



TIMOTHY A. KOLAYA

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Timothy A. Kolaya concentrates on commercial litigation in federal and state courts, as well as arbitration panels. Tim counsels clients on a wide array of disputes involving commercial transactions, fraud-based litigation, contract challenges, class actions, construction defects, real estate transactions, business torts, deceptive and unfair trade practices, fiduciary relationships, insurance, products liability, and personal injury claims.

Prior to joining Stumphauzer Kolaya Nadler & Sloman, Tim worked for more than 11 years at the Miami office of the international law firm of Greenberg Traurig, where he tried several cases and handled significant litigation matters on a local and national level for a variety of clients. Tim's practice ranges from defending Fortune 500 companies in class action litigation to representing local companies in contract disputes.

Before returning to law school, Tim studied civil engineering at the University of Miami and continued on to obtain a master's degree in civil engineering and construction management from Georgia Tech. He then worked as a project manager for two of the top 100 largest construction companies in the country, overseeing all aspects of his projects, which included office buildings, condominium towers, restaurants, municipal buildings, and manufacturing facilities.

In addition to his active law practice, Tim has served as a member of the Civil Rules Committee for The Florida Bar, and the Board of Directors of the University of Miami Law Alumni Association. Tim also dedicates significant time as a volunteer leader for the Parkinson's Foundation, where he serves as a member of the national Development Committee.

CONCENTRATIONS

- Complex commercial litigation
- Construction and real estate litigation
- Contract disputes and other business torts
- Trustee and Receivership Representation
- Class actions
- Appeals
- Mass tort and product liability litigation
- Personal injury claims

REPRESENTATIVE EXPERIENCE

Real Estate and Construction Litigation

- Represents developers, national homebuilders, and other property owners in various pre-suit claims and lawsuits involving, among other things, land use and zoning challenges, disputes over purchase and sale

agreements, property boundary and easement disputes, association turnover claims, alleged construction defects, construction liens, allegations of mortgage fraud, leasing disputes, and broker commission disputes.

- Represented several national and regional homebuilders in multiple state and federal court lawsuits involving allegedly defective Chinese-manufactured drywall, including in In Re Chinese Manufactured Drywall Product Liability Litigation, MDL No. 2047.
- Obtained complete defense verdict for national engineering and construction services company on \$14.5 million negligence claim following a four-week jury trial, which was affirmed on appeal.
- Defended developer in lawsuit challenging zoning approvals and constitutionality of notice requirements under City of Miami's Zoning Code in connection with construction of municipal transportation facility; obtained final summary judgment in favor of developer.
- Defended developer in lawsuit with municipality seeking to avoid obligations under land swap agreement; resolved through settlement that granted developer increase in development rights for related condominium project.
- Defended developer in multiple lawsuits involving challenges to ballot question in special election to authorize development of a \$400 million project on city-owned waterfront property; obtained final judgment rejecting challenges to ballot question in all cases; decisions were affirmed on appeal before the Third District Court of Appeal; successfully defeated petition for review before the Florida Supreme Court.
- Defended developer in taxpayer lawsuit seeking to stop development of \$600 million mega-yacht marina project and to invalidate lease agreement between city and developer for city-owned waterfront property; obtained dismissal with prejudice in favor of developer.
- Defended developer in lawsuit seeking to invalidate development agreement and zoning approvals for \$1.5 billion mixed-use project; obtained dismissal with prejudice in favor of developer.
- Defended developer in lawsuit seeking to invalidate \$88 million tax incentive financing (TIF) agreement for \$1.5 billion mixed-use project; obtained dismissal with prejudice in favor of developer.
- Defended promotor of Miami International Boat Show in multiple lawsuits from Village of Key Biscayne seeking to prevent relocation of show to Miami Marine Stadium in Virginia Key; obtained dismissal of claims and negotiated settlement that allows show to continue operations at new location.
- Represented homeowner in construction defect lawsuit involving \$30+ million renovation of historic Miami Beach residence.

