



State Bar of South Dakota

December 2020
Newsletter



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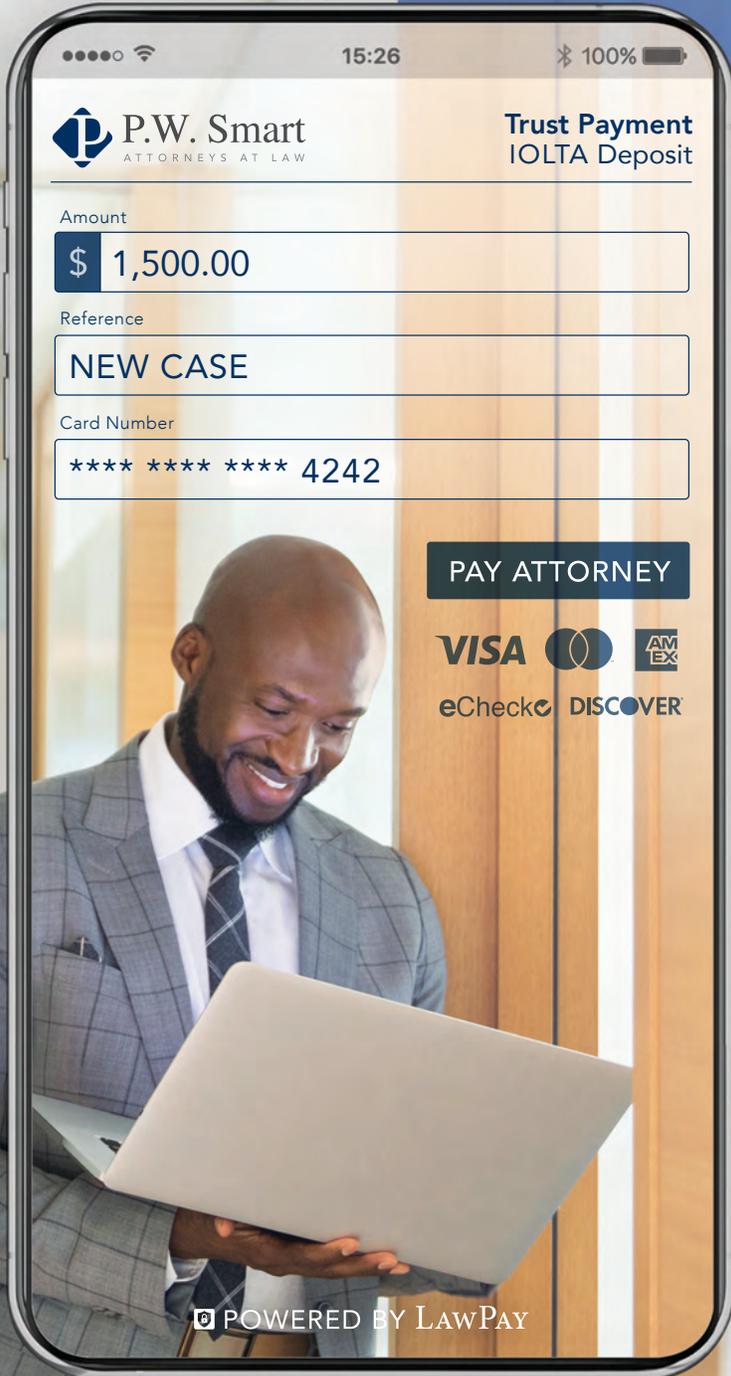
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State Bar of South Dakota

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President's Corner

Terry G. Westergaard

I hope each of you got to spend time with your family during Thanksgiving. No doubt this is an unusual holiday

season. 2020 has been a difficult year but we still have a lot to be thankful for. Take time during this holiday season to reflect on your blessings and the past year will not seem too bad.

