

OVERVIEW

Firm Welcomes Micheline Gros-Jean and Dakeitha Haynes



FORT LAUDERDALE, Fla. — Kelley Kronenberg, a diverse business law firm, announced that Micheline Gros-Jean and Dakeitha Haynes have joined the firm's Fort Lauderdale office as Attorneys.

Gros-Jean assists in handling matters related to General Liability, Products Liability, Construction Defect claims and the prosecution and defense of declaratory judgment actions involving insurance coverage disputes and extra-contractual claims.

Prior to joining the firm, Gros-Jean worked as an Associate Attorney at an insurance defense law firm in Miami, Florida where she focused on First Party Property insurance defense litigation.

Gros-Jean earned her Bachelor of Arts in Political Science and History from Florida International University and her Juris Doctor degree from Nova Southeastern University, Shepard Broad College of Law. While in law school, she served as the Subscriptions Editor of the ILSA Journal of International and Comparative Law and as a Judicial Intern to the Honorable Dave Brannon in the United States District Court for the Southern District of Florida. She is admitted to practice law in Florida and the United States District Court, Southern District of Florida and is fluent in Haitian Creole.



Haynes assists in handling matters related to Third Party Insurance Defense, General Liability and Coverage, Products Liability, Premises Liability, Construction Disputes, Employer Liability, Negligent Security, Automobile and Trucking accidents.

Prior to joining the firm, Haynes worked as an Assistant Public Defender in Miami-Dade County where she handled over 150 misdemeanor and felony cases and litigated several motions and trials to verdict.

CONTACT INFORMATION

Office:

Haynes earned her Bachelor of Science Degree in Criminal Justice from Sam Houston State University and her Juris Doctor degree from St. Thomas University School of Law. During law school, she served as a Legal Intern at the Southern Poverty Law Center and Florida Justice Institute, where she helped advocate for legislative changes relating to juvenile justice, children's rights, mass incarceration, and various unconstitutional conditions of confinement. She also served as a Judicial Intern for the Honorable Michael Robinson of the 17th Judicial Circuit, Articles Editor for the St. Thomas Journal of Complex Litigation and received multiple CALI Book Awards. She is admitted to practice law in Florida.

OVERVIEW

Firm Welcomes Charles Gowland and Katherine L. Koener

TAMPA, Fla. —

Kelley Kronenberg, a diverse business law firm, announced that Charles Gowland and Katherine L. Koener have joined the firm's Tampa office as Partners.



Gowland handles First Party Property Insurance Defense Litigation, including coverage and bad faith litigation, with a special focus on insurance claims and investigations potentially involving fraud or arson. He also defends a wide array of Third Party Insurance claims.

Prior to joining Kelley Kronenberg, Gowland gained more than 20 years of civil litigation experience. He previously served as Vice President and General Counsel for the Property and Casualty Claims department of a national insurance company. Additionally, he served as General Counsel for a Florida based Property and Casualty insurance company and Chief Counsel to the Division of Insurance Fraud for the State of Florida's Department of Financial Services.

Gowland earned both his Bachelor of Science degree, *cum laude*, and his Juris Doctor degree, *cum laude* with honors, from Florida State University. He is admitted to practice law in Florida, Louisiana and North Carolina.



Koener focuses her practice on First Party Property Insurance Defense Litigation throughout the state of Florida, including coverage and bad faith litigation. She also handles the defense of a wide array of Third Party Insurance Defense claims.

Koener is experienced in defending Florida property insurers in First Party coverage matters. She has handled a broad range of claims, such as sinkhole, windstorm, fire, mold, theft and water losses. She is also skilled in handling complex civil and commercial matters for her clients, including the defense of personal injury, premises liability, construction defect cases, and admiralty law.

Koener earned her Bachelor of Arts degrees in Political Science and Linguistics from the

University of Florida and her Juris Doctor degree from Stetson University College of Law. She is admitted to practice law in Florida, including the United States District Courts for the Northern, Middle and Southern Districts of Florida.

OVERVIEW

TAMPA, Fla. — Kelley Kronenberg, a diverse business law firm, is pleased to announce that Dana G. Andrews, Managing Partner of the firm's Tampa office, has been elected President-Elect of the 2019-2020 Board of Directors for the United States Tennis Association (USTA) Florida.

USTA Florida is a volunteer organization that strives to not only help people play tennis, but also help build communities. For more than 65 years, the organization has worked to promote and develop tennis for all.

