

April 2018

State Bar of  
*South Dakota*  
Newsletter

**In This Issue:**

- 2 - President's Corner
- 4 - Young Lawyer's Section
- 10 - Announcements
- 46 - Employment Opportunities

[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

April 2018 - Issue 4

## PRESIDENT'S CORNER - *Pamela Reiter*



Cybersecurity and cybercrime are serious issues facing all aspects of our lives and law practices. According to the 2017 ABA Legal Technology Survey, approximately 22% of participating law firms reported having experienced a security breach of some kind. In a separate current study, LOGICFORCE, which is a law firm technology consulting company, surveyed and assessed over 200 law firms of varying sizes, from solos to firms of over 450 lawyers. They found that 66% of the firms surveyed reported a past breach. Of even greater concern, during the assessment phase LOGICFORCE discovered that 40% of the firms reviewed were unaware that they had even experienced a breach.

The odds of a law firm having to deal with the fallout of a security breach is this: It's not if it will happen, it's a matter of when. Solo and small firms are not insulated from this risk because a significant percentage of cybercrime attack vectors are automated, which means the size of firm is irrelevant.

What are the potential consequences for cyber breaches? Some of the potential consequences

include legal liability to others for the theft, loss, or unauthorized disclosure of personally identifiable non-public information or loss of third party corporate information; being subject to regulatory action or scrutiny due to the failure to comply with relevant security breach notification laws; having to pay the costs associated with responding to and recovering from the breach to include the costs of finding, notifying, and perhaps providing one year of credit monitoring for all who were impacted by the breach; the consequences of any loss or damage to your reputation; and the loss of revenue due to the breach. These are serious consequences.

While most law firms have taken basic steps to prevent a cyber breach, such as deploying Internet security software suites, intrusion detection systems, firewalls, and the like, the question is whether those efforts are enough. Unfortunately, the answer is no.

The reason for this is that successful breaches occur most often because of our own actions defeating those protective steps. A common problem is a member of the firm either unintentionally downloads an infected file from the Internet or is tricked into opening an email that carries a malicious payload. Or the breach can occur due to the loss or theft of a network backup, a laptop, a smart phone or other device and the associated data was unencrypted. Breaches have also occurred as a result of using free Wi-Fi hotspots, using the same password for every device or application, failing to install internet security applications on all mobile devices, not keeping current with critical software patches and updates on all computers and mobile devices, improperly disposing of or replacing computers and mobile devices, etc. Thus, most often we are the weak link because our own actions or inactions can unintentionally circumvent the security tools our IT people put in place to protect our systems.

Although the solution isn't necessarily easy, it is manageable and it starts with IT and firm leaders

working together. IT will bring the intellectual capital to the table and firm leaders will need to drive the commitment and constant follow up. A significant part of the solution will lie in mandatory periodic and ongoing training in safe practices to include how to identify the many and varied cyber threats. This training must be ongoing because the attack vectors will continue to evolve and change. Topics such as: “What is social engineering and how does it work,” “What is wire fraud and how can it be prevented,” “Why data must be encrypted and how to do it”, “Mobile device security”, “How to securely login to the firm network from a remote location”, would all be good places to start.

Despite our best efforts, a cyber breach remains a threat to our law firms. I have learned that in almost all situations losses arising from a cyber breach will not be automatically covered under your firm’s malpractice policy or general business insurance policy. But, this risk can be properly managed with the purchase of a cyber liability insurance policy. Our State Bar has a long history with ALPS and if you happen to be an ALPS insured you might be

interested in knowing that ALPS does offer separate cyber liability coverage under its Cyber Response product. Other carriers likewise offer this coverage.

I encourage all lawyers to evaluate your defenses against a cyber breach and take steps to improve your protection. Obviously, it is best to avoid a breach entirely, but if one occurs I also encourage you to have a response plan in place to minimize the serious consequences that flow from a breach.

Practice Tip: Although it is convenient to have your firm’s trust account and operating account at the same bank, I learned through my service on the Disciplinary Board that it can result in unintentional trust account violations that result in the imposition of discipline. A better practice is to have the two accounts at different banks. This practice makes it significantly less likely that you or a firm employee will accidentally and wrongfully deposit or withdraw funds from the trust account because you have more separation and distinction between the accounts than solely an account number.



# YOUNG LAWYERS SECTION

by: Abbey Howard, YLS President



The spring (or almost spring?) months have been full of public service and mentorship programming for the Young Lawyers Section. I hope many of you were able to take part and join in our efforts to either further your own skill set, or give back to our communities.

In early March, the YLS held the Young Lawyer Bootcamps in Sioux Falls and Rapid City. Between the two events, we hosted almost 50 lawyers from across the state. With great speakers, great topics, and great mixers to follow, this is a staple event of the YLS that I'm sure will continue for years to come.

Later in March, the YLS joined VLEG to host the Veterans Legal Clinics on the eastern side of the state. Between two days worth of clinics in two cities, approximately 30-40 lawyers, law students, and professors assisted approximately 70 veterans. These clinics are an outstanding collaboration between multiple organizations to give back to such a worthy cause. If you weren't able to get involved this year, please contact the YLS or VLEG to get information on next year's clinics.

Some of our newer public service programming such as Project Destination and LAY TRACS are also well underway. Thanks to all of you who are volunteering in a Teen Court program and reporting that information back to the LAY TRACS

committee. I know there will be more exciting work to come with that endeavor. And please keep your phones and email handy as you may be getting a call or email in the near future to assist with one of the school panels for Project Destination. As many of you know who have already participated in these exciting events, nothing is more rewarding than sharing our time and talents with students.

As the winter months pass us by, be prepared for more Young Lawyer Circuit Mixers in your area. Many of our representatives wait for the nicer weather before they invite out the local attorneys for a social gathering or public service event. Please use these occasions as fun, mentorship opportunities. I guarantee there is a Young Lawyer within your Circuit that would gladly accept some mentorship advice. These mixers offer a prime opportunity to form new relationships and provide mentorship guidance.

With the YLS busy with all of these events the next few months, we are also keeping our eye on the Annual Meeting in June. Stay tuned for more information on all of our YLS events including co-hosting the Legalpalooza with the South Dakota Trial Lawyers Association, and our First Time Attendees Reception for the Bar Meeting first-timers. Another highlight at the Annual Meeting for the YLS is honoring the Young Lawyer of the Year. If you know a worthy Young Lawyer, please submit your nominations to Tamara Nash at [Tamara.Nash@state.sd.us](mailto:Tamara.Nash@state.sd.us). Further information is available in this Newsletter.

This month, I have asked my good friend Jason Krause, 2nd Circuit Representative, to share a little about himself. Jason and I met in law school and have served on the YLS for a number of years together. Many of you already know Jason, but I hope you will take a moment to read a little bit about his journey. Thanks, Jason, for sharing your story.

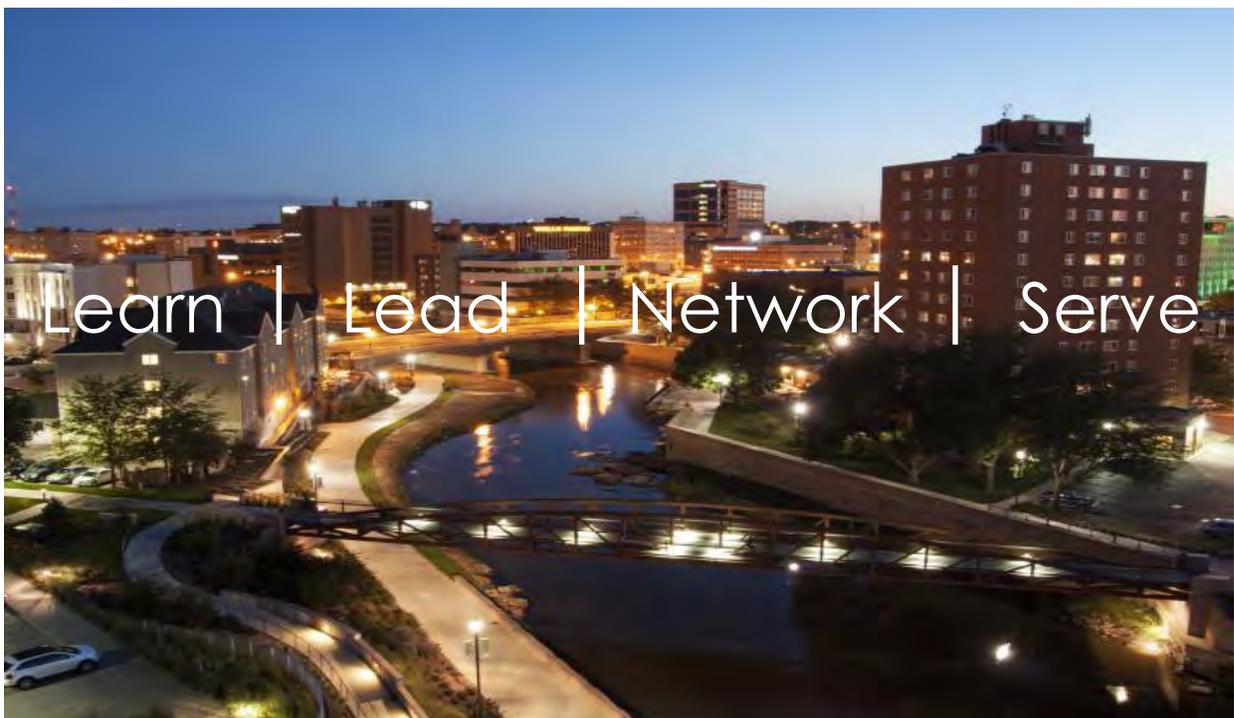


I was born in 1935 in Sioux Falls, South Dakota. Okay... I was born in Sioux Falls, but it wasn't in 1935; that's just the tale that Steve Cotton tells people when he wants to shame me for being old. I still live in the Sioux Falls area with my wife, Jesse, and our daughter Grace.

I attended law school at THE University of South Dakota School of Law, graduating in 2012. After law school, I went to work in private practice and learned that I absolutely love being boring. In that vein, I now work on the south side of Sioux Falls and focus my practice on advanced estate planning, trust and estate litigation, and business law. Throughout my career, I've been fortunate enough to benefit from some phenomenal mentors both young and old. Those relationships were developed through my activity within this great Bar, the many opportunities the State Bar has afforded me, and I likely wouldn't be practicing law today without the input and direction those mentors gave me.

Growing up, I split my time between Sioux Falls, Minnesota, and the Pacific Northwest. I was a biology/chemistry major in college before ultimately deciding that I'd much rather be a business major. I then switched majors, lost thirty IQ points overnight, and here we are. After college, I worked in finance whilst building houses in and around Sioux Falls before sorting out that I really didn't like being a grownup all that much. When I was deciding between graduate programs I ended up losing a bet to a couple of buddies. As a direct result, law school became my next step. It turns out that losing a bet is likely the luckiest thing that ever happened to me.

The beautiful thing about the practice of law is that there is always someone more intelligent than you a phone call away, down the block, or even in the office next door. Don't be afraid to pick up the phone and talk to those individuals if you have questions or concerns about how you are about to do something. The Young Lawyers Section is filled with bright young people who are both eager to assist one another as they develop their skill sets and motivated to make the State Bar better through their commitment to increasing civility amongst attorneys and the various subsets of the State Bar.