In November, I attended that Statewide Swearing-In Ceremony. It looked a little different this year, but the excitement and optimism on the masked faces of the new lawyers was the same. Listening to these lawyers take the Oath of Attorney reminded me why we do what we do. Quoting former Chief Justice Robert Miller, Chief Justice Gilbertson stated, "if all lawyers would read the Oath once a year and follow its directives, there would be no need for the Disciplinary Board in South Dakota." I suggest putting the Oath somewhere prominent in your office and read it regularly.

One harsh reality of several new lawyers is the prospect of paying back student loan debt. The heavy debt load is affecting career and personal decisions. New lawyers are delaying buying a house and starting a family. The ABA recently conducted a survey that is eye-opening to say the least. [\(link to article\)](#) The ABA Young Lawyers Division is proposing resolutions at the Mid-Year meeting to start the conversation of addressing this very serious issue. This is not just a national problem. We have young lawyers in South Dakota facing the same issue.

I am sure I am not alone in saying that I am relieved that we got through another election year. Thanks to lawyers in South Dakota that continue to serve in our legislature. That service takes a substantial amount of time away from their practices and their families.

The legalization of medical marijuana and the

constitutional amendment regarding recreational marijuana will create far-reaching issues for lawyers in our state. Each of us should all be aware of the ethical issues involved when advising clients looking at possible business opportunities since marijuana continues to be an illegal drug under federal law. Here are some links to articles that provide a framework for the issues involved.

Measure 26

<https://static1.squarespace.com/static/5d7188a29079ce0001c4dd3b/t/5f6b791def23763d531508c2/1600878882623/Measure+26+with+AG+Explanation.pdf>

Amendment A

<https://static1.squarespace.com/static/5d7188a29079ce0001c4dd3b/t/5f6b780919c0a62208e00e10/1600878601199/Amendment+A+with+AG+Explanation.pdf>

Ethical Issues Representing Clients in the Cannabis Business

https://www.americanbar.org/groups/professional_responsibility/publications/professional_lawyer/26/1/ethical-issues-representing-clients-the-cannabis-business-one-toke-over-line/

Smokin' Hot: Ethical Issues for Lawyers Advising Business Clients

<https://core.ac.uk/download/pdf/235284277.pdf>

Colorado Bar Ethics Opinion

https://www.cobar.org/Portals/COBAR/repository/ethicsOpinions/FormalEthicsOpinion_124_2014.pdf

Law for Lawyer Blog

<https://www.thelawforlawyerstoday.com/category/marijuana/>

The State Bar will continue to monitor this constantly changing subject.

By now you should have received, and hopefully paid, your bar dues. An extremely important part of your dues is your contribution to the State Bar Foundation. The Foundation is the charitable arm of the State Bar. Take a look at Eric Schulte's letter in the newsletter. The Foundation is doing great work. Thanks for your contribution.

Last month my message highlighted a member of our bar staff. Our bar staff is made up of hard-working dedicated employees that all have the goal of serving our members with the best of their abilities. This month I highlight the staff member who is currently processing our bar dues and preparing this newsletter along with several other tasks to assist the state bar in running efficiently. Tracie Bradford has worked with the State Bar for 3.5 years. Here is my conversation with Tracie.

TERRY: Thanks for taking time away from processing dues and working on the newsletter. First, why did you apply for a position with the State Bar and what keeps you here?

Tracie: At the time I was working for the South Dakota Cattlemen's Association as the Communications Director. I was informed that my position would be changing from full time to part time but was fortunate enough to have an amazing boss that kept me on full time until I found another job. I had contacted Nicole when I heard about the position, but they had already hired someone. A year later and still employed at the Cattlemen's Association, I was shocked when Nicole contacted me to inform me that the position was open again and wondered if I was still interested in applying. We emailed back and forth before my interview and joked about how we both hate the font comic sans! I really clicked with both Nicole and Tom at the interview. I was the last interview and at the time I had been offered a position elsewhere but was hoping to be able to choose between the two. I was standing in my boss's office at the Cattleman's afterwards telling her how the interview went when Nicole walked in, in person, and said they had made their decision and offered me the job! It has been a crazy ride these past 3 years with Tom retiring, Andy being hired as our new ED, hiring an Administrative Assistant, Kylee, who I am so thankful for, packing up the old office and moving into our new office space, and last but not least, COVID. Even with all of these changes I couldn't imagine working anywhere else. I love my job, I love that I have gotten to know a lot of the members, and my co-workers have become my family.

