



## AlaFile E-Notice

03-CV-2020-901539.00

Judge: J. R. GAINES

To: FRANK JEROME TAPLEY  
jtapley@corywatson.com

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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

KRYSTAL KENDRICK ET AL V. GUARDIAN CREDIT UNION  
03-CV-2020-901539.00

The following matter was FILED on 4/24/2024 2:47:44 PM

**C001 KENDRICK KRYSTAL**

**C002 FAYSON GLENDA**

**C003 WILLIAMS JIMMY**

PLAINTIFFS' MOTION FOR, AND MEMO IN SUPPORT OF APPROVAL OF ATTORNEYS' FEES,  
EXPENSES, SERVICE AWARD

[Filer: TAPLEY FRANK JEROME]

Notice Date: 4/24/2024 2:47:44 PM

GINA J. ISHMAN  
CIRCUIT COURT CLERK  
MONTGOMERY COUNTY, ALABAMA  
251 S. LAWRENCE STREET  
MONTGOMERY, AL, 36104

334-832-1260



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4/24/2024 2:47 PM

03-CV-2020-901539.00

CIRCUIT COURT OF

MONTGOMERY COUNTY, ALABAMA

GINA J. ISHMAN, CLERK

**STATE OF ALABAMA**

Revised 3/5/08

**Cas**

Unified Judicial System

03-MONTGOMERY

 District Court
  Circuit Court

CV21

**CIVIL MOTION COVER SHEET**

KRYSTAL KENDRICK ET AL V. GUARDIAN CREDIT UNION

 Name of Filing Party: C001 - KENDRICK KRYSTAL  
 C002 - FAYSON GLENDA  
 C003 - WILLIAMS JIMMY

Name, Address, and Telephone No. of Attorney or Party. If Not Represented.

 FRANK JEROME TAPLEY  
 2131 MAGNOLIA AVENUE, SUITE 200  
 BIRMINGHAM, AL 35205

Attorney Bar No.: TAP006

 Oral Arguments Requested
**TYPE OF MOTION****Motions Requiring Fee**

- Default Judgment (\$50.00)  
 Joinder in Other Party's Dispositive Motion  
 (i.e. Summary Judgment, Judgment on the Pleadings,  
 or other Dispositive Motion not pursuant to Rule 12(b))  
 (\$50.00)
- Judgment on the Pleadings (\$50.00)
- Motion to Dismiss, or in the Alternative  
 Summary Judgment (\$50.00)
- Renewed Dispositive Motion (Summary  
 Judgment, Judgment on the Pleadings, or other  
 Dispositive Motion not pursuant to Rule 12(b)) (\$50.00)
- Summary Judgment pursuant to Rule 56 (\$50.00)
- Motion to Intervene (\$297.00)
- Other \_\_\_\_\_  
 pursuant to Rule \_\_\_\_\_ (\$50.00)

\*Motion fees are enumerated in §12-19-71(a). Fees  
 pursuant to Local Act are not included. Please contact the  
 Clerk of the Court regarding applicable local fees.

 Local Court Costs \$ 0
**Motions Not Requiring Fee**

- Add Party
- Amend
- Change of Venue/Transfer
- Compel
- Consolidation
- Continue
- Deposition
- Designate a Mediator
- Judgment as a Matter of Law (during Trial)
- Disburse Funds
- Extension of Time
- In Limine
- Joinder
- More Definite Statement
- Motion to Dismiss pursuant to Rule 12(b)
- New Trial
- Objection of Exemptions Claimed
- Pendente Lite
- Plaintiff's Motion to Dismiss
- Preliminary Injunction
- Protective Order
- Quash
- Release from Stay of Execution
- Sanctions
- Sever
- Special Practice in Alabama
- Stay
- Strike
- Supplement to Pending Motion
- Vacate or Modify
- Withdraw
- Other Plaintiffs' Motion For, and Memo In  
 Support of Approval of Attorneys' Fees,  
 Expenses, Service Award

 pursuant to Rule Alabama Rule of Civil (Subject to Filing Fee)  
 Procedure 23

Check here if you have filed or are filing contemporaneously with this motion an Affidavit of Substantial Hardship or if you are filing on behalf of an agency or department of the State, county, or municipal government. (Pursuant to §6-5-1 Code of Alabama (1975), governmental entities are exempt from prepayment of filing fees)

Date:  
4/24/2024 2:24:28 PM

Signature of Attorney or Party  
/s/ FRANK JEROME TAPLEY

\*This Cover Sheet must be completed and submitted to the Clerk of Court upon the filing of any motion. Each motion should contain a separate Cover Sheet.  
\*\*Motions titled 'Motion to Dismiss' that are not pursuant to Rule 12(b) and are in fact Motions for Summary Judgments are subject to filing fee.



**IN THE CIRCUIT COURT MONTGOMERY COUNTY, ALABAMA**

KRYSTAL KENDRICK, GLENDA  
 FAYSON, and JIMMY WILLIAMS, on behalf  
 of themselves and all others similarly situated,

Plaintiffs,

v.

GUARDIAN CREDIT UNION,

Defendant.

Case No. CV 2020-901539.00

TAWANDA FAYSON and ERIC  
 WILLIAMS, on behalf of themselves and all  
 others similarly situated,

Plaintiffs,

v.

GUARDIAN CREDIT UNION,

Defendant.

Case No. CV 2021-900523.00

**PLAINTIFFS' MOTION FOR, AND MEMORANDUM IN SUPPORT OF, APPROVAL  
 OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD**

Plaintiffs, Krystal Kendrick, Glenda Fayson, Jimmy Williams, Tawanda Fayson, and Eric Williams, by counsel, respectfully move the Court, in conjunction with the final approval hearing set for June 25, 2024, to approve the following payments from the \$6 million settlement of this class action:

1. Attorneys' fees to Class Counsel of one-third of the Value of the Settlement (\$2,000,000).
2. Reimbursement of litigation expenses to Class Counsel of \$14,265.53, comprised of mediation costs (\$7,123.87), travel expenses (\$3,448.28), filing, pro hac vice, and similar Court

fees (\$2,758.38), expert fees (\$700.00), and copying, postage, courier, and bank record fees (\$235.00).

3. A \$5,000 service award to each of the Class Representatives for their efforts in bringing the litigation and achieving a recovery for the thousands of other Class Members.

This memorandum describes the reasons why the requested awards are reasonable and are in line with amounts routinely awarded to Class Counsel and class representatives in similar cases across the country.

### INTRODUCTION

The Court should approve the requested fees, expenses, and service awards because each is reasonable and is in line with amounts routinely awarded in class action litigation in Alabama and across the country. First, the Alabama Supreme Court “has recognized that attorneys who recover an award for the class are entitled to a reasonable fee for their services.” *Union Fid. Life Ins. Co. v. McCurdy*, 781 So. 2d 186, 189 (Ala. 2000), and a request for a one-third fee in a common fund case is in the middle of the range awarded and is the amount that Class Counsel is routinely compensated. *Edelman & Combs v. L.*, 663 So. 2d 957, 960 (Ala. 1995) (noting fee awards range from 20% on the low end to 50% on the high end). Second, attorneys who obtain a common fund are entitled to reimbursement of reasonable litigation expenses they advanced, such as those here that include mediation, filing fees, and the like. Finally, a class representative who spends the time and effort to bring a suit that benefits thousands of others is entitled to a reasonable service award, and the request here for \$5,000 each is well within the range typically awarded. *See* Theodore Eisenberg & Geoffrey P. Miller, Incentive Awards to Class Action Plaintiffs: An Empirical Study, 53 UCLA L. Rev. 1303, 1308 (2006) (noting that an empirical study shows that the average service award is approximately \$15,992); *Lawler v. Johnson*, 253 So. 3d 939, 943 (Ala. 2017) (parties had negotiated \$50,000 service awards to three plaintiffs).

## STATEMENT OF FACTS

### **I. The parties vigorously litigate Plaintiffs' claims that Defendant improperly charged thousands of customers improper bank fees.**

Plaintiffs Krystal Kendrick, Glenda Fayson, and Jimmy Williams (the “Kendrick plaintiffs”) filed their class action lawsuit on December 29, 2020 in Montgomery County Circuit Court challenging Guardian’s practice of assessing of OD Fees on APSN Transactions, and multiple NSF fees on an item (the “Kendrick complaint”). Guardian filed its answer to the Kendrick complaint on February 11, 2021. On May 26, 2021, the Kendrick plaintiffs’ case moved to compel Guardian’s responses to the Kendrick plaintiffs’ initial discovery requests, which had been served with the Kendrick complaint on December 29, 2020. On September 13, 2021, the Kendrick plaintiffs and Guardian entered into a scheduling order regarding discovery and class certification matters.

On May 18, 2021, Plaintiffs Tawanda Fayson and Eric Williams (the “Fayson plaintiffs”) initiated a second action against Guardian, bringing claims challenging the same multiple NSF (or Returned Item Fees) fee practice at issue in the previously filed case as well as Guardian’s assessment of \$29 Returned Item Fees (“RI Fees”) rather than the \$15 RI Fees permitted by Guardian’s fee schedule. Because both cases brought multiple fee claims on behalf of putative classes of consumers, the parties jointly moved to consolidate the second-filed Fayson matter into the Kendrick matter. The Court granted the parties’ motion on November 30, 2021.

On January 26, 2023, the parties filed a joint motion to stay the consolidated case pending mediation. On February 7, 2023, the Court granted the parties’ motion and stayed the case pending mediation. On April 13, 2023, the Court entered a second order staying the consolidated case and cancelling all upcoming deadlines. The parties prepared detailed mediation briefs detailing the claims and damages at issue and, on April 28, 2023, participated in a full-day, hard fought, arms’

length mediation with Judge Diane Welsh (ret.) at JAMS which resulted in the Settlement. The parties spent the next several months negotiating and drafting the Settlement Agreement.

**II. The Settlement provides substantial benefits to the Settlement Classes valued at over \$6 million.**

Under the terms of the Settlement:

- Guardian will pay \$4,000,000 in cash into the Settlement Fund. Settlement § 7. The net Settlement Fund will be paid directly to Settlement Class Members without any claims process or need for Settlement Class Members to take any action. Current members will receive a direct account credit and former members will be mailed a check. Settlement Agreement § 7.
- Guardian will stop its practice of assessing APPSN Fees, which will save Class Members an estimated \$1.5 million per year. Settlement § 8.
- Guardian will forgive debt of \$402,551.
- If there is any money uncollected from the net Settlement Fund, it will not revert to Guardian. Instead, any checks cashed after 180 days will be distributed to Class Members on a pro-rata basis if practical. Otherwise, any residual will be paid out in a second distribution or on a on a cy pres basis to one or more public interest organizations nominated by the Parties and subject to Court approval. Settlement Agreement § 7, 11.

**DISCUSSION**

**III. The Court should approve attorneys' fees of one-third.**

The Alabama Supreme Court “has recognized that attorneys who recover an award for the class are entitled to a reasonable fee for their services.” *Union Fid. Life Ins. Co. v. McCurdy*, 781 So. 2d 186, 189 (Ala. 2000). “When a class benefits through the use of Rule 23, Ala. R. Civ. P., the class generally bears the costs associated with the litigation, out of the proceeds collected through the litigation.” *Id.*

“Under Alabama law, there are currently two methods available for the determination of fee awards for attorneys who have litigated successfully on behalf of a class: (1) the common-fund approach and (2) the lodestar approach.” *City of Birmingham v. Horn*, 810 So. 2d 667, 680 (Ala.

2001) (citing *Union Fid. Life Ins. Co. v. McCurdy*, 781 So.2d 186, 189–90 (Ala. 2000). “[T]he common-fund approach is the preferred method for calculating attorney fees in class actions.” *Union Fid. Life Ins. Co.*, 781 So. 2d at 189. Indeed, as is the case here, “in a class action where the plaintiff class prevails and the lawyer’s efforts result in a recovery of a fund, by way of settlement or trial, a reasonable attorney fee should be determined as a percentage of the amount agreed upon in settlement or recovered at trial.” *Edelman & Combs v. Law*, 663 So. 2d 957, 959 (Ala. 1995).

Under this common-fund approach, attorneys’ fees are paid as a percentage of the common fund. *Id.* “In some cases, 20% may be reasonable, based upon the amount of the award and other factors. In other cases 40%, or even 50%, may be justified.” *Edelman & Combs v. Law*, 663 So. 2d 957, 960 (Ala. 1995). But “empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery,” 4 Newberg on Class Actions § 14:6 (4th ed.), and the median amount awarded also “turns out to be one-third.” *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 735 (E.D. Pa. 2001).<sup>1</sup> One-third is the amount that Class Counsel has routinely been awarded in bank fee litigation, as well. Declaration of Lynn A. Toops in Support of Plaintiffs’ Motion for, and Memorandum in Support of, Approval of Attorneys’ Fees, Expenses, and Service Award (“Toops Decl.”) ¶ 4.

As for the appropriate settlement value against which to apply the percentage, in “calculating the overall settlement value for purposes of the ‘percentage of the recovery’ approach,” courts “include the value of both the monetary and non-monetary benefits conferred

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<sup>1</sup> Alabama courts may look to federal cases for guidance on class action issues. *Union Fid. Life Ins. Co. v. McCurdy*, 781 So. 2d 186, 189 (Ala. 2000) (citing *Adams v. Robertson*, 676 So.2d 1265, 1268 (Ala. 1995)).



on the Class.” *Fleisher v. Phoenix Life Ins. Co.*, No. 11-cv-8405, 2015 WL 10847814, at \*15 (S.D.N.Y. Sept. 9, 2015) (citation omitted). The authorities all agree on this approach. *See* Federal Judicial Center, *Managing Class Action Litigation: A Pocket Guide for Judges*, 3d. Ed., 35 (2010) (percentage for attorneys’ fees determination is applied to “the actual value to the class of any settlement fund plus the actual value of any nonmonetary relief.”); American Law Institute, *Principles of the Law of Aggregate Litigation*, Mar 1, 2010, § 3.13 (“[A] percentage-of-the-fund approach should be the method utilized in most common-fund cases, with the percentage being based on both the monetary and nonmonetary value of the judgment or settlement.”).

Numerous factors support an award of fees, none of which is applicable in every case, but which include:

- (1) “the nature and value of the subject matter of the employment”;
- (2) “the learning, skill, and labor requisite to its proper discharge”;
- (3) “the time consumed”
- (4) “the professional experience and reputation of the attorney”;
- (5) “the measure of success achieved”;
- (6) “[w]hether the fee is fixed or contingent”; and
- (7) “[t]he fee customarily charged in the locality for similar legal services.”

*Edelman & Combs*, 663 So. 2d at 959–60 (citations omitted).

“It has been said that the ‘expended time’ factor has limited significance in a common fund case:

Where success is a condition precedent to compensation, “hours of time expended” is a nebulous, highly variable standard, of limited significance. One thousand plodding hours may be far less productive than one imaginative, brilliant hour. A surgeon who skillfully performs an appendectomy in seven minutes is entitled to no smaller fee than one who takes an hour; many a patient would think he is entitled to more.

*Id.* at 960 (citations and quotations omitted).

Here, the relevant factors all support awarding the standard one-third fee. First, the nature of this case is a complex banking class action. Toops Decl. ¶ 4. Second, such an action involves specialized knowledge and skill related not only to the class action device itself but to the various banking practices and the litigation required significant time to pursue. *Id.* Third, Class Counsel are highly experienced in this type of class action litigation in courts across the country. *Id.* Fourth, the results achieved are highly valuable—over \$6 million, including a \$4 million cash Settlement Fund, forgiveness of \$402,551 in debt, and practice changes that will save Class Members more than \$1.5 million per year in overdraft fee charges. *Id.* Fifth, Class Counsel took this litigation on a 100% contingent fee basis, meaning they expended their time and advanced expenses with no guarantee they would ever be paid for their labor or reimbursed for the advanced expenses. *Id.* Finally, a one-third fee is the fee customarily charged in contingent fee litigation, and it is the fee that Class Counsel is routinely awarded. *Id.* Thus, all of the relevant factors support awarding the standard one-third fee.

