

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Jane Branstetter Stranch

maiden name: Kathy Jane Branstetter

2. **Position**: State the position for which you have been nominated.

United States Circuit Judge for the Sixth Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North, 4th Floor
Nashville, Tennessee 37201-1631

4. **Birthplace**: State year and place of birth.

1953; Nashville, Tennessee

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1975 – 1978, Vanderbilt University School of Law; Doctor of Jurisprudence, 1978

1973 – 1975, Vanderbilt University; Bachelor of Arts, 1975

1972 – 1973, University of Tennessee; no degree

1971 – 1972, University of Virginia; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1975 – present

Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North, 4th Floor
Nashville, TN 37201-1631

Member – 1/1/06 to present (since firm became a PLLC)

Partner – 1994 to 12/31/05 (while firm was a partnership)

Associate – Summer 1978 (following Bar Exam) to 12/31/93

Law Clerk – 1975 through Summer 1978 (primarily Summers during Law School
and part-time during preparation for the Bar Exam)

Branstetter & Stranch (Partnership owning an office building)

C. Dewey Branstetter, Jr., Partner
227 Second Avenue North, 4th Floor
Nashville, TN 37201-1631
Partner - 12/29/93 to present

Branstetter Family Partners, Inc. (BFP) (Family Partnership holding land for sale)

Cecil D. Branstetter, Sr., President

Branstetter Properties, Inc.
227 Second Avenue North, 4th Floor
Nashville, TN 37201-1631
Partner - 1996 to present

Other affiliations:

St. Bartholomew's Episcopal Church

Suzy Floyd, Director

St. Bartholomew's Episcopal Church

4800 Belmont Park Terrace

Nashville, TN 37215

Mothers' Day Out Board of Directors - 1/1/09 to present

Episcopal Church Women of St. Bartholomew's – 2004 to present

Reverend Dr. Jerry Smith

St. Bartholomew's Episcopal Church

4800 Belmont Park Terrace

Nashville, TN 37215

President – 2008 through 2009

Property Tax Assistance, Inc. (Non-profit to assist needy with property taxes)

Charlie Cardwell, Metropolitan Trustee

800 2nd Ave. North

Nashville, Tn. 37201

Board of Directors – 2006 to present

Bellevue Family YMCA and Turner Senior Center Advisory Board,
Laurel Wilson, Executive Director
Bellevue Family YMCA and Turner Senior Center
8101 Highway 100
Nashville, TN 37211
Board President 2006-2008

AFL-CIO Lawyers Coordinating Committee
Jonathan P. Hiatt, General Counsel
816 Sixteenth Street, N.W.
Washington, DC 20006
Board of Directors 2003 - 2006

Poplar Creek Development Company, Secretary
(Family company for land development)
12/03/84 to 9/17/04 (Dissolution)

Poplar Creek Estates Homeowners' Association Board
Charlie Tygard (Bookkeeper for Association)
Accurate Tax & Bookkeeping Service
2606 Eugenia Avenue
Nashville, TN 37211
Secretary-Treasurer – 1987-1998

Metropolitan Nashville/ Davidson County PTA Executive Boards - 1985 to 2004
Served for a total of 14 years on the PTA Boards of several elementary, middle schools
and high schools

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U. S. Military and was not required to register for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

B.A. Degree, Vanderbilt University, Summa Cum Laude
Phi Beta Kappa

Vanderbilt School of Law, J.D. Degree
Order of the Coif
Appellate Argument Oralist and Brief Writing Awards

Fellow – Nashville Bar Foundation

Best Lawyers in America, Labor and Employment

Super Lawyers – Mid-South, Employment and Labor

Bellevue YMCA Volunteer of the Year 2006

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association – 2005 to present

Tennessee Bar Association – 1978 to present

Nashville Bar Association – 1978 to present

Admissions Committee (2 years)

Social Committee (1 year)

Law Association for Women (LAW) early 1990's to present

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

1978 - Tennessee Bar Association

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of Tennessee – September 30, 1978