# Fellows of the South Dakota Bar Foundation

Many South Dakota lawyers have risen to the challenge of making the SD Bar Foundation a favorite charity. Such generosity deserves public acknowledgement. Therefore, the Bar Foundation Board of Directors has created a “Fellows” program to not only make such acknowledgement, but also to provide an opportunity for more of our members to participate and determine their personal level of professional philanthropy. Participation can be on an annual basis or by pledge with payments over a period of time. All contributions made to the “Fellows” program will be deposited in the Foundation’s endowment account managed by the SD Community Foundation – famous for low management fees and excellent investment returns. Donations to the endowment are tax deductible and a perpetual gift to our profession and the educational and charities the Foundation supports.

## Raising the Bar: Our Profession. Our Responsibility.

LIFE PATRON FELLOW: \$100,000 plus – <i>Cumulative, including Pledges &amp; Testamentary Gifts</i>		
SUSTAINING LIFE FELLOW: \$50,000 plus – <i>Cumulative, including Pledges &amp; Testamentary Gifts</i>		
<u>Fred &amp; Luella Cozad</u>		
LIFE FELLOW: \$25,000 plus – <i>Cumulative, including Pledges &amp; Testamentary Gifts</i>		
<u>Frank L. Farrar</u>		
DIAMOND FELLOWS: \$10,000 plus – <i>Cumulative, including Pledge &amp; Testamentary Gifts</i>		
<u>Thomas C. Barnett, Jr.</u>	<u>Robert E. Hayes</u>	
PLATINUM FELLOWS: \$10,000 – <i>Cumulative, including Pledge &amp; Testamentary Gifts</i>		
<u>Hon. Richard H. Battey</u>	<u>Charles L. Riter</u>	<u>Hon. Jack R. Von Wald</u>
<u>Hon. John B. Jones</u>	<u>William Spiry</u>	
\$10,000 PRESIDENTIAL FELLOWS		
<u>John P. Blackburn</u>	<u>Robert E. Hayes</u>	<u>Reed A. Rasmussen</u>
<u>Richard D. Casey</u>	<u>Patrick G. Goetzinger</u>	<u>Pamela R. Reiter</u>
<u>Hon. Michael Day</u>	<u>Terry L. Hofer</u>	<u>Robert C. Riter, Jr.</u>
<u>Robert B. Frieberg</u>	<u>Hon. Charles B. Kornmann</u>	<u>Eric C. Schulte</u>
<u>Thomas H. Frieberg</u>	<u>Bob Morris</u>	<u>Jeffrey T. Sveen</u>
<u>David A. Gerdes</u>	<u>Thomas J. Nicholson</u>	<u>Charles M. Thompson</u>
<u>Hon. David R. Gienapp</u>	<u>Gary J. Pashby</u>	<u>Richard L. Travis</u>
<u>G. Verne Goodsell</u>	<u>Stephanie E. Pochop</u>	<u>Thomas J. Welk</u>
GOLD FELLOWS: \$5,000 – <i>Cumulative, including Pledge</i>		
<u>Richard A. Cutler</u>	<u>P. Daniel Donohue</u>	<u>Richard L. Kolker</u>
<u>William F. Day, Jr.</u>	<u>Dana J. Frohling</u>	<u>Scott C. Moses</u>
SILVER FELLOWS: \$1,000 per year		
<u>Scott C. Moses</u> In Memory of William Janklow	<u>Herb C. Sundall</u> (renewed 17-18)	<u>Kimberly A. Mortenson</u> (renewed 17-18)
<u>Timothy J. Rensch</u> (renewed 17-18)	<u>Brandon M. Taliaferro</u> (renewed 17-18)	<u>Gregory A. Yates</u> (renewed 17-18)
FELLOWS: \$500 PER YEAR		
<u>Hon. John Bastian</u> (renewed 17-18)	<u>Richard Kolker</u> (17-18)	<u>Mrg Simon</u> (renewed 17-18)
<u>Hon. John L. Brown</u> (renewed 17-18)	<u>Hon. Judith Meierhenry</u> (renewed 17-18)	<u>Thomas E. Simmons</u> (renewed 17-18)
<u>Mary Jane Cleary</u> (renewed 17-18)	<u>Hon. Bobbi Rank</u> (17-18)	<u>Jason Robert-Feil Sutton</u> (17-18)
<u>Craig A. Kennedy</u> (renewed 17-18)	<u>Robert C. Riter</u> (renewed 17-18)	

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

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Foundation funds go to very important projects, including: Legal Services Programs in SD, Rural Lawyer Recruitment, SD Public Broadcasting of Legislative Sessions, SD Guardianship Program, Teen Court, Ask-A-Lawyer and Educational videos on ageing, substance abuse and mental health issues.

Full Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

I would like to contribute:

in Lump Sum    Annually    Semi-Annually    Quarterly    Monthly

- Life Patron Fellow – \$100,000 or more, cumulative.
- Sustaining Life Fellow – \$50,000 or more, cumulative.
- Life Fellow – \$25,000 or more, cumulative.
- Diamond Fellow – over \$10,000, cumulative.
- Platinum Fellow – \$10,000, cumulative.
- Gold Fellow – \$5,000, cumulative.
- Silver Fellow – \$1,000 per year.
- Fellow – \$500 per year.

Today I am sending \$\_\_\_\_\_ (amount) to begin my gift.

I am paying \_\_\_ by check, \_\_\_ by credit/debit card.

Credit/Debit Card Payments:

Name on Card (if different than above) \_\_\_\_\_

Address Tied to Card (if different than above):

\_\_\_\_\_

Card Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

\*Alternatively, you can call The State Bar (605-224-7554) to setup your payment(s).

**Donations to the endowment are tax deductible and a perpetual gift to our profession and the education and charities the Foundation supports.**

## LAWYERS CONCERNED FOR LAWYERS LAWYERS ASSISTANCE COMMITTEE

Your Bar Leadership has been concerned that members needing help with chemical dependency or mental health issues may be reluctant to call State Bar Headquarters to inquire where to seek help. Phone calls seeking help for themselves or a loved one or a partner have always and will continue to be kept strictly confidential. That said, Bar Leadership has determined that a referral agency independent of the State Bar staff may reduce any reluctance to call. Thus, beginning July 1st, we have entered into a contract with Disability Rights South Dakota. Both LCL and LAC committees have provided names and contact information for referrals. You will be provided with the names and phone numbers and proceed to call whomever you select from the appropriate list.

Disability Rights South Dakota: 605-224-8294 or  
toll free 800-658-4782

Phone calls to Disability Rights of SD are kept strictly confidential.

## Caribou Coffee Club

A group of Sioux Falls and Rapid City area attorneys are holding informal peer-led meetings of lawyers who have faced or are dealing with depression, anxiety and/or similar issues.

Attendance is limited to lawyers.

The groups generally meet twice a month and have confidentiality policies.

For more information or to receive blind copies of group announcements, send an email to:  
[cariboucoffeeclub@gmail.com](mailto:cariboucoffeeclub@gmail.com)



\*\*The Caribou Coffee Club is not affiliated with The State Bar of South Dakota, the Second Circuit Bar Association, or the Pennington County Bar Association.



# YOU are NOT Alone

To: All Members of  
The State Bar of South Dakota  
From: Tom Barnett

We all have problems. And, most often, we manage to solve them ourselves, but sometimes we can't handle them alone. Recognizing that attorneys can develop personal problems that may jeopardize their health, family structure or employment, the State Bar of South Dakota provides members with the Sand Creek Member Assistance Program.

Sand Creek is a confidential telephonic counseling service that can help members solve personal and work related problems before they grow into serious and costly crises.

Employee Assistance Services (EAP) are provided by a staff of professional counselors, clinical psychologists, and social workers skilled at helping you identify and hand handle problems such as marital and family issues, chemical dependency, mental and emotional disorders and educational or career problems.

Free confidential telephonic services provided to you by Sand Creek include: problem assessment, action planning, and follow up along with 24-hour crisis telephone services. To access these services - see the box to your right.

The Sand Creek website, [www.sandcreekeap.com](http://www.sandcreekeap.com), is a useful resource designed to help make your life easier. On the website you will find: Child care and elder care referrals; hundreds of articles on important mental and emotional health issues; work-related resources to help manage stress, cope with job changes or deal with a difficult boss; wellness resources including a comprehensive exercise, nutrition and healthy living portal that has hundreds of articles, recipes and tips for healthy living.

Confidentiality is the bedrock of a Member Assistance Program. All discussions and services are kept strictly confidential. The State Bar of South Dakota will not know that you are using the services. We encourage you to use this valuable benefit.

Sand Creek is a HIPPA compliant service.



Go to [www.sandcreekeap.com](http://www.sandcreekeap.com)  
Click the Work Life Wellness Login Link  
Our Company ID is sbsd1  
Or call 800-632-7643  
Monday-Friday, 7:30am-5pm CT

Immediate, Confidential Support  
24 hours a day/7 days a week:  
888-243-5744

*All discussions and services are kept strictly confidential.*

*The State Bar of South Dakota will not know you are using the service. These services are FREE. You are encouraged to use this valuable benefit.*

# ANNOUNCEMENTS

Hagen, Wilka & Archer, LLP  
is pleased to announce that

*David L. Edwards*

has join the firm as a partner.

600 S. Main Ave., Ste. 102  
Sioux Falls, SD 57104

Telephone: 605-334-0005  
Facsimile: 605-334-4814

david@hwalaw.com

Hagen, Wilka & Archer, LLP  
is pleased to announce that

*Steven Rindsig*

has join the firm Of Counsel.

600 S. Main Ave., Ste. 102  
Sioux Falls, SD 57104

Telephone: 605-334-0005  
Facsimile: 605-334-4814

steve@hwalaw.com

Gunderson, Palmer, Nelson & Ashmore, LLP  
is pleased to announce that

*Matthew E. Naasz*

has joined the firm as an associate attorney.

506 Sixth Street  
Rapid City, SD 57701

Telephone: 605-719-3424  
Facsimile: 605-342-9503

mnaasz@gpna.com

Gunderson, Palmer, Nelson & Ashmore, LLP  
is pleased to announce that

*Ryan C. Sutton*

has joined the firm as an associate attorney.

506 Sixth Street  
Rapid City, SD 57701

Telephone: 605-719-3443  
Facsimile: 605-342-9503

rsutton@gpna.com

Please note that

*Dougherty & Dougherty, LLP*

has relocated their office to

1101 N. Phillips Ave., Suite 403  
Sioux Falls, SD 57104

Telephone: 605-335-8586  
Facsimile: 605-331-2519

Goosmann Law Firm, PLC  
is pleased to announce that

*Meghann M. Joyce*

has joined our firm as an associate attorney.

5010 S. Minnesota Ave. #100  
Sioux Falls, SD 57108

Telephone: 605-371-2000  
Facsimile: 605-275-2039

JoyceM@GoosmannLaw.com  
www.goosmannlaw.com

**\*\*\*\*2018 Annual Meeting\*\*\*\***

**June 20-22, 2018**

**Ramkota Hotel, Sioux Falls**

**Book Your Rooms Now!**

**Annual Meeting Resolutions Notice**

Resolutions to be considered by the State Bar membership at the Annual Meeting in June must be submitted in writing by May 1. The deadline of May 1 was established at the Annual Meeting in 2002. The earlier deadline facilitates the printing of the proposed resolutions in the Annual Meeting Program to provide adequate notice to members of such matters of importance to be considered at the Annual meeting. Please email your resolution to [nicole.ogan@sdbar.net](mailto:nicole.ogan@sdbar.net) or [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net).