"This organization holds a special place in my heart because my father B.A. Grubbs previously served as President and was ultimately inducted into the USTA Florida Hall of Fame. I am honored to continue the work he started and continue to serve this important organization!"

Andrews will replace Chuck Gill, who resigned from the President-Elect role earlier this year. Following nominations and a secret ballot voting process, Andrews was named to the position. She previously served as a member of the USTA's Junior Competitive Committee as well as the USTA Florida Foundation Board and as Grievance Chairman.

Andrews is rated AV Preeminent by Martindale-Hubbell, which indicates a demonstration of the highest professional and ethical standards and is the highest rating a lawyer can receive. She is also Board Certified by The Florida Bar as a specialist in Workers' Compensation.

A graduate of the University of Georgia, Andrews went on to earn her law degree from Cumberland School of Law in Birmingham, Alabama. While completing her undergraduate degree, Andrews was a scholar athlete and member of the university's tennis team. She is admitted to practice law in all Florida state courts.

OVERVIEW

This year, several firm members will proudly participate in the 2019 Mercedes-Benz Corporate Run in Miami, FL! The Mercedes Benz Corporate Run presented by Turkish Airlines is one of the largest 5K races in the nation. The Corporate Run Series attracts 1,200 South Florida Companies and incorporates a special competition to award the overall men's, women's and co-ed teams in 18 different industries categories. The Corporate Run is about having fun, getting healthy, and boosting company morale.

The #MBCR2019 will take place on April 25th and will benefit the United Ways programs focusing on education, financial stability, and health - the building blocks for a good life.

Kelley Kronenberg is proud to promote running and walking as a means to a fit, healthy lifestyle for all employees. In addition, we believe it adds value by improving employee health and morale. We feel that a healthy employee makes for a healthy firm.

If you are in the Miami area on April 25th or participating with your company in the race, we invite you to stop by our tent for pre and post-race refreshments. The fun, healthy atmosphere always breeds good times for all.

See you there!

OVERVIEW

FORT LAUDERDALE, Fla. — Kelley Kronenberg, a diverse business law firm, is proud to announce that Partner Louis Reinstein and Attorney Marc A. Marra have been elected to serve on the Board of Directors for the Broward County Bar Association (BCBA). Additionally, Attorney Kyle S. Roberts has been appointed to serve on the Board of Directors for the BCBA's Young Lawyers Section, which contributes to the educational and professional advancement of attorneys under the age of 36.

Founded in 1925, the BCBA is a not-for-profit organization, which aims to foster courtesy, ethics, and professionalism among Broward County lawyers. The organization also works to educate the citizens of Broward County on their legal rights, and to provide necessary legal services to Broward County's residents.



Reinstein focuses his legal practice on Police Professional Litigation, Correctional Healthcare, Civil Rights Violations and Commercial Litigation. He is the immediate past President of the Board of Directors for the B'nai B'rith Justice Unit #5207, and has served on several Boards of Directors for various South Florida secular agencies and religious affiliated organizations. For the BCBA, he previously held roles on the Young Lawyers Section Board of Directors and was Vice Chair of the Appellate Section.



Marra focuses his practice on Real Estate and assists banks and other financial service providers with transactional and litigation matters. He also represents Condominium and Homeowners' Associations in a full range of legal and operational services. Marra currently serves as President of the Nova Southeastern University Shepard Broad College of Law Alumni Association (Broward), and sits on the Board of Governors for Nova Southeastern University Shepard Broad College of Law.



Roberts focuses his practice on the defense of individuals and corporations involved in litigation and assists in handling matters related to Third Party Insurance Defense and General Liability. He also serves on the Editorial Board of The Florida Bar Journal/News. Roberts earned his Juris Doctor degree from Nova Southeastern University, Shepard Broad College of Law, *Cum Laude*, and held the position of Editor-in-Chief of the *Nova Law Review*.

Kelley Kronenberg has continued to support the BCBA over the years, with many of the firm's legal team serving in leadership positions within the organization. The firm is committed to serving the industry and the community.

About Kelley Kronenberg

Kelley Kronenberg is a diverse, business law firm that provides litigation and other legal services to established corporations, insurance companies, entrepreneurs and individuals in Florida and other regions of the U.S. More than 130 attorneys strong, the firm offers 25 distinct practice areas throughout its network of nine offices in Florida and Illinois. Founded in 1980, Kelley Kronenberg was built on relationships and continues to grow and excel because of its strength, offering sound legal counsel and exceptional client service. Kelley Kronenberg is ranked in the top 20 largest law firms in Florida by Florida Trend and

the Daily Business Review, and has been recognized as a Top Law Firm in Florida by the South Florida Legal Guide and LexisNexis® Martindale-Hubbell®. More information on practice areas and office locations is available at www.kelleykronenberg.com.