Supreme Court of the United States – January 8, 1996

United States Court of Appeals for the Sixth Circuit – April 30, 1982

United States Court of Appeals for the Ninth Circuit – February 22, 2008

United States District Court, Middle District of Tennessee – December 7, 1979

United States District Court, Eastern District of Tennessee – April 3, 1991

United States District Court, Western District of Tennessee – March 19, 2008

United States District Court for the District of Colorado – May 21, 2002

United States District Court, Eastern District of Michigan – July 18, 2005

U. S. Tax Court – 1980

There has been no lapse in membership to any court.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Episcopal Church Women of St. Bartholomew's – 2004 to present
President – 2008 - 2009

Invisible Children and Child Mothers of Uganda Project
Project Steering Committee – 2006 to present

Nashville Women's Political Caucus - 2005 to present

Episcopal Diocese of Tennessee
Vice-Chancellor – January 2004 to present
Insurance Committee – 2009 forward
Chair, Committee on Elections – 2008 and 2009 Diocesan Convention

Bellevue YMCA and J. L. Turner Senior Center Advisory Board
Board Chair – 2006 – 2008

AFL-CIO Lawyers Coordinating Committee
Board of Directors – 2003 – 2006

General Convention of The Episcopal Church - 2006
Canons Committee

American Anglican Council - 2006

Episcopal Diocese of Tennessee
Chair, General Resolutions Committee – 2004 Diocesan Convention

Tennessee Anglican Council – 2003-2007

Bellevue YMCA and J. L. Turner Senior Center
Co-Chair Capital Campaign 2002-2005

Metropolitan Nashville and Davidson County Public Schools
Citizens Search Advisory Committee – 2001

Episcopal Diocese of Tennessee
Constitution and Canons Committee – 1998 to mid-2000

Commission on Ministry – 2001 - 2004

Vanderbilt University School of Law National Alumni Board – 1994-1997

St Luke's Community House

Chair, Two Capital Campaigns between 1993 and 1998

Metro Nashville Public Schools Parent Teacher Association 1984-2006

PTA Executive Boards of various schools – 14 years

Phi Alpha Delta Legal Fraternity – admitted during Law School

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

None.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

For many years, I have submitted educational articles on legal issues to the Tennessee Utility News for a column my firm writes titled "Counsel Corner". The paper is published for utility districts, governmental entities and their service providers and suppliers.

Letter to the editor dated June 26, 2006 concerning the Bellevue YMCA that I wrote along with another Board member.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I do not recall any such documents.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I do not recall any such testimony or documents.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Bellevue Community YMCA

Founders Club Dinner Speech – October 26, 2004

Tennessee State Council of Machinists

State Convention – September, 2001

Murfreesboro, Tennessee

Dinner speaker on history of labor movement.

No notes or text available.

National Rural Waterworks Association

2000 NRWA Management & Technical Conference

Kansas City, Missouri

October 9-10, 2000 – Series of programs on “Board Leadership” for Utility Boards and City/County governments

No notes or text available

American Constitution Society, Vanderbilt University, Law School Chapter Panel member - Discussion of the interplay of politics and the judiciary and

analysis of developments in various areas of law – Fall, 2004

No notes or text available.

United Food and Commercial Workers

Attorneys Conference – October, 1996

Carlsbad, California

“Update on Supreme Court and Other Appellate Decisions”

American Federation of Labor and Congress of Industrial Organizations

Lawyers Coordinating Committee Southern Regional Meeting

April 1, 2004; “Economic Issues Facing Health and Welfare Plans”

AFL-CIO Union Lawyers Conference – April 27-29, 2003
New Orleans, Louisiana
“Union-Side Law Firm Practice Issues”

AFL-CIO Union Lawyers Conference – May 5-6, 1993
Chicago, IL
“Rights and Duties of Organized Labor Under the Americans with
Disabilities Act”

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of
America

Lawyers Conference – October 18-21, 1992
Palm Springs, California
“Rights and Duties of Organized Labor Under the Americans with
Disabilities Act”

Branstetter, Kilgore, Stranch & Jennings Seminars

October 4, 1991 Labor Law Today
“The Duty of Fair Representation”
“Bill of Rights of Members of Labor Organizations 29 U.S.C. § 411”

