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magazine

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TOMMY KEEFE

T-3 Is Earning His Own Reputation

Third generation trial lawyer
learned from the master—his dad.
And he's taking that knowledge
to an entirely new level.

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TOMMY KEEFE

Finding His Voice and His Confidence at a Time of Heartbreak

by Mike Bailey

BELLEVILLE—The legal career of Thomas Q. Keefe III has been a journey of self-discovery.

Keefe, son of one of the preeminent civil practice attorneys in Illinois, knew when he joined his father's firm after law school that he would have to perform at the highest level from the start. Keefe, Keefe & Unsell is universally recognized as one of the top Illinois civil litigation firms with nearly \$1 billion in verdicts and settlements obtained over the years. But even those lofty expectations didn't rival what he expected from himself.

"Clients came to hire my father, not me. They came expecting a 50% greater recovery than they could get anywhere else. That's his reputation and what he prides himself on. We may have the same name, but I didn't have any idea how to do that," Keefe admits. "I was 25 years old, with very few clubs in my bag. But I still put a ton of pressure on myself."

Keefe did his best with smaller civil cases while working as an assistant St. Clair County Public Defender handling criminal cases.

His father, Thomas Q. Keefe II, recognized his son's discomfort in the civil arena. "One day we were talking," said the so-called "T-3" in a previous interview, "and Dad said, 'You hate this.' I thought about it a minute and said, 'Yes, I do.'"

The air cleared, the two had a frank conversation. "He told me it was not a question of ability; it was a question of confidence. He said, 'You are capable of getting cases to the 10 yard line, but you can't punch them in.' He said I knew how to develop evidence and work up a case, but when it came time to close the deal, I froze. I couldn't threaten my opponents with trial when I knew—and they knew—that I wasn't comfortable in a courtroom."

The father told the son to solely focus on criminal law, giving up his entire civil docket. He knew how much his son enjoyed criminal work, in part because he felt no pressure to be someone else. And it would maximize his time in courtrooms.

At first, the son resisted. "I told (my dad) I was earning a salary as a partner and that there was no money in criminal work. I told him I wanted to earn my way, but he told me I was being silly.



He encouraged me to do what I loved.”

And so, for the next four to five years, Keefe took every case he could to trial on behalf of defendants he represented through both the law firm and the St. Clair County Public Defender’s office.

“I got really good at it,” he recalls. “A lot of them were murder cases. I learned how to distill a file, identify and shape the key facts, structure a narrative and then tell a story. I got really comfortable talking to juries.”

Keefe gained confidence at first, then respect and finally, fear. He took cases to the 10 yard line and unless the state offered a deal too good to refuse, he and his clients went to trial. He became skilled and efficient, and his consistent victories in the courtroom engendered a disturbing trend.

“I couldn’t get to trial anymore,” he says. “Cases were either dismissed on the eve of jury selection or the plea offers were too good for my client to pass up. So, I felt I had honed my skills and was comfortable enough in a courtroom that I went back to civil practice.” But there was still one thing missing.

“I always believed Tommy had a remarkable skill set,” says his father. “He just needed to find his voice.”

And then through tragedy, the younger Keefe found what he was lacking. “My wife and Tommy’s mother, Rita, passed away in February 2018,” says Tom Keefe II. “She had pancreatic cancer. She was such a special woman. When the doctor delivered what amounted to a death sentence, she apologized to him for having to deliver such awful news.”

The elder Keefe says Tommy found his voice on one of the saddest days of his life, the day of his mother’s funeral.

“I made a mistake. I let Tommy give his eulogy first. I have spoken before crowds before, and I thought I would go after him. His eulogy was so moving, so perfect, so well-constructed, I was speechless. I literally couldn’t go on. It would be like having the Rolling Stones as your opening act.”

From that day forward, the younger Keefe quickly became all the things they both knew he could be.

Attorney James Neville’s children and T-3 were in high school together. He watched Keefe grow and develop into an excellent attorney. But he also saw the early frustration.

“He didn’t yet have the qualities to develop a case like his dad did,” Neville remembers. “He was like a lot of new lawyers in a discovery deposition. He was just asking questions, fishing around for something. But he improved remarkably. Older lawyers have a plan going into depositions. They are looking for something, for contradictions. They understand there are no meaningless depositions.”

