

# TOO KELLER



## CONTACT INFORMATION

**Phone:** 317 660 3402

**Fax:** 317 660 3401

**Email:** [too@kellermacaluso.com](mailto:too@kellermacaluso.com)

## ADMISSIONS

- Indiana
- United States Court of Appeals for the Seventh Circuit
- United States District and Bankruptcy Courts for the Northern District of Indiana
- United States District and Bankruptcy Courts for the Southern District of Indiana

## EDUCATION

- University of Notre Dame (J.D. 1998, B.A. 1995)

## AREAS OF EMPHASIS

- Litigation and Risk Management Services
- Real Estate Services
- Bankruptcy and Debtor/Creditor Rights

Too Keller is a founder of Keller Macaluso and leads the firm's litigation and risk management groups. Mr. Keller's practice centers primarily in business and commercial litigation, including a focus on real estate and defense of commercial corporate matters. Mr. Keller earned both his undergraduate and juris doctorate degrees from the University of Notre Dame in 1995 and 1998. Prior to founding Keller Macaluso, Mr. Keller practiced at a large Indianapolis-based law firm from 1998 to 2010. Mr. Keller's practice encompasses virtually every aspect of litigation. He represents national and regional passenger carriers, commercial carriers and insurance companies in state and federal courts, focusing on high-dollar transportation cases, including charges of wrongful death and paralysis. Mr. Keller has on-the-ground experience working with investigators, accident reconstructionists and other key transportation consultants immediately following accidents. His real estate practice includes representing commercial landlords in a wide variety of matters, including tenant evictions, in both state and federal court. He has handled in excess of 500 commercial evictions for national and local landlords and represents tenants in solving lease related issues with landlords. Mr. Keller also practices before a variety of the administrative agencies in Indiana, including the Indiana Department of Insurance, the Bureau of Alcohol, Tobacco, and Fire Arms, the Marion County Environmental Court, the Indiana Department of Insurance, the Indiana Psychology Board, and the Indiana Fire Prevention and Building Safety Commission. With more than 20 years of practice, Mr. Keller's experience has been diverse, including more than thirty trials, numerous appeals, and work in nearly every area of litigation.

## REPRESENTATIVE MATTERS

- Successfully resolved a dispute between a national three-dimensional printing manufacturer and one of its resellers following a three day bench trial in Federal Court.
- Obtained a defense verdict following a bench trial in an employment matter regarding the enforcement of a non-compete.
- Obtained an injunction against a municipality and developer due to a development that was not in compliance with the county's storm water drainage ordinance. Successfully negotiated a settlement of this matter via another lawsuit that led to damages for the client and an agreement to bring the development into compliance with the county's storm water drainage ordinance.
- Successfully negotiated settlement on behalf of a tenant with a former landlord involved in a receivership.
- Handled a politically charged Open Door Law dispute for plaintiffs.
- Resolved a dispute for a national landlord regarding a tenant in receivership and bankruptcy.
- Served as outside counsel to manage transportation related litigation for a corporation that ships products throughout the United States.
- Represented an out-of-state health insurance company in a dispute with the Indiana Department of Insurance and obtained a outcome that pleased the client after four years of litigating before the Indiana Department of Insurance, including a full trial and post-trial briefs.
- Negotiated pre-suit settlement in a wrongfule death and quadriplegia matter for a national transportation carrier.



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## REPRESENTATIVE MATTERS CONT.

- Obtained defense verdict following a jury trial involving injury claims against a homeowner in excess of seven figures.
- Defended a personal injury trial in which the jury apportioned 10% fault to our insured, resulting in liability of hundreds of dollars on a claim in excess of seven figures.
- Following opening statement, settled an injury claim against a skating rink for less than the final pretrial offer.
- Defended against an excessive personal injury claim with a jury verdict of less than \$25,000.
- Obtained a defense verdict in a contentious partnership dispute against the estate of a deceased partner in a real estate related dispute for a developer client.
- Evicted tenants in contentious litigation against national tenants in both state and federal court.
- Represented open-wheel race team in numerous litigation matters, including professional malpractice claims and landlord-tenant related matters.
- Handled multiple arbitrations before the American Arbitration Association on behalf of a national home builder involving disputes over construction, maintenance, and design.
- Represented privately held bank regarding multiple contractual disputes.
- Represented homeowners in dispute with contractors in state court and against insurance company in a federal court declaratory judgment action.
- Represented shareholders in shareholder derivative actions in closely held corporation.
- Handled matters involving court appointed receiverships and foreclosures.
- Represented a national security corporation in litigation regarding surveillance duties.
- Represented a local client in a UCC dispute regarding merchandise produced in China.
- Represented a local client in a professional malpractice claim.
- Represented an electrical cooperative in a dispute with another electrical cooperative over a contractual dispute related to leased equipment.
- Represented a landlord in a dispute involving corporate bankruptcy involving a franchise matter.
- Represented a national water restoration company in a breach of contract dispute in federal court.
- Represented a national preschool/daycare who had a default judgment against them. At the damages hearing, the Plaintiff demanded in excess of \$400,000. The court awarded only \$25,000.