October 30, 1992 Labor Law Today
“Americans with Disabilities Act”
“Update on Bill of Rights of Members of Labor Organizations”
“Update on The Duty of Fair Representation”

November 19, 1993 Labor Law Today
“Termination Hearings for Public Employees”
“Duty of Fair Representation”

United Garment Workers of America
Staff Meeting – November 19-20, 1992
Nashville, Tennessee
“Update on the Duty of Fair Representation”

Tennessee Bar Association

TBA Labor & Employment Law and TBA Corporate Counsel Sections
The 9th Annual Labor & Employment Law Forum – April 7, 2005,
Nashville, Tennessee
“New Developments in Labor Law Relations”

Tennessee Association of Utility Districts
Annual Conferences

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these

interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

YMCA Volunteer of the Year – 2006

Interview given to The Tennessean newspaper concerning the YMCA.

The Tennessean – December 4, 2008

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held a judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these, approximately what percent were:
jury trials? ___%; bench trials ___% [total 100%]
civil proceedings? ___%; criminal proceedings? ___% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held a judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

None.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of

the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Tennessee Democratic Party, member since 1970's

Tennesseans for Ned McWherter – support of and fund raising for election of Governor McWherter, Governor of Tennessee 1987-1995

Obama Caucus Delegate to the Davidson County, Tennessee and 5th Congressional District Caucuses – early 2008

I have often participated in political fund raising (with groups of people) by having my name listed on an invitation to a campaign event for a candidate for public office. I do not consider that a “position” or “role” in a campaign.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not clerk for a judge.

ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1/1/06 – Present

Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North, 4th Floor
Nashville, Tennessee 37201-1631
Attorney and Member

1978 – 12/31/05

Branstetter, Kilgore, Stranch & Jennings
227 Second Avenue North, 4th Floor
Nashville, Tennessee 37201-1631
Attorney and Partner (1994 – 2005)
Attorney and Associate (1978 – 1994)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not professionally served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

I began a general practice in 1978, with some emphasis in labor, employment (including discrimination), ERISA, personal injury (including worker's compensation) and wrongful death, and utility law. My practice rarely included criminal work, tax or domestic relations law. Throughout the 1980's, my work encompassed litigation in both federal and state courts (including courts of record and those not of record), appellate work and some work with administrative agencies. During some of that timeframe, I practiced law part time and/or took time off to be home with our children.

During the late 1980's and through the 1990's, my appellate practice at the 6th Circuit increased, primarily in labor matters. My basic practice areas continued but even more of my practice took place in the federal courts. In the latter part of the 1990's, my practice included more ERISA work, not just fund representation, but also more complex litigation cases.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

By the end of the 1990's and to the present, my complex litigation practice has expanded to encompass class work across the nation. Though I have done a variety of complex litigation, my primary emphasis is the representation of classes of plan participants who have lost their individual account pensions due to fiduciary breaches, often concurrent with corporate scandals. During that time frame, I have significantly reduced my practice in personal injury and general law but have retained the other areas of practice. Since I began practicing, I have consistently represented ERISA funds, utilities (quasi-municipalities under Tennessee law), and some small corporations, providing the full range of advice, defense and entity representation services.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

A substantial majority of my practice has been in litigation, with an emphasis on brief writing and oral argument. I have also had a significant appellate practice.

i. Indicate the percentage of your practice in:

1. federal courts: 85%
2. state courts of record: 13%
3. other courts: 1%
4. administrative agencies: 1%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 95%
2. criminal proceedings: 5%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 20 to 25 cases. I was sole counsel in a small number. I tried the majority with my partners.

i. What percentage of these trials were:

1. jury: 20-25%
2. non-jury: 75-80%.

