

PREMIUM KELLER

Jennifer Keller is one of America's most renowned trial attorneys, but her path to the top hasn't always been easy. She talks to DEBBIE MCGOLDRICK about her life and career, and her deep affinity for all things Irish.

TRINIDAD, California is a coastal town in Northern California, not far from the Oregon border, where attorney Jennifer Keller has spent a good deal of time during the pandemic. She owns a second home there on a bluff overlooking the Pacific Ocean.

Trinidad is usually foggy and moist, the exact opposite of the arid So Cal climate where Keller is based and where she has established a reputation as a trial lawyer par excellence, one of the finest in the United States according to every publication that counts.

When Keller first visited Ireland in 2018 she felt an instant connection. The cooler climate—she's no fan of the heat in Orange County, where she grew up—the greenery, the people, the ancestry, even the rain... she immersed herself in all of it. It was a welcome retreat from her usual hectic work life where she represents clients as diverse as Microsoft, the City of Costa Mesa and the actor Kevin Spacey.

She planned the outing in part as an 80th birthday gift for her husband, retired Judge Michael Beecher, who is 100 percent of Irish ancestry but had never been to Ireland.

"It was an amazing trip. We were there for three weeks. We went to the North. We did the Wild Atlantic Way and visited some of the towns and little villages that our ancestors came from," Keller told the *Irish Legal 100* during a recent interview.

"When I was there I realized that all the places that I love in America are just like Ireland. I remember saying to one of my friends, and it sounds hokey, but it's almost like an ancestral memory when I'm in Trinidad because it looks and feels so much like Ireland."

She'll return to the homeland at some point, once the pandemic is truly in the rear view mirror, but in the meantime there's always Trinidad, where Keller has maintained a full workload, remotely conducting hearings and settling cases. The co-founder of the women-owned boutique firm Keller/Anderle in Irvine, California, has done everything except what she loves most about her job—taking a case to trial.

"I haven't been in front of a jury since 2019. It's the longest I've ever gone. I miss it terribly. It's when I really feel alive, being in a courtroom, putting on my case, picking up the perceptions of the jurors, controlling a witness without looking like I'm trying to control a witness. I love all of it," she says.

SINCE forming Keller/Anderle in 1996 Keller has focused on commercial litigation and white collar cases, representing plaintiffs and defendants, and has secured well in excess

of \$1 billion in settlements for her clients. She's come a long way from her days as a public defender in Orange County, and even farther from all the times she was told back in the early '70s that girls could aspire to marry attorneys, but to actually become one? Dream on.

Her parents, thankfully, encouraged her to pursue her goals.

"I didn't know any women attorneys, and my saying that I wanted to be one was greeted with derision by everyone except my parents," Keller recalls. "My father was busy trying to persuade me to become a surgeon like he was. But there was never a point where my parents said that I wouldn't succeed at whatever I wanted to do."

She attended University of California, Berkeley and earned a A.B. in 1975, and a J.D. from UC Hastings College of the Law in San Francisco three years later. During law school she externed in the public defender's office and relished the experience, so much so that after she passed the bar she took a low-paying job back home with the Orange County Public Defender for the princely salary of \$18,000. Left behind was a position at a firm for \$35K and a leased car.

But the experience Keller gained in her new job—trials, trials and more trials—remains priceless to this day.

"Being a public defender, I saw up close the injustice that poor people were subjected to. I always knew I wanted to be a trial attorney and as a public defender I would be in court every single day. I could have joined the DA's office," Keller says.

"But I didn't because I realized that I just didn't like hurting people. I knew as a deputy DA I would have to hurt people."

There were non-negotiable policies that would have tied Keller's hands if she chose to become a junior prosecutor. "You might have a single mom who had a kid and was barely clinging to her apartment, and maybe turned a trick at the end of the month to pay for food—boom, you've got to prosecute it. If it's a second offense it's a minimum of 45 days in jail. And there's a ripple effect," she says.

"The woman loses her child, loses her apartment and job. Then what happens to her? I just couldn't do it."