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## REPRESENTATIVE JURY TRIALS

David Ware, v Myrtle Brocks, Marion County Superior Court No. 10, Cause No. 49D10-0211-CT002047; defended landlord for allegedly providing defective ladder which caused Plaintiff to suffer severe spinal injuries following fall. Jury trial with verdict in favor of Defendant.



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## REPRESENTATIVE JURY TRIALS CONT.

Kimberly C. Wilcoxen and Mark Allen Wilcoxen v. Franklin Sport Club, Inc. d/b/a Franklin Skate Club, Johnson County Circuit Court, Cause No. 41C01-9902-CT000044; defended skating rink for alleged injuries suffered from a slip and fall in a concession area. Settlement midway through jury trial.

Joyce Easton, et al. v. Benjamin Hoffman, Tippecanoe County Superior Court, Cause No. 79D01-9804-CP000197; defended against claimed back injuries with pre-existing conditions.

Rebecca Brandewyne, et al. v. Author Solutions d/b/a Authorhouse, Eighteenth Judicial District, District Court, Sedgwick County, Kansas, Case No. 04-CV-4363; Plaintiff claimed defamation, outrage and invasion of privacy for the publication of a book. Verdict was for Plaintiffs in an amount less than demanded prior to trial.

Vera Hayes v. Ermston Carpenter, Marion Superior Court No. 2, Cause No. 49D02-0211-CT001937; Defense of automobile accident with personal injury to a passenger. Jury allocated 10% fault to the defendant.

Charlie Means v. Shawna Harrison and Broadway Pub, Madison County Superior Court, Cause No. 48D03-0507-CT-00639; Defense of driver whose passenger was injured in automobile accident. Client was cited for DUI. Jury found the plaintiff 45% at fault for incurred risk and determined that his total damages were the Plaintiff's medical bills.

## REPRESENTATIVE APPELLATE CASES

*Bd. of Comm'r's. v. Town of Plainfield*, 909 N.E.2d 480 (Ind. Ct. App. 2009).

*Johnson County Rural Elec. Mbrshp. Corp. v. South Cent. Ind. Rural Elec. Mbrshp. Corp.*, 883 N.E.2d 141 (Ind. Ct. App. 2008)

*Fuehrer v. Storm*, 737 N.E.2d 767 (Ind. Ct. App. 2000).

*Sweet v. Art Pape Transfer, Inc.*, 721 N.E.2d 311 (Ind. Ct. App. 1999).

*Goar Sons, Inc. v. Lakes*, No. 29A02-0006-cv-00365 (Ind. Ct. App. Apr. 19, 2001).

## HONORS / AWARDS

*Indiana Rising Stars*® (2009, 2010, 2011, 2012, 2013); Recipient of the Barrett Award, given by Notre Dame Law School to the outstanding student in trial advocacy (1998);

## APPOINTMENTS / MEMBERSHIPS

**Member:** Indianapolis and Indiana State Bar Associations; OneZone Chamber of Commerce.

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## APPEARANCES / PUBLICATIONS

**Speaker:** "Taking Charge: How to Deal with Landlord Tenant Issues Today and How to Mitigate Future Concerns" (IREM Presentation, 2008) (Firm Seminar, April 2009) (ICBR Conference, 2009)

**Faculty:** National Institute of Trial Advocacy (NITA) deposition skills seminar (2008-2018); ICLEF Trial Advocacy Skills College (2011-2017)

**Boards:** Notre Dame Club of Indianapolis Board of Directors, 2007 – 2010.

**Other:** Serves as Judge Pro Tem in various courts in Marion County.

## OUTSIDE THE OFFICE

Too and his wife Sheila are the proud parents of twins, Lucas and Lauren, and their little sister Karli. Too spends the majority of his free time with his family but enjoys sports beyond that. He is a season ticket holder to both Notre Dame Football and the Indianapolis Colts. Sheila (formerly McMillen) was a star basketball player at Notre Dame in the late 1990's. Too is also a fan of both the Indiana Pacers and the Cincinnati Reds. Too and his family are parishioners at Our Lady of Mount Carmel in Carmel, Indiana.