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I filed one brief in the Supreme Court of the United States in October 1995 in opposition to a petition for Writ of Certiorari. The matter was:

Akins v. Zeneca, Inc., 1995 U.S. App. LEXIS 21536 (6th Cir. Tenn. July 27, 1995)

Writ of Certiorari was denied:

Akins v. Zeneca, Inc., 516 U.S. 1158, 116 S. Ct. 1041, 134 L. Ed. 2d 188 (1996)

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe

in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. Albert Akins, et al, and Tony Brock, et al., v. Zeneca, Inc., Rhone-Poulenc, Inc., Rhone-Poulenc Basic Chemical Company, Stauffer Chemical Company, International Union of Operating Engineers, AFL-CIO, Local 912 International Union of Operating Engineers, AFL-CIO; No. 95-841U. S. District Court for the Middle District of Tennessee, Columbia Division. The case was heard before U. S. District Court Judge Thomas A. Higgins (Retired). Decisions on the appeals to the U. S. Court of Appeals for the Sixth Circuit and U. S. Supreme Court are listed below:

Akins v. Zeneca, Inc., 1995 U.S. App. LEXIS 21536 (6th Cir. Tenn. July 27, 1995)
Akins v. Zeneca, Inc., 516 U.S. 1158, 116 S. Ct. 1041, 134 L. Ed. 2d 188 (1996)

Case Summary:

This case involved the closure and resulting layoff of employees of one of two plants represented by Local 912, my firm's client. In 1991, alleging they should not have been the employees laid off, the employees brought a hybrid claim, Section 301 (against the company)/duty of fair representation (against the Unions). My partner and I represented the Local at the jury trial and I was also primarily responsible for the legal briefing and argument. The Court granted the Rule 50 motion for judgment as a matter of law following the Plaintiffs' proof. I handled the appeal to the 6th Circuit successfully and successfully opposed issuance of a Writ of Certiorari by the Supreme Court.

Plaintiffs' counsel:

Ann Buntin Steiner
Frank Steiner
Steiner & Steiner
Washington Square, Suite 203
214 2nd Avenue North
Nashville, TN 37201-1644
Phone: (615) 244-5063

Co-Counsel for Defendant IUOE:

Richard Griffin
International Union of Operating Engineers
1125 17th Street, NW
Washington, DC 20036-4707
Phone: (202) 429-9100

George Barrett
Barrett, Johnston & Parsley
217 Second Avenue North
Nashville, TN 37201-1601
Phone: (615) 244-2202

Counsel for Defendant, Rhone-Poulenc, Inc. and Rhone-Poulenc Basic Chemicals Company:

William N. Ozier
Bass, Berry and Sims, PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238-3011
Phone: (615) 742-6232

Counsel for Defendant Zenea, Inc.:

Cary Schwinner
2911 Exeter, Suite 5
Germantown, TN 38138
Phone: (901) 753-5537

2. Donald L. Black v. Ryder/P.I.E. Nationwide, Inc., Teamsters Local #519, Joint Council #87 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Southern Conference of Teamsters, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Case Nos. 92-5611 and 92-5694. U. S. District Court for the Eastern District of Tennessee, Judge James H. Jarvis (deceased). Citations to the three appeals to the U. S. Court of Appeals for the Sixth Circuit are:

Black v. Ryder/P.I.E. Nationwide, 930 F.2d 505, 1991 U.S. App. LEXIS 6016, 137 L.R.R.M. (BNA) 2091 (6th Cir. Tenn. 1991)
Judges: David A. Nelson, Harry W. Welford, and Charles W. Joiner

Black v. Ryder/P.I.E. Nationwide, 970 F.2d 1461, 1992 U.S. App. LEXIS 15981, 140 L.R.R.M. (BNA) 2904 (6th Cir. Tenn. 1992)
Judges: David A. Nelson, Danny Julian Boggs, and Harry W. Wellford

Black v. Ryder/P.I.E. Nationwide, 15 F.3d 573, 1994 U.S. App. LEXIS 1725, 145 L.R.R.M. (BNA) 2387 (6th Cir. Tenn. 1994)
Judges: James Leo Ryan, Danny Julian Boggs and Gerald E. Rosen