CRIMINAL CASES VERSUS CIVIL MATTERS

Keefe says he learned early the major differences between criminal and civil law. In a criminal case, whoever tells the best story generally wins, he says. It is not enough to say your client is not guilty or to dispute the evidence. A criminal defense attorney must present the jury with an alternate theory, a theme consistent with enough facts that a jury would be receptive to it. The more heinous the crime, the more reluctant a jury is to let someone go, and so the more compelling that alternate theory must be.

“Also, most of the defendants in criminal cases are frequent fliers, meaning this is likely not their first experience with the legal system. While we may walk into a courtroom without the burden of proving we are innocent, you still have that burden in your mind.”

Civil cases, Keefe learned, are much different. Most of the litigants have no experience with the legal system and don’t realize the amount of time these cases involve.

“They don’t know what to expect,” he says. “Some horrific circumstances have forced them to file suit. Our philosophy is to spend as much time with them as necessary early on to ensure they feel comfortable with us and understand the process. These cases take a lot of time, but we push hard to keep the pressure on.”

Teri Drew of Hinshaw & Culbertson says that when she discovers Keefe, Keefe & Unsell are representing a plaintiff, “it is a game changer.”

“I have to tell my witnesses, ‘Don’t think you can go up against any one of them. Don’t engage in any chitchat. Don’t try to outsmart them or you will lose the case right there. Just answer the question.’”

Civil litigants also don’t initially understand the burden of proof that must be met to be victorious or the expense required to litigate a case.

“In a medical malpractice case,” Keefe says, “we have to find experts to support our theory of the case. Local doctors will never testify against another doctor because they would never get any referrals. So, we get great experts from the University of Chicago, Harvard Medical or Johns Hopkins, but they are not cheap. We have to front those costs and all other costs of the trial. Those expenses can grow quickly.”

That creates a separate issue: Keefe must balance the cost to litigate the case against the expected verdict. “A Harvard study said one in four hospital patients experience some type of medical error,” he says. “Most of them do not result in grievous injury. So, even if a client has a legitimate case, we have to determine whether the injury will yield enough of a verdict or settlement that it makes financial sense to pursue it.”

Even in cases that aren’t accepted, Keefe

takes the time to explain to the client how the legal system operates, what the burdens are that must be met, what the likely outcome is and why he can’t help them. “At least they leave with some understanding of the legal system, and I think that is a good thing.”

Keefe’s experience in criminal court has translated into success in civil cases as well. “Tom is now so well prepared for depositions,” Neville says. “I’ve seen him improve over the years. He thinks through it and finds ways to make a case supportable. He consults with experts and focuses (in depositions) on his theory of the case.”

Like Drew, Neville says he advises clients not to banter with Keefe during depositions or try to outsmart him. “Tom has medical knowledge (about the matter at hand), and he will seek to exploit what he can (in those depositions). I warn my clients that he will be well versed and that we will have to concede some points.”

The firm has a simple philosophy from which it never wavers. “My dad always says you go where the facts take you. You win or lose with the truth.”

When they take a case, Keefe says they tell every client that, while they cannot guarantee a result, they promise two things: “We will always tell you the truth, and we will always try our best.”

In a civil trial, Keefe has the burden of proving his client was a victim who deserves compensation. Unlike a criminal trial where the best story wins, in civil litigation, whoever best explains what happened will generally prevail.

“In a malpractice case, for example, you have to learn as much about the medicine as you can to keep the doctor honest,” says Keefe. “And then you play dumb, forcing the doctor to explain it at a level all jurors will understand. That simplification becomes the language of the trial.”

“Tom knows the medicine as well as the doctor,” Drew says. “He is extremely bright and always prepared. In a medical malpractice case, I tell my doctors to be ready for anything. Tom will have a plan, and he will ask questions that will cause the doctor to (pause). He can read a chart well and pick out any discrepancies and then ask the doctor what his thought process was. He never lets the witness control the deposition.”