OVERVIEW

Firm Welcomes Alexandra O. Lavelanet and Emma S. Meyerson

FORT LAUDERDALE, Fla. — Kelley Kronenberg, a diverse business law firm, announced that Alexandra O. Lavelanet and Emma S. Meyerson have joined the firm's West Palm Beach office as Attorneys.



Lavelanet assists in handling matters related to Workers' Compensation defense. Prior to joining the firm, she worked as an Associate Attorney at a boutique real estate and civil litigation law firm in Wellington, Florida. She brings experience handling labor and employment litigation matters, as well as complex commercial litigation and planning.

Lavelanet earned her Bachelor of Arts degree in Anthropology from University of Florida and her Juris Doctor degree, *cum laude*, from University of Miami School of Law. During law school, she served as a summer intern for a statewide insurance company that provides homeowner's insurance. She also served as the Articles and Comments Editor of the University of Miami Business Law Review. Lavelanet is admitted to practice law in Florida and is conversational in French.



Meyerson assists in handling matters related to Insurance Defense Litigation, General Liability, First Party Property, Commercial Litigation and Criminal Defense. Prior to joining the firm, she worked as an Attorney for an Insurance Defense Litigation firm in Coral Springs, Florida. She brings valuable experience in litigating claims involving personal injury protection benefits, coverage opinions, defense of rental car claims, bodily injury pre-suit claims, and negotiating on behalf of insurance carriers.

Meyerson earned her Bachelors of Arts degree in Radio/Television with a minor in Political Science from the University of Central Florida and her Juris Doctor degree from Nova Southeastern University Shepard Broad College of Law. During law school, she gained experience serving as an intern for two personal injury firms. She is admitted to practice law in Florida and is conversational in Spanish.

OVERVIEW

Let's get physical! On Saturday, April 6th, several firm members will join together as "Team Kelley Kronenberg Cares" proudly participates in the 19th Annual Riverwalk Run hosted by the Junior League of Greater Fort Lauderdale (JLGFL) in downtown Fort Lauderdale. The firm will serve as a water sponsor of this year's event. Jacqueline Costoya Guberman, Attorney in the firm's Fort Lauderdale office, is the Chair for the 2019 Riverwalk Run.

Kelley Kronenberg is proud to promote running and walking as a means to a fit, healthy lifestyle for all employees. In addition, we believe it adds value by improving employee health and morale. We feel that a healthy employee makes for a healthy firm.

The Riverwalk Run is a day of fitness and fun for the whole family. All fitness levels are encouraged to attend. Participants are welcome to run the 5K, walk the 5K or run 5 miles. Kids can compete this year too! There will be a "Kids' Fun Run," a 1 K course lined with parents and volunteers to cheer them on.

For the past 80 years, the JLGFL has made tremendous efforts in impacting our community in a positive way through the leadership of well-trained women. The money raised by this event goes towards supporting the Junior League of Greater Fort Lauderdale's current charitable initiatives including human trafficking awareness, assisting adolescents in foster care to independent housing, childhood fitness and nutrition, and more!

See you at the run!

OVERVIEW

CHICAGO, Ill. –Kelley Kronenberg, a diverse business law firm, is pleased to announce that Christopher T. Miller, Managing Partner of the firm's Chicago office, was included on the *2019 Illinois Super Lawyers* list. *Super Lawyers*, part of Thomson Reuters, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. Miller has been featured on this list every year since 2014 and was honored with inclusion on the *Top 100: 2016 Illinois Super Lawyers* list. He was also previously included on the *Illinois Rising Stars* list from 2010 to 2012.

The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates, and peer reviews by practice area. No more than five percent of the lawyers in Illinois are selected by *Super Lawyers* to receive this distinction.

An accomplished trial attorney, Miller focuses his practice on Construction law, Product Liability, Retail and Commercial Litigation. His work encompasses a wide range of industries, including manufacturing, construction and public entities.