Case Summary: This case involved the denial of Plaintiff's grievance after which he filed, on 6/14/85, a hybrid claim: Section 301 (against the company, Ryder)/duty of fair representation and Section 411 claim (against Teamsters Union entities, Local 519, Joint Council 87, Southern Conference, and International). My firm represented Local 519, Joint Council 87 and the Southern Conference. The case went to the 6th Circuit three times where I argued and briefed the appeals. Following the first, nonjury, trial of the

hybrid claim, the case was dismissed by the Court. That decision was reversed on the first appeal and the case remanded for a jury trial. The Section 411 claim was severed and tried to a jury in 9/89 that found against my clients. Upon my motion, a new trial was granted by the District Court and the Section 411 case was retried to a jury in 6/90, resulting in a second jury verdict against Local 519 and Joint Council 87, the Southern Conference having been dismissed. The second appeal was of the Section 411 case. The award against Local 519 was affirmed; however, I was successful in obtaining reversal of the award against the Joint Council and in holding the denial of attorney fees to Plaintiff. In 2/92, the hybrid case was tried again to a jury, resulting in a verdict against Local 519 that was affirmed on appeal.

Counsel for Plaintiff:

Peter J. Alliman
White, Carson & Alliman, PC
135 College Street
Madisonville, TN 37354-1451
Phone: (423) 442-9000

Counsel for Defendant Southern Conference of Teamsters:

G. Williams Baab
Baab & Denison
2777 N. Stemmons Freeway, Suite 1608
Dallas, TN 75207
Phone: (214) 637-0750

3. In re Nortel Networks Corp. ERISA Litigation; U. S. District Court of Middle Tennessee, Nashville, Tennessee, MDL Docket No. 3:03-md-01537; Judge John T. Nixon and Magistrate Judge John S. Bryant.

Case Summary:

In 2001, I filed an ERISA breach of fiduciary duty class action case against Nortel (American and Canadian companies) and individual fiduciaries on behalf of the employees who lost most of their 401k account assets when Nortel stock precipitously declined after revelations of accounting and securities violations. In this hard fought case, we calculated losses to Plaintiffs in the billions of dollars. In 2003, the Multi-District Litigation Panel consolidated the Nortel ERISA cases in the Tennessee District Court before Judge John Nixon and I was appointed co-lead counsel for Plaintiffs. The case has been through extensive motion practice and deposition and document discovery, including millions of documents. I managed the case with co-lead counsel Collins and we oversaw the work from members of our firms and attorneys from the several other firms involved. I had responsibility for a number of depositions, much of the briefing and most of the Court argument. The parties engaged in mediation unsuccessfully but another meeting is scheduled. Nortel has filed for bankruptcy in Canada and America.

Plaintiffs' Co-Lead Counsel:

Todd S. Collins

Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19103
Phone: (215) 875-3040

Primary Co-Counsel include:

Ron Kilgard
Keller Rohrback, P.L.C.
National Bank Plaza
3101 North Central Avenue, Suite 1400
Phoenix, AZ 85012
Phone: (602) 230-6324

Lynn Sarko
Keller Rohrback, L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
Phone: (206) 224-7552

Deborah Clark-Weintraub
Whatley, Drake & Kallas
1540 Broadway, 37th Floor
New York, NY 10036
Phone: (212) 447-7070

Nortel Defense Counsel:

René E. Thorne
Jason M. Stein
Jackson Lewis, LLP
650 Poydras Street, Suite 1900
New Orleans, LA 70130
Phone: (504) 208-5827

4. In re Qwest Savings and Retirement Plan ERISA Litigation, U. S. District Court of Colorado, Civil Action No. 02-cv-00464-REB-PAC; Judge Robert E. Blackburn

Case Summary:

In 2002, I filed an ERISA breach of fiduciary duty class action case against Qwest and individual fiduciaries on behalf of the employees who lost most of their 401k and/or ESOP plan account assets after the merger in which Qwest took over US WEST, Inc., a Colorado utility. Revelation of corporate improprieties resulted in serious decline in the value of Qwest stock mandatorily held in the plan. My firm and the firm of Whatley Drake were named as co-lead counsel after the cases were consolidated in the Colorado District Court. There was extensive motion practice and discovery, including millions of documents in an on-line repository. As well as managing the case with co-lead counsel, I had responsibility for a number of depositions, much of the briefing, Court argument and

settlement documents and procedures. The case underwent extensive mediation in which I participated and presented. The case was ultimately settled for \$33 million, a guaranteed recovery amount in the securities case from Qwest defendants and \$4.5 million from co-defendant Deutsche Bank. The ERISA settlement was finalized in 2007.