**IV. The Court should approve reimbursement of \$14,265.53 in litigation expenses.**

In addition to fees, Class Counsel who recover a common fund are entitled to reimbursement of reasonable litigation expenses from the fund. *Tussey v. ABB, Inc.*, No. 06-cv-04305-NKL, 2019 WL 3859763, at \*5 (W.D. Mo. Aug. 16, 2019) (“[a]n attorney who creates or preserves a common fund by judgment or settlement for the benefit of a class is entitled to receive reimbursement of reasonable fees and expenses involved.”) (quoting Alba Conte, *1 Attorney Fee Awards* § 2:19 (3d ed.); see also *Sprague v. Ticonic*, 307 U.S. 161, 166–67 (1939) (recognizing court’s power to award costs from a common fund). “Counsel in common fund cases may recover those expenses that would normally be charged to a fee-paying client.” *Tussey*, 2019 WL 3859763,

at \*5; *see also* 5 *Newberg and Rubenstein on Class Actions* § 16:10 (6th ed.). “Reimbursable expenses include . . . expert fees; travel; long-distance and conference telephone; postage; delivery services; and computerized legal research.” *Tussey*, 2019 WL 3859763, at \*5 (collecting cases). In general, courts approve requested expense reimbursements because class counsel bring the case on a contingent basis, “so they had a strong incentive to keep costs to a reasonable level” because if the case does not result in a judgment or settlement counsel will not be reimbursed at all. *Id.*

Here, the requested expenses are all normal costs of litigation:

<b>Expense</b>	<b>Amount</b>
Mediation	\$ 7,123.87
Travel	\$ 3,448.28
Filing/PHV/Court Fees	\$ 2,758.38
Expert	\$ 700.00
Copy/Postage/Courier	\$ 235.00

Toops Decl. ¶ 5. Class Counsel had every incentive to keep the expenses to only those that are reasonable and necessary because Class Counsel was not guaranteed to ever recover these expenses if the lawsuit did not result in a judgment or settlement. *Id.*

**V. The Court should approve service awards of \$5,000 to each Class Representative.**

Finally, the Court should also approve \$5,000 service awards to each of the Class Representatives for their efforts and achievement in obtaining a settlement on behalf of thousands of other people who will receive the benefits without having to have ever taken any action.

Apart from Class Counsel, “[a]t the conclusion of a class action, the class representatives are eligible for a special payment in recognition of their service to the class.” 5 *Newberg on Class Actions* § 17:1 (5th ed.). “Courts often grant service awards to named plaintiffs in class action suits to promote the public policy of encouraging individuals to undertake the responsibility of representative lawsuits.” *Caligiuri v. Symantec Corp.*, 855 F.3d 860, 867 (8th Cir. 2017) (internal quotation omitted). Otherwise, most people could not afford to spend the time and effort to pursue

what would provide only a modest individual recovery for the effort involved but would also benefit thousands of other people who do not have to expend any time or resources. *See id.*

An empirical study shows that the average service award is approximately \$15,992. Theodore Eisenberg & Geoffrey P. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 UCLA L. Rev. 1303, 1308 (2006). And many courts recognize that it is “regular” to “grant service awards of \$10,000 or greater.” *Caligiuri*, 855 F.3d at 867 (8th Cir. 2017) (approving \$10,000 service award) (citing *Huyer v. Njema*, 847 F.3d 934, 941 (8th Cir. 2017) (affirming approval of settlement that included \$10,000 service awards to named plaintiffs); *Jones v. Casey’s Gen. Stores, Inc.*, 266 F.R.D. 222, 231 (S.D. Iowa 2009) (approving \$10,000 service awards to each of nine plaintiffs). Much higher service awards are not uncommon. *See, e.g., Zilhaver v. UnitedHealth Group, Inc.*, 646 F. Supp. 2d 1075, 1085 (D. Minn. 2009) (approving \$15,000 service awards to two representatives)); *Tussey*, 2019 WL 3859763, at \*6 (approving \$25,000 service awards to each of three representatives); *In re Charter Commc’ns, Inc., Sec. Litig.*, No. MDL 1506, 2005 WL 4045741, at \*25 (E.D. Mo. June 30, 2005) (approving \$26,625 service award).

Here, the Class Representatives each took time to bring and participate in the lawsuit and they have achieved a recovery valued at no less than \$6,000,000 on behalf of thousands of other people. Toops Decl. ¶ 6. Without the Class Representatives, this recovery would not have been possible. *Id.* Now that the litigation has resulted in a benefit to the Class Members, the Court should recognize and reward the Class Representatives for their service in benefiting others in a meaningful way. The Court should therefore approve the requested service awards, which are well within the range typically awarded.

## CONCLUSION

The Court should approve the requested fees, expenses, and service awards.

Respectfully submitted this 24<sup>th</sup> day of April 2024.

/s/ F. Jerome Tapley  
F. Jerome Tapley (TAP006)  
Hirlye R. "Ryan" Lutz, III (LUT005)  
Joel T. Caldwell (CAL075)  
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*Settlement Class Counsel*

\* *Pro Hac Vice* applications to be submitted

**CERTIFICATE OF SERVICE**

I hereby certify that on April 24, 2024, a copy of the foregoing document was served with the Clerk of Court via ALAFILE electronic filing system on all attorneys of record.

Stacy Linn Moon (LIN028)  
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/s/ F. Jerome Tapley  
F. Jerome Tapley



**IN THE CIRCUIT COURT MONTGOMERY COUNTY, ALABAMA**

KRYSTAL KENDRICK, GLENDA  
 FAYSON, and JIMMY WILLIAMS, on behalf  
 of themselves and all others similarly situated,

Plaintiffs,

v.

GUARDIAN CREDIT UNION,

Defendant.

Case No. CV 2020-901539.00

TAWANDA FAYSON and ERIC  
 WILLIAMS, on behalf of themselves and all  
 others similarly situated,

Plaintiffs,

v.

GUARDIAN CREDIT UNION,

Defendant.

Case No. CV 2021-900523.00

**DECLARATION OF LYNN A. TOOPS IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR, AND MEMORANDUM IN SUPPORT OF, APPROVAL  
 OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD**

Lynn A. Toops states:

1. I am a partner in the law firm of Cohen & Malad, LLP. Along with my co-counsel, I represent the Plaintiffs and Settlement Class in this action (collectively, "Class Counsel").

2. As shown by the firm resumes attached to this Declaration, Class Counsel have extensive experience litigating class action cases across the country, with particular expertise litigating bank fee class actions.

3. The settlement before the Court is valued at no less than \$6 million, comprised of a \$4 million non-reversionary cash Settlement Fund, debt forgiveness of \$402,551, and practice changes that are estimated to save Class Members no less than \$1.5 million per year in fees that

will no longer be assessed by Defendant. In Class Counsel's experience, this settlement represents a fair, reasonable, and adequate compromise and is an excellent result for the Class Members.

4. Class Counsel is routinely awarded a one-third fee in contingent class action litigation, including bank fee class actions. And here, the relevant factors all support awarding the standard one-third fee. First, the nature of this case is a complex banking class action. Second, such an action involves specialized knowledge and skill related not only to the class action device itself but to the various banking practices and the litigation required significant time to pursue. Third, Class Counsel are highly experienced in this type of class action litigation in courts across the country. Fourth, the results achieved are highly valuable—over \$6 million, including a \$4 million cash Settlement Fund, forgiveness of \$402,551 in debt, and practice changes that will save Class Members more than \$1.5 million per year in overdraft fee charges. Fifth, Class Counsel took this litigation on a 100% contingent fee basis, meaning they expended their time and advanced expenses with no guarantee they would ever be paid for their labor or reimbursed for the advanced expenses. Finally, a one-third fee is the fee customarily charged in contingent fee litigation, and it is the fee that Class Counsel is routinely awarded.

5. In addition, in litigating this action, Class Counsel have advanced litigation expenses, which they had no guarantee of ever recovering. According to Class Counsel's business records, the following expenses by category were advanced:

<b>Expense</b>	<b>Amount</b>
Mediation	\$ 7,123.87
Travel	\$ 3,448.28
Filing/PHV/Court Fees	\$ 2,758.38
Expert	\$ 700.00
Copy/Postage/Courier	\$ 235.00

Class Counsel had a strong incentive to keep costs to a reasonable level because if the case did not result in a judgment or settlement counsel would not be reimbursed for these costs.



6. Finally, the Class Representatives each took time to bring and participate in the lawsuit and they have achieved a recovery valued at no less than \$6,000,000 on behalf of thousands of other people. Without the Class Representatives, this recovery would not have been possible. A \$5,000 service award is well within the range of awards typically granted by courts in similar circumstances.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Dated: April 24, 2024

/s/Lynn A. Toops  
Lynn A. Toops

**COHEN & MALAD, LLP**  
ATTORNEYS

One Indiana Square | Suite 1400 | Indianapolis, IN | 46204  
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Complex Litigation  
Resume

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## Introduction

Cohen & Malad, LLP is a litigation firm founded in 1968 by a former Indiana Attorney General, a former United States Attorney and three other distinguished lawyers.

With 25 experienced attorneys, we litigate cases across multiple practice areas including: class action, mass torts and individual personal injuries, business litigation, family law, as well as commercial litigation and appeals.

Cohen & Malad, LLP enjoys a reputation as one of Indiana's leading class action law firms. Over the last 50 years, the firm has served as class counsel in numerous local, statewide, multi-state, nationwide, and even international class actions. We have also served in leadership positions in numerous multidistrict litigation matters. Our personal injury and medical malpractice trial lawyers have handled high-profile cases against medical providers who subjected hundreds of their patients to unnecessary procedures, sometimes leading to deaths.

## Significant Class Actions

*Lead Counsel, Co-lead Counsel, or Executive Committee*

- ❖ *In re Holocaust Victim Assets Litigation*; Settlement of \$1.25 billion for claims relating to conversion of bank accounts and property of victims of the Holocaust during the Nazi era.
- ❖ *Raab v. R. Scott Waddell, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al.*, Settlements (including settlement after trial and judgment) of approximately \$100 million in overcharges for motor vehicle and license fees.
- ❖ *In re Ready-Mixed Concrete Antitrust Litigation*; Settlements of over \$60 million for price fixing claims.
- ❖ *In re Iowa Ready-Mix Concrete Antitrust Litigation*; Settlement of over \$18 million for price fixing claims.
- ❖ *Moss v. Mary Beth Bonaventura, in her official capacity as Director of the Department of Child Services et al.* Settlement for underpayment of per diem subsidies owed to families who adopted special needs children out of foster care.
- ❖ *Bank Fee Litigation*. Litigation of hundreds of lawsuits against financial institutions for improper fee assessment and achieving dozens of settlements.

## Significant Mass Tort Litigation

*Leadership positions in federal multidistrict litigations and state court consolidations*

- ❖ *Gilead Tenofovir Cases, JCCP No. 5043, Superior Court for the County of San Francisco, California*. Cohen & Malad, LLP is currently representing patients against Gilead Sciences who were prescribed its TDF-based drugs to treat HIV, for pre-exposure prophylaxis (PrEP) to mitigate HIV risk, or to treat Hepatitis, and suffered serious kidney and bone injuries.

- ❖ *In Re: Zofran (Ondansetron) Products Liability Litigation. Litigation on behalf of women who took Zofran while pregnant and gave birth to a baby who suffered from a serious birth defect. Litigation is currently pending.*
- ❖ *In re: Fresenius Granuflo/Naturalyte Dialysate Products. Litigation on behalf of dialysis patients alleging Fresenius' dialysis products caused cardiac injuries and death. \$250 million global settlement.*
- ❖ *Pain Pump Device Litigation. Cohen & Malad, LLP served in a National Coordinated Counsel role in litigation against pain pump manufacturers who marketed pain pumps to orthopedic surgeons for continuous intra-articular uses, despite the fact that intra-articular placement of the pain pump catheters was not approved by the FDA. The use of pain pumps in the joint space resulted in deterioration of cartilage, severe pain, loss of mobility or decreased range of motion and use of shoulder.*
- ❖ *In Re: Prempro Products Liability Litigation. Litigation on behalf of women who took the hormone replacement therapy drug Prempro manufactured by Wyeth and suffered strokes, heart attacks, endometrial tumors or breast cancers. Global settlement for more than \$890 million to settle roughly 2,200 claims.*

### Significant Mass Medical Malpractice Actions

*Co-Lead counsel for mass litigation*

- ❖ *Mass tort medical malpractice cases involving over 280 claimants against an ENT physician settled for more than \$59 million.*
- ❖ *Mass tort medical malpractice cases involving more than 260 claimants against a Northwest Indiana cardiology group settled for more than \$67 million.*

### Our Attorneys

#### Irwin B. Levin, Managing Partner



Irwin joined Cohen & Malad, LLP in 1978 and concentrates his practice in the areas of class action, mass torts and commercial litigation. Irwin served on the Executive Committee in litigation against Swiss Banks on behalf of Holocaust victims around the world which culminated in a historic \$1.25 billion settlement. He has also served as lead counsel in class action cases around the country since 1983 including two class action cases against the Indiana Bureau of Motor Vehicles, which settled for nearly \$100 million, and was Co-Lead Counsel in two major antitrust cases against the concrete industry. Those cases settled for over \$75 million. Irwin has also served in leadership in various MDL and mass tort cases such as Pain Pump and Hormone Therapy litigation. Irwin currently is counsel for dozens of Indiana cities and counties in litigation against companies responsible for the opioid epidemic.

### David J. Cutshaw

David's practice includes both class action and mass medical malpractice litigation. He served as co-lead counsel to successfully negotiate over \$59 million in settlements for more than 280 plaintiffs against former ENT surgeon Mark Weinberger who performed unnecessary sinus surgeries, negligent surgeries, and abandoned his patients. Weinberger was sentenced to seven years in jail for health care fraud. David acted as co-lead counsel in 263 claims against a Northwest Indiana cardiology group alleged to have unnecessarily implanted pacemakers and defibrillators and performed unnecessary cardiac vessel stenting. Those claims were recently settled for over \$67 million. He has also tried numerous medical malpractice jury trials as first chair.



### Gregory L. Laker



Greg is the chair of the personal injury practice group and oversees the firm's dangerous drug and defective medical device litigation team. Greg and his team have held leadership positions in several multidistrict litigations including In re: Prem Pro Products Liability, Pain Pump Device Litigation, In re: Consolidated Fresenius Cases (Granuflo), In re: Testosterone Replacement Therapy Products Liability, and others. Greg also oversees the firm's sexual abuse litigation team and litigates cases involving molestation committed by perpetrators in institutional care facilities, sports and organizational groups, churches, schools, and doctor or medical offices.

### Richard E. Shevitz

Richard is the chair of the class action practice group and handles a wide variety of class action lawsuits, including claims against insurance companies, manufacturers, and governmental entities. He led the trial court proceedings and handled the appeal of a class action on behalf of drivers who had been overcharged for fuel prices by a publicly held trucking company, which resulted in a judgment of approximately \$5 million which was upheld on appeal. He also played a key role in the historic class action litigation bringing Holocaust-era claims against Swiss banks, which resolved for \$1.25 billion, as well as the prosecution of Holocaust-related claims against leading German industrial enterprises, which were resolved through a \$5 billion fund.



### Lynn A. Toops



Lynn is a partner in the class action group and focuses her practice on high-stakes consumer protection litigation. Lynn and her team are currently litigating hundreds of class actions against financial institutions across the country for the improper assessment of various fees and have returned over \$100 million to well over one million consumers. Lynn is also a nationwide leader in data breach litigation and is currently litigating and settling dozens of those cases on behalf of consumers. Lynn also represents cities and counties across Indiana that are battling the opioid prescription epidemic via litigation against manufacturers and distributors of prescription opioids. Lynn also served in a leading role in litigation against the state of Indiana for failure to pay promised adoption subsidy payments to families who adopted special needs children out of the state's foster care program.

