



TERENCE M. MULLEN

PARTNER

Phone (561) 293 2530
Email: terence@AthertonLG.com
1641 Worthington Rd., Suite 100
West Palm Beach, FL 33409

Terence Mullen concentrates his practice in the areas of complex commercial litigation, securities fraud cases, and professional liability lawsuits. Terry's securities litigation practice has involved high-stakes hedge fund litigation in the United States, Europe and the Caribbean, including consolidated class action litigation, derivative litigation, hedge fund liquidation proceedings, and claw-back proceedings in federal, bankruptcy and state courts. Terry's professional liability practice has involved the representation of accountants and lawyers, and their firms, in a wide range of matters, including professional malpractice claims, shareholder actions, and in proceedings conducted by the Securities and Exchange Commission. Terry's commercial litigation practice includes, among other things, representing public and private companies in shareholder disputes, fraud litigation, trademark and copyright litigation, deceptive trade practices actions, and employment-related claims.

Areas of Practice

- *Class Actions*
- *Shareholder and Securities Disputes*
- *Complex Business Litigation*
- *Professional Liability Claims*
- *Deceptive Trade Practices Actions*
- *Employment Claims*
- *Electronic Discovery*
- *Trademark and Copyright Litigation*

Representative Experience

Business Litigation – Represented multinational produce import/export company in pursuing fraud and tortious interference claims against Dutch-based wholesaler involving millions of dollars worth of fruit shipments to the defendant; Successfully opposed defendant's motions to dismiss and defendant's efforts to litigate the claims in the Netherlands based on forum non conveniens grounds. See, e.g., *Fresh Results, LLC v. ASF Holland, B.V.*, No. 17-CV-60949, 2019 WL 4573257, at *2 (S.D. Fla. Sept. 20, 2019); *Fresh Results, LLC v. ASF Holland, B.V.*, No. 17-CV-60949, 2020 WL 95039, at *2 (S.D. Fla. Jan. 8, 2020).

Shareholder Derivative Disputes: Represented special litigation committee appointed by the board of a 1,400-member club to investigate certain derivative claims against the club's directors, including claims that the directors improperly allocated millions of dollars in debt obligations, funded capital improvements in violation of the club's bylaws, and imposed disproportionate dues increases on certain member classes. The trial court dismissed the derivative claims based largely on the committee's report finding that the claims lacked merit and were not in the best interest of the club.

Contract Actions: Represented national marketing company in defense of breach of contract and unjust enrichment claims in connection with litigation over plaintiff's performance of a multi-million dollar advertising services contract; Successfully obtained partial summary judgment and dismissal of plaintiff's claims for attorneys' fees, see *Inmar Brand Sols., Inc. v. Infinity Sales Grp., LLC*, No. 1:18-CV-761, 2019 WL 5597894, at *1 (M.D.N.C. Oct. 30, 2019), which ruling ultimately facilitated settlement.

Securities Litigation – Defended individual directors and corporate administrator of a \$500 million offshore hedge fund in numerous lawsuits in multiple jurisdictions arising out of a complex valuation fraud scheme perpetrated by the hedge fund's investment manager. The various lawsuits included a securities fraud class action lawsuit brought by two individual investors, see *Bruhl v. Price Waterhousecoopers Int'l Ltd. II*, No. 03-23044-CIV, 2011 WL 13071116, at *1 (S.D. Fla. Oct. 7, 2011); a separate federal securities fraud lawsuit brought collectively by a large group of institutional investors, see *Pension Committee of the University of Montreal Pension Plan v. Banc of America Securities, LLC*, 592 F. Supp. 2d 608 (S.D.N.Y. 2009); and breach of fiduciary duty, breach of contract and negligence-based claims brought by the hedge fund's court-appointed receiver. *Court Appointed Receiver of Lancer Offshore, Inc. v. Citco Grp. Ltd.*, No. 05-60080-CIV, 2011 WL 1233106, at *1 (S.D. Fla. Mar. 30, 2011).

Hedge Fund Litigation – Represented multinational financial institution that served as administrator and custodian of a multi-billion dollar hedge fund group in multiple lawsuits, including a federal securities class action lawsuit and shareholder derivative claims, arising out of the hedge funds' losses caused by the Bernard L. Madoff Ponzi scheme. See *Anwar v. Fairfield Greenwich Ltd.*, 2013 WL 662972 (S.D.N.Y. Feb. 25, 2013); *Stephenson v. Citco Group Limited*, 700 F. Supp. 2d 599 (S.D.N.Y. 2010).

Legal Malpractice Defense – Represented AmLaw 100 law firm in defense of fraud and negligent supervision claims in connection with alleged cryptocurrency fraud scheme.

Legal Malpractice Defense – Represented AmLaw 200 law firm against legal malpractice and fraud claims arising out of tax advice provided to multiple individuals who were participants in multi-million dollar tax-avoidance transactions.

Auditor Malpractice Defense – Represented regional accounting firm in auditor malpractice lawsuit brought by trustee of the audit client, an insolvent mortgage bank, alleging damages in excess of \$20 million.

SEC Enforcement – Represented multiple audit engagement partners in connection with responding to Wells Notices from the SEC, and in each matter successfully presented case against the commencement of enforcement proceedings.

Trademark Infringement: Represented manufacturer of regenerative medical products in defense against federal trademark infringement claims by competitor.

D&O Liability Defense – Represented director of a Fisher Island, Florida condominium association in defense of a multi-million dollar tortious interference lawsuit brought by prospective developer of Fisher Island; obtained dismissal with prejudice based on litigation privilege. See *Boca Investors Group, Inc. v. Potash*, 835 So.2d 273 (Fla. 3d DCA 2003).

Complex Employment Claims – Defended investment portfolio management company in defense of Sarbanes-Oxley and Dodd Frank Act whistleblower claims.

Deceptive Trade Practices Litigation – Defended national timeshare company against purported putative class action claims raised by a group of over 30 consumers under the Telephone Communications Privacy Act, Fair Debt Collection Practices Act, and Florida Consumer Collection Practices Act.

Noncompete and Trade Secret Cases – Defense of nutritional supplement company against breach of noncompete, tortious interferences, trade secret, and theft of corporate opportunity claims.

Electronic Discovery – Obtained landmark spoliation order from Judge Shira A. Scheindlin imposing monetary sanctions and adverse interest instructions as a result of plaintiffs' deficient e-discovery efforts and document preservation failures. See *Pension Comm. of the Univ. of Montreal Pension Plan v. Banc of Am. Securities*, 685 F. Supp. 2d 456 (S.D.N.Y. 2010).

Prior Professional Experience

- *Brown and Heller, P.A. (formerly Gilbride, Heller & Brown, P.A.)*
- *White and Williams, LLP*
- *Judicial Clerk to the Honorable Michael Patrick King, Presiding Judge, New Jersey Superior Court, Appellate Division*

Education

- *J.D., Boston College Law School, 1992*
- *B.A., English, cum laude, Georgetown University, 1989*

Bar Admissions

- *Florida Bar*
- *Southern District of Florida*
- *New Jersey Bar*
- *Middle District of Florida*