Plaintiffs' Co-Lead Counsel:

Joe R. Whatley, Jr.
Whatley Drake & Kallas, LLC
1540 Broadway, 37th Floor
New York, NY 10036
Phone: (212) 447-7070

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Defense Counsel – Deutsche Bank:

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5. Jack R. McCormick v. Tennessee Department of Environment and Conservation, Division of Water Supply and Robert Foster, Deputy Director of the Division of Water Supply in His Individual and Official Capacity, and Savannah Valley Utility District, Intervenor, Before the Tennessee Water Quality Control Board, Tennessee Department of Environment and Conservation, Nashville, Tennessee, Docket No. 04.02-031364A. Administrative Law Judges Robert Fellman and Lynn M. England.

Case Summary:

This case began with a 2/02 Notice of Intent to Sue and a subsequent Petition before the Water Quality Control Board (Board) of the Tennessee Department of Environment and Conservation (TDEC) alleging violations of the Safe Drinking Water Act (PHSA) and state and federal regulations. The petition against TDEC was for alleged violations at a well producing water used by the customers of Savannah Valley Utility District (SVUD), my client. I intervened in the case on behalf of SVUD, successfully defended the motion to dismiss and litigated the case to the Board in a trial before an Administrative Law Judge. The case turned on EPA promulgated rules regarding surface and ground water. I was successful at the trial and on the motion for reconsideration, the Board denying the Petition on 2/25/03.

Counsel for Plaintiff:

Joe W. McCaleb
Joe W. McCaleb & Associates
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Hendersonville, TN 37075
Phone: (615) 826-7245

Counsel for Defendant, TDEC:

Alan M. Leiserson
State of Tennessee
Department of Environment and Conservation
Office of General Counsel
401 Church Street
Nashville, TN 37219-2310
Phone: (615) 532-0131

6. Kay W. Austin v. Averitt Express, Inc., Demory McCoy, and Harry E. Lawrence, Case No. 39891, In the Circuit Court for Rutherford County, Tennessee at Murfreesboro. This case was before Circuit Judge Don R. Ash.

Case Summary:

I filed this wrongful death action against a trucking company and two individuals on 4/03/98 on behalf of Kay Austin, the widow of a man killed when a semi truck crossed the median and ran over his car. The case involved cross claims among the defendants. I engaged in discovery, took depositions and prepared for trial before the Court ordered a settlement conference. The case went to mediation on 10/18/00 before Tracy Shaw and was settled. The final order was entered 12/21/00.

Mediator

Tracy Shaw, Esq.
Howell & Fisher, PLLC
Court Square Building
300 James Robertson Parkway
Nashville, TN 37201
Phone: (615) 244-3370

Counsel for Defendant Averitt Express, Inc. and Demory McCoy

Robert B. Littleton
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Phone: (615) 244-9270

Counsel for Harry E. Lawrence

Dinah J. Michael
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Murfreesboro, TN 37130
Phone: (615) 895-2529

7. Thomas M. Irvin, et al. and Equal Employment Opportunity Commission v. American Telephone and Telegraph Company, U. S. District Court Middle District of Tennessee, Nashville Division, Civ. Nos. 3-89-0424 and 3-89-0646. Judge John Nixon

Case Summary:

This was an age discrimination case my firm brought in 1989 on behalf of a group of employees who were laid off from employment by AT&T based on their age. The EEOC subsequently filed a complaint alleging the same discrimination and the cases were consolidated. My partner and I undertook extensive document discovery along with other pre-trial work and trial preparation. The case was ultimately settled for individual monetary awards. Mr. Irvin was also put back to work.