**Please note: registration for all  
Annual Meeting Activities  
including:**

**CLEs**

**Wednesday Banquet**

**Thursday Family Night**

**Women In Law Brunch can be  
found by logging in to**

**[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)**

**and choosing the Events Tab at  
the top.**



Students from South Dakota Law School will join law students from the University of Denver May 21 through May 24 to provide free wills and related documents to tribal members. We are seeking volunteer attorneys licensed in South Dakota to help with the project.

The law students are given extensive training on the application of A.I.P.R.A. (the American Indian Probate Reform Act), and will be assisted by volunteer attorneys from Colorado. During the last four years University of Denver law students have accepted invitations to take the Tribal Wills Project to Indian Reservations in Colorado, New Mexico, Arizona, Utah, and Montana.

Now the Yankton Sioux Tribe has graciously offered to host the project in South Dakota. Likely locations for the will writing clinics are the communities of Marty, Lake Andes, and possibly Wagner.

If you would be interested in volunteering to assist, or would like further information on the Tribal Wills Project, please contact Prof. Lucy Marsh, Director of the Tribal Wills Project, University of Denver Sturm College of Law.  
E-mail: [lmash@law.du.edu](mailto:lmash@law.du.edu)



NOW IS THE TIME TO START THINKING ABOUT RUNNING FOR BAR COMMISSION.

NOMINATING PETITIONS SHOULD BE SUBMITTED TO THE STATE BAR OFFICE BY,

MAY 1<sup>ST</sup> FOR PRINTING IN THE ANNUAL MEETING PROGRAM.

IF YOU HAVE QUESTIONS ABOUT WHAT THE COMMISSION DOES,

CONTACT YOUR LOCAL COMMISSIONER FOR MORE INFORMATION.

# WOMEN IN LAW BRUNCH

**10 a.m. - June 20th**

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**Ramkota Hotel**

**Sioux Falls, SD**

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**Everyone is welcome!**

•

**Program will include**

**a Jurist Panel discussing**

**Paths to the Bench**

**PLEASE NOTE  
THE DAY AND TIME  
CHANGE!**

**REGIONAL SUMMIT SCHEDULE (DRAFT 3-06-18)**

**SCHEDULE:**

**Thursday, April 26th:**

**12:00pm-5:00pm:** Registration

**2:30pm-3:30pm:** Community Service Project: “What’s It Like to Be a Lawyer?”  
presentation at a local school

**5:00pm-7:00pm:** Mountainview fire pit welcome reception at Spring Creek Ranch

**Friday, April 27th:**

<b>TIME</b>	<b>ACTIVITY</b>
6:30-7:30	Wellness Activity: Hiking at Spring Creek Ranch
8:00-10:00	REGISTRATION
	COFFEE
8:45-9:45	Young Lawyers Leadership Panel (Presenters Will Be Leaders from Young Lawyers Division Affiliates)
10:00-11:00	Maryt Fredrickson: Mental Health in the Legal Profession
11:15-11:45	Mark Aronowitz: Strategies for Improving and Maximizing the Client Intake Process
12:00-1:00	Lunchtime Presentation – Darin Scheer: What You Should Know About Recent Developments in Bar Exam & Admission Practices / The Future of the Legal Profession
1:15-2:15	Dessa Reimer: An Overview of Native American Law & Practice in Tribal Court
2:30-3:45	Mel Orchard: Ethical Leadership
4:00-5:15	Judge Mark Carman: Did You Know That Yellowstone National Park Has Its Own Federal Court? A Fireside Chat with Yellowstone National Park’s Presiding Judge
6:00-7:00	Cocktail reception (hosted at a local law firm)
7:00pm- 9:00pm	Dinner Banquet at Spring Creek Ranch

**Saturday, April 28th:**

<b>TIME</b>	<b>ACTIVITY</b>
6:30am- 7:30am	Wellness Activity: Yoga for Lawyers (Maryt Fredrickson)
	COFFEE/ Breakfast
8:30- 9:30	Practice Pointers for Young Lawyers in the Courtroom – A Panel Discussion with Members of the Judiciary
9:45- 10:45	Weston Graham: How to Start Your Own Law Firm

# American Bar Association Young Lawyers Division Mountain West States Regional Summit 2018

**April 26-28  
Spring Creek Ranch, Jackson Hole, WY**



*Join us in the Equality State for informative programming, networking and fun!*



Programming will address law practice and deposition skills for young lawyers, client intake strategies, how to start your own law firm, mental health and wellness, an overview of tribal law, and in-depth discussion of National Park law. Programming will also include networking events and an introduction to ABA

YLD leadership and affiliates for law students. Excursion activities include a hike on the beautiful Spring Creek property.

Notable speakers include ABA President-Elect Robert Carlson, Yellowstone National Park U.S. Magistrate Judge Mark Carman, and former Wyoming Attorney General Gay Woodhouse.

**Registration can be accessed at**

**<https://www.younglawyers2018.com/events/yld-mountain-west-states-regional-summit/>**

**For more information, contact Wyoming Young Lawyers President Holli Welch at [holli@wrnlawfirm.com](mailto:holli@wrnlawfirm.com)**

Hosted by the Young Lawyers Section of the Wyoming State Bar.

*This project was funded in whole or in part by the ABA Young Lawyers Division through a Regional Summit Subgrant from the ABA Board of Governors.*



For hotel reservations, call 1(800) 443-6139 and reference "Young Lawyer's Conference" to receive the group rate of \$135 per night.





# THE JUSTICE SQUAD

Thank you to the following attorneys for accepting a pro bono or modest means case from Access to Justice, Inc., this month! You are now a member of the the A2J Justice Squad – an elite group of South Dakota lawyers who accept the responsibility to defend justice, uphold their oath and provide legal representation to those who need it.

- JENNIFER TOMAC
- MELINDA FOLKENS
- KYLIE RIGGINS
- LORIE MELONE
- RON VOLESKY
- LONALD GELHAUS
- CHRIS MCCLURE
- MARY KELLER
- ROB KONRAD
- NICK MOSER
- TOM KELLER\*

\* indicates mentor attorney

And thank you to:  
**SCOTT MOSES**  
for his help answering questions on SD Free Legal Answers this month!



It's a LEGAL SUPERHERO!!!!

Is it a bird?

Or a plane??

ARE YOU INTERESTED IN BECOMING A LEGAL SUPERHERO AND MEMBER OF THE A2J JUSTICE SQUAD? PLEASE SEND A MESSAGE TO DENISE LANGLEY AT: [ACCESS.TO.JUSTICE@SDBAR.NET](mailto:ACCESS.TO.JUSTICE@SDBAR.NET).



## ACCESS TO JUSTICE, INC.

To register your firm, please visit  
<http://www.statebarofsouthdakota.com>  
and click on Access to Justice

### ATTORNEYS - OATH OF ATTORNEY

*I do solemnly swear, or affirm, that:*

*I will support the Constitution of the United States and the Constitution of the State of South Dakota;*

*I will maintain the respect due to courts of justice and judicial officers;*

*I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;*

*I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;*

*I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with a client's business except from that client or with the client's knowledge or approval;*

*I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;*

*I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.*

## Professional Liability Insurance for Attorneys

RhodesAnderson Insurance proudly offers the Attorney Protective program:

- \$25,000 of claims expenses paid in every covered claim before the deductible applies
- Disciplinary proceedings coverage of up to \$100,000 in aggregate
- Four ways to reduce your deductible by 50%, up to a total reduction of no more than \$25,000
- Underwritten by National Liability & Fire Insurance Company, which has an A++ A.M. Best rating

For more information, visit [www.attpromote.com/243/SD](http://www.attpromote.com/243/SD) or call RhodesAnderson Insurance at (605) 225-3172 or (800) 658-3362.



The products and coverages advertised herein are not currently available in all states; future availability may be subject to regulatory approval. A.M. Best rating as of 7/25/15. Product availability varies based upon business and regulatory approval and differs between companies. All products administered by Attorney Protective and underwritten by National Liability & Fire Insurance Company or its affiliates. Visit [attorneyprotective.com/affiliates](http://attorneyprotective.com/affiliates) for more information. © 2017 Attorney Protective. All Rights Reserved.



Ramkota Hotel, Sioux Falls

CLEs:

\*ALPS, \*Legal Potpourri

\*Early Bird, \*Business Law,

\*General Litigation,

\*Mental Health Training for

Court Appointed Attorneys

Register at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

# BLACK HILLS LEGAL PROFESSIONALS ASSOCIATION

A chapter of **NALS . . . the Association for Legal Professionals**

## ANNUAL EDUCATIONAL SEMINAR

**Friday, May 4, 2018**

National American University  
5301 Mount Rushmore Road  
Rapid City, South Dakota  
**And via live webinar**

<b>8:00 a.m.</b>	<b>Registration</b>	
<b>8:30 a.m.</b>	<b>Cole Willnerd U.S. Marshal's Office</b>	<b><i>The Role of the U.S. Marshal's Office</i></b>
<b>9:30 a.m.</b>	Break	
<b>9:45 a.m.</b>	<b>Greg Wick, Pennington Title Co.</b>	<b><i>e-Recording at the Register of Deeds</i></b>
<b>10:45 a.m.</b>	Break	
<b>11:00 a.m.</b>	<b>John Murphy, Murphy Law Office</b>	<i>Criminal Law</i>
<b>Noon</b>	Lunch (provided)	<b><i>Michael Trump of NAU will give a brief presentation on Mentorships</i></b>
<b>1:00 p.m.</b>	<b>George Grassby Whiting, Hagg, Hagg, Dorsey &amp; Hagg</b>	<b><i>Family Law</i></b>
<b>2:00 p.m.</b>	Break	
<b>2:15 p.m.</b>	<b>Eric Kelderman U.S. Attorney's Office</b>	<b><i>Ethics</i></b>
<b>3:15 p.m.</b>	Break	<b><i>50/50 Drawing</i></b>
<b>3:30 p.m.</b>	<b>N. Drew Skjoldal Lynn, Jackson, Shultz &amp; Lebrun</b>	<b><i>The Tax Bill and Estate Planning</i></b>

All day/member of BHLPA	_____	\$65	Morning session and lunch	_____	\$40
All day/nonmember	_____	\$80	Afternoon session and lunch	_____	\$40
All day/NAU student	_____	\$20 (cost of lunch)			
Webinar*/member of BHLPA	_____	\$45			
Webinar*/nonmember	_____	\$60			
Webinar*/NAU student	_____	Free			

**\* The seminar is also available as a live webinar that will be broadcast synchronously, and active participation is possible through this format. Please contact us as soon as possible if you're interested so we can make the arrangements.**

Name/Certification \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone (work and emergency) \_\_\_\_\_  
E-mail address \_\_\_\_\_

A \$20 fee will be retained for any cancellations made after April 27, 2018

Make checks payable to **BHLPA** and return by **April 20, 2018** to:

Mary Kattke, PP, PLS  
Office of the Federal Public Defender  
703 Main Street, 2nd Floor  
Rapid City, SD 57701  
Email: Mary\_Kattke@fd.org  
Phone: (605) 343-5110

*CLE and Recertification Credits Available: 6.0  
(includes 1.0 credits of Ethics)*





# JOIN US FOR THE MIDWEST'S PREMIER ESTATE PLANNING EVENT

Thursday, April 26 and Friday, April 27, 2018

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*"It's the big conference with the small conference feel. In two days you can get the equivalent of a week's worth of education."* ~ Prof. Sam Donaldson, J.D. Georgia State University College of Law

The Kansas City Estate Planning Symposium features nationally-recognized speakers at a fraction of the cost of other leading national conferences. You'll advance your career, earn continuing education credits and gain knowledge and relationships that will help you better serve your clients.