### Arend J. Abel

Arend's practice includes complex litigation and appeals. His clients range from governmental entities to businesses of all sizes, from Fortune 500 companies to sole proprietors. His legal career includes work for former Indiana attorney general Pamela Carter, for whom he served as special counsel. In that role, Arend briefed and argued two cases on the merits before the United States Supreme Court. He has also briefed and argued numerous cases before the Indiana State Supreme Court and State and Federal Trial and Appellate Courts. Arend supports the class action practice group via briefing on complex issues at the trial and appellate court level.



### Scott D. Gilchrist



Scott is a class action attorney and concentrates his practice on antitrust, securities fraud, and consumer protection matters. Scott was a principal attorney in two antitrust cases against suppliers of ready-mixed concrete on behalf of small businesses, farmers and individuals. In re: Ready Mixed Concrete Antitrust Litigation, which settled for nearly \$60 million and In re: Iowa Ready Mix Concrete Antitrust Litigation, which settled for more than \$18 million.

**Vess A. Miller**

Vess is a class action attorney and focuses his practice on consumer protection matters. He uncovered hundreds of illegal charges made by the Indiana BMV and gave closing arguments at trial. After a ruling for drivers, that case settled for over \$62 million in refunds. Vess has also successfully litigated predatory lending claims against payday lenders that charged interest rates exceeding 1,000% APR. He defeated arbitration clauses that would have left consumer with no recovery, and successfully defended the wins at the Indiana Court of Appeals, the Indiana Supreme Court, and ultimately the United States Supreme Court.

**Gabriel A. Hawkins**

Gabriel is a class action and complex litigation attorney. He is an integral part of the firm's mass medical malpractice litigation team. He helped represent over 280 plaintiffs in lawsuits against former ENT surgeon Mark Weinberger who performed unnecessary sinus surgeries, negligent surgeries, and abandoned his patients. Weinberger was sentenced to seven years in jail for health care fraud. Gabriel's work contributed to the successful \$59 million global settlement for these plaintiffs.

**Lisa M. La Fornara**

Lisa handles complex civil litigation, including class and representative actions, with a focus on consumer protection, financial services, and data security matters. Lisa has actively litigated hundreds of actions against financial institutions and has helped consumers recover tens of millions of dollars in improperly collected fee revenue. Lisa has helped achieve leading settlements in actions against companies that failed to protect their customers' most sensitive data, providing meaningful equitable and financial relief for victims who experienced or are likely to experience identity theft and fraud. Lisa has also uncovered and obtained refunds for consumers who were systematically underpaid by their insurers following the total loss of their vehicles and has represented whistleblowers in *qui tam* and False Claims Act cases involving fraud against the government.





### Natalie A. Lyons



Natalie Lyons focuses on complex and class action matters. Over her career, she has represented consumer and civil rights plaintiffs in federal and state class actions around the country—including two federal civil rights trials that resulted in merits wins for plaintiffs. She has litigated against the federal Departments of Homeland Security and Education, state correctional agencies, and an array of commercial defendants. She is presently litigating complicated class actions in state and federal courts under consumer protection laws, the Telephone Consumer Protection Act and state contract and fraud laws.

Prior to joining Cohen & Malad, LLP, Natalie advocated on behalf of marginalized communities in litigation, direct representation and policy advocacy at the Southern Poverty Law Center (Montgomery, AL), Housing & Economic Rights Advocates (Oakland, CA) and Equal Rights Advocates (San Francisco, CA). In her role as an advocate for racial and social justice, she has appeared on panels; authored reports, op-eds and white papers; and testified on behalf of legislation. Here in Indiana, she served on the 2017 Spirit & Place Festival panel: Liberty & Justice for All?

### Amina A. Thomas

Amina handles class action matters involving litigation against insurance companies on behalf of policy holders in a variety of matters involving policy holder benefits and rights. Her work also includes representing consumers and businesses in data breach litigation across the country.



### Emily D. Kopp



Emily is class action attorney focused on complex litigation involving consumer protection matters. She litigates matters against financial institutions related to improperly collected fee revenue. Emily also represents consumers in data breach litigation against businesses who failed to properly safeguard sensitive client personal identifying information.

### Mary Kate Dugan

Mary Kate Dugan is a skilled litigator specializing in class action lawsuits against hospitals, employers, and other trusted entities that mishandle plaintiffs' private information. With a strong background in employment law, Mary Kate brings valuable legal experience to her role at Cohen &



Malad, LLP. She has successfully represented numerous individual employees in various legal matters such as breach of contract, discrimination, retaliation, and whistleblower cases. Notably, shortly after being sworn into the bar, Mary Kate presented her first jury trial, securing a favorable verdict for her client. As a law clerk, Mary Kate authored an appellate brief resulting in a partial reversal for her client at the Fifth Circuit Court of Appeals.

### **Edward ‘Ned’ B. Mulligan V**

Ned handles product liability matters in the firm’s dangerous pharmaceutical drug and defective medical device practice group. He has served in mass tort leadership roles on several multidistrict litigations including, *In re: Testosterone Replacement Therapy Products Liability Litigation*, and *In re: Consolidated Fresenius Cases (Granuflo)*. Ned is a named member of the Plaintiff Steering Committee for *In re: Zofran (Ondansetron) Products Liability Litigation*. Ned has also written articles regarding mass tort litigation for *Trial Magazine*.



### **Jonathon A. Knoll**



Jon is a product liability attorney in the firm’s dangerous pharmaceutical drug and defective medical device practice group. He has served in mass tort leadership roles for Biomet Metal on Metal Hip Replacement System Litigation in Indiana state court, *Gilead Tenofovir Cases*, JCCP No. 5043, as well as the multidistrict litigation *In re: Consolidated Fresenius Cases (Granuflo)*. Jon speaks nationally on various topics related to mass tort litigation and has also written articles regarding mass tort litigation for *Trial Magazine*.

### **Laura C. Jeffs**

Laura is a class action and product liability attorney. Her work includes class action privacy claims involving data breaches and consumer protection claims. Laura represents people who have been injured by dangerous pharmaceutical and defective medical devices in litigation involving pain pump devices, hormone replacement therapy, transvaginal mesh implants, tainted steroid injections, talcum powder ovarian cancer claims, and tenofovir drug litigation.



## Antitrust Cases

- ***In re Bromine Antitrust Litigation***, U.S. District Court, Southern District of Indiana.  
Liaison Counsel for the class in price-fixing issue. Settlement valued at \$9.175 million.
- ***In re Ready-Mixed Concrete Antitrust Litigation***, U.S. District Court, Southern District of Indiana.  
Co-Lead Counsel in a consolidated class action alleging a price-fixing conspiracy among all of the major Ready-Mixed Concrete suppliers in the Indianapolis area. The total settlements provided for a recovery of \$60 million, which allowed for a net distribution to class members of approximately 100% of their actual damages.
- ***In re Iowa Ready-Mix Concrete Antitrust Litigation***, U.S. District Court, District of Iowa.  
Co-lead counsel in class action alleging a price-fixing conspiracy among major suppliers of Ready-Mixed Concrete in northwest Iowa and the surrounding states. Settlements totaled \$18.5 million, which allowed for a net distribution to class members of approximately 100% of their actual damages.

## Consumer Protection Cases

- ***Raab v. R. Scott Waddell, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al., and Raab v. Kent W. Abernathy, in his official capacity as Commissioner of The Indiana Bureau of Motor Vehicles et al.***, Marion County Indiana, Superior Court.  
Actions on behalf of Indiana drivers who had been systematically overcharged by the Indiana Bureau of Motor Vehicles for driver's licenses, registrations, and other fees. Achieved a combined total \$100 million recovery providing either credits or refund checks to over 4 million drivers in amounts that equaled the agreed overcharge amounts.
- ***Moss v. Mary Beth Bonaventura, in her official capacity as Director of The Indiana Department of Child Services, et al.***, LaPorte County Indiana, Superior Court.  
Action on behalf of Indiana families that adopted special needs children from out of DCS foster care and who were denied an adoption subsidy payment. Achieved settlement over \$15 million providing checks to benefit over 1,880 special needs children, with the average settlement check near \$5,000 and a substantial number exceeding \$10,000.
- ***Coleman v. Sentry Insurance***, United States District Court, Southern District of Illinois.  
Class action on behalf of insured for failure to honor premium discounted features of automobile insurance policy; Settled for \$5.7 million cash fund, with direct payments to class members averaging over \$550.

- ***Econo-Med Pharmacy v. Roche***, United States District Court for the Southern District of Indiana. \$17 million common fund recovery in TCPA class action.
- ***Plummer v. Nicor Energy Services Company***, U.S. District Court, Southern District of Indiana. Class counsel in multistate class action on behalf of utility customers for deceptive charges on utility bills. Resolved for \$12 million cash settlement.
- ***Price v. BP Products North America Inc.***, U.S. District Court, Northern District of Illinois. Class counsel in multi-state class action on behalf of motorists that purchased contaminated gasoline recalled by BP. Achieved settlement of \$7 million.
- ***Wilmoth et al. v. Celadon Trucking Services***, Marion County Indiana, Superior Court. Appointed Class Counsel and obtained judgment, which was upheld on appeal, for approximately \$5 million in favor of nationwide class of long-distance drivers who had compensation improperly withheld by Celadon from fuel purchases.
- ***Means v. River Valley Financial Bank, et al.***, Marion County Indiana, Superior Court. Action involving prepaid burial goods and services in Madison, Indiana. Cemetery owners and banks who served as the trustees for the prepaid burial funds violated the Indiana Pre-Need Act and other legal duties, which resulted in insufficient funds to provide class members' burial goods and services at death. Settlements valued at \$4 million were achieved to ensure that thousands of class members' final wishes will be honored.
- ***Meadows v. Sandpoint Capital, LLC***, and ***Edwards v. Apex 1 Processing, Inc.***, Marion County Indiana, Circuit Court. Class actions brought against internet-based payday lenders. Settlement provided reimbursement for fees and expenses that exceeded amounts permitted by the Indiana payday loan act.
- ***Edwards v. Geneva-Roth Capital, Inc.***, Marion County Indiana, Circuit Court. Class action brought against internet-based payday lenders. Achieved settlement over \$1 million providing checks for over 6,000 individuals.
- ***Colon v. Trinity Homes, LLC and Beazer Homes Investment Corp***, Hamilton County Indiana, Superior Court. Class counsel in statewide settlement providing for remediation of mold and moisture problems in over 2,000 homes. Settlement valued at over \$30 million.
- ***Whiteman v. Time Warner Entertainment Company, L.P.***, Marion

County, Indiana, Superior Court.

Successfully appealed to the Indiana Supreme Court challenging the application of the voluntary payment doctrine for class of cable subscribers. Following this victory, Cohen & Malad, LLP negotiated a multi-million-dollar settlement for class members.

- ***Hecht v. Comcast of Indianapolis***, Marion County Indiana, Circuit Court. Represented a class of Comcast cable subscribers challenging arbitrarily determined late fees as unlawful liquidated damages. Obtained a multi-million-dollar settlement on the eve of trial.
- ***Littell et al. v. Tele-Communications, Inc. (AT&T) et al.***, Morgan County, Indiana, Superior Court. Lead counsel in nationwide class action challenging late fee charges imposed by cable television companies. The total value of the nationwide settlement exceeded \$106 million.
- ***Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tires Products Liability Litigation***, U.S. District Court, Southern District of Indiana.  
Court-appointed Liaison Counsel and Executive Committee Member in consolidated litigation involving international distribution of defective tires.
- ***Tuck v. Whirlpool et al.***, Marion County, Indiana, Circuit Court. Appointed Class Counsel in nationwide class action regarding defective microwave hoods. Settlement achieved in excess of \$7 million.
- ***Hackbarth et al. v. Carnival Cruise Lines***, Circuit Court of Dade County, Florida.  
Class Counsel in nationwide action challenging cruise lines' billing practices. Settlement valued at approximately \$20 million.
- ***Kenro, Inc. v. APO Health, Inc.***, Marion County Indiana, Superior Court. Appointed Class Counsel in case alleging violations of the Federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Settlement negotiated to create a common fund of \$4.5 million and provide benefits to class members of up to \$500 for each unsolicited fax advertisement received.
- ***Shilesh Chaturvedi v. JTH Tax, Inc. d/b/a Liberty Tax Service***, Court of Common Pleas, Allegheny County, Pennsylvania.  
Class Counsel in case involving Federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Settlement valued at \$45 million.
- ***Kenro, Inc. and Gold Seal Termite and Pest Control Company v. PrimeTV, LLC, and DirecTV, Inc.***, Marion County Indiana, Superior Court. Class Counsel in case involving the federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227. Following certification, the parties entered into nationwide settlement providing class members with benefits worth in excess of \$500 million.

- ***Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corp. et al.***, U.S. District Court, Southern District of Indiana.  
Class Counsel in Telephone Consumer Protection Act case alleging medical device company sent unsolicited junk faxes to 60,000 U.S. pharmacies. Settlement for \$17 million.
- ***McKenzie et. al. v. Allconnect, Inc.***, U.S. District Court, Eastern District of Kentucky.  
Class action on behalf of consumers whose highly sensitive personally identifiable information was compromised as a result of a data breach. Settlement for \$500,000, five (5) years of credit monitoring services, and monetary payments of \$100 to each settlement class member.

### Bank Fee Cases

- ***Hill v. Indiana Members Credit Union***, Marion County Indiana, Superior Court.  
Class action on behalf of credit union members who were improperly assessed (1) non-sufficient funds fees on accounts that were never actually overdrawn; (2) multiple non-sufficient funds fees on a single transaction; (3) out of network ATM withdrawal fees; and (4) ATM balance inquiry fees. Settlement for \$3 million.
- ***Plummer v. Centra Credit Union***, Bartholomew County Indiana, Superior Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never actually overdrawn. Settlement for \$1.5 million.
- ***Terrell et. al. v. Fort Knox Federal Credit Union***, Hardin County Kentucky, Circuit Court.  
Class action on behalf of consumers who were improperly assessed (1) overdraft fees on transactions that were previously authorized on a sufficient available balance and (2) multiple insufficient funds fees on a single transaction. Settlement for \$4.5 million.
- ***Martin v. L&N Federal Credit Union***, Jefferson County Kentucky, Circuit Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that had sufficient funds to cover the transactions. Settlement for \$2.575 million.
- ***Cauley v. Citizens National Bank***, Sevier County Tennessee, Circuit Court.  
Class action on behalf of consumers who were improperly assessed overdraft fees on transactions that did not actually overdraw checking accounts. Settlement for \$500,000.

- ***Norwood v. The Camden National Bank***, Cumberland County Maine, Business and Consumer Court.  
 Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never actually overdrawn and also on phantom transactions—where an accountholder never made a withdrawal request and where an account balance was never reduced. Settlement for \$1.2 million.
- ***Tisdale v. Wilson Bank and Trust***, Davidson County Tennessee, Chancery Court.  
 Class action on behalf of consumers who were improperly assessed overdraft fees on transactions that were previously authorized on an account with sufficient funds. Settlement for \$550,000.
- ***Johnson et. al. v. Elements Financial Credit Union***, Marion County Indiana, Commercial Court.  
 Class action on behalf of consumers who were improperly assessed (1) overdraft fees on accounts that were never actually overdrawn; and (2) multiple insufficient funds fees on a single transaction. Settlement for \$775,000.
- ***Holt v. Community America Credit Union***, U.S. District Court, Western District of Missouri.  
 Class action on behalf of consumers who were improperly assessed overdraft fees on accounts that were never overdrawn and multiple fees on a single item or transaction returned for insufficient funds. Settlement for \$2.325 million.
- ***Hawley et. al. v. ORNL Federal Credit Union***, Anderson County Tennessee, Circuit Court.  
 Class action on behalf of consumers who were improperly assessed (1) overdraft fees on transactions that did not actually overdraw checking accounts; (2) overdraft fees on transactions made on the same day that a direct deposit should have been made available to cover the transaction subject to an overdraft fees; and (3) multiple non-sufficient funds fees on a single transaction. Settlement for \$470,000.
- ***Graves v. Old Hickory Credit Union***, Chancery Court of Tennessee.  
 Action on behalf of credit union members who were charged overdraft fees on debit card and ATM transactions when the member's Available Balance was negative, but the member's Ledger Balance was positive. Settlement for \$500,000.

