



## Joshua G. Keller

Partner

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### Practices

Commercial Transportation  
Insurance Coverage  
Manufacturer's Liability &  
Products Liability  
Premises Liability

### Industries

Insurance  
Manufacturing  
Retail & Restaurant  
Transportation

### Bar Admissions

Louisiana

### Education

J.D., Loyola University of New Orleans, 2004  
B.A., University of Southern Mississippi, 2000  
Jesuit High School, 1996

Josh Keller is a New Orleans native and Partner in the firm's Civil Litigation section. His practice focuses mainly on personal injury defense and products liability matters. Josh primarily defends high net worth individuals through private client group insurers and publicly traded companies through Commercial General Liability (CGL) insurers. Most of the cases he defends involve multi-million dollar claims.

Josh handles matters involving auto accidents, premises liability, insurance coverage disputes, multi-district litigation, defamation and business interruption claims. He defends individuals, corporations, non-profits, excess and Underinsured Motorist (UM) insurers and manufacturers on a wide variety of products including fall protection systems, flexible intermediate bulk containers, steel transportation tanks, plastic utensils and sports bottles. Josh has been first chair trial counsel in jury trials in Orleans Parish, Jefferson Parish and St. Tammany Parish and second chair trial counsel in East Baton Rouge Parish.

Josh is married with three children and devotes his leisure time to reading, acting as a chauffeur for his kids on the weekends, playing golf and fishing.

### Professional Associations

- American Bar Association
- Council on Litigation Management (by invitation only)
- Louisiana Association of Defense Counsel
- Louisiana State Bar Association
- New Orleans Bar Association

### Accolades

- *Martindale-Hubbell AV® Preeminent™ Peer Review Rated Lawyer*
- New Orleans *CityBusiness* "Ones to Watch: Law" 2015, 2017
- *Super Lawyers*, Louisiana Rising Stars List, 2017, 2018

### Representative Successes

- **General Casualty – Gary Fank v. Darin Short and AIG Property Casualty Company**  
In 2017, Mr. Keller and Ms. Wise defended a homeowner in a claim filed by a painting contractor in St. Tammany Parish. The contractor claimed the defendant let go of a ladder while he was 15 feet in the air causing him to fall and sustain serious injuries to his heel, head, spine and shoulder. Plaintiff underwent two surgeries to repair a broken heel and incurred past medical expenses of approximately \$112,000. In closing arguments, Plaintiff's counsel argued that the case had a total value of \$1,000,000. After four days and two hours of deliberation, the jury returned a defense verdict finding that the

homeowner was not responsible for the accident. As a result, the insurer did not have to pay any amount.

*Gary Fank v. Darin Short and AIG Property Casualty Company*, Suit No. 2015-11513, Honorable Richard Swartz, St. Tammany Parish Civil Court

- **Personal Injury – Wrongful Death – Jury Trial – *Carrie Marchiafava v. Casey Jones Supermarket, Inc., et al*, Suit No. 732-565**

In 2016, Mr. Keller and Mr. Kerrigan represented a corporate defendant, its excess insurer and its employee in a claim involving an auto/pedestrian accident in a parking lot. The case involved serious injuries including multiple broken bones and de-gloving of the skin from the lower extremities. The decedent eventually succumbs to her injuries 28 days after the accident having never left the hospital. Plaintiff's past medical expenses totaled approximately \$230,000. The case went to jury trial in July 2016. After four days, Plaintiffs asked the jury for close to \$43,000,000 in total damages (approx. \$32M in survival damages and \$10M in wrongful death damages). After deliberating just two hours, the jury returned a verdict of \$760,000. As a result, the defendants did not have to pay any amount of this award because its coverage was not triggered until \$2M. The jury verdict was reported in the *New Orleans Advocate* newspaper.