TERRY: What do you enjoy doing when you're not in the office?

Tracie: I love spending time with my family. During the school year, we are busy following my youngest, Tailynn, around to volleyball and basketball games. We all enjoy hunting and as soon as it is warm enough, we are on the river fishing and enjoying some much needed sunshine. My daughter Bailey married a fishing guide, so that has come in pretty handy!



TERRY: Any pets in the family?

Tracie: We have a yellow Lab, Piper and 3 cats. I never intended on having more than one cat. When Bailey went to college, apparently, she was lonely and



got herself a kitten, Jasper. When she moved back home, Jasper came with her. When she got married and moved out, the cat never did pack his bags! Now on to cat #3.

Bailey and I were out of the country when this all took place. It was -26 degrees outside and Tailynn heard scratching at the back door. She thought it was Jasper, so she claims. She opened the door and in ran this stray cat. Her dad wasn't home from work yet, so her and Brooklynn decided to hide it in their bathroom, set up a litter box, and gave it some food and water... 3 days later, Tailynn couldn't take the guilt anymore and finally told her dad. He made them take the cat around to the neighbors and see if any of them recognized her. He was adamant about

finding her a home. Her name is Millie and she has been with us now for 3 years in January!

TERRY: Any big news you want our members to know about your family?

Tracie: I am going to be a Grandma! Estimated date of arrival is January 6th! Having 3 daughters, I'm sure my husband is looking forward to having a grandson.

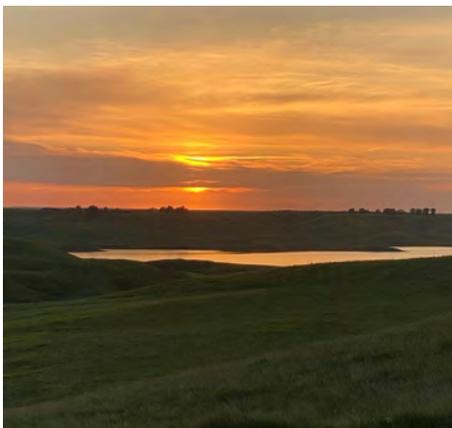


TERRY: Where do you live?

Tracie: I live about 26 miles north of Pierre.

TERRY: Anything, in particular, you love about living in the country?

Tracie: Everything! I get to take in all the beauty that God created from the rolling hills to the river that goes as far as the eye can see. I feel like the sunsets were painted just for me. There is quite a bit of wildlife around as well and I have been known to get my pheasant limit in 30 minutes. No gun needed!



TERRY: Would you say you are more of an introvert or extrovert, and why?

Tracie: I am an ambivert, a little of both. I like to talk... a lot! Some would say, I share too much - even to the cashier in the Taco John's drive through. I want to be invited to things, even though I probably

won't go. When I do get out and let my hair down, if there is karaoke going on, I will be on stage with my air guitar singing Heartbreaker by Pat Benatar. If there is a mechanical bull in the vicinity, I will be on it and will be very competitive! But that doesn't last. I get tired of the crowd and enjoy my alone time where I can get lost in my own thoughts just as easily as I can lose myself in conversation.



TERRY: What is something you are looking forward to in 2021?

Tracie: Meeting my grandson of course and hoping to get back to a place before the masks; before there was so much fear to go anywhere and spending time with our friends and loved ones.

TERRY: What are some of your favorite things?

MOVIE: It's a tie between Under the Tuscan Sun and First Wives Club

BAND/MUSICIAN: Joan Jett (even though she doesn't eat beef)

VACATION SPOT: Dominican Republic

HOLIDAY: Easter

COLOR: Green

ICE CREAM FLAVOR: Chocolate

MEAL TO EAT: Crab Legs

RESTAURANT IN PIERRE: Cattlemen's Club

SEASON OF YEAR: All of them! That is why I stay in South Dakota

TERRY: One final question for me to keep in mind when I stop in to the State Bar office in Pierre. How do you take your coffee/favorite beverage?