Presented in cooperation with the Estate Planning Society of Kansas City and the University of Missouri Kansas City School of Law. To register online or for a complete schedule and information, [visit KCEPS.org](http://www.kceps.org) or call 816-235-1648.

\$375 with a digital book; \$450 with a hardcopy and digital book. One-day pricing is also available.

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## LEGAL SERVICES CORPORATION Notice of Availability of Grant Funds for Calendar Year 2019

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The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2019. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal will be available from <http://www.grants.lsc.gov/grants-grantee-resources> during the week of April 9, 2018. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. On or around the week of March 12, 2018, LSC will publish the list of service areas for which grants are available and the service area descriptions at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant/lsc-service-areas>.

Applicants must file a Notice of Intent to Compete (NIC) and the grant proposal through LSC's online application system in order to participate in the grants process. The online application system will be available at [https://lscgrants.lsc.gov/EasyGrants\\_Web\\_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=Login](https://lscgrants.lsc.gov/EasyGrants_Web_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=Login) during the week of April 9, 2018.

Please visit <http://www.grants.lsc.gov/grants-grantee-resources> for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to [LSCGrants@lsc.gov](mailto:LSCGrants@lsc.gov).

# Partner With Us To Best Serve Your Clients

With the recent exemption increase, very few South Dakotans will face exposure to the estate tax. Therefore, it may be time to consider liquidating or re-organizing family LLCs and Limited Partnerships given the deep valuation discounts inherent in owning a minority interest in such entities. Valuation discounts may back-fire as there will be no estate tax savings, while heirs may suffer the consequences of a lowered stepped-up basis. Consequently, intentionally illiquid entity interests and the related valuation discounts may no longer be desirable.

## The KTLLP Business Valuation Team

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Ericka Heiser,  
MBA, CVA, Director  
ericka@ktllp.com

Paul Thorstenson,  
CPA/ABV, CVA, Partner  
paul@ktllp.com

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123 East Jackson Boulevard, Suite 2 | Spearfish | 605-642-7676

**ktllp.com**

# **DAKOTA PLAINS LEGAL SERVICES**

## **FY 2018 Private Attorney Involvement (PAI) Plan**

**Dakota Plains Legal Services (DPLS) is a non-profit private corporation, providing legal services to eligible low-income clients on nine Indian reservations and thirty-four counties in North and South Dakota. DPLS receives funds from the Legal Services Corporation (LSC) and, for purposes of LSC, is classified as a Native American Program. However, DPLS receives a Basic Field Grant each year which comes with a requirement that DPLS spend 12.5% of that grant on Private Attorney Involvement (PAI) which is approximately \$50,000. DPLS has historically requested LSC to waive a portion of the PAI funds because those funds have not been spent. In an effort to spend a greater portion of the PAI funds for Fiscal Year 2018, the PAI plan calls for the following:**

### **Delivery Mechanism**

**In the past, DPLS used its PAI funds to contract with private attorneys in the states of South Dakota and North Dakota to help deliver legal services to our low income clients. In 2018 private attorneys will be utilized on a contract basis in the following areas: (1) a private attorney has superior expertise in a specialized area of law, (2) the staff is overloaded and not able to accept additional cases, (3) extra help is needed in a particular office by entering into independent contractor contracts with private attorneys to provide for temporary help on LSC eligible cases, (4) provide more private attorney representation to clients in the Charles Mix County service area due to the great distance of that county to an existing DPLS office to save on travel expenses, (5) provide clients access to private attorneys, (6) provide private attorney representation for a limited number of bankruptcy cases, (7) expand professional representation in tribal court to include non-DPLS attorneys, and (8) provide private attorney representation when staff is not located near the client or where the client's case is venued.**

### **Types of Cases**

**Cases contracted with the Private Bar will be primarily in the areas of Indian law, family law, consumer law (including a limited number of bankruptcy cases) and cases in which domestic violence is a factor. These cases are the highest priorities of DPLS and also present areas where the local private bar has expertise. It is projected that 20-40 tribal, state and federal court cases will be handled under PAI in FY 2018. Experience has shown that involving private attorneys in tribal court case work facilitates the development of the tribal court systems in the DPLS service area.**

### **Budget**

**DPLS expects to spend up to \$50,000 on PAI activities in FY 2018. The majority of the money will be used to contract with private attorneys on a reduced fee basis. A license to practice in tribal court(s) may be required to practice, and is not considered a**

reimbursable expense. Related to this requirement, DPLS shall account for or identify separately all administrative, overhead, staff and support costs associated with administering the Plan.

### Reduced Fee Contracts

DPLS will pay a private attorney up to \$4,000 per case at a rate of \$75 per hour for the attorney's out-of-court and in-court time. This limit can only be exceeded by prior approval at the sole discretion of the Executive Director. Compensation for bankruptcy cases is limited to a lump sum amount of \$1,500.

All private attorneys in the states of South Dakota and North Dakota are eligible to contract with DPLS under the PAI program. However, current attorney board members and former DPLS staff attorneys (within 2 years of departure) are prohibited from contracting with DPLS.

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## BECAUSE BAD THINGS CAN

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## Trial Academy Registration

Sponsored by the State Bar of South Dakota, National Institute for Trial Advocacy, and the USD School of Law

**July 9 to 13, 2018 (Vermillion, SD)**

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Please register me for the Trial Academy. I enclose a deposit of \$500 (made payable to SD CLE, Inc.) toward the tuition cost of \$1500. I acknowledge that the deposit, should I be accepted and subsequently am not able to attend, is non-refundable unless a replacement is found. If I am not accepted, I understand that my deposit will be returned to me. I understand that no interest will be payable on returned deposit. I further understand that I will be responsible for motel and meal costs. If I am accepted, I will tender the balance of \$1000 no later than June 25, 2018.

I acknowledge that there may be more applicants than available student slots and that the Trial Academy is primarily intended for lawyers with limited trial experience who desire to further develop his or her trial skills. The following professional information relative to my professional experience will be used by the admissions committee solely to determine whether I will be accepted for the Trial Academy and the information will be used for no other purpose nor shared with any other entity. In the event that there are more applicants than available space, I recognize that the admissions committee will accept the earlier application with deposit for similarly situated applicants.

Size of law firm \_\_\_\_\_ Years of practice \_\_\_\_\_

# of civil jury trials (estimated): \_\_\_\_\_ #of criminal jury trials (estimated): \_\_\_\_\_

Brief description of your current law practice:

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Mail this registration form, together with a check in the sum of \$500, payable to SD CLE, Inc.

To:

State Bar of South Dakota

222 E. Capitol Ave.

Pierre, SD 57501

## Trial Academy Scholarship Application

The undersigned does hereby apply for a scholarship to the State Bar/NITA/USD School of Law Trial Academy to be held **July 9 to 13, 2018** in Vermillion, SD. I recognize that this scholarship, if awarded, covers the \$1500 tuition and reasonable meal and motel expenses. I further recognize that the scholarship for which I am applying is intended for a sole practitioner or a member of a small law firm. For the sole purpose of assisting the screening committee, I have answered the following professional demographic information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Years as a Lawyer: \_\_\_\_\_ Size of firm: \_\_\_\_\_

# of civil jury trials (estimated): \_\_\_\_\_ # of criminal jury trials (estimated): \_\_\_\_\_

Brief description of my career as a lawyer: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Attached is my letter** setting forth the reasons I should be awarded this scholarship. I understand that this application and attached letter will be kept confidential and will be used solely by the committee to award the scholarship.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

# 2018 PIN Auction

*When: April 12th, 5-10pm*

*Where: Eagles, Downtown Vermillion*



## *Featuring:*

*Live and Silent Auctions*

*Serving Walking Tacos*

*Live Auction will begin around 7pm*

*Cash or Check Only - Must Pay at Event*

All proceeds fund scholarships for law students working in unpaid summer internships.

### FOR QUESTIONS CONTACT:

Caitlyn Dommer at (605) 592-6134 - [Caitlyn.Dommer@coyotes.usd.edu](mailto:Caitlyn.Dommer@coyotes.usd.edu)

or

Brianna Eaton at (712) 898-3042 - [Brianna.Eaton@coyotes.usd.edu](mailto:Brianna.Eaton@coyotes.usd.edu)

or

Crystal Duneman (605) 280-3850 or Ryan Armstrong (605) 202-0463

If you are a person with a disability and need a special accommodation to fully participate, please contact Disability Services 48 hours before the event at 605-677-6389

The State Bar of South Dakota, The Committee on Continuing Legal Education and the Alternative Dispute Resolution Committee Present:

## Alternative Dispute Resolution

Mike McKnight, Chair

April 13, 2018

Ramkota Hotel, Sioux Falls

Presenters: Marilyn Trefz  
Judge David Gienapp  
Elizabeth Rosenbaum



Presenters will discuss emerging trends in family/divorce mediation, what attorneys can do to help facilitate successful family/divorce mediations and how family mediation benefits SD families and attorneys.

Registration – 12:30 pm, Program 1 pm

This CLE is free to all active bar members – all others, cost is \$100.

### Agenda:

- |                |  |
|----------------|--|
| 1-2 pm         | Family Law and Divorce - Marilyn Trefz & Honorable David Gienapp |
| 2-2:10 pm      | Break  |
| 2:10-3:20 pm   | Arbitration Basics - Catherine Duenwald and Michael McKnight     |
| 3:20-3:30 pm   | Break  |
| 3:30 – 4:30 pm | Elder Law Mediation - Charlie Dorothy and Corey Denevan          |

Preregister online: [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

# MENTAL HEALTH TRAINING FOR COURT APPOINTED ATTORNEYS

**JUNE  
21**

**RAMKOTA HOTEL  
SIOUX FALLS**

**STARTS  
1PM**



**AGENDA  
WILL  
BE IN MAY  
NEWSLETTER!**



## 2018 YOUNG LAWYER OF THE YEAR

Members of the State Bar of South Dakota are invited to submit nominations for the 2018 South Dakota Young Lawyer of the Year. This award will be presented at the Annual Meeting in June. Please consider nominating a South Dakota Young Lawyer for this prestigious award. In order to be considered, the nominee must be a member of the State Bar of South Dakota in good standing, and must not have reached the age of 36 years by June 20, 2018, or been admitted to practice in South Dakota or any other state for more than 10 years. Lawyers are only eligible to receive the award one time and lawyers serving on the Young Lawyers Board are not eligible for consideration. Nominees should exemplify the following characteristics:

1. Professional excellence;
2. Dedication to serving the legal profession and the Bar;
3. Service to their community; and
4. A reputation that advances legal ethics and professional responsibility

Nominating attorneys should submit a brief letter in support of their nominee to Young Lawyer President-Elect Tamara Nash at [Tamara.Nash@state.sd.us](mailto:Tamara.Nash@state.sd.us) no later than Friday, April 27, 2018. The letter should detail how the nominee meets the above-referenced characteristics.



*Present:*

## Legal Potpourri

adj. & n. (le•gal & pot•pour•ri)

1. A smorgasbord of or relating to law;
2. A miscellaneous collection of, relating to, or having the characteristics of the profession of law.