Keefe’s first seven-figure victory was filed in 2015 on behalf of Darold Jackson, a bread truck driver. Jackson had finished cleaning out his truck at the end of his shift and was going through his checklist, which involved a post-route inspection of the interior and the back of the delivery van.

“He opened the door and grabbed the handle to pull himself up into the back of the

truck,” Keefe says. “The handle came loose, and he fell backward, injuring his tailbone and herniating a couple of discs in his back.”

Jackson suffered permanent nerve damage, shooting pains in his leg and numbness in his right foot. This meant he could not get a commercial driver’s license and could no longer drive for a living. “He said it felt like his foot was covered in a heavy paste,” Keefe recalls.

Jackson went to job fairs looking for alternate employment but was unsuccessful. “No one wanted to hire a 50-plus-year-old man with a high school education who had a limp, nerve damage and shooting pains that required him to get up and walk around every 15 minutes,” Keefe says.

So, Keefe filed a suit against Lewis Brothers Bakery out of Evansville, Indiana, owner of the truck. Keefe says the company did not adequately maintain the vehicles and that the handle was defective—something that should have been discovered during routine maintenance.

The case settled in early 2017 for \$2.6 million, an amount that far exceeded what Keefe expected. He had punched one into the end zone. That first major experience was a positive one, and the young lawyer gained confidence.

SUBTLE ART OF CIVIL JURY SELECTION

Keefe’s criminal experience has served him particularly well in the art of jury selection. “If you are representing someone who was injured, you want a jury who can relate to that personally. You don’t want 12 impartial people. You want people who think your way. You try to identify 12 people who will be fair but who are most sympathetic to your case.”

That skill in picking a jury came into sharp focus in the case of George Buchanan, a Waterloo man who was seriously injured when a school bus crossed the roadway and crushed his delivery truck.

In April 2017, Buchanan was traveling in the opposite direction from the Mascoutah Community School District bus when he noticed it driving erratically. As the bus crossed the centerline and veered toward the truck, Buchanan pulled over and then all the way off the road onto the shoulder. He assumed the bus would certainly change direction and turn back into its own lane.

The bus slammed into his truck at 55 mph and Buchanan, 49, suffered a mangled and partially amputated left arm, fractured left hip, severed thoracic aorta, lacerated kidney and lasting emotional trauma.

Sadly, Buchanan was a gifted guitarist whose hobby was playing for friends or personal

enjoyment, a hobby he would no longer be able to pursue effectively.

“Nothing in life brought him more joy,” Keefe recalls. “Now, his fingers don’t work like they used to. He was robbed of his passion. So, I asked jurors what their passion was and how they would feel if they were no longer able to pursue it. Some shrugged like they didn’t care. Some were aghast. While I asked the question, I had my eye on the rest of the jury pool to see who was nodding. Those were the people I wanted on the jury.”

Keefe likens it to talking to people about Post-Traumatic Stress Disorder (PTSD). He says that while the condition is commonly associated with military service, a person can have PTSD from a traffic accident. So, he tries to engage jurors in a discussion about whether they believe PTSD is real, for example, and discusses with them their feelings about that and the general theme of his case.

“How they respond in jury selection is how they will respond to the evidence,” he says, adding that jurors grow more comfortable with

“Tom is extremely creative. He can take a case a lot of lawyers would (not take), find a needle in a haystack and turn it around to a seven-figure settlement. His skill set in criminal law is transferable to the civil arena.”

you when you engage them in a discussion during jury selection, something that spills over into trial.

“Tom is extremely creative,” says Drew. “He can take a case a lot of lawyers would (not take), find a needle in a haystack and turn it around to a seven-figure settlement. His skill set in criminal law is transferable to the civil arena. Whether he was representing a first-degree murder defendant or a plaintiff in a wrongful death case, he approaches it the same. And he learned from the master, his dad. I have the utmost respect for that whole firm.”

While T-3 was second chair to his father in a 2016 case that reached a \$9.2 million verdict, he was first chair in Buchanan’s case, picking a jury, presenting the bulk of the evidence and delivering the closing argument.

The 72-year-old bus driver initially said a fight among students on the bus distracted him, but the video from inside the bus showed no disturbance and no fight. The driver was not charged criminally, and blood tests

revealed he did not have any illegal substances in his system.