Tracie: Decaf Toffee Nut Latte. I quit drinking caffeine about 6 months ago, but I do miss the taste, so I settle for decaf every once in a while.



STATE BAR OF SOUTH DAKOTA
YOUNG LAWYERS SECTION



by: Caroline A Srstka
YLS President

Happy December everyone and season's Greetings! Holiday season can be a joyous time spent with friends and family, but also a perfect time to reflect as the year comes to an end. I would like to share some thoughts with you, upon which I plan to reflect during this time.

Gratitude. Slow down and reflect on the good in your life. More often than not, we take things for granted, so I encourage you to take this opportunity and tell those close to you how much you appreciate them. Send loved ones a personalized card in the mail.

Service. Contribute towards your community and society in a meaningful way. This can take shape in many forms: volunteering your time, mentoring others, donating items to those in need, or serving at the local food bank. This year may be one of the most important years yet to give back.

Happiness. Reflect on what brings joy into your life. Set a goal to surround yourself with what is most important to you. Surround yourself with others that make you feel good about yourself. And in turn, allow yourself to let the toxicity go, no matter how comfortable or safe those things may feel.

Forgiveness. Forgive those that hurt you this year, and most importantly, forgive yourself. As attorneys, it's natural to scrutinize everything we say and do, and later beat ourselves up for an argument that could have been made better, or an issue we missed. As Elsa says in the movie Frozen, "Let it go!"

Hope. This year has been rough. Because we cannot focus on external factors, focus on what inspires you,

and how you can make an impact on others. A simple act of kindness, such as purchasing Starbucks for the car behind you, may turn a stranger's day around.

I am grateful to be a part of this collegial bar. Last month, the Young Lawyers Section hosted their annual Nuts & Bolts CLE and Statewide Swearing-In Ceremony. We were fortunate to be able to safely conduct both events and had great turnout by allowing attendance via Zoom. New admittees were sworn in by Chief Justice Gilbertson in the beautiful Capitol Rotunda, and families were socially distanced to safely attend in person. The YLS is thankful for all those that helped make these events great this year!

Please contact me, or any of the YLS Board of Directors if you are interested in mentorship or providing mentorship!

Your 2020-2021 Board of Directors are:

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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 endeavors and charities the Foundation supports.

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In Memoriam

Donations in memory of a lawyer or judge may be made and will be deposited in the endowment fund. Such donations will be combined to qualify the deceased lawyer/judge as a fellow.

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

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111 W Capitol Ave. #1

Pierre, SD 57501

Or you can email this form to:

tracie.bradford@sdbar.net or call 605-224-7554 to set up a payment.

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Dean's List: News from the Law School



by: *Neil Fulton*
Dean
USD
Knudsen School of Law

It has been a long, challenging year. I wanted to write about something fun to end it. That fun something is our rodeo team. As a matter of law, rodeo is our state sport (see SDCL § 1-6-15.8) so of course USD has a rodeo team. Pretty sure no other law school can say that—take that Texas!

Early this year two incoming students, Opal Harkins and Paden Sexton, approached me about forming a rodeo team. Rodeo is not sanctioned by the NCAA, but it does have a governing body. Any student competing must be in academic good standing and have an advisor who approves their participation. They asked me to fill that role and I was honored to do so. I grew up in a rodeo family myself, so I think my Mom and Dad are at least as proud that I'm now a "rodeo coach" as they are about me being a law school dean.

In addition to getting their feet on the ground as 1Ls, Opal and Paden proudly represented the School of Law during the fall rodeo season. So as many of you sit down to watch the National Finals Rodeo, take a few minutes and read about our rodeo stars right here at the School of Law!