*Meghann Joyce and Jennifer Williams  
Co-Chairs*

**June 20, 2018**  
**1:00-4:15 pm**

Ramkota Hotel  
Sioux Falls, SD

1:00-2:00pm

### **Recent Changes to Attorney Conduct and Attorney Discipline Rules**

Neil Fulton; Federal Public Defender's Office, Pierre, South Dakota

*What is the Ethics Committee and what can it do for you?*

Tim Gebhart; Sioux Falls, South Dakota

Michael McKnight, Boyce Law Firm, Sioux Falls, South Dakota

*What is the State Bar doing to address mental health concerns for attorneys and their clients?*

2:05-2:30pm

### **Meet the New South Dakota State Bar Executive Director**

Andrew Fergel; State Bar Executive Director, Pierre, South Dakota

Pamela Reiter; Current President of the State Bar of South Dakota

2:30-2:45pm

### **Break**

2:45-3:45pm

### **How to Get Involved with Legal Services**

Brendan Johnson; Robins Kaplan, L.L.P., Sioux Falls, South Dakota

*How mandatory pro bono works for Robins Kaplan*

Denise Langley; Access to Justice, Pierre South Dakota

Brent Thompson; East River Legal Services, Sioux Falls, South Dakota

John Buchy; Dakota Plains Legal Services, Rapid City, South Dakota

*Legal services and how you can get involved*

3:45-4:15pm

### **Introduction to the South Dakota Lawyer Referral Service & Update on the Funding Campaign for the Law School**

Pamela Reiter; Johnson, Janklow, Abdallah & Reiter, L.L.P.,

Sioux Falls, South Dakota



## A note of thanks.

Thank you to everyone who stepped up to help make the VLEG Clinic a success. Reflecting back on my three years of law school, it is by far one of my most beneficial experiences. I am happy to announce that the Sioux Falls clinic set breaking a new record; helping 57 VETERANS in one day! We had 9 different attorneys, 2 professors, 7 third year law students, 13 first year law students, and amazing support staff like Becky Hess from the VA, Aric from the DAV, and of course, Beth Overmoe.

Our first ever Watertown Clinic helped 11 veterans. This was our first time in Watertown and we had excellent attorney backing. I cannot thank everyone enough for their time while we work to grow this clinic and other clinics.

It has been a privilege to be the President of this group, and I look forward to participating in the future as an attorney. This group makes a difference and for that I thank everyone who makes it happen.

Until next year!  
Kaleb Paulsen

### WATERTOWN

- Eddie Hruska
- Steve Britzman
- Craig Evenson
- Bruce Bauer
- Vince Foley
- Beth Overmoe
- Ron Frauenshuh
- Ronald Schulz
- Liam Culhane
- Jim Roby
- Nancy Oviatt Titze
- Monte Hopper
- Lisa Losano Carrico
- Amanada Thole
- Amber Walter
- Ramon Ortiz



### SIoux FALLS

- Eddie Hruska
- Tracye Sherrill
- Gary Thimsen
- Nicole Griese
- Melissa Knight
- Matthew Abel
- Katie Morrison
- Beth Overmoe
- Jim Da Saix
- Brianna Boelhower
- Amber Walter
- Nikki McCain
- Ramon Ortiz

The USD School of Law Veterans Legal Education Group ("VLEG") would like to thank the attorneys who volunteered during the Veterans Walk-In Legal Clinics on March 22-23, 2018, in Watertown and Sioux Falls. Special thanks to the State Bar of South Dakota Young Lawyers Section, Veterans Committee and State Bar President, Pamela Reiter, for their support of the two-day event.

Registration – 7:30 am, Program – 8 am

## Ramkota Hotel, Sioux Falls

*this CLE is free to all active bar members – all others, cost is \$100*

- 8:00 a.m. Introductions
- 8:10 a.m. Best Practices: Representing the Parent in A&N Cases – Lyndsay DeMatteo, Minnehaha Co. Public Advocate's Office
- 8:50 a.m. Best Practices: Representing the Child in A&N Cases – Meghan McCauley, East River Legal Services
- 9:30 a.m. Break
- 9:40 a.m. CPS's Role in A&N Cases, Vicki Burger, DSS
- 10:20 a.m. Pediatric Forensic Interviewer: Working with Traumatized Children in the Court Room, Amanda Liebl, Child's Voice
- 11:00 a.m. Break
- 11:10 a.m. Panel Discussion: Best Practices | FQA for A&N Manual, Judge – TBA, Prosecutor – Carrie Mees, CPS – Vicki Burger, DSS Attorney/ Client – Kasey Olivier, Heidepriem, Purtell, Siegel & Olivier

A CLE on Alternative Dispute Resolution will be held in the afternoon

Register online [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

April 13, 2018

The State Bar of South Dakota, and The Committee on Continuing Legal Education Present:

# Juvenile Law



Carrie Sanderson & Tara Adamski, Co-Chairs

The State Bar of South Dakota and  
The Committee on Continuing Legal Education Present:

# Early Bird

Stanton Anker – Chair

June 21, 2018  
6:30 – 7:30 am

Ramkota Hotel, Sioux Falls

6:00 – 6:30 am Registration – Free to Active State Bar Members, Others; \$100

6:30 am **Lawyer Referral Online Platform**

Pamela Reiter, State Bar President - Johnson, Janklow, Abdallah & Reiter, Sioux Falls

6:40 am **Ag Law Update**

Michael Traxinger - Agtegra Cooperative, Aberdeen

6:50 am **Family Law – Tax Reform and  
Alimony**

Linda Lea Viken – Viken & Riggins,  
Rapid City

7:00 am **TBA**

7:10 am **Legislative Update**

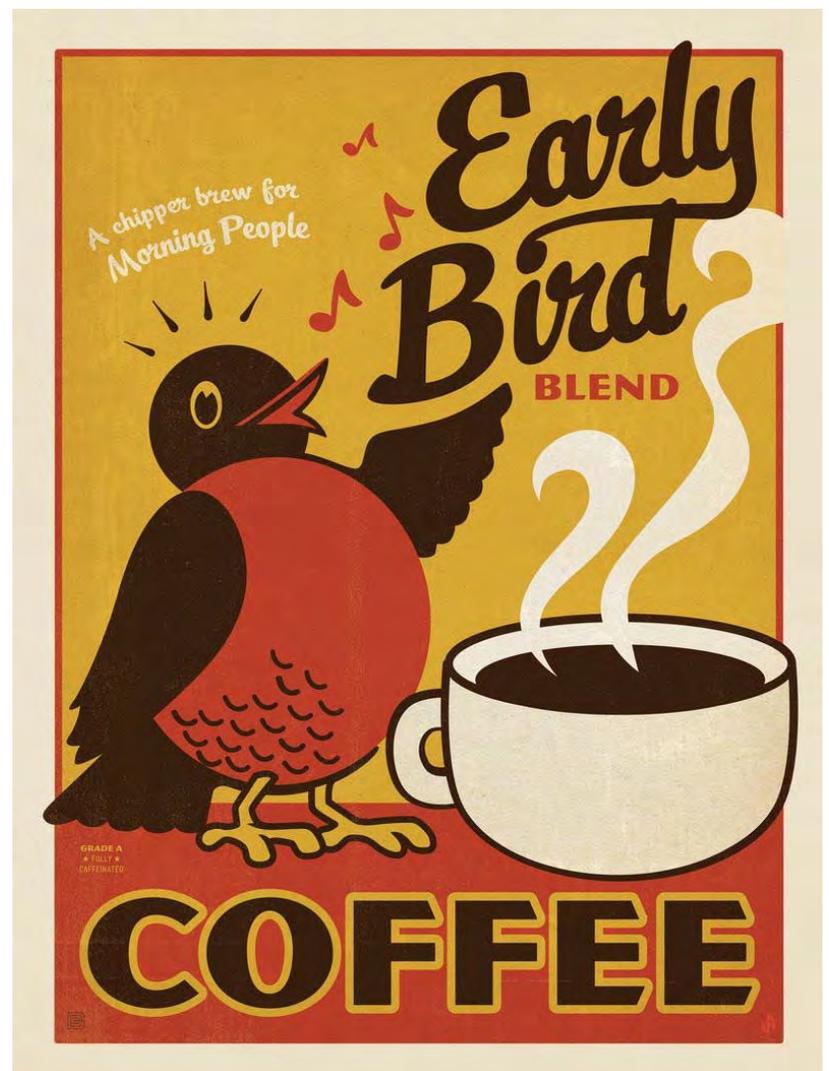
Timothy Johns – Johns & Kosel,  
Deadwood

7:20 am **Supreme Court Update**

Meghann Joyce –  
Goosmann Law Firm, Sioux Falls

Register online at:

[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)



# Awards for Half Century of Service



The practice of issuing awards to those members of the State Bar who have reached the fifty-year milestone since admission to practice law in the State of South Dakota, inaugurated in 1968, is being continued in 2018. The ceremony has become one of the highlights of our Annual Meeting.

The following State Bar members are eligible to receive the award at the annual meeting in June:

50 years - Robert Arneson, Brookings; John P. Blackburn, Yankton; George H. Danforth, Huron; A. Peter Fuller, Lead; David A. Gerdes, Pierre; John M. Grossenburg, Hill City; Gene Paul Kean, Sioux Falls; Patrick H. Lacey, San Diego, CA; Eugene L. Martin; Rapid City; Robert A. Michaels, Wayzata, MN; Murray Ogborn, Denver, CO; James W. Olson, Rapid City; Rollyn H. Samp, Sioux Falls; Kermit A. Sande, Reston, VA; William J. Srstka, Sioux Falls; Dale R. Zimmerman, Centennial, CO; Dean A. Zimmerman, Houston, TX

There may be others who should be included in this list. It will be most helpful if you will scrutinize the foregoing list, and if omissions or corrections occur to you, please notify Tom Barnett at State Bar Headquarters.

*William Moss, Psy.D.*

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Psychosexual Evaluations - Custody  
Competency - Mitigating Factors  
Juveniles - Adults - Older Adults

2018  
ANNUAL  
MEETING

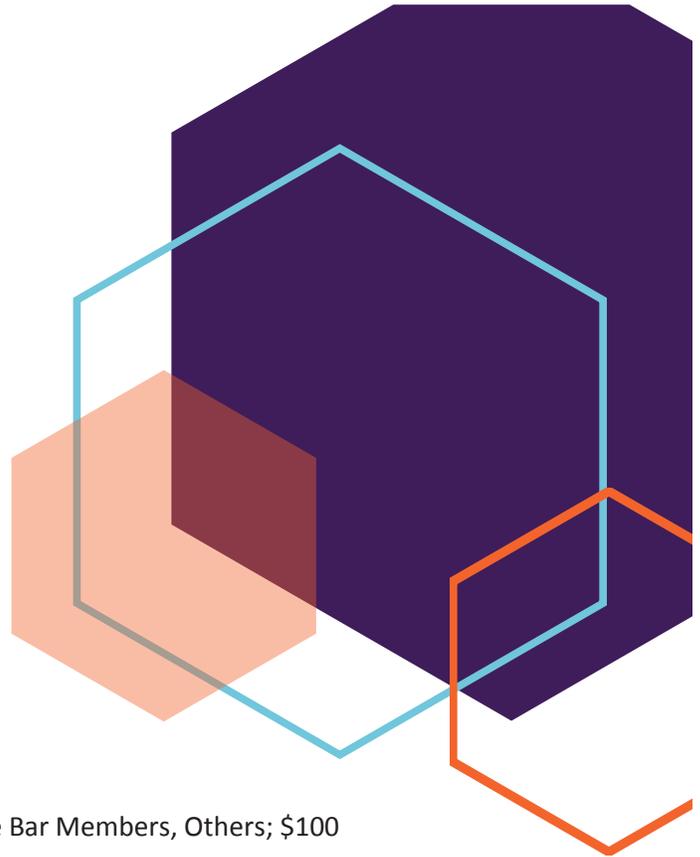
June 20-22, 2018  
Ramkota Hotel, Sioux Falls  
Book Your Rooms Now!