- Represented homeowner in dispute with architect and contractor involving design and construction of private residence on Jupiter Island, Florida.
- Represented homeowner in breach of contract lawsuit against contractor involving renovation of historic residence; obtained final judgment for full amount of claim.
- Represented private elementary school in lawsuit against neighboring property owner for damage resulting from excavation and sheet piling; resolved through settlement.
- Represented REIT in claim against former tenant of large warehousing facility for surrender of property in state of disrepair.
- Represented real estate investment company in emergency motion to set aside \$1.25 million default judgment following jury trial involving personal injury that occurred on property prior to transfer of title to client; obtained order setting aside default judgment, which was affirmed on appeal.
- Represented limited members of real estate investment company in four-day bench trial against managing members for breach of fiduciary duty.
- Represented general contractor in AAA arbitration final hearing involving dispute over multiple projects.
- Represented owner of home in Indian Creek Village in claim against roofing contractor for breach of contract; obtained summary judgment in favor of homeowner.

Class Action Litigation

- Serving as lead counsel for the class representative in a high-stakes federal antitrust class action against marketing company, alleging the unlawful maintenance of monopoly power and anticompetitive practices within the marine marketing industry.
- Represented insurance sale agency in putative class action alleging that agency and others made misrepresentations and enrolled consumers into Affordable Care Act plans or switched their plans without their permission.
- Represented law firm in putative class action alleging that attorney aided and abetted fraud and was co-conspirator in cryptocurrency Ponzi scheme; obtained dismissal with prejudice on motion to dismiss based on the absolute litigation privilege.
- Defended investment fund and its managers in a putative class action from feeder fund investors, seeking more than \$500 million in damages in connection with claims for breach of fiduciary duty and negligence;

obtained an order of dismissal with prejudice at the pleading stage from the federal district court.

- Defended five movie studios in a putative nationwide class action challenging the marketing of Blu-ray and DVD movies; obtained an order of dismissal with prejudice at the pleading stage from the federal district court.
- Defended a plumbing product marketer and distributor in putative class action lawsuits involving, among others, claims of breach of express warranty, breach of implied warranty of merchantability, breach of state consumer protection laws, and unjust enrichment; negotiated class wide settlement.
- Defended global product testing and certification company in a putative nationwide class action challenging the certification of certain HVAC products; obtained an order of dismissal with prejudice at the pleading stage from the federal district court.
- Defended electronic health records software company in nationwide, putative class action lawsuit involving, among others, claims for breach of warranty, violation of state consumer protection laws, and unjust enrichment; negotiated class wide settlement.

Trustee and Receivership Representation

- Representing court-appointed receiver in connection with a securities fraud case against merchant cash advance business with claimed losses alleged to be in excess of the hundreds of millions of dollars; successfully returned more than \$200 million to victims who invested in the business.
- Represented court-appointed liquidator in connection with a securities violation case involving alleged \$10 million fraudulent penny stock scheme.
- Retained by trustee for estate of real estate developer to coordinate resolution of multiple pending lawsuits; negotiated several settlements that facilitated closing of estate.

Fraud Litigation

- Secured favorable verdict for pharmacy in week-long federal jury trial involving claims of fraud and violations of the Florida Deceptive and Unfair Trade Practices Act in connection with failed contract for importation of hundreds of millions of dollars' worth of personal protective equipment; obtained partial summary judgment on several claims, defeated claim for more than \$30 million in lost profits, and limited recovery to less than one percent of claimed damages.

- Represented numerous medical practices and health care clinics in lawsuits filed by automobile insurance companies involving allegations of fraudulently collecting insurance benefits for medically unnecessary and unlawfully rendered services, seeking tens of millions of dollars in damages.
- Defended banking institution accused of fraud and violating Florida's Deceptive and Unfair Trade Practices Act in equity stripping case; obtained dismissal of all claims.
- Represented national independent insurance agency in lawsuit alleging fraudulent insurance sale practices, RICO conspiracy, and stock manipulation; obtained dismissal with prejudice on a motion to dismiss.
- Defended a national homebuilder and title company against various fraud-based claims asserted by the liquidating trustee of a failed mortgage company and the receiver of a failed bank arising from the sale of condominium units.

