



Contact

Timothy W. Mungovan

Partner

Boston

+1.617.526.9412

New York

+1.212.969.3201

tmungovan@proskauer.com

Tim Mungovan serves as chair of the Firm's Litigation Department, co-head of Proskauer's Commercial Litigation Practice Group and co-head of the [Asset Management Litigation](#) team. His practice is focused on solving complex business disputes in a variety of areas including securities, investment management, corporate governance, fiduciary obligations, capital markets, financial services, bankruptcy and insolvency. A significant portion of Tim's practice involves disputes and risk management for private investment funds (private equity, venture capital and hedge funds) and private credit vehicles.

Recently, Tim has been heavily involved in: representing the Financial Oversight and Management Board for Puerto Rico in litigation involving the restructuring of Puerto Rico's finances; SEC investigations of advisers to private equity funds and venture funds; control contests within advisers to private equity and venture capital funds; debt restructuring disputes on behalf of private credit funds and business development companies (BDCs); and litigation on behalf of two publicly-listed biotech companies against a hedge fund manager and a venture fund manager, respectively.

Tim is ranked as a leading lawyer by *Chambers USA*, which notes his special focus on disputes involving funds, and he's been recognized by *Benchmark Litigation* as a

litigation star in Massachusetts. In *Best Lawyers in America*, his clients lauded his experience, integrity, work ethic, communications and courtroom skills. Tim has also been recognized as one of the "Top 100 lawyers" in Massachusetts.

Tim devotes time to improving the community by serving on the board of Greater Boston Legal Services, which provides civil legal assistance to thousands of low-income people and families each year.

Tim is also the lead editor of Proskauer's blog on Private Equity litigation, [The Capital Commitment](#).

Matters

Investment Fund Disputes

- Financial Oversight and Management Board for Puerto Rico, in its own right and as debtors' representative, in litigation related to the restructuring of the Commonwealth's \$74 billion of bond debt and \$50 billion of unfunded pension obligations (D.P.R.) (Bankr. D.P.R.)
- Several institutional limited partners in defense of claims related to alleged fraudulent conduct at a private equity-owned portfolio company prior to its leveraged buyout, in which the plaintiff trust is seeking the avoidance of approximately \$250 million in equity distributions (D. Del. Bankr.)
- Fund sponsor, together with its funds and co-investment vehicles, in defense of claims related to sale of a portfolio company for tens of millions of dollars (Del. Ch.)
- A large institutional investor, as a limited partner and a member of the LP advisory committee, in investigating the misappropriation by a general partner of tens of millions of dollars, removing and replacing the general partner, and bringing an action against the general partner, and others, for fraud, conversion, and breach of fiduciary duty. (Cal. Super. Ct.)
- A limited partner (and majority interest holder) in connection with the dissolution of investment fund and court-ordered liquidation of fund assets

(Del. Ch.) and derivative lawsuit initiated by member of general partner (Cal. Super. Ct.)

- Rhode Island governmental issuer of tobacco settlement revenue-backed bonds in defense of lawsuit brought by two municipal bond funds seeking to block proposed \$600 million bond issuance. After expedited discovery, the court granted the issuer's motion for summary judgment in all respects, permitting the bond issuance to proceed. (*Oppenheimer Rochester High Yield Municipal Fund et al. v. Tobacco Settlement Financing Corporation* (R.I. Super. Ct.))
- A venture capital firm in defense of claims brought by limited partner related to alleged failure to make timely distributions of fund assets and properly allocate carried interest (N.Y. Sup. Ct.)
- A private equity firm and two of its founders in defense of claims brought by the third founder related to alleged improper distributions of tens of millions of dollars, misallocation of fees and expenses, and self-dealing (Del. Ch.)
- Investors in the International Management Associates Ponzi scheme/hedge fund fraud, defending against claw back actions filed by the trustee in bankruptcy who is seeking to recover redemptions of principal and profits
- An institutional investor and member of the liquidation committee of Fairfield Sentry Limited, the largest Madoff feeder fund, concerning complex issues including settlement with Madoff trustee Irving Picard, claims of fraud, claw back actions, investor class actions, distribution of recovered assets, and Chapter 15 proceedings in U.S. Bankruptcy Court
- A large European investment fund that lost approximately \$400 million in various Madoff feeder funds in the Madoff bankruptcy case
- The institutional limited partners and members of the LP advisory committee of two venture funds with combined assets of \$670 million that were managed and advised by Bay Partners in a forced restructuring of the management successfully negotiating a resolution through mediation that preserved the value of the investment portfolio and restructured fund management while avoiding litigation
- Boston Financial Qualified Housing Tax Credits L.P. IV , a public limited

partnership, and its general partner in defeating a limited partner's efforts to gain control of the limited partnership by removing the general partner through a consent solicitation and litigation