The State Bar of South Dakota  
and  
The Committee on Continuing Legal Education  
Present:

## ***BUSINESS LAW CLE***

*Chair – Sarah Richardson Larson  
Davenport, Evans, Hurwitz & Smith, L.L.P.; Sioux Falls, SD*

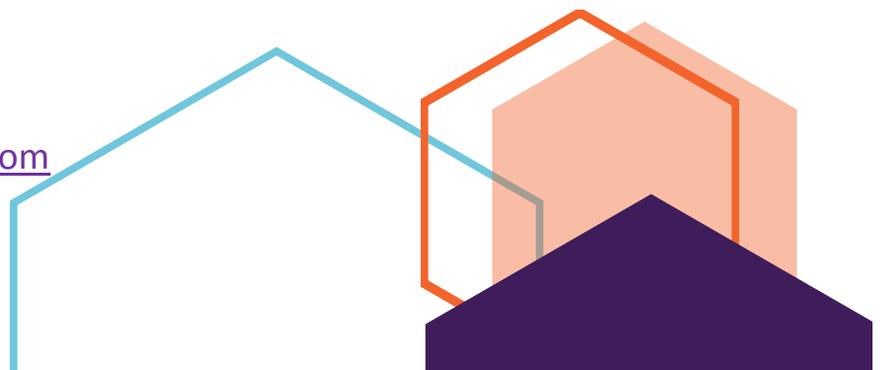
**June 21, 2018  
Ramkota Hotel  
Sioux Falls, SD  
8:15 – 11:45 a.m.**



- 7:00 – 8:15 a.m.      **Registration** – Free to Active State Bar Members, Others; \$100
- 8:15 – 9:00 a.m.      **You and Your Client: The Rules of Engagement and Disengagement**  
– Sheila S. Woodward – Marlow, Woodward & Huff, Prof. LLC;  
Yankton, SD
- 9:00 – 9:45 a.m.      **What Title Companies Want Attorneys to Know**  
– Eric Hanson – Dakota Homestead Title Insurance Company;  
Sioux Falls, SD
- 9:45 – 10:00 a.m.      Break
- 10:00 – 10:45 a.m.      **The SOS on the POA: Don't's Get Bit by the Wolf in Sheep's Clothing**  
– Bobbi L. Thury – Legacy Law Firm, P.C.;  
Sioux Falls, SD
- 10:45 – 11:45 a.m.      **2017 Tax Act Update**  
– James M. Jarding, Jr. – Eide Bailly, LLP;  
Sioux Falls, SD

**Register online at:**

[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)



# STUDENT BAR ASSOCIATION

University of South Dakota School of Law  
414 East Clark St.  
Vermillion, SD 57069



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Members of the State Bar of South Dakota,

Marshall M. McKusick, who served the legal profession and the University of South Dakota School of Law for nearly six decades, truly made a lasting impact. The resources he has provided have been of great benefit and value to law students, past and present, and will continue to have a positive impact on those entering into the legal profession for generations to come.

Each year, in honor and celebration of Marshall McKusick's dedication and service to the legal community in South Dakota, the Student Bar Association recognizes an outstanding member of the South Dakota Bar for their contribution to the profession. The McKusick Award will be presented at the State Bar Convention this June.

Nominations are now open for the 2018 McKusick Award. Please consider submitting a nomination. Nominations can be submitted via e-mail to [jenna.schweiss@coyotes.usd.edu](mailto:jenna.schweiss@coyotes.usd.edu), or addressed to Jenna Schweiss c/o Student Bar Association, University of South Dakota School of Law, 414 East Clark Street, Vermillion, South Dakota 57069.

We look forward to receiving your nominations prior to the due date of April 30, 2018.

Respectfully,

Jenna Schweiss  
*President, USD Law Student Bar Association*

# ALPS/USD FOUNDATION GOLF TOURNAMENT

The golf tournament will be held on Thursday, June 21, 2018 at the Elmwood Golf Course in Sioux Falls. The format is a four-person scramble. The golfers will be handicapped by tee placement as has been done in the past. Participants need not have established handicap and all are welcome to play. This tournament is open to all members (which includes the judiciary), spouses/companions, court reporters and law students. This tournament is a charitable fundraiser for the Law School. Winners receive shirts and bragging rights.

Entry is \$125.00 per person (\$500.00 for the team). This entry fee includes (per team) green fees, golf cart, range balls, two mulligans (per person), and entry into a skins game. **The tournament will have two shotgun starts—9 am and 2 pm.** Teams may select which time they tee off. Participants who are not attending Thursday morning meetings are urged to reserve the 9 am start time. Checks should be made payable to the ALPS/USD Foundation Golf Tournament. Please submit your tournament registration form and entry fee by June 7, 2018. After June 8, late entries will be accepted on an “as available” basis. Mulligans and a skins game will be offered onsite. This tournament is once again made possible by the generous donation of \$1,000 from ALPS.

Enclosed, please find a check totaling the sum of \$500, made payable to the ALPS/USD Foundation Golf Tournament. Members of our team are:

1. \_\_\_\_\_ 2. \_\_\_\_\_  
3. \_\_\_\_\_ 4. \_\_\_\_\_

We would like to tee off at 9 am \_\_\_\_\_ 2 pm \_\_\_\_\_ .

**Mail this form with payment to:  
State Bar of South Dakota  
222 E Capitol Ave. #3  
Pierre, SD 57501**



## **2018 LOBBYING REPORT**

Per Bar Commission policy, following a legislative session, members of the State Bar are provided notice of the bills which the Executive Director was directed to lobby. The direction to lobby comes from two sources: affirmative action by a vote of active members of the state bar at the annual meeting, or alternatively, responding to bills filed in the legislature that the Bar Commissioners determined warranted lobbying efforts. Regarding the latter in which the State Bar was responding to legislation, the Commissioners consulted with State Bar standing committees prior to voting.

### **Opposed:**

HB 1237 – an act that would have prevented lawyers from contributing to Attorney General races where the lawyer represented a client that was a party to an action involving the state....the result of which would mean that no public defenders or private lawyers who represented a client in a criminal matter could participate/contribute. Bill killed. Keep in mind, even traffic tickets are captioned “State of SD vs. \_\_\_\_\_.”

SB 111 – an act that would have allowed court to award investigative costs in civil actions. Upon recommendation of the Practice Rules Committee, the Bar Commissioners directed us to oppose the bill....virtually all litigation involves investigation and could be subject to abuse.

**Negotiated:** SB 140, 165, 167, 139: these were bills that would have made changes in custody and parenting time. A comprehensive package was negotiated whereby a number of bills were tabled and the remaining were amended.

**Supported:** HB 1112 – approved at annual meeting to clarify the time limit for a DNA review of paternity.

HB 1202 – This was the law school special funding bill. The bill was deemed unnecessary when the Joint Appropriations Committee amended the general funding bill to increase funding to the law school in the sum of \$300,000 together with internal redirection of an additional \$300,000 coming from the budget of USD.

HB 1245 – This was a bill to provide general funds to the Equal Access to Courts Commission. Unsuccessful.

Approximately 85% of the total lobbying time was spent on the bills/efforts to obtain funding for the law school and the EACC.

# GET INVOLVED

Fill Out  
Your  
Form

[Click  
Here](#)



COMMITTEE  
PREFERENCE  
REQUESTS

**DUE**

**JUNE 29**



STATE BAR OF SOUTH DAKOTA  
**PROJECT RURAL PRACTICE**

PRP SUMMER RURAL INTERNSHIP PROGRAM

**HOST ATTORNEYS WANTED**

The PRP Summer Rural Internship Program is seeking practicing attorneys in rural counties to act as Host Attorneys for first and second year law students seeking summer rural legal internship experience. Act soon to determine if you qualify as a Host Attorney!

**Compensation:**

The Host Attorney is required to pay the summer rural intern a minimum of \$625 per week or \$125 per day for each work day.

**Voucher Submission:**

At the end of the summer, the Host Attorney may submit a voucher for reimbursement of up to 50% of the gross pay made to the summer rural intern, subject to a maximum reimbursement from the Program of \$1,875.00. Certain conditions will apply. Contact Devra Herмосilla, Director of Career Services, USD School of Law for more information.



STATE BAR OF SOUTH DAKOTA  
**PROJECT RURAL PRACTICE**

For Information and to Request a Host Attorney Application  
Please contact:

Devra Herмосilla  
Director of Career Services, USD School of Law  
[devra.hermosilla@usd.edu](mailto:devra.hermosilla@usd.edu). 605-667-3909

Bob Morris, [bobmorris@westriverlaw.com](mailto:bobmorris@westriverlaw.com). 605-723-7777  
Patrick Goetzinger, [Patrick@gpna.com](mailto:Patrick@gpna.com). 605-342-1078

## STRESS and DEPRESSION HELP

Contact information for the regional mental health centers in South Dakota is located at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com) ("For SDBAR Members" Under the Health & Wellness tab, click on the Stress/Depression/Addiction link. We have reached an understanding with all these centers and all will honor our agreement. If you are stressed out or you believe that you may be suffering from depression, the State Bar encourages you to seek a professional evaluation. If you don't have insurance or otherwise lack the financial resources, the State Bar project, funded by ALPS and the SD Bar Foundation, will cover the evaluation and several follow-up counseling sessions if indicated. You need only schedule the appointment and show them your 2017 active membership card. This is a confidential project. Counseling records are not, repeat, are not made available to the State Bar. We just pay the bill for those who can't afford it, up to the limit of \$500 per lawyer.

If you have a law partner or lawyer friend that you believe may be suffering from stress and depression, visit with them. Encourage this lawyer to consider having an evaluation. Depression caught at the early stages prior to becoming chronic is much, much easier to address. In just a few counseling sessions, you/your friend can learn techniques to deal with the stress more effectively in our lives, whether personal or professional.



## SOLACE PROGRAM

If you are aware of anyone within in the South Dakota Legal Community (lawyers, law office personnel, judges, courthouse employees, or law students) who have suffered a sudden and/or catastrophic loss due to an unexpected event, illness, or injury, the South Dakota SOLACE Program may be able to assist. Please contact [solace@sdbar.net](mailto:solace@sdbar.net) if you, or someone you know, could benefit from this program.

We have a statewide (and beyond) network of generous South Dakota attorneys willing to get involved and help. We do not solicit cash but can assist with contributions of clothing, housing, transportation, medical community contacts, and a myriad of other possible solutions through the thousands of contacts available through the State Bar of South Dakota and its membership.

# April 2018

Official Publication of the State Bar of South Dakota

If you wish to advertise in our publication or post job opportunities, please contact:

Tracie at [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net).

The deadline for submissions in the newsletter is the 26<sup>th</sup> of each month, excluding December and February when it is the 23<sup>rd</sup> of the month. If the deadline falls on a weekend, the deadline is the Friday prior.