The case went to trial where medical experts testified about how close Buchanan came to dying, his excruciating recovery, and his permanent physical and psychiatric disability. The trial featured friends and family members who painted the jury a picture of the full and happy life he led before the crash.

The Mascoutah Community School District admitted liability but only asked the jury to award \$2 million, while conceding to at least \$1 million for Buchanan’s economic losses.

“In other words, they suggested to the jury that a lifetime of disfigurement, a lifetime of emotional distress, a lifetime of pain and suffering (both what he’s already gone through and what’s ahead of him), and the permanent loss of what his life was before, was all only worth \$1 million,” says Keefe III of the trial before St. Clair County Circuit Judge Chris Kolker.

In May 2019, the jury returned a \$7.15 million verdict. Keefe was proud of the verdict but was happier for his client. “George Buchanan is one of the most pure and decent human beings we’ve had the privilege of representing. He continues to suffer from this horrifying ordeal, and we are forever grateful to this jury for justice,” he said at the time of the verdict.

The crisis of confidence had ended. Thomas Q. Keefe III was a successful and tenacious civil attorney. And, although his father never felt this way, Keefe felt he had made his bones with his esteemed father.

The elder Keefe never recruited his son to join the family practice, but he made it clear there was a spot if he wanted it. Instead, he applied at the Madison County Public Defender’s office. With no opening available, he came to work at his father’s firm while occasionally assigned cases from the public defender in St. Clair County. Through their close association and mutual respect, the father-son duo overcame the many obstacles and pressures of maintaining a successful law practice—and also the unspoken tension that can occur between father and son. That was all diffused early on when the elder Keefe encouraged his son to pursue his passion for criminal defense work and not worry about being paid.

UNCERTAINTY TO CONFIDENCE IN COURT

And so, based on that mutual respect, the pair grew together. Along with partner Samantha Unsell, they enjoy one of the most respected law partnerships in Illinois. Success bred confidence, and now both the lawyers and their clients feel at ease with any of them

leading their case. Initially unable to punch it across, Keefe has grown very comfortable with developing and structuring a civil case and the delicate negotiations that can lead to a favorable settlement.

“I tell the defendants that if they want to resolve this case, this is what it costs. If not, I’ll just go and take it from you. They know I mean it because I now have a track record to prove it.” Quite a difference from the younger lawyer who felt he wasn’t quite good enough.

One client who knows how effective Keefe can be is Tyler Green, a 22-year-old who was in his final year of college at Southern Illinois University. “He was a scholar, a sharp guy and a truly gifted opera singer,” Keefe says. “He was looking at graduate school and was special enough to decide between a professional career in opera and being a professor of the discipline.”

That all changed forever in September 2016. Green and two friends went to a winery in Alton in Madison County. One of the friends had an apartment in the building and invited them to see it. She gave them the tour and opened the back door onto a fire escape, which was attached to the brick wall, typical in an older urban setting. That small area was used as a balcony on which a couple of people could sit outside on pleasant evenings.

“We were coworkers and friends,” Green says. “It was a Sunday night, and we were just powering down. I should tell you before I go any further that I have zero memory of that night. It’s just a blank spot.”

Green and his friend, Nora, stepped onto the fire escape. When Ryan, the third friend, stepped onto the platform, it collapsed, sending all three 25 feet to the concrete below. The area was virtually inaccessible, located in a fenced-in area between buildings, further hindering their rescue.

Nora suffered a broken wrist and other injuries, and Ryan landed on his feet, shattering both shins. But Tyler experienced grievous injuries “from head to toe.” He suffered a hematoma on the brain, resulting in a medically induced coma lasting more than a week. He is permanently blind in one eye. He has had multiple knee and arm surgeries. While he appears outwardly to have recovered remarkably well from the trauma, he has lost some of the promise his life once held.

“I was in a coma for about two weeks, but my family decided immediately that this needed to be investigated and pursued,” says Green, who had completed his undergraduate degree just five months before the accident.

“My family decided to contact Tom Keefe because of his excellent reputation. My mom

said after she talked to Tom, she felt very much at ease and at peace,” he says, his speech still slow as he searches for words.