### Human Rights Cases

- ***In re Holocaust Victims Assets Litigation***, U.S. District Court, Eastern District of New York.  
 Selected as one of ten firms from the U.S. to serve on the Executive Committee in the prosecution of a world-wide class action against three

major Swiss banks to recover assets from the Nazi era. This litigation resulted in a \$1.25 billion settlement in favor of Holocaust survivors.

- ***Kor v. Bayer AG***, U.S. District Court, Southern District of Indiana.  
Action against an international pharmaceutical company for participating in medical experiments on concentration camp inmates during World War II. This action was resolved as part of a \$5 billion settlement negotiated under the auspices of the governments of the U.S. and Germany and led to the creation of the *Foundation for Remembrance, Responsibility and the Future*.
- ***Vogel v. Degussa AG***, U.S. District Court, District of New Jersey.  
Action against a German industrial enterprise for enslaving concentration camp inmates during World War II for commercial benefit. This action also was resolved in connection with the settlement which created the *Foundation for Remembrance, Responsibility and the Future*.

### Health Care/Insurance Cases

- ***In re Indiana Construction Industry Trust***, Marion County, Indiana, Circuit Court.  
Lead Counsel in action against an insolvent health benefits provider from Indiana and surrounding states. Recovered approximately \$24 million for enrollees, providing nearly 100% recovery to victims.
- ***Coleman v. Sentry Insurance a Mutual Company***, United States District Court, Southern District of Illinois.  
Class Counsel on behalf of 6,847 policy holders in 11 states against insurer for breaching refund feature of auto insurance policies, which resulted in recovery of \$5,718,825.
- ***Davis v. National Foundation Life Insurance Co.***, Jay County, Indiana, Circuit Court.  
Class Counsel in action involving insureds who were denied health insurance benefits as a result of National Foundations' inclusion and enforcement of pre-existing condition exclusionary riders in violation of Indiana law. The settlement provided over 85% recovery of the wrongfully denied benefits.

### Securities Fraud Cases

- ***Grant et al. v. Arthur Andersen et al.***, Maricopa County Arizona, Superior Court.  
Lead counsel in class action arising from the collapse of the Baptist Foundation of Arizona, involving losses of approximately \$560 million. Settlement achieved for \$237 million.
- ***In re: Brightpoint Securities Litigation***, U.S. District Court, Southern District of Indiana.  
Class Counsel in securities fraud action that resulted in a \$5.25 million



settlement for shareholders.

- ***City of Austin Police Retirement System v. ITT Educational Services, Inc., et al***, U.S. District Court, Southern District of Indiana.  
 Co-lead counsel in action alleging misrepresentations by defendant and certain principals concerning enrollment and graduate placement, and a failure to disclose multiple federal investigations into defendant's operations and records.
- ***Beeson and Gregory v. PBC et al.***, U.S. District Court, Southern District of Indiana.  
 Class Counsel in a nationwide class action with ancillary proceedings in the District of Connecticut, and the Southern District of Florida. Multi-million-dollar settlement that returned 100% of losses to investors.
- ***In re: Prudential Energy Income Securities Litigation***, U.S. District Court, Eastern District of Louisiana.  
 Counsel for objectors opposing a \$37 million class action settlement. Objection successfully led to an improved \$120 million settlement for 130,000 class members.
- ***In re: PSI Merger Shareholder Litigation***, U.S. District Court, Southern District of Indiana.  
 Obtained an injunction to require proper disclosure to shareholders in merger of Public Service Indiana Energy, Inc. and Cincinnati Gas & Electric.
- ***Dudley v. Ski World, Inc.***, U.S. District Court, Southern District of Indiana.  
 Class counsel for over 5,000 investors in Ski World stock. Multi-million-dollar settlement.
- ***Stein v. Marshall***, U.S. District Court, District of Arizona.  
 Class Counsel Committee member in action involving the initial public offering of Residential Resources, Inc. Nationwide settlement achieved on behalf of investors.
- ***Dominijanni v. Omni Capital Group, Ltd. et al.***, U.S. District Court, Southern District of Florida.  
 Co-lead counsel in securities fraud class action. Nationwide settlement on behalf of investors.

### Mass Medical Malpractice

- **Weinberger Litigation**, \$59 million in settlements.  
 This litigation involved 282 plaintiffs who were patients of former ENT surgeon Mark Weinberger of Merrillville, Indiana. This mass medical malpractice included complaints ranging from unnecessary sinus surgeries and negligently performed surgeries to patient abandonment. Weinberger [fled](#) the country after more than a dozen medical malpractice lawsuits were filed against him. He was also indicted on 22 counts of health care fraud and was later apprehended at the foot of the Italian Alps. Weinberger was

ultimately sentenced to 7 years in prison for insurance fraud. Cohen & Malad, LLP attorneys served as Co-Counsel in these medical malpractice lawsuits and successfully negotiated \$59 million in settlements for the people Weinberger harmed.

- **Northwest Indiana Cardiology Group Litigation**, \$67 million settlement. This litigation involved over 260 claimants who were patients of a cardiology practice in northwest Indiana. This mass tort medical malpractice included complaints of unnecessary heart surgeries, coronary artery stenting, peripheral stenting, and pacemaker and defibrillator implantations, as well as negligent credentialing claims. Cohen & Malad, LLP attorneys are served as Co-Counsel in these medical malpractice lawsuits and successfully negotiated a settlement of over \$67 million.

### Mass Tort Pharmaceutical Drug and Medical Device Litigation

- ***Gilead Tenofovir Cases***, JCCP No. 5043 (*pending*)  
Cohen & Malad, LLP is currently representing patients against Gilead Sciences who were prescribed its TDF-based drugs to treat HIV, for pre-exposure prophylaxis (PrEP) to mitigate HIV risk, or to treat Hepatitis, and suffered serious kidney and bone injuries. Thousands of cases are pending in the Superior Court for the County of San Francisco, California.
- ***Strattice Biologic Mesh*** (*pending*)  
Cohen & Malad, LLP is representing patients against LifeCell Corporation and Allergan who suffered injuries, including revision or removal surgeries, after receiving a Strattice mesh product for hernia repairs. These cases are currently pending in New Jersey State Court.
- ***In Re: Zofran (Ondansetron) Products Liability Litigation***, MDL No. 2657 (D. Mass) (*pending*)  
Cohen & Malad, LLP serves on the Plaintiff's Steering Committee, Narrative Committee, and Discovery, Briefing, and Science Committees in an action on behalf of women who took Zofran while pregnant and gave birth to a baby who suffered from a serious birth defect.
- ***In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation***, MDL No. 2738 (D. N.J.) (*pending*)  
Cohen & Malad, LLP is currently representing women who used Johnson & Johnson's talcum powder products for feminine hygiene and were diagnosed with ovarian cancer. Thousands of cases are currently pending.
- ***In Re: National Prescription Opiate Litigation***, MDL No. 2804 (N.D. Ohio) (*pending*)  
Cohen & Malad, LLP is currently representing dozens of Indiana cities and counties in litigation against the manufacturers and distributors of opioid pain medications. This litigation is focused on combating the prescription opioid epidemic and replenishing valuable resources for Indiana

communities that have spent vital economic resources responding to public health and safety issues resulting from this epidemic.

- **Biomet Metal on Metal Hip Replacement System** (pending)  
 Cohen & Malad, LLP is representing patients in Indiana state court who were implanted with a Biomet M2a metal on metal hip replacement system and suffered serious injuries such as significant pain, tissue destruction, bone destruction, and metallosis. In many cases, revision surgeries were necessary within just a few years of implantation.
- ***In Re: Zantac (Ranitidine) Products Liability Litigation***, MDL No. 2924, (S.D. FL.) (*pending*)  
 Cohen & Malad, LLP is representing patients who were diagnosed with cancer following the use of Zantac (ranitidine). The U.S. Food and Drug Administration issued a recall for all Zantac (ranitidine) drugs including over the counter and prescription formulas on April 1, 2020.
- ***In Re: Cook Medical, Inc., IVC Filters Marketing, Sales Practices and Products Liability Litigation***, MDL No. 2570 (S.D. Ind.) (*pending*)  
 Cohen & Malad, LLP is representing patients alleging serious injury related to the use of Cook Medical's inferior vena cava (IVC) filters.
- ***In Re: Prempro Products Liability Litigation***, MDL No. 1507  
 Cohen & Malad, LLP litigated hundreds of claims against Wyeth, the manufacturer of Prempro, for women who took hormone replacement therapy drug Prempro and suffered stroke, heart attacks, endometrial tumors or breast cancers. Wyeth agreed to a global settlement for more than \$890 million to settle roughly 2,200 claims.
- **Pain Pump Device Litigation**  
 No MDL existed for this litigation. Cohen & Malad, LLP served in a National Coordinated Counsel role. This litigation was against pain pump manufacturers who marketed pain pumps to orthopedic surgeons for continuous intra-articular uses, despite the fact that intra-articular placement of the pain pump catheters was not approved by the FDA. The use of pain pumps in the joint space resulted in deterioration of cartilage, severe pain, loss of mobility or decreased range of motion and use of shoulder.
- **Yaz**  
 Cohen & Malad, LLP represented hundreds of women in claims against Bayer over its Yaz and Yasmin birth control oral contraceptive. These drugs contained a synthetic version of estrogen called drospirenone that was linked to an increased risk for blood clots, stroke, and heart attack. As of January 2016, Bayer agreed to pay \$2.04 billion to settle over 10,000 claims for blood-clot injuries.

- **Transvaginal Mesh**  
Cohen & Malad, LLP represented hundreds of women in claims against transvaginal mesh manufacturers Ethicon, C.R. Bard, Boston Scientific, and American Medical Systems. Mesh implants are synthetic material used to support organs in women who suffer from pelvic organ prolapse and stress urinary incontinence. The FDA received thousands of complaints from women who suffered serious personal injury including perforated organs, infection, severe pain, and erosion of the mesh.
- ***In Re: Testosterone Replacement Therapy Products Liability Litigation***, MDL No. 2425 (N.D. III.)  
Cohen & Malad, LLP served on the discovery team in action on behalf of men who took drug manufacturers' testosterone replacement therapy products and suffered injuries such as blood clots, heart attacks, strokes and death.
- ***In Re: Consolidated Fresenius Cases (Granuflo)***, MICV2013-3400-O, Commonwealth of Massachusetts, Middlesex County,  
Cohen & Malad, LLP served on the Plaintiff's Steering Committee, bellwether discovery program committee, and privilege log committee in an action on behalf of dialysis patients alleging the defendant's dialysis products caused cardiac injuries and death. There was a \$250 million global settlement.



## STRANCH, JENNINGS & GARVEY PLLC

**The award-winning attorneys of Stranch, Jennings & Garvey, PLLC (SJ&G), have recovered more than \$50 billion for clients, from high-profile cases to single plaintiffs who have suffered harm or unfair treatment.**

SJ&G's roots go back to 1952 when Cecil Branstetter founded Branstetter, Stranch & Jennings, PLLC (BS&J), his own law firm in Nashville. For more than seven decades, our attorneys have advocated for society's under-represented voices, consumer rights, labor unions and victims of discrimination, a legacy that continues today as we work to ensure access to justice for our clients.

SJ&G's roots go back to 1952, when Cecil Branstetter founded his own Nashville firm after earning his law degree from Vanderbilt Law School in 1949. The firm grew and became known as Branstetter, Stranch & Jennings, PLLC (BS&J).

### PRACTICE AREAS

- Bank Fees
- ERISA Trust Funds
- Product Liability
- Wage and Hour Disputes
- Class Action
- Labor Unions
- Personal Injury
- Worker Adjustment and Retaining Notification
- Data Breaches
- Mass Tort
- Trucking Accidents

### REPRESENTATIVE CASES

**SJ&G attorneys have represented plaintiffs in a substantial number of complex cases both in state and federal courts throughout the nation:**

- as lead trial attorney in the Sullivan Baby Doe case (originally filed as Staubus v. Purdue) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee in Dahl v. Bain Capital Partners (anti-trust), resulting in a \$590.5 million settlement;
- appointed mediator by the circuit court in the case of the City of St. Louis v. National Football League and the Los Angeles Rams, having successfully negotiated a \$790 million settlement for the plaintiffs;
- lead plaintiff in Sherwood v. Microsoft, which set the standard for indirect antitrust actions in Tennessee and ultimately resolved for a value of \$64 million;
- litigated Qwest Savings and Investment Plan ERISA litigation, resulting in a \$57.5 million total payout to class members;
- plaintiff's co-counsel in the Paxil litigation of Orrick v. GlaxoSmithKline;
- represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. Montanez v. Gerber Childrenswear, LLC (M.D. Cal.); and
- represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.

### Nashville

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### St. Louis

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Phone: 314.390.6750

### Las Vegas

3100 W. Charleston Boulevard  
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Las Vegas, NV 89102  
Phone: 725.235.9750



# J. Gerard Stranch IV

## FOUNDING MEMBER

**Gerard Stranch is the managing partner at Stranch, Jennings & Garvey, PLLC (SJ&G). A third-generation trial lawyer, he leads the firm's class action and mass tort practice groups. His additional areas of practice include bank fees, data breaches, wage and hour disputes, worker adjustment and retraining notification, personal injury and trucking incidents.**

Mr. Stranch has served as lead or co-lead counsel for the firm in numerous cases, including:

- lead trial attorney in the Sullivan Baby Doe case (originally filed as *Staubus v. Purdue*) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date;
- personally appointed to the steering committee of the In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever;
- the executive committee In *Dahl v. Bain Capital Partners* (anti-trust), resulting in a \$590.5 million settlement;
- personally appointed to the steering committee In re: New England Compounding Pharmacy, Inc., resulting in more than \$230 million in settlements; and
- appointed as co-lead counsel In re: Alpha Corp. Securities litigation, resulting in a \$161 million recovery for the class.

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## LOCATION

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A 2000 graduate of Emory University, Mr. Stranch received his J.D. in 2003 from Vanderbilt University Law School, where he teaches as an adjunct professor about the practice of civil litigation. He led the opioid litigation team in the Sullivan Baby Doe suit, for which the team won the 2022 Tennessee Trial Lawyer of the Year award. Mr. Stranch has been listed as one of the Top 40 Under 40 by the National Trial Lawyers Association and as a Mid-South Rising Star by Super Lawyers magazine.

## PRACTICE AREAS

- Class Action
- Mass Tort
- Bank Fees
- Data Breaches
- Wage and Hour Disputes
- Worker Adjustment and Retraining Notification
- Personal Injury
- Trucking Incidents

## EDUCATION

- Vanderbilt University Law School (J.D., 2003)
- Emory University (B.A., 2000)

## BAR ADMISSIONS

- Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals
- U.S. District Court District of Colorado

## PROFESSIONAL HONORS & ACTIVITIES

### Awards

- Super Lawyers Mid-South Rising Star
- Top 40 Under 40, National Trial Lawyers Association

### Memberships

- Public Justice
- Nashville Bar Association
- Tennessee Bar Association
- American Association for Justice
- Tennessee Association for Justice
- Lawyer's Coordinating Committee of the AFL-CIO
- General Counsel Tennessee AFL-CIO and Federal Appointment, Coordinator
- General Counsel Tennessee Democratic Party
- National Trial Lawyer
- Board of Directors, Cumberland River Compact
- Class Action Trial Lawyers Association, Board Member
- Board of Governor's Tennessee Association for Justice

## PRESENTATIONS

- Mr. Stranch regularly speaks at conferences on issues ranging from in-depth reviews of specific cases to developments in the law, including in mass torts, class actions and voting rights.
- Mr. Stranch is one of the founding members of the Cambridge Forum on Plaintiff's Mass Tort Litigation and regularly presents at the forum.