Other Business Litigation

- Obtained complete defense verdict for public healthcare system on claim under the Florida Whistleblower Act following seven-day jury trial.
- Obtained complete defense verdict for Blockchain startup company on breach of contract and unjust enrichment claims involving federal grant applications with the Department of Defense.
- Represented amusement park operator in contract dispute with purchaser of Miami Seaquarium; obtained summary judgment for full amounts sought on breach of contract and contractual indemnification claims.
- Represented pharmaceutical company in ICC arbitration involving dispute with international manufacturer over product development and supply agreement.
- Defended investors in evidentiary hearing for determination of reasonable attorneys' fee, resulting in award of less than fifty percent of amount demanded.
- Represented South American wine producer in contract dispute with U.S. distributor.
- Represented cargo airline in breach of contract lawsuit against aerospace company based on failure to deliver aircraft parts and repair aircraft; obtained summary judgment in favor of airline for full amount sought.
- Represented wine and spirits distributor in lawsuit against former executive seeking to enforce restrictive covenant.

- Defended medical care services company from wrongful termination and fraud claims by former executive; obtained order of dismissal of all claims with prejudice at the pleading stage.
- Defended manufacturer from wrongful termination and breach of contract claim by former executive.
- Represented purchaser of software company in litigation against seller for breach of representations and warranties in Business Sale Offer and Acceptance Agreement.
- Represented cruise line in connection with multi-million dollar claim under Oil Pollution Act of 1990 (OPA) against inland tank barge company for damages resulting from oil spill; resolved claim through settlement.
- Served as expert witness and testified at trial on issues related to reasonableness of fees sought and standard of care in representing client for law firm seeking to collect unpaid attorneys' fees from former client.

RECOGNITION & LEADERSHIP

Awards & Accolades

- Listed, Chambers and Partners, Litigation: General Commercial, Band 3
- Listed, *The Best Lawyers in America*, Litigation – Construction, 2020-2026
- Listed, Super Lawyers magazine
 - Florida Super Lawyers, 2020-2026
 - Rising Star, 2016-2018
- Listed, *Florida Trend*, *Florida's Legal Elite*, Commercial Litigation
- Recipient, Thomas Davison, III Memorial Service Award, University of Miami School of Law, 2019
- Recipient, Dade County Bar Association, "Rising Superstar Award," 2018
- Team Member, U.S. News – Best Lawyers®, Best Law Firms Edition, "Law Firm of the Year," Real Estate – Litigation, 2017
- Team Member, Daily Business Review's "Real Estate Litigation Department of the Year," 2015
- High score, July 2008 Florida Bar examination, earning invitation to speak at the Florida Bar induction ceremony at the Third District Court of Appeal in Miami, Florida

Professional & Community Involvement

- University of Miami Law Alumni Association, Board of Directors
 - President, 2020-2021
 - President-Elect, 2019-2020

- Vice President, Fundraising, 2018-2019
- Vice President, Student Affairs, 2017-2018
- Vice President, Alumni Outreach & Communications, 2016-2017
- Board Member, 2013 – Present
- The Florida Bar
 - Member, Civil Procedure Rules Committee, 2018 – 2024
 - Member, Judicial Administration and Evaluation Committee, 2013-2016
- Member, American Inns of Court, Spellman-Hoeveler Chapter
- The Parkinson’s Foundation
 - Member, Development Committee
- Engineer Intern, Florida Board of Professional Engineers
- Member, American Bar Association – Construction Industry Forum, Litigation Section
- Participant, Leadership Miami, 2014-2015
 - Recipient, Outstanding Project of the Year

EDUCATION

- J.D., *summa cum laude*, University of Miami School of Law, 2008
 - Order of the Coif
 - University of Miami Law Review
 - Book Awards: Contracts, Property, Construction Law, Legal Research & Writing, Business Associations
 - Honors Designation, Litigation Skills Program – Pretrial, Trial, and Advanced Business Litigation sections
- M.S., Civil Engineering, Georgia Institute of Technology, 2001
 - Construction Engineering and Management Program
 - Gamma Beta Phi Honor Society
- B.S., Civil Engineering, University of Miami, 2000
 - Chi Epsilon Honor Society
 - President’s 100
 - Henry King Stanford Scholarship

ADMISSIONS

- Florida
- United States Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. Bankruptcy Court for the Southern District of Florida