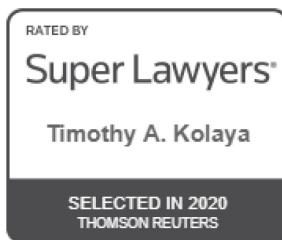




# TIMOTHY A. KOLAYA

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

Prior to joining Stumphauzer Foslid Sloman Ross & Kolaya, 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. From defending Fortune 500 companies in class action litigation to representing local companies in contract disputes, Tim understands the level of focus and preparation that is necessary for each matter he handles.

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. With this technical background, Tim is quickly able to learn and understand his clients' business needs, and puts his analytical thinking to work when resolving his clients' legal matters.

In addition to his active law practice, Tim is 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
- Class actions
- 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, alleged

construction defects, 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.

- Retained by estate of developer to coordinate resolution of multiple pending lawsuits; negotiated several settlements that facilitated closing of estate.
- 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 certain condominium units.
- 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 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

- 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.

## Other Business Litigation

- Obtained complete defense verdict for public healthcare system on claim under the Florida Whistleblower Act following seven-day jury trial.
- Represented pharmaceutical company in ICC arbitration involving dispute with international manufacturer over product development and supply agreement.
- 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.
- 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 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.

## RECOGNITION & LEADERSHIP

### Awards & Accolades

- Listed, *The Best Lawyers in America*, Litigation – Construction, 2020
- Listed, *Florida Trend*, *Florida's Legal Elite*, Commercial Litigation, 2020
- Listed, Super Lawyers magazine

- Florida Super Lawyers, 2020
- Rising Star, 2016-2018
- 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-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 – Present
  - Member, Judicial Administration and Evaluation Committee, 2013-2016
- Member, American Inns of Court, Spellman-Hoeveler Chapter
- The Parkinson's Foundation
  - Member, Development Committee
  - Chair, South Florida Chapter
- 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
- 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