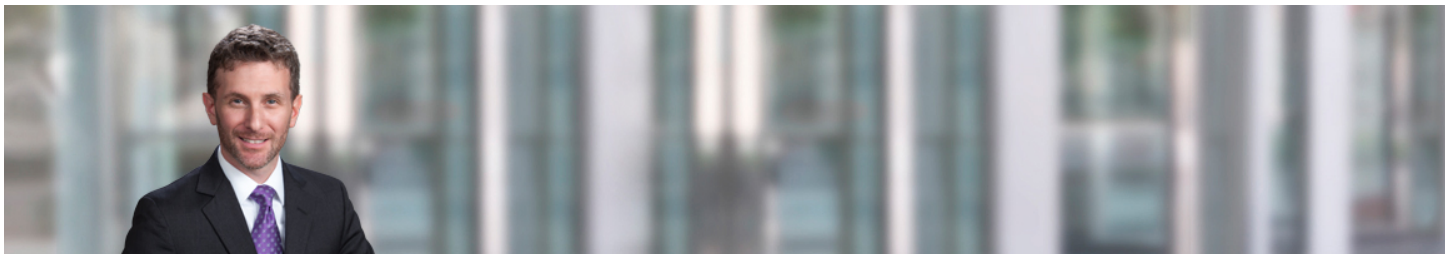


Joshua A. Munn



Shareholder

Miami Office

jmun@munnstearnsweaver.com

Phone: 305-789-3279

PRACTICE AREAS

Litigation & Dispute Resolution

Banking & Financial Institutions

Appellate

White Collar Defense &

Investigations

Class Actions

OVERVIEW

Joshua A. Munn is a Shareholder in the Litigation Department. Joshua practices in all areas of complex commercial litigation and represents banking & financial institutions, pharmaceutical companies, software developers, telecommunications providers, and individual directors & officers in federal and state courts. Joshua focuses on derivative and class-action litigation involving breach of fiduciary duty and federal securities claims, merger and acquisition disputes, securities enforcement matters, and white-collar criminal prosecutions. Joshua also regularly advises clients in connection with internal investigations and corporate governance issues.

Prior to joining the Firm, Joshua was a partner in the Boston office of a global law firm and an associate with a prominent New York law firm. Joshua graduated from Stanford Law School, where he was Managing Editor of the Stanford Law Review. Prior to law school, Joshua was an information technology consultant focused on designing computer systems for clients in the consumer products industry. He graduated from Emory University, *summa cum laude*, with a degree in Economics, Mathematics, and Computer Science.

REPRESENTATIVE EXPERIENCE

Defended a health and wellness company that modernized laboratory testing in a purported class action under the Florida Deceptive and Unfair Trade Practices Act and Florida Misleading Advertising Law. Following a successful motion to compel arbitration, the plaintiff voluntarily dismissed the case and declined to file an arbitration.

Obtained dismissal for forum non-conveniens for 600+ lawyer national firm in an action for legal malpractice in connection with advice on state and local gaming law and for aiding-and-abetting a corporate executive's alleged looting of the former client.

Obtained dismissal of a securities class action for an Indian multinational and its U.S. subsidiaries, who manufacture and market medical diagnostic reagents, test kits, and instrumentation, for failure to allege facts sufficient to draw an

inference that defendants acted with the scienter necessary for a plaintiff to establish liability under Rule 10b-5.

Negotiated favorable individual and class-action settlements on behalf of timeshare and vacation club company alleged to have violated the Fair Credit Reporting Act (FCRA) when it reported mortgage defaults to the credit reporting agencies.

Counsel to the master association of a mixed use hotel and commercial venture in several litigations with dissenting condominium unit owners concerning the validity and interpretation of the governing documents and management of the joint operations.

Represented a publicly-traded financial institution and its subsidiary national bank in a putative class action on behalf of certain borrowers. The district court dismissed most of the claims, and the case settled on favorable terms.

Represented two joint venture partners in obtaining a favorable settlement with a third partner in a dispute over the terms of the parties' complex agreement concerning internet marketing and product sales.

Successfully defended Benihana, Inc., which owns and operates approximately 70 restaurants in the United States, the Caribbean, and Latin America, in more than 10 cases and appeals brought by Benihana of Tokyo (BOT) from 2012 through 2017. Also prevailed in numerous counterclaims and contempt proceedings against BOT, and collected more than \$1.2 million in attorneys' fees to date for the client.

Represented custom steel products manufacturer in an expedited Delaware Court of Chancery preliminary injunction proceeding arising out of a spurned bidder's challenge to the sale of our client to another bidder.

Represented multinational precious metals technology company in bringing fraud and breach of contract claims in the Delaware Court of Chancery and the China International Economic and Trade Arbitration Commission against the former owner of a business unit acquired by our client.

Represented private equity firm in appealing an arbitration judgment on the grounds that the arbitrator's firm served as an expert for the plaintiff investors during a prior stage of the same arbitration proceeding.

Represented biotechnology company in a permanent injunction action against a competitor seeking a court-sanctioned compulsory license pursuant to *eBay v. MercExchange* despite a jury verdict that the competitor's drug infringed our client's patents.

Represented software company officers in connection with Department of Justice, Securities and Exchange Commission, and internal special committee investigations of company stock option backdating practices.

Represented government and military contractor in negotiating a settlement of False Claims Act and Anti-Kickback Act claims arising out of the illegal and unauthorized conduct of former company employees.

Represented wireless provider in an expedited Delaware Court of Chancery trial concerning charter interpretation and stock price valuation issues triggered by the merger of a competitor and an affiliate of our client.

Represented commercial real estate company in federal court jury trials and motion practice against more than twenty insurance companies to recover up to \$4.7 billion in replacement cost for property damage.

Represented cigarette manufacturer in appeals before federal courts of appeals and the U.S. Supreme Court on motions to dismiss claims brought by the U.S. government, foreign governments, insurance companies, and public hospitals to recover tobacco-related medical expenses.

Represented commercial real estate company in breach of contract and fiduciary duty claims against a buyer and the buyer's attorney based on the attorney's failure to properly distribute escrow funds to our client.

Represented a law firm and one of its partners in a lawsuit alleging legal malpractice and aiding and abetting an alleged fraud by the plaintiff's former principal.

Obtained dismissal of a securities class action against client Erba Diagnostics, Inc., arguing that the plaintiff failed to allege facts sufficient for the court to draw an inference that the defendants acted with the "scienter," i.e., intent to deceive, necessary for a plaintiff to establish liability under Rule 10b-5. The court dismissed plaintiff's case.

Pro bono representation of public school students with diagnosed learning and emotional disabilities and their parents in individualized education program (IEP) proceedings and in actions before school administrators seeking alternate school placements.

PUBLICATIONS & PRESENTATIONS

Publications: [Backdated Options Putting Companies in the Crosshairs of Government Investigations](#)

New England In-House | July 2006

Publications: [Comment on In re Abbott Laboratories Derivative Shareholders Litigation](#)

Bank & Corporate Governance Law Reporter | January 2002

NEWSROOM

In the Media: [Benihana Scores Double Win In Trademark, Libel Suits](#)

Law360 | July 2014

EDUCATION

J.D., Stanford Law School, 1999

B.A., *summa cum laude*, Emory University, 1994

ADMISSIONS

Florida

Massachusetts

New York

United States District Court for the Southern District of Florida

United States District Court for the District of Massachusetts

United States District Courts for the Eastern and Southern Districts of New York

United States Court of Appeals for the Second, Third and Ninth Circuits