### Address Changes:

email [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) or log in to your profile at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

### Board of Bar Commissioners:

*President* – Pamela R. Reiter, Sioux Falls  
*President Elect* – Reed Rasmussen, Aberdeen  
*Executive Director & Secretary/Treasurer* – Thomas C. Barnett, Jr., Pierre  
*1st Circuit* - Dennis Duncan, Parker  
*2nd Circuit* - Jason Sutton, Sioux Falls  
*3rd Circuit* - Arthur Monte Hopper, Watertown  
*4th Circuit* - Kellen Willert, Belle Fourche  
*5th Circuit* - Rodrick Tobin, Aberdeen  
*6th Circuit* - Rich Williams, Pierre  
*7th Circuit* - McLean Thompson Kerver, Rapid City  
*At Large* - Steven K. Huff, Yankton  
Jennifer Williams, Rapid City  
Marshall C. Lovrien, Aberdeen  
Jana M. Miner, Pierre  
Rebecca Morlock Reeves, Watertown  
Colleen Zea, Sioux Falls

## ***Employment Corner: A publication of the Labor & Employment Law Committee***

Author: Lisa K. Marso

### ***Harvey v. Regional Health Network: Takeaways for the Employer and Advising Practitioner***

In January, the South Dakota Supreme Court issued *Harvey v. Regional Health Network, Inc.*, 2018 SD 3, 906 N.W.2d 382, wherein it affirmed summary judgment for the employer and dismissed the terminated employee's claims for slander, malicious prosecution, intentional and negligent infliction of emotional distress (I/NIED), wrongful termination, breach of contract, and punitive damages. Harvey, who worked at a nursing home, claimed her termination was premised upon false reports of resident abuse by two coworkers who wanted her fired. She also argued the employer should be held liable for failing to conduct a thorough investigation of the co-worker reports, both before her termination and when the employer reviewed her termination via an internal grievance process, and for causing her to be criminal prosecuted for felony elder abuse. The case is instructive to the practitioner and employer on issues involving: (1) internal investigations, (2) mandatory reporting, and (3) employment policies:

1. **Investigations/Decisions:** Upon receiving a verbal report of employee misconduct (hitting a resident), the employer obtained written statements from two coworkers (one of whom had a good performance record, the other did not). Other coworkers were not interviewed. In recommending termination, a supervisor noted her own observation of other behavior consistent with the incident reported by the two coworkers. As applied to the I/NIED claims, the Court held that a failed or insufficient investigation did not rise to the level of outrageous conduct, even if the investigation was lacking. Similarly, the slander claim failed because there was no evidence that the speakers (supervisors and leadership) entertained serious doubt as to the truth of the publication (hitting a resident). *Harvey* is instructive to employers and practitioners particularly as it provides guidance on taking care to conduct sufficient internal investigations and, when possible, having the ultimate disciplinary decision being made by an individual who is not a witness to the conduct at issue in the investigation.
2. **Mandatory Reporting:** *Harvey* involved the employer making a mandatory report of alleged elder abuse to the Department of Health. Not only did the report form the basis of Harvey's slander claim, but she also brought a claim of malicious prosecution (involving the prosecutor's later decision to pursue criminal charges against Ms. Harvey). The employer did not report as quickly as required by the applicable reporting laws and did not comply with the Department's requests for supporting documentation, resulting in a Department audit of the employer policies. Nonetheless, the Court upheld dismissal of the malicious prosecution claim, finding that the employer merely reported the conduct and allowed the authorities to do their jobs.

*Harvey* reminds employers and practitioners to be mindful to (a) timely transmit any required disclosure; (b) provide all information learned in their own investigation; and (c) not advocate or otherwise get overly involved in the independent decision of an investigating agency or authority.

3. **Policies:** In *Harvey*, Court engaged in a lengthy analysis of the employer's post-termination grievance procedure and whether the alleged failure to follow the procedure created a breach of contract claim. The Court ultimately answered this question in the negative. Significant to its holding was a review of the employer's written policies, including: (a) express statements that the employment was at-will and that the terms in the handbook should not be regarded as promises for employment and do not create any contract; (b) reservation of the right to terminate for any reason with or without notice; (c) not having an "exclusive" list of reasons for which an employee could be terminated; (d) not having a mandatory progressive discipline policy; and (e) a grievance procedure that did not restrict the employer from terminating at will and did not require the employer to review the termination decision to make sure the policies/procedures were consistently applied. Employers and practitioners are encouraged to keep these concepts in mind when drafting or revising employment policies.

Also notable in *Harvey* was the Court's refusal to expand the whistle-blower wrongful termination cause of action to an employee's report to supervisors of concerns that her coworkers' performance was "unsafe" and/or her request to place security cameras in the facility. On this issue, the Court noted existing law limit whistleblowing activity to "the reporting of unlawful or criminal conduct to a supervisor or outside agency", and it noted to expand the law to include the cited report would wrongfully eviscerate the at-will doctrine in favor of judicial management of the employee/management relationship.

Recommendation is made for review of the *Harvey* decision in its entirety, as it provides a great analysis of multiple tort and contract claims that an aggrieved employee may seek to bring against an employer.

***DeRouche Agricultural and Legal Consulting, LLP***



34 years Farm Business Instructor at Mitchell Tech  
3 years of Ag Lending  
**8 years Research, Deposition, Testifying**  
Expert witness on agricultural issues  
**Roger DeRouchey      Phone: 605-770-8080**

**700 Broad Street    Alexandria, SD 57311**  
[www.deroucheagriculturallegalconsulting.com/services.html](http://www.deroucheagriculturallegalconsulting.com/services.html)



The State Bar of South Dakota  
and  
The Continuing Legal Education  
Committee  
present:

## General Litigation

Program Chairs:

Jason R. Sutton  
William D. Sims

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June 21, 2018  
8:00 – 12:00pm

Ramkota Hotel, Sioux Falls

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- 7:30 – 8:00 am                      Registration – Free to Active State Bar Members, Others; \$100
- 8:00 to 8:50 a.m.                    “What I Learned as Judge That I Wished I Knew as a Lawyer”  
Speakers: Justice Janine Kern, Judge Susan Sabers,  
Judge Craig Pfeifle, and Judge Bruce Anderson
- 9:00 to 9:50 a.m.                    “Finding and Solving Lien and Subrogation Issues in Personal  
Injury Cases”  
Speakers: Lee Schoenbeck and Linda Wolden
- 10:00 to 11:20 a.m.                “Conversation Matters”  
Speaker: Mary Verstraete, Co-Founder of the Center for Coaching  
Excellence and a Professional Certified Coach with the International  
Coach Federation
- 11:30 to 12:00 p.m.                “The Unused Discovery Tools in Your Toolbox”  
Speaker: Jason Sutton

Register online at:

[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)



Date: March 23, 2018

Subject: Taxpayer Advocacy Panel Recruitment

Dear Prospective Member,

A unique opportunity exists for you to influence how the Internal Revenue Service (IRS) delivers services to the public by becoming a member of the Taxpayer Advocacy Panel (TAP).

The Taxpayer Advocacy Panel is a group of citizen volunteers whose mission is to listen to taxpayers, identify taxpayers' issues, and make recommendations for improving IRS service and customer satisfaction. TAP is a Federal Advisory Committee established under the authority of the Department of the Treasury. TAP includes representatives from all 50 States, the District of Columbia, and Puerto Rico. In addition, this year TAP now includes a member who represents U.S. citizens living abroad. The IRS has made a commitment to listen to ideas from TAP members.

Are you willing to serve your country and speak up on issues that impact America's taxpayers? Are you aware of tax issues that are customer service or grassroots in nature that exist in your community and need to be addressed?

The recruitment application period runs from March 23 through April 27, 2018. You can apply online at the USAJOBS website [www.usajobs.gov](http://www.usajobs.gov). If you have questions about TAP or the application process, please call TAP's toll-free number 1- 888-912-1227 and choose prompt number five. You may also contact TAP staff at [taxpayeradvocacypanel@irs.gov](mailto:taxpayeradvocacypanel@irs.gov) for assistance.

All applications must be received no later than **April 27, 2018**.

Don't miss this exciting opportunity to "Speak Up" and apply to become a member of this dynamic volunteer organization that is making a difference for taxpayers. Do your part today, and become a "Citizen Volunteer Valued for Improving IRS Service".

Sincerely,

Andrew VanSingel  
Local Taxpayer Advocate

# Job Postings and Classified Advertisements

*CLASSIFIEDS Contact | Email your employment announcement to [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) by April 26th to have it included in the May newsletter. Please be sure to include a closing date. To see more jobs listings, visit [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com).*

## ATTORNEYS

Managing Attorney: Fort Thompson, SD  
DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Managing Attorney position in our Fort Thompson, South Dakota, branch office. The Fort Thompson office serves the Crow Creek and Lower Brule Indian Reservations in South Dakota and Brule, Buffalo, Hughes, Hyde, Lyman, Stanley and Sully counties in South Dakota.

Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; must demonstrate an interest in poverty law and working with Native American and low income clients. Applicant must have at least one year's experience in the practice of poverty law or Indian law, with trial and appellate experience in state and federal courts or two years' experience in the general practice of law. If Applicant does not possess this experience we would consider Applicant for a staff attorney position until qualified to be a Managing Attorney.

Competitive, depending on experience. DPLS has an excellent fringe benefits package including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

Opened until filled.

Litigation Attorney: Madison, SD  
Jencks & Jencks, P.C. is seeking a litigation attorney. No experience is required but at least two years of practice is preferred. Strong writing, discovery management and motion practice is required. Some trial experience is preferred. South Dakota bar admission will be required. Some travel will

be required in North Dakota and Minnesota, and sometimes to other states. Salary will be commensurate with experience and a bonus structure will be made available. All inquiries and applications will be handled confidentially. Send resume and cover letter to Carrie Wieman, Jencks & Jencks, P.C., P.O. Box 442, Madison, SD 57042 or [carriewieman@jenckslaw.com](mailto:carriewieman@jenckslaw.com)

Deputy State's Attorney: Brookings County, South Dakota

The Brookings County State's Attorney's Office has an immediate opening for a Deputy State's Attorney to perform routine professional legal work in the prosecution criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Brookings County. Responsibilities of the Deputy State's Attorney vary and may include reviewing offenses and evidence to make determination on charges and prosecuting violations of state law; reviewing requests for petitions and determining appropriate course of action; making recommendations for child custody and parental rights; and attending legal proceedings. Annualized compensation for appointment as a Deputy State's Attorney will be \$65,068.00.

Examples of duties include: Prepare and manage a caseload of predominantly low-level felonies, juvenile violation cases, abuse and neglect cases, and magistrate court cases. Assist law enforcement with involuntary mental health committals. Assist with civil representations of the County. Present cases for legal proceedings. Perform legal research. Prepare, draft, and file legal documents and correspondence. Review offenses, police reports, and evidence to make determination on charges. Prepare, send, and track subpoenas for witnesses and records. Prepare and interview witnesses for legal proceedings. Stay informed on changes in relevant law and statutes and proposed legislation and policy pertaining to criminal law, juvenile delinquency, and juvenile abuse and neglect. Communicate, correspond, and collaborate

with parties involved in cases including victims, parents, school personnel, attorneys, court personnel, and law enforcement regarding procedures and actions for those cases. Respond to inquiries from the public. Make recommendations for custody, parental rights, sentences, and restitution for juvenile and magistrate files. Represent the State's Attorney's Office at public, private, and inter-governmental programs and events. Train and educate volunteers, law enforcement, and social workers on their roles and duties on legal issues and the court process duties. Answer, handle, or direct phone calls and walk-in traffic from clients and the general public regarding legal concerns and questions. Minimum Qualifications: Graduation from a college of law. Attainment of a Juris Doctorate degree from an accredited law school. Admission by the Supreme Court of South Dakota to practice law in the state of South Dakota; or be licensed to practice law in any other state and able to take the next available South Dakota bar examination; or be a recent or imminent law school graduate, eligible to sit for the next available South Dakota bar examination. Comparable combination of education and experience may be considered. Must successfully complete pre-employment background process. Working knowledge of civil and criminal law and methods and practices of pleadings; court procedures and rules of evidence; principles, methods, materials and practices utilized in legal research; and general law and established precedents. Ability to prosecute cases. Ability to speak and write effectively in the preparation and presentation of legal matters. Ability to establish and maintain effective working relationships with coworkers, other agencies and the public. Ability to maintain professional appearance and demeanor. Preferred Qualifications: Strong oral argument skills.