## LANGUAGES

- English
- German





# James G. Stranch III

## FOUNDING MEMBER

**Jim Stranch is the senior partner in the complex litigation group, which he helped start on behalf of the firm. He has served as lead counsel in virtually every large complex and other class action in which the firm has served as lead plaintiff.**

Mr. Stranch and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA litigation and jointly litigated numerous groundbreaking cases.

One of Mr. Stranch's first hard-earned victories came in 1979 when, along with firm founder Cecil Branstetter, he won a jury verdict in a case against Frosty Morn Meats in Montgomery County. The bankrupt company was found by a jury to have been grossly negligent in its mishandling of more than 500 employees' Christmas monies. The jury returned a nearly \$473,000 judgment against the company's board of directors, and the case helped solidify the firm's reputation in Tennessee as one that fights for workers' interests.

In addition to having founded the firm's class action practice, Mr. Stranch also focuses on Labor and Employment Law, and brings more than four decades of experience in representing labor organizations and individual workers throughout Tennessee and the South. Mr. Stranch also has extensive expertise in matters arising under the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA.

Mr. Stranch has spent his career contributing to its legacy of supporting labor unions, shareholders, small businesses and others. Mentored by the late Cecil Branstetter, Mr. Stranch also strives to mentor the firm's younger attorneys.

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## LOCATION

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## PRACTICE AREAS

- Class Action and Complex Litigation
- Labor and Employment Law
- Personal Injury
- Consumer Protection
- ERISA Trust Funds

## EDUCATION

- University of Tennessee College of Law (J.D., 1973)
- University of Tennessee (B.S., 1969)

## EXPERIENCE

- Tennessee consumer protection and antitrust action against Microsoft, which led to a \$64 million recovery to the consumer class, including a \$30 million cy pres to Tennessee schools
- Qwest Savings and Investment Plan ERISA litigation, which resulted in a \$57.5 million total payout to class members
- Nortel Networks Corp. ERISA litigation, which was resolved with a \$21.5 million settlement
- Securities litigation on behalf of the State of Tennessee Consolidated Retirement System against Worldcom, which led to a \$7 million recovery
- Shareholder derivative action involving Dollar General Corporation, which resulted in a \$31.5 million recovery
- ERISA/401(k) litigations on behalf of employees and pensioners of Qwest Communications, Inc. (\$57.5 million total value recovery), Xcel Energy Inc. (\$8.6 million recovery), Provident Financial, Inc. (\$8.6 million) and Nortel, Inc. (\$21.5 million recovery)

## BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Eastern District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. District Court, Colorado
- U.S. Tax Court
- U.S. Supreme Court
- U.S. 6th Circuit Court of Appeals
- U.S. 8th Circuit Court of Appeals
- U.S. 9th Circuit Court of Appeals

## PROFESSIONAL HONORS & ACTIVITIES

### Awards

- AV-Rated by Martindale Hubbell
- Best Lawyers in America – Labor and Employment Law
- Mid-South Super Lawyers Edition (2014)
- Super Lawyers (2007 – 2020)

### Memberships

- Tennessee State Ethics Commission, Member and Former Chairman
- Tennessee Appellate Court Nominating Committee (Secretary, 1985 – 1991)
- AFL-CIO Lawyer's Coordinating Advisory Committee (1980 – present)
- Nashville Bar Association (1973 – present)
- Tennessee Bar Association (Chairman, Labor Law Section, 1991 – 1992; Member, 1973 – present)

- American Bar Association (1973 – present)
- American Association for Justice (1974 – present)
- Tennessee Association for Justice (1974 – present)
- Phi Delta Phi

## COMMUNITY INVOLVEMENT

- Chairman, Tennessee Bureau of Ethics
- Fellow, Nashville Bar Foundation
- Former Secretary, Tennessee Appellate Court Nominating Committee
- Former Member of the AFL-CIO Lawyers Coordinating Advisory Committee
- Former Chairman, Tennessee Bar Association's Labor Law Section





## R. Jan Jennings

FOUNDING MEMBER

**In the initial years of his career, Jan Jennings represented labor organizations devoted to protecting the rights of employees. During the past 20 years, he has concentrated on providing services to health and pension funds that provide benefits to construction workers. He has also provided personal representation to political and labor leaders throughout the South.**

After obtaining an M.B.A. degree, Mr. Jennings worked in a series of managerial positions at General Electric Company, where he was responsible for union and employee relations. Upon graduation from law school, he practiced in Atlanta, Georgia, for a number of years before relocating his practice to Nashville. He joined the firm in 1977.

A native of Johnson City, Tennessee, Mr. Jennings earned his J.D. from the University of Tennessee College of Law, where he served as editor of the Tennessee Law Review. He received his B.S. and M.B.A. degrees from East Tennessee State University.

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### LOCATION

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### PRACTICE AREAS

- ERISA Trust Funds
- Labor Unions

### EDUCATION

- University of Tennessee College of Law (J.D., 1974)  
– Editor, *Tennessee Law Review*
- East Tennessee State University,  
(M.B.A., 1966)
- East Tennessee State University (B.S., 1964)

### EXPERIENCE

Mr. Jennings provides ongoing representation to health and pension funds in connection with litigation concerning:

- Collection of employer delinquencies
- Denial of benefits
- Claims for subrogation/reimbursement to health funds from participants
- Breach of fiduciary duty claims
- Claims against service providers due to errors or omissions, prohibited transactions and breach of fiduciary liability
- Claims against hospitals, drug companies and other providers for excessive claims or costs
- Withdrawal liability
- Federal and state securities violations
- Consumer fraud

This representation of multiemployer funds involves the wide range of subjects encompassed by ERISA, Taft-Hartley, the IRC, HIPAA and PPACA.

### BAR ADMISSIONS

- Tennessee
- U.S. District Court Eastern District of Tennessee
- Georgia
- U.S. 5th Circuit Court of Appeals
- U.S. 6th Circuit Court of Appeals
- U.S. 11th Circuit Court of Appeals
- U.S. Court of Appeals Federal Circuit
- U.S. Supreme Court
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee

### PROFESSIONAL HONORS & ACTIVITIES

#### Awards

- Best Lawyers in America – Labor and Employment Law (2004 – present)
- AV-Rated by Martindale Hubbell (1975 – present)

#### Memberships

- Tennessee Bar Association
- State Bar of Georgia

### COMMUNITY INVOLVEMENT

- Cecil D. Branstetter Scholarship Fund
- Laborers' Care Foundation

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STRANCH,  
JENNINGS  
& GARVEY  
PLLC





# John Garvey

## FOUNDING MEMBER

**Judge (ret.) Jack Garvey has been practicing law for 35 years in St. Louis. He began his career in private practice, then moved to the city's prosecuting attorney office, where he tried 23 cases to verdict. He was then elected to the St. Louis Board of Aldermen, where he served for four years while also practicing as a trial attorney before joining a trial law firm. While in private practice, he tried 25 cases to verdict.**

In 1998, Judge Garvey was appointed to the associate circuit court bench, where he served five years until he was elevated to a circuit court position and served for an additional 13 years. During his time on the bench, he presided over 200 jury trials, and served as the chief criminal judge, presiding juvenile court judge and assistant presiding judge, as well as the chief judge of the 22nd Judicial Circuit mass tort docket.

Following his return to private practice in 2015, Judge Garvey has been involved as plaintiff's co-counsel in the Paxil litigation of *Orrick v. GlaxoSmithKline*, St. Louis City Circuit #1322-CC00079; co-lead counsel in the opioids litigation of *Jefferson County v. Williams*, #20JE-CC00029; and local counsel in Roundup cases.

In addition to his litigation work, he has been appointed several times as a special master on discovery matters by St. Louis city and county courts. In addition, Judge Garvey was appointed mediator by the circuit court in the case of the *City of St. Louis v. National Football League* and the *Los Angeles Rams*, having successfully negotiated a \$790 million settlement for the plaintiffs in 2022.

Judge Garvey obtained his B.A. in urban affairs in 1983 from St. Louis University, and earned his J.D. in 1986 from Rutgers University School of Law. He is an adjunct professor of law at Washington University School of Law and St. Louis University School of Law.

Jack resides in South St. Louis with his wife, Kathy, a retired registered nurse. They have four children who also live in St. Louis. Jack enjoys running, reading and grilling.

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## LOCATION

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## PRACTICE AREAS

- Class Action
- Mass Tort
- Personal Injury
- Product Liability

## EDUCATION

- Rutgers University School of Law (J.D., 1986)
- St. Louis University (B.A., 1983)

## BAR ADMISSIONS

- Missouri
- U.S. District Court Eastern District of Missouri
- U.S. District Court Western District of Missouri
- U.S. District Court Southern District of Illinois

## PROFESSIONAL HONORS & ACTIVITIES

### Awards

- Adjunct Faculty Member of the Year, St. Louis University Law School (2006)
- Person of the Year, Missouri Coalition Against Domestic Violence (2000)
- Pro Bono Legal Professional of the Year, St. Louis University Civil Justice Clinic (2007)
- Honored at the 2023 Missouri Lawyers Association for his role in re: National Prescription Opiate Litigation settlement, which won first place in the Top Settlements category

### Memberships

- Bar Association of Metropolitan St. Louis

## COMMUNITY INVOLVEMENT

- Adjunct Professor of Law, Washington University Law School – Evidence and Trial Advocacy (2001 – 2015)

- Adjunct Professor of Law, St. Louis University – Trial Advocacy (2005 – 2015)
- President of the board of directors, St. Louis Public Library (2004 – 2008)
- Alderman, 14th Ward of the City of St. Louis (1991 – 1995)

## PRESENTATIONS

- "Trends in Mass Torts," HarrisMartin MDL Conference: The Current Mass Tort Landscape (March 2022)
- "Opioid Case Against the Pharmacies," HarrisMartin MDL Conference: Critical Developments in Mass Torts, MDLs, and Game-Changing Jurisprudence (May 2019)





# Nathan R. Ring

## PARTNER

**Nate Ring oversees the firm's Las Vegas office. He concentrates his practice in the areas of labor, employment, ERISA and election law. He has represented working people and their unions across Nevada, Oregon and Washington.**

Mr. Ring serves as counsel to the Nevada State AFL-CIO, Southern Nevada Building Trades Unions, the Building and Construction Trades Council of Northern Nevada, and numerous local unions. He has also served as counsel for numerous union-affiliated political action committees. He represents clients in federal and state trial and appellate courts, before administrative agencies, in arbitrations and mediations, and in the negotiation of collective bargaining agreements.

Mr. Ring earned his B.A. in public affairs in 2007 from Wayne State University in Detroit, Michigan. During his undergraduate studies, he managed and worked on Democratic political campaigns and interned for United States Senator Debbie Stabenow. He graduated cum laude in 2010 from the University of Nevada, Las Vegas, William S. Boyd School of Law. During law school, he served as an elected officer of the Student Bar Association and as a law clerk for the UAW legal department. He was awarded the Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School.

Following law school, Mr. Ring clerked for a Nevada District Court Judge, then began his practice of law in the representation of labor unions and employee benefit trust funds. In 2015, he received the Go-to Guy Award from the Nevada State AFL-CIO for advice and counsel provided to the state federation and its affiliates during the legislative session. He is a member of the AFL-CIO Union Lawyers Alliance, and was recognized as a Super Lawyers Rising Star in Labor and Employment Law from 2014 - 2020.

A native of Michigan, Mr. Ring resides in Las Vegas with his wife, Nevada State Senate Majority Leader Nicole Cannizzaro, and their infant son, Case. When not practicing law, Nate enjoys spending time with his family, watching sports and playing an occasional round of golf.

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## EMAIL

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## LOCATION

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## PRACTICE AREAS

- Labor
- Employment
- ERISA Trust Funds
- Election Law

## EDUCATION

- University of Nevada, Las Vegas, William S. Boyd School of Law (J.D., *cum laude*, 2010)
  - Competitor, Conrad Duberstein Bankruptcy Moot Court Competition
  - Secretary, Student Bar Association
- Wayne State University (B.A., Public Affairs, 2007)

## EXPERIENCE

- *Lehman v. Nelson*, 943 F.3d 891 (9th Cir. 2019): Represented a Taft-Hartley Pension Plan and argued before the Ninth Circuit in a matter of first impression under the Pension Protection Act of 2006.
- *Glazing Health & Welfare Fund v. Lamek*, 896 F.3d 908 (9th Cir. 2018): Represented multiple Taft-Hartley Trust Funds as amici in a case setting Ninth Circuit precedent on liability of owners as ERISA fiduciaries for unpaid fringe benefit contributions.
- *Lehman v. Nelson*, 862 F.3d 1203 (9th Cir. 2017): Represented a Taft-Hartley Pension Plan in a successful Ninth Circuit appeal of a district court decision concerning contribution reciprocity under the Pension Protection Act of 2006.

- *International Brotherhood of Teamsters, Airline Division v. Allegiant Air, LLC*, 788 F.3d 1080 (9th Cir. 2015): Represented an international labor union and argued before the Ninth Circuit in an appeal raising an issue of first impression concerning bargaining under the Railway Labor Act.
- *W.G. Clark Construction Co. v. Pacific NW Regional Council of Carpenters*, 322 P.3d 1207 (Wash. 2014): Represented a Taft-Hartley Trust Fund as amici in a case that overturned prior Washington Supreme Court precedent, which held that ERISA Trust Funds could not recover contributions through state-required contractor bonds.
- *Operating Engineers Pension Trust v. Thornton Concrete Pumping*, 806 F.Supp.2d 1135 (D. Nev. 2011): Successfully represented Taft-Hartley Trust Funds in obtaining a district court judgment against a general contractor for its subcontractor's unpaid fringe benefit contributions under Nevada Revised Statutes 608.150.

## BAR ADMISSIONS

- Nevada
- Washington
- Oregon
- U.S. 9th Circuit Court of Appeals
- U.S. District Court – District of Nevada
- U.S. District Court Western District of Washington
- U.S. District Court Eastern District of Washington
- U.S. District Court – District of Oregon

## PROFESSIONAL HONORS & ACTIVITIES

### Awards

- Labor Partner of the Year Award from the Southern Nevada Building Trades Unions (2022)
- Super Lawyers Rising Star, Employment and Labor Law (2014 – 2020)
- Go-to Guy Award, Nevada State AFL-CIO (awarded by the executive secretary-treasurer for representation of the labor movement during the 2015 Nevada Legislative Session)
- Young Lawyers Division Fellow, ABA Labor & Employment Law Section (2012)
- Dean's Graduation Award for Outstanding Achievement and Contribution to the Law School, William S. Boyd School of Law, UNLV (2010)

### Memberships

- State Bar of Nevada
- Washington State Bar Association
- Oregon State Bar
- International Foundation of Employee Benefit Plans
- AFL-CIO Union Lawyers Alliance

## PRESENTATIONS

- "Strategize for Conscious Capital for Turbulent Times," Made in America Taft-Hartley Benefits Summit (2021)
- "LMRDA: An Overview," Southern Nevada Building Trade Unions Conference (2021)
- "Update on the Substance Abuse Epidemic and Controlling Behavioral Health Costs," Made in America Taft-Hartley Benefits Summit (2019)
- "Election Campaigns: Legal Overview," Nevada State AFL-CIO COPE Conference (2018)



STRANCH, JENNINGS & GARVEY  
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## Marty Schubert

PARTNER

**Marty Schubert focuses his practice on the firm's class action litigation, and currently represents numerous consumers who were charged improper overdraft fees by their banks or credit unions. He also assists with matters relating to voting rights and ballot access, and previously served as the voter protection director for the Tennessee Democratic Party.**

Before joining Stranch, Jennings & Garvey, Mr. Schubert was a U.S. associate with Linklaters LLP in London, England, and an associate with Waller Lansden Dortch & Davis, LLP in Nashville. A native Chicagoan, he began his career as a middle school teacher in South Los Angeles. Before attending law school, he worked as a field organizer for the Obama campaign and as an Obama administration appointee at the U.S. Department of Education in Washington, D.C. Prior to beginning his legal practice, he served as a judicial intern with Chief U.S. District Judge Colleen McMahon of the U.S. District Court for the Southern District of New York.