Miller is licensed to practice law in Illinois' state and federal courts and is a graduate of DePaul University College of Law. As a leader in his field, he has contributed to numerous periodicals and Bar association publications. He is also on the Board of Directors of the Hispanic American Construction Industry Association (HACIA), a member of The Claims and Litigation Management Alliance (CLM) and a committee member of the Illinois Road and Transportation Builders Association (IRTBA).

OVERVIEW



Throughout 2018, the construction industry in Florida saw significant changes to the law. Some were statutory changes, while others were from the courts. Here are a few of the

more significant changes that are affecting the industry:

- Gov. Rick Scott approved changes to Florida Statute § 95.11(3)(c), Florida's statute of repose for construction defect claims, that gives the ultimate deadline of ten (10) years to assert claims for latent defects. The amended statute now allows an additional year to file a counterclaim, cross claim, or third party claim that arises out of the conduct, transaction, or occurrence set out in the original pleading of a lawsuit that is based on the design, planning or construction of improvements to real property. Prior to the amendment, the statute would have barred such claims raised after the ten-year repose period.
- In *Blok Bldrs., LLC v. Katryniok*, 245 So. 3d 779, 783 (Fla. 4th DCA 2018), the Fourth District Court of Appeal found that Florida Statute § 725.06(1) is inapplicable to a contract involving the laying and maintenance of utility lines. Florida Statute § 725.06 dictates that an indemnity obligation in a contract for or in connection with "any construction of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith" that seeks to protect a party from its own fault is void as against public policy unless the contract complies with certain statutory requirements including a "monetary limitation" on any indemnification provision within the contract. In this case, a subcontractor was hired to perform excavation to access preexisting underground telecommunication lines. This work ultimately resulted in a personal injury action where the injured person sued the contractor, subcontractor, and utility company. The contractor and utility owner both claimed that the subcontractor was responsible for contractually indemnifying them for all losses, including attorney's fees. The subcontractor argued that the indemnification provision should be deemed unenforceable because it did not contain a monetary limitation on the extent of the indemnification. The court, however, found that the statute was inapplicable since the contract did not involve "construction of a building, structure, appurtenance, or appliance."
- In a case of first impression in Florida, *Gindel, et al. v. Centex Homes, et al*, 2018 WL 4362058 (Fla. 4th DCA Sept. 12, 2018), the Fourth District Court of Appeal held that the service of a pre-suit construction defect notice, required by Chapter 558, Florida Statutes, constitutes an "action" for purposes of the statute of repose in the context of the improvement of real property (Florida Statute § 95.11(3)(c)). Therefore, even though the lawsuit was filed after the ten-year repose period had expired, the court found that the lawsuit was not barred by the statute since the pre-suit notice was timely served before expiration of the repose period.
- In *DeLisle v. Crane Co.*, 2018 WL 5075302 (Fla. Oct. 15, 2018), the Florida Supreme Court held that the Florida Legislature's 2013 amendments to the Florida Evidence Code, which adopted the federal *Daubert* standard for admission of expert testimony, was unconstitutional. In 2013, the Florida Legislature voted to amend Florida Statute § 90.702 in order to replace the *Frye* test (which had been the standard of admissibility of expert testimony in court proceedings in Florida for the past 50 years) with the *Daubert* standard. The Florida Constitution provides the Florida Supreme Court with exclusive authority to "adopt rules for the practice and procedure in all courts," which the Florida Legislature can only repeal by "general law enacted by two-thirds vote of the membership of each house of the legislature." The legislative vote to amend Florida Statute § 90.702, did not meet this requirement in the Florida House, although it did in the Florida Senate, and therefore, the Court declared the amendment unconstitutional. With the Court's ruling, Florida returns to a *Frye* jurisdiction. However, it remains to be seen how the lower courts in Florida will address whether and to what extent parties will be granted relief from final judgments entered under the *Daubert* standard following the statutory amendments, which the Court has now ruled were unconstitutional. The Court's ruling also left the door open for the legislature to try again to implement the *Daubert* standard with the requisite two-thirds majority vote. So, it remains to be seen whether Florida will once again be governed by the *Daubert* standard.
- The Federal Arbitration Act allows parties to agree by contract that an arbitrator can decide threshold questions of arbitrability, rather than a court. In *Henry Schein, Inc., et al., v. Archer & White Sales, Inc.*, 586 U.S. __ (2019), No. 17-1272, slip. op. (U.S. Jan. 8, 2019), the United States Supreme Court rejected the "wholly groundless" exception to the Federal Arbitration Act which enables courts to block frivolous attempts to transfer disputes from the court system to arbitration. The Court concluded that the "wholly groundless" exception was inconsistent with the Federal Arbitration Act and that courts cannot override the terms of parties' agreement to arbitrate.
- In *Keystone Airpark Auth. v. Pipeline Contr.*, No. 2019 WL 323775 (Fla. 1st DCA