- A private equity fund and two individual partners in litigation brought by a commercial lender arising out of the liquidation of a portfolio company, obtaining the dismissal of litigation against two individual partners and settling on highly favorable terms
- A registered investment adviser who placed more than forty clients into a hedge fund that failed in October 2008, two months after the initial investment, Successfully settling claims against the hedge fund and obtaining a full general releases for the adviser

Securities and Investment Management Litigation

- Two special purpose vehicles (domiciled in Delaware and Cayman Islands, respectively) in the defense of a securities class action alleging fraud under both New York law and Section 10(b) of the Securities Exchange Act of 1934, arising out of losses that the plaintiff investment fund suffered in two synthetic collateralized debt obligation transactions
- A leading broker-dealer and registered representative, obtaining a complete defense award in a FINRA securities arbitration, where investor-claimants sought millions in damages for alleged negligence, breach of fiduciary duty, unsuitability, failure to execute, unauthorized trading, failure to supervise, and breach of contract

Complex Commercial Litigation

- MobileMedia Ideas (MMI), a patent portfolio licensor of inventions adopted by manufacturers of mobile phones and mobile media technologies, in a patent infringement case against Apple, Inc. The patents at issue related to features of the iPhone camera and phone call handling and rejection. After a seven-day trial, the jury deliberated for just four hours and found that Apple infringed

three patents owned by MMI. A separate trial relating to damages will take place at a later date. (MobileMedia Ideas LLC v. Apple, Inc. (D. Del.))

- State Street Bank in an action against former executives in its securities lending division and others for employee raiding, breaches of fiduciary duty, and aiding and abetting breaches of fiduciary duty
- Triton Systems of Delaware, Inc. in an action against its former President, VP of Sales, and VP of Engineering who had taken confidential information and set up a competing business, obtaining a preliminary injunction and final judgments for theft of trade secrets, breach of fiduciary duties, breach of duty of loyalty, and breach of contract.
- A corporation, its officers, and directors in obtaining the dismissal by stipulation of a shareholder derivative action brought by former senior executives and major shareholders
- A corporation, the seller in a failed M&A transaction, in which the prospective purchaser submitted falsified documents as part of an HSR filing, in obtaining a favorable settlement with the purchaser who pleaded guilty and paid a fine for obstruction of justice with a premerger filing and in an investigation by the Antitrust Division of the Department of Justice
- Northeast Utilities Service Company, defending claims of breach of contract and violation of state law arising from a dispute over charges under an electricity supply agreement, settling the case without any payment or other consideration from the utility

Government Investigations and Regulatory

- Multiple fund sponsors in connection with investigation by SEC into secondary market trading by pre-IPO shareholders
- A private equity firm in connection with SEC examination regarding compliance with the whistleblower provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act
- A hedge fund and its manager in insider trading investigations launched by the U.S. Attorney in the Southern District of New York and by the SEC

concerning the use of "expert networks"

- Several venture capital firms in connection with an SEC investigation into alleged pay-to-play and expense shifting violations and whether certain firm personnel are "covered associates"
- A hedge fund, its manager, and trader in connection with SEC investigation for insider trading arising from a trade in listed call options in the hours preceding a takeover announcement, successfully obtaining a termination notice six months after the investigation was opened
- A registered investment adviser and private wealth manager in an SEC investigation of collapsed hedge fund, resulting in no action being taken against the client
- A global asset manager in an investigation by the Massachusetts Attorney General of a registered representative's sales and marketing practices and the ability of municipalities to invest legally in certain financial products, which settled with the filing of an Assurance of Discontinuance

Practices

Investment Management , Business Development Companies, Private Credit Restructuring, Private Funds, Trial Strategies, Asset Management Litigation, Securities Litigation, White Collar Defense & Investigations, Litigation

Industries

Private Equity, Financial Services, Asset Management , Life Sciences

Market Solutions

Blockchain

Education

Suffolk University Law School, J.D., 1994

cum laude

Editor of the *Suffolk University Law Review*

College of the Holy Cross, B.A., 1991

Admissions & Qualifications

Massachusetts

New York

Clerkships

Supreme Judicial Court of Massachusetts - Judge Joseph R. Nolan

Court Admissions

U.S. Supreme Court

U.S. Court of Appeals, First Circuit

U.S. Court of Appeals, Fourth Circuit

U.S. District Court, Massachusetts

U.S. District Court, Maryland

U.S. District Court of Arizona

Memberships

Boston Bar Association

Board of Greater Boston Legal Services

Boston Federal Bar Association

American Bar Association

Board of Directors of the Catholic Lawyer's Guild of the Archdiocese of Boston

Alumni Board of Trustees of Xaverian Brothers High School

Awards & Recognition

The American Lawyer Litigator of the Week, January 10, 2020

Benchmark Litigation Litigation Star 2020-2021

Chambers USA Massachusetts General Commercial

Best Lawyers in America 2021

Legal 500 United States: General Commercial Disputes 2019-2020

Massachusetts Super Lawyers 2004-2018