Mr. Schubert is a 2013 graduate of Brooklyn Law School. He graduated cum laude from Georgetown University in 2006 and earned his M.A. in secondary education in 2008 from Loyola Marymount University.

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### LOCATION

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### PRACTICE AREAS

- Class Action
- Election Law

### EDUCATION

- Brooklyn Law School (J.D., 2013)
  - Member, *Brooklyn Law Review*
- Loyola Marymount University (M.A., Secondary Education, 2008)
- Georgetown University (B.S., Foreign Service, *cum laude*, 2006)

### EXPERIENCE

- Obtained hundreds of millions of dollars in class action settlements against banks and credit unions in more than 30 states for the improper assessment of overdraft fees

### BAR ADMISSIONS

- Tennessee
- New York

### PROFESSIONAL HONORS & ACTIVITIES

#### Memberships

- Nashville Bar Association
- Tennessee Trial Lawyers Association

### PUBLISHED WORKS

- Note, When Vultures Attack: Balancing the Right to Immunity Against Reckless Sovereigns, 78 BROOK L. REV. (Spring 2013)

### LANGUAGES

- English
- Spanish

### COMMUNITY INVOLVEMENT

- Throughout his career, Mr. Schubert has been involved in local education issues by representing suspended or truant students in administrative proceedings and serving as a committee member of the Nashville Area Chamber of Commerce's Education Report Card.
- He is also a founding board member of The Ubunye Challenge, which raises funds for educational initiatives in southern Africa and the Caribbean through athletic endurance competitions.

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JENNINGS  
& GARVEY  
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# Michael G. Stewart

## PARTNER

**Mike Stewart is a member of the firm's complex litigation practice, representing citizens who have suffered injuries or lost money because of the actions of powerful interests. He has litigated cases that have recovered millions of dollars for defrauded investors, persons injured by defective products and consumers cheated by improper sales practices. He writes and speaks on a variety of legal and public interest topics.**

A former member of the Tennessee General Assembly, Mr. Stewart aggressively fought for Tennessee's citizens, at one point calling attention to Tennessee's inadequate gun background check laws by offering an assault rifle for sale at a sidewalk lemonade stand. Mr. Stewart was elected unanimously by his fellow Democratic members to serve as their Caucus Chairman during the 109th, 110th and 111th General Assemblies. During his tenure, Democrats regained seats held by Republicans in all three of Tennessee's Grand Divisions – West, Middle and East Tennessee.

Before attending law school, Mr. Stewart served as an officer in the United States Army, with service in the Korean Demilitarized Zone and in Operation Desert Storm.

Mr. Stewart and his wife, Ruth, have three children, Will, Joseph and Eve. Ruth is a physician and an Associate Dean at Meharry Medical College. They live in East Nashville.

## PHONE

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## LOCATION

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## PRACTICE AREAS

- Class Action and Complex Litigation
- Civil Litigation

## EDUCATION

- University of Tennessee College of Law (J.D., *cum laude*, 1994)
  - Student Materials Editor, *Tennessee Law Review*
  - National Moot Court Team
  - Vinson & Elkins Award for Excellence in Moot Court Brief Writing
- University of Pennsylvania (B.A., 1987)

## EXPERIENCE

- Represented a class of shareholders in antitrust litigation against many of the nation's largest private equity firms in a suit alleging collusion on large buyout deals. Total settlements exceeded half-a-billion dollars. *Dahl v. Bain Capital Partners* (D. Mass).
- Represented a class of consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement. *Montanez v. Gerber Childrenswear, LLC* (M.D. Cal.).
- Represented a consumer seriously injured by emissions from a residential air cleaner, resulting in a significant settlement. *Bearden v. Honeywell International, Inc.* (M.D. Tenn.).
- Represented a class of shareholders alleging damages from inaccurate financial statements issued by a manufacturer of cellular phone cameras, resulting in a multi-million-dollar settlement. In re: *Omnivision Technologies, Inc.* Litigation (N.D. Cal.).

## BAR ADMISSIONS

- Tennessee
- U.S. District Court Middle District of Tennessee
- U.S. District Court Western District of Tennessee
- U.S. 6th Circuit Court of Appeals

## PROFESSIONAL HONORS & ACTIVITIES

### Awards

- Best Lawyers in America (2008)
- National Trial Lawyers, Top 100 (2019)
- U.S. Eighth Army Distinguished Leader Award

### Memberships

- American Bar Association
- Tennessee Bar Association
- Nashville Bar Association
- American Association of Justice

## PRESENTATIONS & PUBLISHED WORKS

- Tennessee Bar Association Litigation Forum CLE – “Legislative Update”
- Nashville Bar Association CLE, “Deposition Ethics: Strategies for Taking and Defending Depositions Without Running Afoul of the Model Rules of Professional Conduct”
- “Paul Krugman Unwittingly Fulfills Fiscal Fantasies for Republicans,” *The Hill* (Nov. 18, 2017)
- “Memo to Democratic Donors: the Path to Power Passes Through the States,” *The Hill* (Dec. 22, 2016)

## COMMUNITY INVOLVEMENT

- Chairman, Tennessee House Democratic Caucus
- Campaign Treasurer, Mayor Bill Purcell
- Past Member, Metro Nashville Emergency Communications Board
- Past President, Lockeland Springs Neighborhood Association
- Member, East End United Methodist Church



# NASHVILLE ATTORNEYS

The Freedom Center, 223 Rosa L. Parks Avenue, Suite 200, Nashville, TN 37203



## Karla M. Campbell

OF COUNSEL

### EDUCATION

- Georgetown University Law Center (J.D., 2008)
  - Article Selection Editor, *Georgetown Immigration Law Journal*
- University of Virginia (B.A., *highest distinction*, 2002)

### CLERKSHIP

- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals

### BAR ADMISSIONS

- Tennessee
- Ohio

### PRACTICE AREAS

- Appellate Practice
- Civil Litigation
- Employment Law
- ERISA Trust Funds
- Labor Law

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## Kerry Dietz

ATTORNEY

### EDUCATION

- Belmont University College of Law (J.D., 2016)
  - Editor-in-Chief, *Belmont Law Review Volume 3*
- George Washington University (B.A., 2009)

### BAR ADMISSIONS

- Tennessee
- U.S. District Court for the Middle District of Tennessee
- U.S. 6th Circuit Court of Appeals

### PRACTICE AREAS

- Civil Litigation
- Civil Rights Law
- Labor and Employment Law
- Wage and Hour

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## Caleb Harbison

ATTORNEY

### EDUCATION

- Belmont University College of Law (J.D., 2022)
- Liberty University (M.A., 2017)
- East Tennessee State University (B.S., *magna cum laude*, 2016)

### CLERKSHIPS

- Hon. Monte Watkins in Davidson County
- Hughes & Coleman Law Firm
- Tennessee 2nd Judicial District
- Tennessee 10th Judicial District

### BAR ADMISSIONS

- Tennessee

### PRACTICE AREAS

- Complex Litigation
- Opioid Litigation
- Personal Injury

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# NASHVILLE ATTORNEYS

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## Michael Iadevaia

ASSOCIATE ATTORNEY

### EDUCATION

- Cornell Law School (J.D., *cum laude*, 2019)
  - Articles Editor, *Cornell Law Review*
  - General Mills Award for Exemplary Graduate Teaching
  - CALI Award for Excellence in Labor Law
  - First Place, College of Labor & Employment Lawyers and ABA Section of Labor & Employment Law Annual Law Student Writing Competition
- Cornell University, School of Industrial and Labor Relations (B.S., with honors, 2019)

### CLERKSHIP

- Hon. Jane B. Stranch of the U.S. 6th Circuit Court of Appeals
- Federal District Court Judge

### BAR ADMISSIONS

- Tennessee (pending)
- New York
- District of Columbia
- U.S. District Court for the Middle District of Tennessee
- U.S. 6th Circuit Court of Appeals

### PRACTICE AREAS

- Labor Law
- Employment Law
- ERISA Trust Funds
- Appellate Practice
- Class Action Litigation and Complex Litigation



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## Isaac Kimes

PARTNER

### EDUCATION

- The University of Memphis, Cecil C. Humphreys School of Law (J.D., 2012)
- Arizona State University (B.S., 2007)

### BAR ADMISSIONS

- Tennessee
- Missouri
- U.S. District Court Middle District of Tennessee
- American Bar Association

### PRACTICE AREAS

- Personal Injury
- Mass Torts
- Complex Civil Litigation



## PHONE

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## EMAIL

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## Kyle C. Mallinak

ATTORNEY

### EDUCATION

- University of Virginia School of Law (J.D., 2013)
  - Editor, *Virginia Law Review*
  - Dean's Scholarship
  - Order of the Coif
  - Outstanding Student Award, National Association of Women Lawyers
- University of South Carolina (B.A., 2010)
  - Graduate of the South Carolina Honors College
  - McNair Scholar

### CLERKSHIPS

- Hon. Robert E. Payne of the U.S. District Court for the Eastern District of Virginia
- Hon. Eugene E. Siler of the U.S. 6th Circuit Court of Appeals

### BAR ADMISSIONS

- Colorado
- Tennessee
- U.S. 6th Circuit Court of Appeals
- U.S. District Court for the Eastern District of Tennessee
- U.S. District Court for the Middle District of Tennessee
- U.S. District Court for the Western District of Tennessee

### PRACTICE AREAS

- Class Action Litigation and Complex Civil Litigation
- Consumer Rights Litigation
- General Civil Litigation
- Business Litigation

# NASHVILLE ATTORNEYS

The Freedom Center, 223 Rosa L. Parks Avenue, Suite 200, Nashville, TN 37203



## Nathan Martin

STAFF ATTORNEY

### EDUCATION

- Nashville School of Law (J.D., 2021)
- University of Tennessee (B.A., 2000)

### BAR ADMISSIONS

- Tennessee

### PRACTICE AREAS

- Civil Litigation
- Class Action

### PHONE

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## Andrew E. Mize

ATTORNEY

### EDUCATION

- Louis D. Brandeis School of Law, University of Louisville (J.D., *cum laude*, 2011)
- Centre College (B.A., 2008)
- Culver Military Academy (2004)

### BAR ADMISSIONS

- Kentucky
- U.S. District Court for the Western District of Kentucky
- U.S. 6th Circuit Court of Appeals

### PRACTICE AREAS

- Civil Litigation
- Appellate Practice
- Criminal Law
- Labor Law

### PHONE

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## Jack Smith

ASSOCIATE ATTORNEY

### EDUCATION

- University of Tennessee College of Law (J.D., 2018)
- Acquisitions Editor, *Tennessee Law Review and Transactions: The Tennessee Journal of Business Law*

- Member of the Appellate Litigation Clinic, where he helped successfully appeal a Fourth Amendment search and seizure case before the Sixth Circuit, *U.S. v. Christian* (6th Cir. 2018)
- The Ohio State University (B.A., *magna cum laude*, 2014)

### BAR ADMISSIONS

- Tennessee
- U.S. District Court for the Middle District of Tennessee

### PRACTICE AREAS

- Class Action
- Mass Tort
- Wage and Hour Litigation
- Personal Injury

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## K. Grace Stranch

ASSOCIATE ATTORNEY

### EDUCATION

- University of Tennessee College of Law (J.D., 2014)
  - American Constitution Society, Founder and President
  - Environmental Law Association, President
  - ENLACE, Event Coordinator
- Rhodes College (B.A., 2010)
  - International Honors Program

### BAR ADMISSIONS

- Tennessee

### PRACTICE AREAS

- Complex Litigation
- Constitutional Law
- Employment and Discrimination Law
- Environmental Law
- General Litigation
- Labor Law

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# LAS VEGAS ATTORNEY

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## Jessica Guerra

ASSOCIATE ATTORNEY

### EDUCATION

- William S. Boyd School of Law (J.D., Pro Bono Honors, 2015)
- President of La Voz, the Latin/Hispanic Law Student Association
  - Treasurer, Phi Alpha Delta
  - Event coordinator, Asian Pacific American Law Student Association (APALSA)
- University of Nevada, Las Vegas (B.A., 2012)
- Sigma Theta Psi Multicultural Sorority

### BAR ADMISSIONS

- Nevada
- U.S. District Court of the State of Nevada

### PRACTICE AREAS

- Labor
- Litigation

# ST. LOUIS ATTORNEYS

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## Colleen Garvey

ASSOCIATE ATTORNEY

### EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Rockhurst University (B.A., *magna cum laude*, 2016)

### CLERKSHIP

- Hon. Colleen Dolan on the Missouri Court of Appeals in the Eastern District

### BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

### PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action Litigation and Complex Litigation
- General Civil Litigation



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## Ellen A. Thomas

ASSOCIATE ATTORNEY

### EDUCATION

- Saint Louis University School of Law (J.D., 2020)
- Saint Louis University (B.A., 2014)

### CLERKSHIP

- Simon Law Firm

### BAR ADMISSIONS

- Missouri
- Illinois
- U.S. District Court for the Eastern District of Missouri

### PRACTICE AREAS

- Mass Torts
- Personal Injury
- Class Action and Complex Litigation
- General Civil Litigation







STRANCH, JENNINGS & GARVEY  
PLLC

## Bank Fees

**Some banks and credit unions routinely and improperly assess overdraft fees on customers' debit card transactions, even when those transactions do not overdraw customers' account balances, and charge multiple insufficient funds fees on single transactions. These deceptive practices result in significant and unforeseen costs for customers and violate state and federal fair business practice acts, as well as the terms of the account documents of these financial institutions. In addition to settling numerous overdraft fee disputes against banks and credit unions across the U.S., our firm has also obtained multi-million-dollar settlements against financial institutions for improper fee assessments.**

### ATTORNEYS IN THIS PRACTICE AREA



**Kyle C. Mallinak**



**Nathan Martin**



**Marty Schubert**



**J. Gerard Stranch IV**



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## Class Action

Our firm has a long record of success representing plaintiffs in a substantial number of class action and mass tort cases in state and federal courts throughout the U.S. These cases include some of the most complicated litigation the courts have seen against some of the largest multinational companies. Through these cases, we defend the rights of clients harmed by defective products, pharmaceuticals, industry negligence or illegal practices.

Our attorneys have served as class counsel and as lead, co-lead and liaison counsel in landmark cases and national class actions involving data breach, wage and hour violations, anti-competitive practices, illegal generic drug suppression and bid rigging, defective products and violations of the Telephone Consumer Protection act.