Keefe sued the owner of the building who did not fight the suit, as well as Alton Sheet Metal, who installed the fire escape when the owner renovated the building. Keefe says Alton Sheet Metal at first denied it had installed the fire escape and then finally admitted it installed the escape on the third floor but not the second, which was the one that collapsed.

Keefe says experts testified that the metal used on the faulty fire escape matched production serial numbers from the one on the third floor. Canceled checks also showed the landlord had paid the company for both.

“I met Tom in November or December, and I was still foggy,” Green says. “But he was extremely accommodating to me. As I got better and my brain function began to return to normal, I was more impressed by his manner and his demeanor. He gave me a really positive feeling. As I got better, I knew I was seeing the real him.”

As Keefe promises his clients, he pushed the case along and was able to convince a judge that the three plaintiff cases should not be consolidated because he was ready for trial and the others were not.

“By being first, we removed the threat of the lesser injuries holding our verdict down. That was big. They paid us. We were very happy with the amount,” he says. The other two cases are still pending.

Green says he struggles to pursue many of the things he used to enjoy. “I am still easily distracted. Sometimes, I forget what I was doing when I’m right in the middle of doing it. My word recall at times is very slow. I get fatigued easily. But I am so lucky to only have the impairments that I have. I don’t have seizures or some of the other complications of brain injuries. I am aware of my limitations, but I am still pursuing my career of (becoming an opera singer).”

Green, by all accounts, made a remarkable recovery, even with significant limitations. He is forever grateful to Keefe for the life he has. “It’s a bit amazing,” Green says.

“I just completed the first year of a master’s program at the Manhattan School of Music. I’m continuing my training in performance and concert with orchestra accompaniment. The biggest reason I have the freedom to decide what I want to do, without financial constraints, is because of Tom.

“He has an incredible work ethic. How he is as an attorney is how he is as a person. He has tremendous character. I wouldn’t be in this program if it wasn’t for his direct and his indirect help.” ■

TOP 10

EMERGING

Emerging Lawyers in Illinois in All Areas of Law Based Upon the Surveys Conducted by Leading Lawyers

- 1 KRISTIN BARNETTE
McCARTHY**
Kralovec Jambois & Schwartz
Chicago
- 2 SEAN PATRICK DRISCOLL**
Clifford Law Offices
Chicago
- 3 THOMAS Q. KEEFE III**
Keefe Keefe & Unsell PC
Belleville
- 4 BRIAN L. SALVI**
Salvi Schostok & Pritchard PC
Chicago
- 5 SARA M. DAVIS**
Cogan & Power PC
Chicago
- 6 LAURIE A. NIEGO**
Kralovec Jambois & Schwartz
Chicago
- 7 CARI F. SILVERMAN**
Levin & Perconti
Chicago
- 8 PATRICK J. GIESE**
Tomasik Kotin Kasserman
Chicago
- 9 JEFFREY C. SCHWARTZ**
Kralovec Jambois & Schwartz
Chicago
- 10 MATTHEW M. GANNON**
Healy Scanlon Law Firm
Chicago

TOP 10

DOWNSTATE

Emerging Lawyers in Downstate Illinois Based Upon the Surveys Conducted by Leading Lawyers

- 1 THOMAS Q. KEEFE III**
Keefe Keefe & Unsell PC
Belleville
- 2 SAMANTHA S. UNSELL**
Keefe Keefe & Unsell PC
Belleville
- 3 DAVID I. CATES**
Cates Mahoney LLC
Swansea
- 4 REED C. NELSON**
Nelson & Nelson Attorneys at Law PC
Belleville
- 5 RYAN J. MAHONEY**
Cates Mahoney LLC
Swansea
- 6 JOSHUA A. HUMBRECHT**
Hassakis & Hassakis PC
Mount Vernon
- 7 MICAH S. SUMMERS**
Walton Telken LLC
Edwardsville
- 8 JOHN A. SINGER**
Winstein Kavensky & Cunningham LLC
Rock Island
- 9 ROBERT R. PARKER**
Parker & Parker
Peoria
- 10 MITCH M. GILFILLAN**
Quinn Johnston Henderson
Pretorius & Cerulo
Peoria