Counsel for Plaintiff EEOC:

Carson Owen

Previously with the Memphis EEOC
1407 Union Avenue, 9th Floor
Memphis, TN 38104
Phone: (800) 669-4000

Counsel for Defendant:

John B. Rayson
Kramer Rayson LLP
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PO Box 629
Knoxville, TN 37901-0629
Phone: 865-525-5134

8. In re Xcel Energy, Inc. Securities, Derivative & ERISA Litigation, U. S. District Court of Minnesota, Master File No. 02-2677, MDL No. 1511; Judge David S. Doty

Case Summary:

In 2002, my firm filed this ERISA breach of fiduciary duty class action case against Xcel Energy, Inc. and individuals seeking to recover losses suffered by the 401k and ESOP pension plans. Our firm and several others were named Class Counsel. Following motion practice and discovery, the parties engaged in mediation along with the securities case. After several attempts, a settlement agreement was entered, preliminarily approved by the Court, noticed to the public and granted final approval in 2005. I was primarily responsible for much of the brief writing, settlement documents and court presentation, and was named as Class Counsel in the public notices.

Plaintiffs' Co-Counsel:

Joe R. Whatley, Jr.
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New York, NY 10036
Phone: (212) 447-7070

Glen M. Connor
Whatley Drake & Kallas, LLC
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Birmingham, AL 35202
Phone: (205) 488-1213

Additional firms with limited involvement in Plaintiffs' case were:

Barrett, Johnston & Parsley
Robins Umeda & Fink, LLP
Brauer Buescher, Goldhammer, Kelman & Dodge
Gilbert & Sackman
Cochrane & Bresnahan, PA

Counsel for Securities Plaintiffs:

Karl Cambronne
Chestnutt & Cambronne
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Phone: (612) 336-2922

Counsel for Xcel Energy, Inc.:

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Phone: (612) 977-8550

John M. Newman, Jr.
Jones Day
North Point, 901 Lakeside Avenue
Cleveland, OH 44114
Phone: (216) 586-7207

9. In re Providian Financial Corp. ERISA Litigation, U. S. District Court of Northern District of California, San Francisco Division, Case No. 3:01-05027. Judge Charles R. Breyer

Case Summary:

In 2001, ERISA breach of fiduciary duty class action cases were filed against Providian Financial Corp. and individual fiduciaries on behalf of the employees who lost pension plan assets due to corporate and fiduciary improprieties. The ERISA cases were consolidated in a California District Court and I was appointed co-lead counsel. I worked with co-lead counsel on all phases of the litigation. Early filings resulted in a plan amendment to allow participants to direct the investment of their matching contribution in non-Providian stock. During motion practice, the parties initiated settlement discussions that were finalized and approved in mid-2003.

Plaintiffs' Co-Lead Counsel:

Lynn Sarko
Keller Rohrback, L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
Phone: (206) 224-7552

Counsel for Defendants:

Gregory C. Braden
Alston & Bird, LLP

One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
Phone: (404) 881-7000

10. In Re: Columbia/HCA Healthcare Corp., Billing Practices Litigation, U. S. District Court, Middle District of Tennessee, Nashville Division, Case No. 3:98-md-1227. Senior Judge Thomas A. Higgins (Retired)

Case Summary:

My firm filed this case in 1998, alleging improper billing practices in violation of ERISA. I served as local counsel participating in all aspects of the litigation. We had a document repository in Nashville containing millions of documents for review. I participated in motion practice, discovery and discovery disputes, writing and also appeared in Court. The case was ultimately settled in 2003 and, because it involved issues concerning the adequacy of hospital staff, included establishment of a fund providing scholarships for the education of nurses.

Co-Counsel:

Morris A. Ratner
David S. Stellings
Leiff, Cabraser, Heimann & Bernstein, LLP
780 Third Avenue, 48th Floor
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Phone: (212) 355-9500

Counsel for Defendant, Columbia/HCA Healthcare Corp.:

H. Lee Barfield, II
Robert Dale Grimes
Bass, Berry & Sims
315 Deaderick Street, Suite 2700
Nashville, TN 37238
Phone: (615) 742-6200

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

The most significant legal activity not involving a specific trial in which I have had the opportunity to participate is the development of ERISA law applicable to remedies for losses suffered by individual account pension plan participants. Over the past decade, district courts, circuit courts, and now the Supreme Court, have ruled on a significant

number of challenges (often through motions to dismiss) to the existence of jurisdiction and/or remedies for the loss of pensions suffered by such plan participants. Briefing and arguing those issues in courts across the nation, or watching or reviewing the efforts of others to do so, has given to me the privilege of witnessing and, in some measure, participating in the development and refinement of a significant body of law.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