- **In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. Cal.) (J. Breyer). Managing partner Gerard Stranch served on the plaintiffs’ steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called “defeat devices” in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than \$10 billion to consumers with two-liter diesel engines, and in May 2017, the court granted final approval to a \$1.2 billion settlement for consumers with three-liter diesel engines, and a \$357 million settlement with co-defendant Bosch.
- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/ Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at \$34.4 million was reached in conjunction with a companion case in Texas.
- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in a consumer class action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at \$1 billion.
- **In re: M.S. Wholesale v. Westfax et al., 58CV-15-442** (Circuit Court of Pope County, Arkansas) (J. Sutterfield). The firm served as co-lead counsel on behalf of individuals and entities in a nationwide class action under the Telephone Consumer Protection Act (TCPA) involving the sending of illegal junk facsimiles. The court granted final approval to a class settlement worth \$5.45 million.
- **In re: Horton v. Molina Healthcare, Inc., 4:17-CV-0266-CVE-JFJ** (N.D. Okla.) (J. Eagan). The firm served as co-lead counsel on behalf of individuals and entities in this national class action under the TCPA regarding the sending of illegal junk facsimiles. The court granted final approval to a class settlement worth \$3.5 million.
- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

### ATTORNEYS IN THIS PRACTICE AREA



Colleen Garvey



Hon. John (Jack) Garvey



Michael Iadevaia



Kyle C. Mallinak



Nathan Martin



Andrew E. Mize



Marty Schubert



Jack Smith



Michael G. Stewart



J. Gerard Stranch IV



James G. Stranch III



K. Grace Stranch



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PLLC

## Data Breaches

**Security breach notification laws require entities to notify their customers or citizens when they have experienced a data breach and to take certain steps to deal with the situation. This gives these individuals the opportunity to mitigate personal risks resulting from the breach and minimize potential harm, such as fraud or identity theft. Currently, all 50 states, along with the District of Columbia and three U.S. territories have adopted notification laws requiring notification when a breach has occurred.**

- **In re: Anthem, Inc. Data Breach Litig., MDL 2617 LHK**, (N.D. Cal. 2016). The firm served as counsel for Plaintiffs in a coordinated action consisting of nationwide cases of consumers harmed by the 2015 criminal hacking of servers of Anthem, Inc. containing more than 37.5 million records on approximately 79 million people receiving insurance and other coverage from Anthem's health plans. The case settled in 2017 for \$115 million, the largest healthcare data breach in U.S. history, and has received final approval.
- **In re: Winsouth Credit Union v. Mapco Express Inc., and Phillips v. Mapco Express, Inc. Case Nos. 3:14-cv-1573 and 1710** (M.D. Tenn.) (J. Crenshaw). The firm served as liaison counsel in consumer and financial institution action stemming from the 2013 hacking of computer systems maintained by Mapco Express, Inc. The cases settled in 2017 for approximately \$2 million.
- **In re: McKenzie et al. v. Allconnect, Inc., 5:18-cv-00359** (E.D. Ky.) (J. Hood). The firm served as class counsel in an action brought on behalf of more than 1,800 current and former employees of Allconnect, Inc., whose sensitive information contained in W-2 statements was disclosed to an unauthorized third party who sought the information through an email phishing scheme. The firm negotiated a settlement providing for direct cash payments to all class members, credit monitoring and identity theft protection plan at no cost, capped reimbursement of documented economic losses incurred per class member and other remedial measures. The approximately \$2.2 million settlement value is one of the largest per capita recoveries in a W-2 phishing litigation.

### ATTORNEYS IN THIS PRACTICE AREA



**Andrew E. Mize**



**Jack Smith**



**J. Gerard Stranch IV**



STRANCH, JENNINGS & GARVEY  
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## ERISA Trust Funds

Founding member James G. (Jim) Stranch III and his wife, Judge Jane Branstetter Stranch of the U.S. 6th Circuit Court of Appeals, were early pioneers of 401(k) ERISA (Employee Retirement Income Security Act) litigation.

Our attorneys have represented clients and served as lead and co-lead counsel in a wide range of ERISA matters, including Taft-Hartley health and welfare funds JATC apprenticeship funds, defined contribution funds and defined benefit pension funds. In addition, we advise ERISA plan fiduciaries on a variety of administration and compliance issues; establish employee benefit trusts and plans; handle administrative claims and appeals for LTD, STD and other benefits; assist with Department of Labor audits, interpretations, investigations and enforcement; and numerous other issues.

- **In re: Nortel Networks Corp. "ERISA" Litigation, No. 3:03-MD-1537** (M.D. Tenn.) (Nixon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. Court approved a settlement that provided a minimum recovery of \$21.5 million plus access to additional monies held by others.
- **In re: Hitchcock v. Cumberland University 403(b) DC Plan, 851 F.3d 522** (6th Cir. 2017). As a result of this case, the university returned hundreds of thousands of dollars to employees' retirement accounts that it had wrongfully withheld. The firm succeeded in setting the precedent that plan participants can take legal claims, such as breach of fiduciary duty, straight to the courts, without having to exhaust administrative remedies through the plan, an issue of first impression in the Sixth Circuit.
- **In re: Qwest Savings and Investment Plan ERISA Litigation, No. 02-RB-464** (D. Colo.) (Blackburn). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Qwest Communications and the Trustee, Bankers Trust/Deutsche Bank, for violation of duties owed under ERISA. A settlement was reached which provided a \$33 million cash payment from Qwest Communications to the plan for participants, a \$4.5 million cash payment from Bankers Trust/Deutsche Bank to the plan for participants, a \$20 million guarantee from Qwest Communications from a parallel securities action with the opportunity of more cash from the parallel securities action, and an undetermined amount of cash from a distribution through the U.S. Securities and Exchange Commission Fair Fund established pursuant to Section 308 of the Sarbanes-Oxley Act of 2002, 15 U.S.C. §§7201 et seq.
- **In re: Delphi Corp. ERISA Litigation (Polito v. Delphi Corporation, et al.), No. 05-cv-71249** (E.D. Mich.). Lawsuit brought on behalf of participants in Delphi pension plans alleging that plan fiduciaries breached their duties and responsibilities under ERISA by, among other things, failing to investigate the prudence of an investment in Delphi stock and by making misrepresentations about the company's accounting practices for off-balance sheet financing and vendor rebates dating back to 1999.
- **In re: Global Crossing Ltd. ERISA Litigation, No. 02 Civ. 7453** (S.D. N.Y.) (Lynch). One of several counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries at Global Crossing for violation of duties owed under ERISA. The settlement reached provided a \$79 million cash payment to the Plan for participants and allowed Plan to recover in parallel securities action.
- **In re: Providian Financial Corp. ERISA Litigation, No. C 01-5027** (N.D. C.A.) (Breyer). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of ERISA duties. Settlement provided an \$8.6 million cash payment to the plan for participants, lifted company stock sales restrictions in the plan valued between \$3.66 million and \$5.85 million, and allowed plan to recover in a parallel securities action.
- **In re: Xcel Energy, Inc. ERISA Litigation Civ. 02-2677** (D. Minn.) (Doty). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.
- **In re: Montana Power ERISA Litigation, No. 4:02-0099** (D. Mont.) (Haddon). Co-lead counsel in a 401(k)/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Montana Power, Touch America and Northwestern Energy and against the Trustee, Northern Trust, for violation of duties owed under ERISA. Settlement was reached that provided a minimum recovery of \$4.9 million plus access to additional monies held by others.

### ATTORNEYS IN THIS PRACTICE AREA



Karla M. Campbell



Kerry Dietz



Jessica Guerra



R. Jan Jennings



Nathan R. Ring



James G. Stranch III



STRANCH, JENNINGS & GARVEY  
PLLC

## Labor Unions

Since our firm was founded more than seven decades ago, we have provided dependable representation for union clients in all employer-employee relations legal matters. Our attorneys are experienced in issues concerning the National Labor Relations Act, ERISA, Title VII, and wage and hours laws such as the FLSA. Our representation ranges from construction, industrial and public sector unions to district and joint councils, State Federations of Labor and Central Labor Councils.

Across the years, we have helped countless clients with union-related challenges, such as collective bargaining, contract negotiation, enforcement of labor-related claims via NLRB or federal court litigation, grievance mediation, restrictive covenant issues, severance agreements and numerous additional union matters.

- **In re: Thompson v. North American Stainless LP.** Our firm helped expand Title VII retaliation protection with this case, which reached the U.S. Supreme Court. The court ruled that North American Stainless' firing of plaintiff employee Eric Thompson violated Title VII and that he could sue because he fell within the zone of interests protected by Title VII.
- **In re: International Brotherhood of Teamsters, Local 651 v. Philbeck, 5:10-cv-105-DCR** (E.D.KY 2018). The firm successfully litigated action requesting a temporary restraining order and permanent injunction by the local union to secure control of the Facebook page belonging to the union.
- **In re: Matthew Denholm, RD of NLRB Region 9 v. Smyrna Ready Mix Concrete, LLC, 5:20-cv-320-REW** (E.D.KY 2019). The firm successfully litigated NLRB charges, culminating in a complaint for injunctive relief, where the federal district court ordered the reinstatement of seven drivers and their plant manager and the reopening of a concrete plant.
- **In re: Zeon Chemicals, L.P. v. UFCW Local 72-D, 949 F.3d 980** (6th Cir. 2020). The firm successfully appealed a district court's reversal of the union's arbitration victory for an unjustly terminated member who was ordered reinstated with full back pay.

### ATTORNEYS IN THIS PRACTICE AREA



Karla M. Campbell



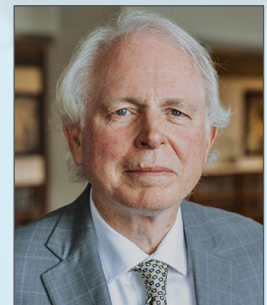
Kerry Dietz



R. Jan Jennings



Nathan R. Ring



James G. Stranch III



STRANCH, JENNINGS & GARVEY  
PLLC

## Mass Tort

Mass tort lawsuits occur when numerous individuals have been injured or harmed by the same act of negligence of another party, from faulty prescription drugs or medical devices to toxic contamination or defective consumer products. These types of claims provide the compensation each plaintiff needs, rather than a settlement that is split with the other plaintiffs.

Stranch, Jennings & Garvey has the experience and resources to confront the corporations responsible for the harm inflicted on plaintiffs. Our attorneys are well-versed in the necessary strategies for negotiating and litigating mass tort lawsuits, and have successfully represented numerous clients in claims against companies and corporations. Our efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions.

- In re: National Prescription Opiate Litigation.** Managing partner Gerard Stranch was appointed as class counsel for the negotiation class in the multi-district national prescription opioid litigation (MDL 2804) in Cleveland, Ohio. Plaintiffs alleged that the manufacturers of prescription opioids grossly misrepresented the risks of long-term use of those drugs for persons with chronic pain, and distributors failed to properly monitor suspicious orders of those prescription drugs – all of which contributed to the current opioid epidemic. National settlements of up to \$26 billion were reached in 2021 to resolve litigation brought by states and local political subdivisions against three pharmaceutical distributors (McKesson, Cardinal Health and AmerisourceBergen) and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson. Jack Garvey, the partner who leads SJ&G's St. Louis office, was instrumental in securing a settlement with these companies for Missouri's counties and cities in the amount of \$183.2 million, as part of a \$458 million overall settlement for the state.

### ATTORNEYS IN THIS PRACTICE AREA



Colleen Garvey



Hon. John (Jack) Garvey



Caleb Harbison



Michael G. Stewart



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY  
PLLC

## Personal Injury

For many years, our firm has effectively represented individuals who have been harmed or injured due to third-party carelessness or misconduct. These cases include medical negligence, faulty medical devices, dangerous medications, unsafe property conditions, automobile accidents, and numerous other acts of negligence or disregard for safety that have led to injury and death.

Stranch, Jennings & Garvey proudly works to preserve and restore the rights of clients who have experienced harm due to others' actions, and our firm seeks justice for and successfully obtains full and fair compensation for these victims and their families through litigation, mediation and arbitration.

- **In re: Sullivan Baby Doe case** (originally filed as *Staubus v. Purdue*) against U.S. opioid producers Endo Health Solutions Inc. and Endo Pharmaceuticals Inc., resulting in a \$35 million settlement agreement, the largest per capita settlement achieved by any prosecution with Endo to date
- **In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation**, resulting in approximately \$17 billion in settlements, the largest consumer auto settlement and one of the largest settlements in any matter ever
- **In re: Orrick v. GlaxoSmithKline**, St. Louis City Circuit #1322-CC00079 (Paxil litigation)
- **In re: Jefferson County v. Williams**, #20JE-CC00029 (opioids litigation)
- Davidson County Circuit Court bench trial verdict of \$205,274 following zero offers made prior to trial (January 2022)
- Davidson County Circuit Court jury trial verdict of \$122,755.46 following a top pre-trial offer of \$30,000 (May 2021)

### ATTORNEYS IN THIS PRACTICE AREA



**Hon. John (Jack) Garvey**



**Isaac Kimes**



**J. Gerard Stranch IV**



**K. Grace Stranch**



STRANCH, JENNINGS & GARVEY  
PLLC

## Product Liability

**Our attorneys are well-versed in consumer protection laws and unfair trade practices acts, and have successfully advocated in state and federal courts for many notable cases throughout the U.S. These cases have resulted in multi-million-dollar recoveries for consumers who have been harmed by defective products, dangerous medications, misleading or improper advertising or marketing practices, fraud and other violations of the laws and acts. In addition, our attorneys have served as lead and co-lead counsel on numerous cases.**

- **In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB** (N.D. Cal.) (J. Breyer). The firm served on the plaintiffs’ steering committee in a coordinated action consisting of nationwide cases of consumer and car dealerships. This action alleged that Volkswagen AG, Volkswagen Group of America and other defendants illegally installed so-called “defeat devices” in their vehicles, which allowed the cars to pass emissions testing but enabled them to emit nearly 40 times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth more than \$10 billion to consumers with two-liter diesel engines. In May 2017, the court granted final approval to a \$1.2 billion settlement for consumers with three-liter diesel engines and a \$357 million settlement with co-defendant Bosch.
- **In re: Montanez v. Gerber Childrenswear, LLC** (M.D. Cal.). The firm represented consumers who purchased baby clothing tainted with unlawful levels of chemical skin irritants, resulting in a multi-million-dollar settlement.
- **In re: Davidson v. Bridgestone/Firestone, Inc. and Ford Motor Co. No. 00-C2298** (Davidson Circuit, Tennessee) (Soloman/ Brothers). The firm served as lead counsel in a nationwide class action against Bridgestone/Firestone, Inc. and Ford Motor Co. concerning defective tires. A settlement valued at \$34.4 million was reached in conjunction with a companion case in Texas.
- **In re: Cox v. Shell Oil et al., Civ. No. 18844** (Weakley Chancery, Tennessee) (Judge Malon). The firm intervened in consumer action composed of all persons throughout the United States who owned or purchased defective polybutylene piping systems used in residential constructions or mobile homes. A global settlement was reached that was valued at \$1 billion.
- **In re: Heilman et al. v. Perfection Corporation, et al., Civ. No. 99-0679-CD-W-6** (W.D. Missouri). The firm served on the executive committee in a nationwide consumer class action composed of all owners or purchasers of a defective hot water heater. A settlement was reached that provided 100% recovery of damages for a possible 14.2 million hot water heaters and any other property damages.

### ATTORNEYS IN THIS PRACTICE AREA



**Hon. John (Jack) Garvey**



**Isaac Kimes**



**J. Gerard Stranch IV**





STRANCH, JENNINGS & GARVEY  
PLLC

## Trucking Accidents

According to the National Safety Council (NSC), 4,842 large trucks nationwide were involved in a fatal crash in 2020 (the last year for which data is available). According to the National Center for Statistics and Analysis (NCSA), an office of the National Highway Traffic Safety Administration (NHTSA), 831 truck occupants and nearly 5,000 other individuals were killed as a result of these crashes in 2020. Between 2017 and 2020, an average of more than 42,000 truck occupants and more than 151,000 other individuals were injured.

These numbers clearly reveal the prevalence of accidents involving large trucks and the damage they inflict on individuals and their families. Our firm has decades of experience in representing victims of trucking accidents who seek compensation to cover physical and material damages.

### ATTORNEYS IN THIS PRACTICE AREA



**Hon. John (Jack) Garvey**



**Isaac Kimes**



**J. Gerard Stranch IV**



STRANCH, JENNINGS & GARVEY  
PLLC

## Wage and Hour Disputes

For decades, our firm has represented working people with individual claims or as part of class action litigation regarding their employers' wage and hour compliance. Our attorneys have broad litigation experience on behalf of employees in nearly every industry sector, covering a wide range of violations – from unpaid overtime or “off-the-clock” work to independent contractors, improper wage deductions and exemption requirements. They are well-versed in the provisions of the Fair Labor Standards Act, along with other federal and state statutes, and stay on top of developing case law and changes in current laws.