Nov. 27, 2018), the First District Court of Appeal concluded that the costs of correcting deficient construction work were “consequential” damages as opposed to “general” or “direct” damages, and were therefore, barred by the parties’ contract. In this case, the contract between an owner and a supervising engineering firm included a waiver of consequential damages. After construction was complete, the owner discovered that the contractor’s work was deficient including the use of substandard materials, and sued the engineering firm for not properly overseeing the work and ensuring that proper materials were used. In concluding that the damages were consequential, the court ruled that the need for repairs did not arise within the scope of the transaction between the engineering firm and the owner. Rather, the need for repairs stemmed from the loss incurred by the owner in its dealings with the contractor, a third party. The fact that the damages (i.e., costs of repairs) were “reasonably foreseeable” was not what made them consequential in nature as opposed to general or direct. Instead, the court concluded that the damages were consequential because it was still possible that the contractor could have properly performed its work and that no repairs would have been necessary, *even if the engineer failed to properly supervise the work*. Thus, the court concluded that the damages did not naturally flow from the engineer’s conduct, but instead from the conduct of the contractor.[Note: This case has an excellent discussion on the distinction between the different types of damages.]

These and other topics are discussed in more detail in *Florida Construction Defect Litigation*, published by the Daily Business Review, an ALM Media company. They can also be found online by clicking the following link: <https://www.lawcatalog.com/productdetail/18108/florida-construction-defect-litigation>

If you have any questions about this article or any construction-related legal issues, please contact Gary Brown in the Firm’s Fort Lauderdale office.

OVERVIEW

FORT LAUDERDALE, Fla. —Sonia Oliveri, a Partner with the business law firm Kelley Kronenberg, has been recognized by *EB5 Investors Magazine* as one of the Top 5 Rising Stars in the EB-5 industry. She was featured in a special Top 25 Attorney edition of the publication among the EB-5 industry’s most accomplished and influential legal professionals.

EB5 Investors Magazine’s Top 25 Attorneys list represents an elite group of attorneys from across the country who are making a significant impact in the EB-5 industry. Candidates for the Top 25 Attorneys list were evaluated based on their experience in the EB-5 industry, their track record and their reputation within the field.

The EB-5 Immigrant Investor Program, administered by the U.S. Citizen and Immigration Services, is an employment-based visa that provides foreign investors with a method of obtaining green cards through an investment of \$500,000 or \$1 million into the U.S. that creates at least 10 jobs. Enacted by Congress in 1990 to stimulate the U.S. Economy through job creation and capital investment, the program enables American developers to use vetted foreign capital for their construction development projects.

“To be recognized among this group of top industry professionals, and by a prestigious industry leader such as *EB5 Investors Magazine*, is a true honor,” said Oliveri. “I have dedicated my career to EB-5 matters and I look forward to continuing to make my mark in this rapidly evolving field.”

An Italian native, fluent in six languages, including Italian, Farsi, Spanish, French, Portuguese and English, Oliveri leads Kelley Kronenberg’s EB-5 Practice Group and is highly experienced in assisting investors and their families with all stages of the EB-5 process. She represents international clients and investors from all over the world and specifically from Europe, Latin America, the Middle East, Dubai, and India. Oliveri has been responsible for filing hundreds of EB-5 petitions and has consulted with countless foreign national clients on obtaining green cards through either direct investments, pooled investments, or EB-5 regional centers investments.

Outside of the office, Oliveri serves on the Business and Investment Committee of AILA (American Immigration Lawyers Association) – South Florida Chapter, and the Board of Directors of OWIT (Organization of Women in International Trade). Additionally, she is a member of NIABA (National Italian American Bar Association), and the Italian American

Chamber of Commerce for the Southeast.

Oliveri earned her Juris Doctor degree, summa cum laude, from Roma Tre University in Rome, Italy prior to moving to the United States. She later earned her second Juris Doctor degree, cum laude, from Nova Southeastern University, Shepard Broad College of Law. She is admitted to practice law in Florida, the United States District Court for the Southern District of Florida, and the District of Columbia, which allows her to service clients worldwide.