To apply: Interested applicants should submit a cover letter, resume, law school transcript and writing sample to: Teree Nesvold, Brookings County States Attorney, 520 3rd St., Suite 330, Brookings, SD 57006 or electronically at [tnesvold@brookingscountysd.gov](mailto:tnesvold@brookingscountysd.gov). Deadline for applications is 3/15/18. Brookings County is an Equal Opportunity Employer.

Deputy State's Attorney: Union County  
SALARY[MK1]: \$4,250 - \$4,583.00 Monthly Opening  
Date: 3/12/18 Closing Date: 4/1/18  
GENERAL INFORMATION: The Union County

State's Attorney's Office seeks applicants for the position of Deputy State's Attorney to perform professional legal work on behalf of Union County and county departments in civil and criminal court, and administrative proceedings. The Union County State's Attorney's Office has a high case volume for each attorney position. Responsibilities shall include providing legal advice and representation to county officials and staff, working with law enforcement, as well as members of the community in the preparation of criminal cases, legal research and writing, motion preparation, litigating cases in court, and assisting with drafting, filing and presenting proposed legislation. EXAMPLES OF DUTIES INCLUDE: Prosecute violations of state law including felony, misdemeanor, juvenile violations, and juvenile abuse and neglect cases. Review police reports and evidence to make determination on charges and prepare subpoenas for witnesses. Make recommendations for child placement and supervision terms in juvenile cases. Perform legal research, prepare and file legal documents and correspondence. Draft proposed legislations and appear before legislative committees. Prepare press releases and communicate with the media. Give direction to support staff, provide educational instruction to interns, externs, volunteers, law enforcement, and social workers. Other duties as assigned.

MINIMUM QUALIFICATIONS: Law degree from an ABA-accredited school of law, and admission by the Supreme Court of South Dakota to practice law in the state of South Dakota. Successful applicant must have working knowledge of civil and criminal law, methods of and practices of pleadings; court procedures and rules of evidence; principles, methods, materials and practices utilized in legal research; general law and established precedent; and the ability to prosecute cases. Must have strong oral and written communication skills, especially in the area of preparation and presentation of legal matters; ability to work with minimal direction, as well as the ability to work as part of a team; and the ability to organize and prioritize. Applicant must maintain a professional appearance and demeanor at work and in court. A successful applicant must maintain professionalism in all forms of communication towards this office as well as with other attorneys, officials, other professionals, and the public.

PREFERRED QUALIFICATIONS: Strong oral argument skills, experience in complex criminal issues,

jury trial experience, and experience with complex civil/government litigation issues.

UNION COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

APPLICATION PROCEDURE: Submit resume, cover letter addressing required qualifications, complete contact information for at least 3 professional references, and provide a writing sample not to exceed 5 pages relating to a criminal or governmental issue (i.e. Resistance to a Defense's Motion to Suppress; Motion to Suppress (with supporting authorities); Miranda Issues; Consent Issues; Planning and Zoning Issues; and Governmental Taking Issues, just to name a few).

Application materials must be received by the closing date. Applications may be submitted to: Email: Jerry.Miller@UnionCountySD.org Subject line:

APPLICATION  
OR

Mailed: Union County State's Attorney  
209 East Main Street ~ Suite 140  
Elk Point, SD 57025  
Re: APPLICATION

Associate Attorney: Huron, SD

Churchill, Manolis, Freeman, Kludt, Shelton & Burns LLP in Huron, South Dakota is seeking an Associate Attorney. The attorney in this position will focus on the general practice of law including school law, real estate, criminal defense, personal injury and domestic relations. Interested applicants should send a cover letter and resume to Jeff Burns, P.O. Box 176, Huron, South Dakota 57350, or jeff@churchillmanolis.com. All applications will be kept confidential. Open until filled.

Associate Attorney: Sioux City, IA

The law firm of Moore, Heffernan, Moeller, Johnson & Meis, LLP, in Sioux City, Iowa is seeking to hire an associate with 0-5 years' experience. Interest in business transactions, estate planning, real estate, or litigation would be a plus. Preferred candidates should possess excellent oral and written skills. The Moore Heffernan Law Firm supports work-life balance, mentorship, and the professional development and community involvement of its attorneys. Benefits include PTO, 401K, health insurance, flex plan, CLE, bar dues and professional memberships. Please send

a cover letter, resume and writing sample to Office Manager, Moore, Heffernan, Moeller, Johnson & Meis, LLP, P.O. Box 3207, Sioux City, Iowa 51102-3207 or email: kpetrie@MooreHeffernanLaw.com

Litigation Staff Attorney: Avera in Sioux Falls

The Staff Attorney-Litigation, is responsible for providing any and all legal services for collection of primarily out-of-state patient accounts on behalf of Accounts Management, Inc. ("AMI"); responsible for assisting with AMI claims and county poor relief claims of Avera Health hospitals in the state of South Dakota, time permitting and as requested by the Avera Patient Accounts Attorney, to the extent that such proceedings or actions necessitate the involvement of legal counsel; and serves as an additional legal resource to the Director and Litigation/Collection Manager of AMI with respect to the collection of such patient accounts.

REQUIRED EDUCATION and/or EXPERIENCE: Juris Doctor required; BS or BA in Business preferred. REQUIRED CERTIFICATION, LICENSURE, and/or REGISTRATIONS:

- Attorney duly licensed to practice in the state of South Dakota.
- Current Iowa License to practice law in good standing, or minimum 5 years of law practice (litigation emphasis) with the ability to obtain Iowa Licensure within 6 months of employment.
- Ability to obtain additional law licensure within other states as deemed necessary by AMI (Nebraska and/or Minnesota).
- This position requires a valid driver's license, and that the employee is insurable by the Avera Health automobile liability insurance carrier.
- Responsible for maintaining CLE requirements in all states in which licensed to practice.



IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

MAR 13 2018

*Shirley A. Johnson-Lund*  
Clerk

\* \* \* \*

IN THE MATTER OF THE AMENDMENT )                    RULE 18-10  
TO SDCL 23A-4-1 )

-----  
A hearing was held on February 13, 2018, at Pierre, South Dakota, relating to the amendment to SDCL 23A-4-1, and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 23A-4-1 be and it is hereby amended to read in its entirety as follows:

**SDCL 23A-4-1. (Rule 5(a)) Arrested person taken before magistrate--Complaint filed on arrest without warrant.** A law enforcement officer shall, without unnecessary delay, take the arrested person before the nearest available committing magistrate. Any person, other than a law enforcement officer, making an arrest shall, without unnecessary delay, take the arrested person before the nearest available committing magistrate or deliver him to the nearest available law enforcement officer. If a person arrested without a warrant is brought before a committing magistrate, a complaint shall be filed forthwith. When Unless given a court appearance date and released from custody, a person, arrested with or without a warrant or given a summons, shall appear appears initially before a committing magistrate in person or via ITV, without unnecessary delay, at which time the committing magistrate shall proceed in accordance with the applicable provisions of §§ 23A-4-2 to 23A-4-5, inclusive.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 2018.

DATED at Pierre, South Dakota, this 13th day of March, 2018.

BY THE COURT:  
*David Gilbertson*  
David Gilbertson, Chief Justice

ATTEST  
*[Signature]*  
Clerk of the Supreme Court  
(SEAL)



IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE AMENDMENT OF )                    RULE 18-12  
APPENDIX A. TO SDCL CHAPTER 16-18 )

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A hearing was held on November 7, 2017, at Pierre, South Dakota, relating to the amendment of Appendix A. to SDCL Chapter 16-18 and the Court having considered the proposed amendment, the oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that Appendix A. to SDCL Chapter 16-18 be and it is hereby amended to read in its entirety as follows:

**Appendix A. to SDCL Chapter 16-18.**

**SOUTH DAKOTA RULES OF PROFESSIONAL CONDUCT  
MAINTAINING THE INTEGRITY OF THE PROFESSION**

**Rule 8.3. Reporting Professional Misconduct**

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

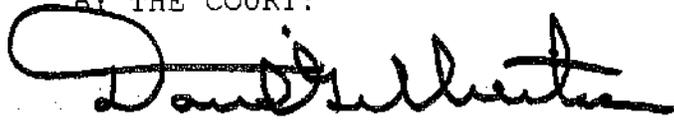
(c) ~~This rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.~~ Paragraphs (a) and (b) shall not apply to information obtained by a lawyer or judge as a member of a committee, organization or related group established or approved by the State Bar or the Supreme Court to assist lawyers, judges or law students with a medical condition as defined in SDCL §16-19-48, including the name of any individual in contact with the member and sources of information or information obtained therefrom. Any such information shall be deemed privileged on the same basis as provided by law between attorney and client.

(d) A member of an entity described in Paragraph (c) shall not be required to treat as confidential communications that cause him or her to believe a person intends or contemplates causing harm to himself, herself or a reasonably identifiable person and that disclosure of the communications to the potential victim or individuals or entities reasonably believed to be able to assist in preventing the harm. The names, identities, and treatment of persons seeking assistance of the South Dakota Lawyers Concerned for Lawyers, Inc., or an approved lawyers assistance program, relating to alcohol abuse or chemical dependency shall be kept confidential by members of South Dakota Lawyers Concerned for Lawyers, Inc., who are so contacted.

IT IS FURTHER ORDERED that this rule shall become effective July 1, 2018.

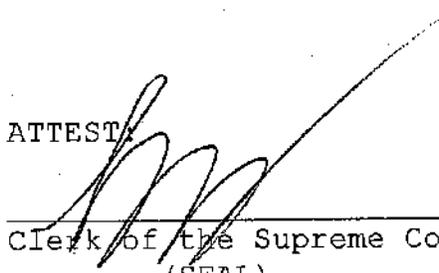
DATED at Pierre, South Dakota, this 13th day of March, 2018.

BY THE COURT:



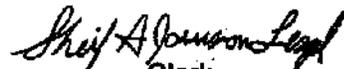
David Gilbertson, Chief Justice

ATTEST:

  
\_\_\_\_\_  
Clerk of the Supreme Court  
(SEAL)

SUPREME COURT  
STATE OF SOUTH DAKOTA  
**FILED**

MAR 13 2018

  
Clerk



# APRIL

## April 2018

Disciplinary Board.....	April 5-6.....	ClubHouse, Sioux Falls
ABA Day.....	April 9-12.....	Washington D.C
Bar Commission Meeting.....	April 12.....	ClubHouse, Sioux Falls
Bar Foundation Meeting.....	April 13.....	Johnson, Janklow, Abdallah & Reiter, SF
Juvenile Law CLE.....	April 13 am.....	Ramkota, Sioux Falls
Alternative Dispute Resolution.....	April 13 pm.....	Ramkota, Sioux Falls
Strategic Planning Retreat.....	April 13.....	Johnson, Janklow, Abdallah & Reiter, SF
Ask - A - Lawyer.....	May 1-3.....	Rapid City & Sioux Falls
2018 Jackrabbit Bar Conference.....	May 31 - June 2, 2017.....	Medora, ND
Disciplinary Board.....	June 18-20.....	ClubHouse, Sioux Falls
2018 Annual Meeting.....	June 20-22.....	Ramkota, Sioux Falls
Bar Commissioners Retreat.....	July 12-13.....	Red Rossa, Pierre
SD YLS Swearing-In Ceremony.....	October 19.....	Pierre