- **In re: Drummond et. al. v. C.E.C. Electrical Contractors, Inc., 98-1811-III** (Davidson Chancery, Tennessee). The firm served as lead counsel in a class action settlement by employees against their employer for wages and benefits due from a school construction contract between their employer and the Metropolitan-Davidson County Board of Education. A settlement was reached in which employees received 100% of their wages and benefits.

### ATTORNEYS IN THIS PRACTICE AREA



Jessica Guerra



Nathan R. Ring



J. Gerard Stranch IV



STRANCH, JENNINGS & GARVEY  
PLLC

## Worker Adjustment and Retraining Notification

The Worker Adjustment and Retraining Notification (WARN) Act is a federal law that helps ensure advance notice to employees in cases of qualified plant closings and mass layoffs. Employers are required to provide written notice 60 days prior to the date of a mass layoff or plant closing, in addition to other requirements. Employees of companies who have not complied with the WARN Act are entitled to certain rights. Our firm has represented clients in numerous cases that have resulted in monetary settlements for employees whose employers did not comply with the law.

- **In re: Kizer v. Summit Partners, Case No. 1:1-CV-38** (E.D. Tenn.) The firm served as lead counsel in class actions on behalf of employees of a closed Summit Partners facility located in Chattanooga, Tennessee. Case was successfully settled for \$275,000.
- **In re: Owens v. Carrier Corp., Case No. 2:08-2331-SHM P** (W.D. Tenn.) The firm served as lead counsel in class action on behalf of former Carrier Corp. employees at the closed Collierville, Tennessee, plant. Case was successfully settled for \$2.1 million on behalf of former employees after lead counsel successfully obtained class certification over plaintiffs' WARN Act claims.
- **In re: Sofa Express Inc., Case No. 07-924** (Bank. M.D. Tenn.) The firm served as lead counsel in class action on behalf of former Sofa Express, Inc. employees at company headquarters and a distribution center in Groveport, Ohio. Case was successfully settled for \$398,000 on behalf of former employees.
- **In re: Robertson et. al v. DSE Inc., Case No. 8:13-cv-1931-T-AEP** (M.D. Fla.). The firm served as lead counsel in class action on behalf of former DSE Inc. employees at Florida and South Carolina manufacturing facilities. Case was successfully settled for more than \$1 million on behalf of former employees.

### ATTORNEYS IN THIS PRACTICE AREA



**Michael Iadevaia**



**J. Gerard Stranch IV**



## FIRM PROFILE

Cory Watson, P.C. is a nationally recognized practice in complex litigation including class actions, products liability, business and securities litigation, environmental litigation and mass torts litigation of defective medical devices and pharmaceutical drugs. Cory Watson was the first Alabama law firm to establish a mass torts division devoted exclusively to representing multiple clients injured by environmental contamination and manufacturers of harmful medical devices and drugs.

The firm has represented clients in litigation involving more than one hundred mass torts over the past twenty years, including products such as Chantix, DePuy hip implants, Kugel Mesh, Vioxx, Baycol, Prempro, Medtronic pacemakers, Guidant pacemakers, Ortho-Evra, Fosamax, Bextra, silicone gel breast implants, Phen Fen, and GranuFlo Kidney Dialysis. The firm has also led litigation on behalf of individuals injured by toxins including PCBs and MTBE.

Cory Watson attorneys frequently serve as Court Appointed Lead Plaintiffs' Counsel, Class Counsel, and as Trial Counsel in pivotal litigation. Cory Watson attorneys have served on numerous Plaintiffs' Executive Committees, Steering Committees, and Discovery Committees. The firm represents clients worldwide, securing successful outcomes for clients in Europe, South America, Central America, Canada, and Africa.

## REPRESENTATIVE CLASS COUNSEL AND LITIGATION APPOINTMENTS AND EXPERIENCE

### Medical Device Litigation

*In Re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*, MDL No. 2197; Cory Watson shareholder Annesley H. DeGaris appointed to the Science Committee.

*In Re: Kugel Mesh Hernia Patch Products Liability Litigation*, MDL No. 1842; Cory Watson shareholder Ernest Cory appointed Co-lead Plaintiffs' Counsel, and Cory Watson shareholder Jon C. Conlin appointed Chair of the Discovery Committee.

*In Re: Medtronic Inc., Sprint Fidelis Leads Products Liability Litigation*, MDL No. 1905; Cory Watson shareholder Leila H. Watson appointed to the Plaintiffs' Steering Committee.

*In Re: ProteGen Sling and Vesica System Products Liability Litigation*, MDL No. 1387; Cory Watson shareholder Ernest Cory appointed Lead Plaintiffs' Counsel and Plaintiffs' Liaison Counsel.

*In Re: Bausch & Lomb, Inc. Contact Lens Solution Products Liability Litigation*, MDL No. 1785; Cory Watson shareholder Ernest Cory appointed to the Plaintiffs' Steering Committee and Co-Chair of Discovery Committee, Cory Watson attorney Stephen Hunt appointed to Discovery

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Committee.

### **Pharmaceutical Litigation**

*In re: Viagra (Sildenafil Citrate) and Cialis (Tadalafil) Products Liability Litigation*, MDL No. 2691; Cory Watson shareholder Ernest Cory appointed Plaintiffs' Lead Counsel; Cory Watson shareholder Kristian Rasmussen appointed to the Plaintiffs' Executive Committee.

*In re: Abilify Products Liability Litigation*, MDL No. 2734; Cory Watson shareholder Ernest Cory appointed to the Joint Settlement Committee; Cory Watson shareholder Kristian Rasmussen appointed Plaintiffs' Co-Lead Counsel and named to the Plaintiffs' Executive Committee; Cory Watson shareholder Stephen Hunt, Jr. appointed to the Joint Discovery Committee.

*In Re: Chantix (Varenicline) Products Liability Litigation*, MDL No. 2092; Cory Watson shareholder Ernest Cory appointed Lead Plaintiffs' Counsel and named to Plaintiffs' Executive Committee; Cory Watson shareholder Kristian Rasmussen appointed to Plaintiffs' Steering Committee, Co-Chair of Discovery Committee and to Science/Expert Committee and Law Committee; Cory Watson attorney Stephen Hunt appointed to Discovery Committee and Law Committee; Cory Watson attorney Elizabeth Chambers appointed to Science/Expert Committee.

*In Re: Fosamax, Products Liability Litigation*, MDL No. 1789; Cory Watson shareholder Annesley H. DeGaris appointed to Plaintiffs' Steering Committee and Co-chair of Science Committee.

*In Re: Trasyolol Products Liability Litigation*, MDL No. 1928; Cory Watson shareholder Ernest Cory appointed to Plaintiffs' Steering Committee.

*In Re: Bextra and Celebrex Marketing, Sales Practices and Product Liability Litigation*, MDL No. 1699; Cory Watson shareholder Kristian Rasmussen appointed to Plaintiffs' Steering Committee and Co-chair of the Discovery Committee.

### **Environmental Litigation**

*In Re: E.I. DuPont de Nemours and Company C-8 Personal Injury Litigation*, MDL No. 2433; Cory Watson Shareholder Jon C. Conlin appointed Co-Lead Counsel and named to Plaintiffs' Executive Committee.

### **Class Actions**

*Batisita v. Nissan, USDC Southern District of Florida, 14-CV-24728*; Cory Watson principals F. Jerome Tapley and Hirlye R. "Ryan" Lutz appointed Co-Lead Class Counsel.

*Banks v. Nissan, USDC Northern District of California, 11-CV-02022*; Cory Watson shareholder F. Jerome Tapley appointed Co-Lead Class Counsel.

*Rotandi v. Miles, USDC Northern District of California, 11-CV-02146*; Cory Watson shareholder F. Jerome Tapley appointed Co-Lead Class Counsel.

*In Re: Google Inc. Gmail Litigation*, MDL No. 2430; Cory Watson Shareholder F. Jerome Tapley appointed Co-Lead Counsel.

*Keilholtz v. Lennox, et. al.*, USDC Northern District of California, 08-CV-00836; Cory Watson shareholder F. Jerome Tapley appointed Co-Lead Counsel for the Class.

*Craft v. North Seattle Comm. College Foundation*, USDC Middle District of Georgia, 3:07-cv-132-CDL; Cory Watson shareholder F. Jerome Tapley appointed Class Counsel.

*In Re: General Motors Corporation Dex-Cool Products Liability Litigation*, MDL No. 1562; Cory Watson shareholder Ernest Cory and Cory Watson shareholder F. Jerome Tapley appointed to the Plaintiffs' Executive Committee.

*In Re: High Sulfur Content Gasoline Products Liability Litigation*, MDL No. 1632; Cory Watson shareholder Kristian Rasmussen appointed to the Plaintiffs' Steering Committee and Co-Lead Trial Counsel.

*Denney v. Jenkins & Gilchrist, et al.*, USDC Southern District of New York, CV 03-5460; Cory Watson shareholder Ernest Cory appointed Class Counsel.

*Cox v. Porsche Financial Services, Inc., et al.*, USDC Southern District of Florida, Case No. 16-CV-23409; Cory Watson shareholders Jerome Tapley, Ryan Lutz, and senior associate Adam Pittman appointed Class Counsel.

*O'Brien v. PopSugar Inc., et al.*, No. 18-CV-329645 (Cal. Super. Ct., Santa Clara Cty.); Cory Watson shareholder Ryan Lutz appointed class counsel.

### **Complex Multi-Party Litigation**

*In Re: Jeddah Air Disaster*, Cory Watson represented the families of 247 passengers who died in Jeddah, Saudi Arabia.

*In Re: BellSouth Corp. ERISA Litigation*, USDC Northern District of Georgia; Cory Watson shareholder Ernest Cory appointed to the Plaintiffs' Executive Committee.

### **Governmental & Attorney General Litigation**

- *The State of Mississippi, ex rel., Jim Hood, Attorney General for the State of Mississippi v. Google Inc.*, 17-22-B, In the Chancery Court of Lowndes County, Mississippi (representing the State of Mississippi);

- *Google Inc. v. Jim Hood, Attorney General of the State of Mississippi, in his official capacity*, 3:14cv981, In the United States District Court For the Southern District of Mississippi (representing the State of Mississippi);

### **Products Liability**

*In Re: Yamaha Motor Corp. Rhino ATV Products Liability Litigation*, MDL No. 2016; Cory Watson shareholder Jason A. Shamblin appointed to the Plaintiffs' Executive Committee.

*In Re: Hydroxycut Marketing and Sales Practices Litigation*, MDL No. 2087; Cory Watson

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shareholder Annesley H. DeGaris appointed to the Plaintiffs' Steering Committee.

*In re: 3M Combat Arms Earplug Products Liability Litigation*, MDL No. 2885; Cory Watson shareholders Kristian Rasmussen and Ernest Cory appointed to the Plaintiffs' Joint Armed Services Committee and Joint Settlement Committee, respectively.



**IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA**

KENDRICK KRYSTAL,	)	
FAYSON GLENDA,	)	
WILLIAMS JIMMY,	)	
Plaintiffs,	)	
	)	
V.	)	Case No.: CV-2020-901539.00
	)	
GUARDIAN CREDIT UNION,	)	
Defendant.	)	

**ORDER GRANTING PLAINTIFFS' MOTION FOR APPROVAL OF ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD**

This matter is before the Court on Plaintiffs’ Motion for Approval of Attorneys’ Fees, Expenses, and Service Award, and the Court, being duly advised, now finds that the motion should be, and hereby is, GRANTED.

THE COURT HEREBY FINDS AND CONCLUDES:

1. By separate order, the Court has granted final approval to the class action settlement of this case, valued at \$6 million, comprised of a \$4,000,000 non-reversionary Settlement Fund, \$402,551 in debt forgiveness, and practice changes estimated to save Class Members no less than \$1.5 million in fees per year.

2. The Alabama Supreme Court “has recognized that attorneys who recover an award for the class are entitled to a reasonable fee for their services.” *Union Fid. Life Ins. Co. v. McCurdy*, 781 So. 2d 186, 189 (Ala. 2000). “When a class benefits through the use of Rule 23, Ala. R. Civ. P., the class generally bears the costs associated with the litigation, out of the proceeds collected through the litigation.” *Id.* “[I]n a class action where the plaintiff class prevails and the lawyer’s efforts result in a recovery of a fund, by way of settlement or trial, a



reasonable attorney fee should be determined as a percentage of the amount agreed upon in settlement or recovered at trial.” *Edelman & Combs v. Law*, 663 So. 2d 957, 959 (Ala. 1995).

Here, the Court finds that a one-third fee is appropriate considering:

- the nature of this case is a complex banking class action
- such an action involves specialized knowledge and skill related not only to the class action device itself but to the various banking practices
- Class Counsel are highly experienced in this type of class action litigation in courts across the country
- the results achieved are valuable
- Class Counsel took this litigation on a 100% contingent fee basis, meaning they expended their time and advanced expenses with no guarantee they would ever be paid for their labor or reimbursed for the advanced expenses
- a one-third fee is the fee customarily charged in contingent fee litigation, and it is the fee that Class Counsel is routinely awarded

3. In addition to fees, Class Counsel who recover a common fund are entitled to reimbursement of reasonable litigation expenses from the fund that a fee-paying client would normally bear. *See Tussey v. ABB, Inc.*, No. 06-cv-04305-NKL, 2019 WL 3859763, at \*5 (W.D. Mo. Aug. 16, 2019) (“[a]n attorney who creates or preserves a common fund by judgment or settlement for the benefit of a class is entitled to receive reimbursement of reasonable fees and expenses involved.”) (quoting Alba Conte, *1 Attorney Fee Awards* § 2:19 (3d ed.)); *see also Sprague v. Ticonic*, 307 U.S. 161, 166–67 (1939) (recognizing court’s power to award costs from a common fund); *see also 5 Newberg and Rubenstein on Class Actions* § 16:10 (6th ed.). Here, the requested expenses are all normal costs of litigation:

<u>Expense</u>	<u>Amount</u>
Mediation	\$7,123.87
Travel	\$3,448.28
Filing/PHV/Court Fees	\$2,758.38
Expert	\$700.00
Copy/Postage/Courier	\$235.00

Class Counsel had every incentive to keep the expenses to only those that are reasonable and necessary because Class Counsel was not guaranteed to ever recover these expenses if the lawsuit did not result in a judgment or settlement.

4. Apart from Class Counsel, “[a]t the conclusion of a class action, the class representatives are eligible for a special payment in recognition of their service to the class.” 5 *Newberg on Class Actions* § 17:1 (5th ed.). An empirical study shows that the average service award is approximately \$15,992. Theodore Eisenberg & Geoffrey P. Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53 *UCLA L. Rev.* 1303, 1308 (2006). Here, the Class Representatives each took time to bring and participate in the lawsuit and they have achieved a valuable recovery. The request for \$5,000 service awards is reasonable and is in the range typically awarded by courts.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Settlement Administrator shall make the following payments from the Settlement Fund within 30 days of the date of this Order:

- A. \$2,000,000 to Class Counsel as attorneys’ fees;
- B. \$14,265.53 to Class Counsel as reimbursement of litigation expenses; and
- C. \$5,000 to each Class Representative, Krystal Kendrick, Glenda Fayson, Jimmy Williams, Tawanda Fayson, and Eric Williams.

The Net Settlement Fund shall be distributed as set forth in the Settlement Agreement.

Class Counsel is directed to provide a copy of this Order to the Settlement Administrator immediately upon receipt.

**DONE this**[To be filled by the Judge].

/s/[To be filled by the Judge]

**CIRCUIT JUDGE**

PROPOSED ORDER