Belmont College: 1981 – 1983
Instructor, Labor Law
General introductory course to Labor Law

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

At present, there are none. I am a participant in the existing office pension plan.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court, if confirmed. I would hope to continue to be involved in charitable activities in which the judiciary is authorized to participate.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. Potential Conflicts of Interest:

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If I were appointed to the Court of Appeals, automatic disqualifying relationships would include my family members who are attorneys: James G. Stranch, III, my husband; J. Gerard Stranch, IV, our son; Cecil D. Branstetter, Sr., my father; C. Dewey Branstetter, Jr., my brother; and, Patty Daniel Stranch, my daughter-in-law. I understand that a conflict would also exist with the Firm with which I have practiced, Branstetter, Stranch & Jennings, PLLC. For any other conflicts, I would consult the applicable statutes, the Code of Conduct for United States Judges and/or seek advice from the entities authorized to provide such information.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I would make an effort to avoid or dispose of investments likely to require recusal. I would consult the applicable statutes, the Code of Conduct for United States Judges and/or seek advice from the entities authorized to provide such information.

- 25. Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have participated in service to the disadvantaged through established programs, the provision of free services to persons who seek legal assistance from our firm and cannot afford to pay and through personal charitable involvement. Through the CASA (Court Appointed Special Advocates) program, I participated in a training seminar in 1997 for the Early Truancy Intervention Program and accepted a truancy case in the Juvenile Court. I was appointed Guardian ad Litem to Robert Brooks, the oldest son of a single mother. I worked with the mother and Robert, and subsequently his two younger siblings, through 2002 to assure their attendance at school, aid them in receiving the educational assistance each needed and assist with other needs, such as summer camp for inner city youths.

I have also sought to aid the disadvantaged in the course of other charitable work. For example, I used my legal training to help establish a program for the provision of materials and/or funds to aid the Invisible Children and Child Mothers of Uganda. The project in which I participated began in 2006 by providing needed products for the

Invisible Children and the refugees in IDP Camps (Internally Displaced Persons Camps) including sewing materials (and later sewing machines) for the Child Mothers. Cottage industries were established and products sent to us for sale. The director of ChildReach Africa, Catherine Piwang, our contact in Africa, visited Nashville this May and we were able to assist her in affiliating with organizations that will market the products now being made by the Child Mothers in Uganda.

Since its creation in 2006, I have also provided ongoing legal work for Property Tax Assistance, Inc., an organization that assists the needy, primarily the elderly, with their property tax payments. I have provided pro bono legal services in a variety of ways to my church and my Diocese. Since 2004, I have served as Vice-Chancellor to two Bishops rendering legal services on a significant number of issues.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

When Judge Daughtrey announced her intention to take senior status, friends in the legal profession asked whether I was interested in serving on the 6th Circuit. I indicated that I was. Tennessee does not have a selection commission for the federal courts so my interest was conveyed to the Tennessee Congressional delegation.

I was contacted by White House Counsel's office on 4/24/09. I provided information about myself and my practice to that office on 4/29/09. I received a follow-up contact on 5/8/09 in which I was invited to a meeting in Washington with representatives of the White House Counsel's office. That meeting occurred on 5/13/09 and I submitted additional materials on 5/21/09. I was contacted by the Department of Justice on 6/4/09 by telephone and was then provided forms to complete. I have been in touch with DOJ representatives regarding the logistics of completing such forms. Early in the week of 6/8/09, I was contacted by the DOJ and a telephone interview was scheduled and completed on 6/11/09. I was invited to and attended a meeting in Washington on 8/3/09 with representatives of the White House Counsel's office and the Attorney General's office. My nomination was submitted to the Senate on August 6, 2009.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDIAVIT

I, Jane Branstetter Stranch, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

9/4/09
(DATE)

Jane Branstetter Stranch
(NAME)

Sara S. Goodman
(NOTARY)



My Commission Expires JULY 5, 2011