*The Estate of Carrie Marchiafava v. Casey Jones Supermarket, Inc., et. al.*, Suit No. 732-565. Honorable Adrian Adams, Jefferson Parish Civil Court

- **Personal Injury - Traumatic Brain Injury - Jury Trial - *Felepe Hontiveros v. Kristy Williams, et. al.*, Suit No. 2012-6184.**

In 2015, Mr. Keller and Mr. Kerrigan represented a corporate defendant, its excess insurer and its employee in a claim involving an auto accident. The case involved serious injuries including a traumatic brain injury. Plaintiff's medical expenses totaled approximately \$300,000. After admitting responsibility for the accident, the case went to trial on damages in May 2015. Plaintiffs hired Tony Clayton and Michael Fruge to try their case in Orleans Parish. Mr. Keller was first chair trial counsel, and he was solely responsible for the examination of all expert witnesses, including neurologists, neuroradiologists, neurosurgeons, psychiatrists, neuropsychologists, radiologists, interventional radiologists, life care planners and economists. After seven days, plaintiffs asked the jury for close to \$21,000,000 in total damages. After deliberating just three hours, the jury returned a verdict of just \$2,700,000. Mr. Keller's client did not have to pay any amount of this award because its coverage was not triggered until \$5M.

*Felepe Hontiveros v. Kristy Williams, et. al.*, Suit No. 2012-6184. Honorable Piper Griffin, Orleans Parish Civil District Court

- **Personal Injury – Punitive Damages – Trial Court Reversed on Appeal, Summary Judgment Granted - *LaSalle v. Orlando*, Suit No. 125969**

In 2015, Mr. Keller represented a defendant in a personal injury case involving allegations of driving while intoxicated and punitive damages pursuant to La CC Art. 2315.4. After some brief discovery, Mr. Keller filed a Motion for Partial Summary Judgment on the punitive damages claim arguing that plaintiff did not have sufficient evidence to satisfy his evidentiary burden of proof at trial. The trial court denied the motion, but the First Circuit Court of Appeal reversed. The appellate court's reversal effectively dismissed the punitive damages claim as a matter of law.

*LaSalle v. Orlando*, Suit No. 125969. Honorable Judge Paul deMahy, 17th JDC

- **Personal Injury – Dog Bite – Summary Judgment Granted – *Stanford v. Bourque*, 27<sup>th</sup> JDC Suit No. 12-C-0902-D**

In 2013, Mr. Keller defended an individual in a dog bite lawsuit filed in St. Landry Parish. Plaintiffs alleged that Mr. Keller's client was responsible for the dog attack because he allowed a dog to cross his property before the attack occurred. After some brief discovery, Mr. Keller filed a Motion for Summary Judgment arguing that Louisiana Law does not impose a duty on a non-owner to prevent a dog attack or warn a third party about a dog

attack regardless of whether the dog crossed the non-owner's land or not. The trial court granted the motion and dismissed all claims with prejudice.

*Stanford v. Bourque*, 27th JDC Suit No. 12-C-0902-D. Honorable Judge Donald Hebert

- **Products Liability - Brain Damage - Expert Excluded and Motion for Summary Judgment Granted**

In 2012, Mr. Keller and Mr. Walsh represented a manufacturer in a products liability claim involving an alleged brain injury to a 3 year old girl who allegedly fell onto a plastic cup, causing it to become lodged in her brain. Plaintiff retained a human factors expert, W. Andrew Harrell, PhD, who opined that the client's cup was hazardous in comparison to other cups on the market. Following the expert's testimony, Keller and Walsh filed a Daubert motion which plaintiff opposed. The court held oral argument and granted the motion striking Harrell (plaintiff's only expert) and barring his testimony at trial. After successfully excluding the expert, Keller and Walsh filed a Rule 56 Motion for Summary Judgment which plaintiff opposed. The court held oral argument and granted the motion stating that plaintiff did not have any evidence that the cup was unreasonably dangerous, and plaintiff failed to meet his burden of proof.