Keller spent eight years as a deputy public defender and honed her craft as a trial attorney who to this day has little interest in settling a case, unless she's given an offer she can't refuse. She met all kinds of people and admits the work was difficult at times, but she made a point to get to know her clients and their families.

"Some of the public defenders dumped

their clients. Or they talked about what great deals they got. But great deals only go to great trial lawyers. It's like anything else in life. You need leverage. And your only leverage as a public defender is your willingness to go to trial and your ability to win a lot of those trials," Keller says.

AFTER serving as a public defender Keller formed a private practice for criminal defense, taking three years out to work as a senior research attorney at an intermediate state Court of Appeal until her son was ready for kindergarten. She then returned to criminal defense until finally starting a partnership in 2005 with another legal powerhouse, Kay Anderle.

Keller tried and won a major business jury trial in 2001, and the partners gradually transitioned their practice to business litigation and white collar cases, in which Keller quickly became a high-stakes litigator to be feared in a courtroom. Some wins of note from her resume:

"In 2011, as lead counsel for MGA, Jennifer won the retrial of *Mattel v. MGA* (aka "*Barbie v. Bratz*"), a billion-dollar "bet the company" copyright infringement and trade secret misappropriation case. MGA had lost a previous trial, been ordered to pay Mattel \$100 million in damages, and was forced to surrender the Bratz brand to Mattel. In the retrial, which Jennifer entered just 12 days before trial began, the jury found that MGA owned the entire Bratz brand and rejected all of Mattel's claims. Additionally, Mattel was ordered to pay MGA \$85 million for theft of MGA's trade secrets, plus \$85 million in punitive damages and over \$139 million in attorneys' fees. (Although the damages award to MGA was reversed on appeal, the judgment awarding \$139 million in attorneys' fees stands.)

"In 2018, Jennifer won a jury verdict for MassMutual Life Insurance Co. in a bellwether class action jury trial in Los Angeles. The class claimed it had been unfairly deprived of dividends. The jury found it had not, which led to the collapse of a nationwide class. The trial was covered live on CVN, which named it one of the Top Defense Verdicts of the year, as did the *Daily Journal*.

"Represented CashCall Inc. as plaintiff in landmark legal malpractice suit against an AmLaw 100 law firm, one of the largest such cases ever seen in the country. Achieved a confidential settlement after four years of hard-fought litigation (settled in 2021 on eve of trial)."



Kay Anderle and Jennifer Keller, founders of Keller/Anderle.

The stakes, at least from a dollar point of view, are much higher now for Keller, but in many ways, she says, her job is similar to when she was defending substance abusers in Orange County.

“The same dynamic is at work, people knowing that you try and win a lot of cases and are not afraid. This causes you to get some very good dispositions,” Keller says, adding that one recent settlement contained extra money which the opposing attorney termed the “Keller premium.”

What makes Keller so formidable? Her everyday style for one. Lawyerly phrases like “I submit to you” or “did you have occasion to observe?” are anathema to her; a point she’s made time and again in the trial advocacy courses she’s taught.

“I mean, who speaks like that in real life?” she laughs. “Do not say anything to a jury that you wouldn’t say to your neighbor over the backyard fence. If you use stilted speech as a trial attorney it’s because of your own insecurity. What you’re actually saying to the jurors is, ‘I’m admitted to this body of esteemed professionals who use arcane language because I’m very special and you’re not.’ And the minute you do that you are losing.”

The sheer volume of cases Keller has tried during her decades-long career enables her feel right at home in front of a jury. But she also has a firm rule to only work with clients whose cause she truly believes in.

“We don’t take cases on behalf of those who do evil things,” she offers. “I’m not talking about criminal cases – of course in criminal defense you are not supposed to look at the nature of the crime, and everyone is entitled to a defense. And we only do white collar cases.

“But in civil cases it’s different. You’re not supposed to maintain a case as an attorney if you don’t believe it’s just, and if you don’t believe it’s meritorious. And I take that very seriously.

