKDC on the remaining claims, and the North Carolina Court of Appeals affirmed that decision.

Defended in North Carolina Business Court and Texas State Court multiple former officers and directors of Consert, Inc., the company who acquired Consert, Inc., an investment bank, and other parties against various claims brought by former shareholders of Consert, Inc. including breach of fiduciary duty, fraud, violation of the North Carolina Securities Act, conversion, and violation of North Carolinas Unfair and Deceptive Trade Practices Act related to the merger of Consert, Inc. into another company. The North Carolina Business Court granted 10 defendants' motions to dismiss. The Texas litigation was resolved during a three-week trial.

Represented worlds leading health care diagnostics company in federal case involving trade secrets and copyright infringement claims stemming from a software license agreement. Case resolved after mediation



before any depositions were taken.

Defended world's leading mattress manufacturer in litigation involving claims for misappropriation of trade secrets and breach of a non-disclosure agreement related to smart mattress technology. Obtained voluntary dismissal early in the discovery process.

Represented owner of the Lilly Pulitzer brand and designs sold under that brand in a copyright dispute with the alleged infringer of multiple designs. Case resolved after mediation.

Represent and advise manufacturers, retailers, distributors, and importers with regard to product safety matters, complying with applicable regulations, and conducting consumer product recalls in conjunction with the U.S. Consumer Product Safety Commission (CPSC). Work closely with the CPSC and independent experts to evaluate potential safety issues and implement corrective action related to a variety of consumer products, including smartphones, appliances, recreational products, children's products, electrical and battery powered devices, apparel, furniture, and household goods.

Represented emerging smart grid technology company in a lawsuit in Delaware Chancery Court involving a breach of a development and supply agreement's requirement to pay a \$60 million minimum license commitment over five years. Resolved matter on the eve of trial.

Represented Hanesbrands Inc. against contract, fraud, unfair trade practices, and related claims brought by former exclusive distributor in Israel who sought eight-figure damages. Case resolved at mediation.

Represented battery technology company in litigation brought by competitor involving claims of direct and indirect infringement of multiple patents. Case settled by the parties.

Representation of Kennametal Inc., a \$2 billion per year NYSE company, in a patent litigation action that its biggest global competitor filed in the United States District Court for the Western District of North Carolina, alleging that Kennametal infringed certain metal cutting tool patents. Successfully transferred the case to the United States District Court for the Western District of Pennsylvania – Kennametal's home jurisdiction – pursuant to 28 U.S.C. §1404(a) and forced a voluntary dismissal of one of the two patents. Obtained a favorable claim construction ruling in which the remaining patent was found invalid for indefiniteness. The parties later entered an agreement resolving their disputes in this action and other related actions.

Represented Kennametal in a patent litigation matter in the United States District Court for the Western District of Pennsylvania alleging that Kennametal's largest global competitor and related entities infringe claims of two patents owned by Kennametal. Obtained an agreement for one entity to cease infringing one of the patents. The parties were still litigating the other patent, which related to metal cutting tools, at the time of settlement.



Represented Pioneer Hi-Bred International Inc., a subsidiary of E.I. du Pont de Nemours and Co., in false patent marking *qui tam* case filed in the Middle District of North Carolina involving pesticide resistant soybean seeds. Obtained dismissal.

Defended Primo Water Corporation, a national supplier of water dispensers, against claims for trademark infringement, false designation, and unfair competition. Resolved case prior to commencement of discovery.

Represented a supplier of motion furniture mechanisms in a lawsuit brought by a large furniture manufacturer alleging patent infringement, trade secret misappropriation, breach of contract, and tortious interference with business relations. Transferred case from the Northern District of Texas to the Middle District of North Carolina, secured withdrawal of patent claim, and resolved matter before engaging in e-discovery or conducting depositions.

Served as lead counsel on behalf of E. I. du Pont de Nemours and Company against claims for misappropriation of trade secrets, unfair trade practices, fraud, breach of a non-disclosure agreement, and patent infringement related to printing solvent formula, and counter-sued for patent infringement and unfair trade practices. Obtained summary judgment in full on plaintiff's claims and an injunction in the countersuit.

### **Education**

University of North Carolina School of Law J.D. (2001)

University of North Carolina B.A. (1997) History

### **Admissions**

Georgia

North Carolina

### **Court Admissions**

Georgia

North Carolina

### **Professional & Community Activities**

Greater Winston-Salem, Inc., Board Member

Reynolda House Museum & Gardens, Board Member

Crosby Scholars, Immediate past Board Chair and current Capital Campaign Co-Chair

### **Insights**



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November 11, 2024

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