*Peterson v. Arrow Plastics*, Suit No. 11-156; The Honorable James Brady, United States District Court for the Middle District of Louisiana

- **Personal Injury – Cervical Disc – Judge Trial**

In 2012, Mr. Keller represented an individual and her auto insurance carrier in a personal injury lawsuit involving an auto accident in Lafayette, Louisiana. Plaintiff steadfastly refused to take any responsibility for the car accident, and originally sought more than \$400,000 for his general damages, medical expenses, and lost earnings (claiming it forced him into early retirement as a college professor). After two years of discovery, plaintiff stipulated to \$50,000 in total damages just to avoid a jury trial. Then, on the eve of the judge trial, plaintiff retained a local plaintiff attorney to try the case. Based solely on Mr. Keller's presentation of the evidence, Judge Broussard flatly rejected plaintiff's claims for lost earnings, rejected plaintiff's claims for loss of consortium, and allocated 50% of the fault to plaintiff. The final award was \$25,000.

*Fred Farshad v. Commerce and Industry*, Suit No. 2010-1737, The Honorable Ed Broussard, 15th JDC

- **Bad Faith – Excess UM Policy – Motion for Summary Judgment Granted**

In 2012, Mr. Keller and Mr. Glas represented an excess UM/UIM insurer in a case involving bad faith allegations. Just before discovery was complete, defendants filed a Motion for Summary Judgment on the issue of penalties and fees under La. R.S. 22:1973. The trial court granted the motion finding that plaintiff did not have sufficient evidence to prove his bad faith claim at trial.

*Talebloo v. American International Insurance Co.*, Suit No. 11-717, The Honorable Sarah Vance, United States District Court for the Eastern District of Louisiana

- **Insurance Coverage - Auto Liability and Personal Excess Policy - Motion for Summary Judgment Granted**

In 2012, Mr. Keller and Mr. Glas represented one auto liability policy and one personal excess policy in an Orleans Parish lawsuit involving alleged damages in excess of \$5,750,000. A critical issue on summary judgment was the proper application of three "Other Insurance" clauses in three different policies, and arranging the different limits and layers of coverage. The trial court granted Mr. Glas and Mr. Keller's Motion and the appellate court denied writs. This result effectively reduced the exposure on the auto liability policy to 20%, and practically eliminated exposure on the personal excess policy.

*Mark v. Trinity Yachts, Inc.*, Suit No. 09-8769, The Honorable Piper Griffin, Chief Judge, CDC

- **Property Damage - Water Damage - Motions for Summary Judgment Granted**  
In 2009, Mr. Keller and Mr. Roux represented a general contractor in a lawsuit filed by a store owner inside Clearview Mall in Jefferson Parish. The plaintiff's sale items allegedly sustained water damage when a contractor struck a sprinkler head in an adjacent store. Mr. Keller and Mr. Roux filed two motions for summary judgment, and the court granted both, finding no genuine issues of material fact with respect to the allegations of vicarious liability and independent acts of negligence.

*Rocquin v. Hom et al.*, Suit No. 644-472, The Honorable Raymond Steib, 24th JDC

- **Personal Injury - Paralysis - Jury Trial**  
In 2009, Mr. Keller and Mr. Glas represented Joyce Grundmann and her insurer in connection with an auto accident that occurred on November 8, 2005. The plaintiff claimed paralysis as a result of the accident, and her damages exceeded \$5,000,000.00. The defendants stipulated to liability, and argued that the accident did not cause plaintiff's alleged injuries. The defendants argued that a rare spinal cord disorder caused plaintiff's paralysis. The jury was unable to answer the first interrogatory as to whether the accident caused plaintiff's alleged injuries. The case was tried before the Honorable Michael Bagneris with the result of a hung jury.

*Cynthia Craige v. Joyce Grundmann et al.*, Suit No. 06-12739, Honorable Michael Bagneris, Chief Judge, CDC

### Presentations

- "Traumatic Brain Injury Claims: Navigating Litigation Complexities," Strafford Webinars, CLE, June 15, 2016
- "The Ethical Use of Social Media in Personal Injury Litigation," Council on Litigation Management; 2014
- "Healthy Work Life Balance," Loyola University New Orleans Alumni Speaker Series, 2014
- "Responding to the Corporate Crisis/Emergency," Trial.com Seminar, 2012