“I don’t care how much money somebody pays me. You must not prosecute a case for an improper purpose, so if the purpose is to grind down your opposition and put them out of business I won’t take the case.”

Keller cites one potential client who didn’t make the grade, a billionaire who talked to her “like butter wouldn’t melt in his mouth,” she remembers. She and he got along just fine but he bullied her staff, bringing her receptionist to tears.

“I called and told him that we weren’t a good fit. He was dumbfounded. No one will ever abuse my staff. There are more important things than money.”

HER firm makes a point of hiring attorneys with outstanding litigation backgrounds, two of whom, not surprisingly, started out as federal public defenders. Keller/Anderle is an especially supportive environment for women. It’s jarring to hear Keller tell stories of when she started out and how the scales were tipped in favor of men.

“You would go for a job interview and

be asked what birth control you were using, and whether you would promise to continue using it and not have children,” she recalls. “When I was a public defender there were certainly a couple of judges who did not like women. One came right out at my first homicide trial, called me into chambers and said, ‘I just want to tell you something, I don’t believe in lady lawyers.’ At age 27 I tried to make light of it and said, ‘Well, I assure you we exist because here I am.’ It didn’t go over well.

Women these days have far greater stature and acceptance in the legal field, but the odd dinosaur who still thinks it’s a man’s world does exist. “There are judges you appear before who give the distinct impression that they don’t particularly like women, but they are very few. I have found women judges to be especially supportive of women attorneys. They are happy to see you in their courtrooms, especially in Los Angeles when I have big commercial cases,” Keller says.

“They always say that it’s so good to see a woman as lead counsel on these cases because there are so few. Women are sometimes stuck on the team as window dressing.”

She’ll be in New York at some point in early 2022 to defend her client Kevin Spacey, the double Oscar winning actor whose career was derailed after a succession of males alleged he was a sexual abuser. The first accuser, the actor Anthony Rapp, has brought a civil case against Spacey that seeks \$40 million in damages. In 2017 Rapp claimed that Spacey made what Rapp thought was sexual advance at a party back in 1986 when both were working on Broadway; Rapp was 14 at the time, and Spacey was 26.

Keller is adamant that Spacey has been wrongly accused not only by Rapp, but others who have stepped forward. “Every case, when subjected to scrutiny, has fallen apart,” she says.

“The party was at Kevin’s apartment and Rapp says he was watching TV in Kevin’s bedroom behind a closed door, but the problem for him (which he now knows) is that there was no door in Kevin’s apartment. He lived in a small studio. There are a lot of other reasons why it couldn’t have happened, the details of which we have and will come out at trial.”

Though Keller says she has “the best job in the world,” it’s not all work and no play. Away from the office, she likes to walk, golf, attend the opera and theater, read voraciously and spend time with her son Jeremy Keller Beecher, who unsurprisingly is a litigator with a large Los Angeles firm, Munger Tolles. Joining the family business probably isn’t on the cards though, even though his mother would welcome him onboard.

“He loves LA and doesn’t like Orange County,” she says. “And he’s happy at his firm.”

Jeremy and his girlfriend, a deputy attorney general, accompanied his parents to Ireland in 2018. He took a keen interest in Northern Ireland and the history of The Troubles, his mother notes.

“We learned quite a lot about The Troubles. I was a little shocked to see that



Jennifer Keller in Millstreet, Co. Cork in 2018.

things are still so tense. The Troubles are not over,” says Keller, whose maternal great grandmother Mary Callahan Bresnahan was born in Millstreet, Co. Cork. Members of her family have conducted extensive research on their Irish roots, and visiting where the ancestors came from was a moving experience for Keller.

“Going to Millstreet was really something for me because I had grown up hearing the stories of my great grandmother coming here at age 17,

alone, fleeing hunger and poverty. She had virtually nothing, a slip of paper and an address like so many people. So to walk where she had walked, on streets largely unchanged since she walked them, and see the memorials to the republican fighters who had given their lives to create Ireland as an independent state was very emotional.”

No doubt great grandmother Mary would feel equally emotional about the success of her great granddaughter.