OPAL HARKINS

My name is Opal Harkins. I grew up in Billings, Montana and started riding and competing in rodeos at a very young age, alongside my four older siblings. With support from my family, I competed in rodeos throughout high school and into college. While in high school, I attended Montana State University – Billings as a high school connections student and graduated high school with an Associates of Arts degree from MSU-Billings. After graduating high school, I attended Black Hills State University in Spearfish, South Dakota and competed in the National

Intercollegiate Rodeo Association (NIRA) under Coach Glen Lammers for two years. In the spring of 2020, I graduated from BHSU with a bachelor's degree in Business Administration – Marketing. When I chose to attend USD for law school, I knew I wanted to continue to compete in college rodeos.

Starting in the fall of 2020, Paden Sexton and I were able to rodeo independently for the University of South Dakota Knudson School of Law in the Great Plains region. We started the fall season at Mid-Plains Community College in North Platte, Nebraska. The following weekend we competed in the Iowa Central Community College rodeo held in Fort Dodge, Iowa. We ended the season traveling over to Dickinson, North Dakota, for the Dickinson State University rodeo. Student athletes in the Great Plains region have a fall and spring rodeo season, generally with ten rodeos to accumulate points (although COVID-19 restrictions limited that last year). Our spring rodeo season will begin in April 2021. The Great Plains region has scheduled rodeos that will be hosted by South Dakota State University, Black Hills State University, University of Nebraska – Lincoln, and Iowa State University to finish out the season.

Rodeo always has highs and lows in every season. During the Fall 2020 season, I was fortunate enough for the good to outweigh the bad. I ended the fall season in second place in the All-Around Cowgirl portion by accumulating points in Breakaway Roping, Goat Tying and Team Roping events. The goal is to qualify for the College National Finals Rodeo (CNFR).



The three top point earners in each event, in each region of the United States, compete in the CNFR in June. The top two All-Around Cowgirl and Cowboys also qualify to compete.

This fall I was able to keep my horses and goats in Elk Point and practiced there often through the generosity of the Donnelly family. I also appreciated the support from everyone at the Kundson School of Law. Juggling the first few weeks of law school along with competing in college rodeos was a challenging adventure! I have really enjoyed my first semester of law school, even with all of the late nights at the law library. I was able to compete in the annual Alternative Dispute Resolution Client Counseling Competition with Khriztyn Krininger a few weeks ago. I enjoyed putting what I learned so far into a real-life experience. With finals approaching I am spending less time at the barn practicing and more time at the library. After finals, I plan to begin practicing and preparing for the spring season!

PADEN SEXTON

I grew up on a ranch twenty-five miles outside of Bison, South Dakota. Since the age of eight, I have steadily participated in the sport of rodeo. I have competed in many events over the years, but saddle bronc riding is the only one since high school, minus a few impulsive weekends where I decided to enter the team roping on one of my buddy's horses at a college rodeo. I received a Bachelor of Science Degree in Political Science & History from South Dakota State University, where I competed on the college rodeo team for four years. In 2019, I qualified for the College National Finals Rodeo in Casper, Wyoming, achieving a major life goal. I had high hopes of doing that again last year, but the spring semester of college rodeo, much like so many other things, was shut down due to COVID-19.

That was a disappointing end to a senior year but having the opportunity to continue to rodeo while in law school has been amazing. There were six college rodeos this fall, over the course of three weekends. I won the bronc riding at the second rodeo in Ft. Dodge, Iowa, and the second rodeo in Dickinson, North Dakota. In each college rodeo region, the top three individuals in each event qualify for the CNFR; I am currently sitting second in the region. The fall season went very well for me, and my goal is to continue that this spring.



The first semester of law school has been a lot to adjust to, especially during a pandemic. The law school has done a tremendous job of maintaining a strong academic experience while adjusting for this, and I hope we can continue in-person classes in the spring. The semester has been going well, but it has been filled with many new and stressful experiences, and rodeo was a nice way to get away from that. Admittedly, there were a few stress-ridden weekends when rodeos happened to fall during midterms that made me question my decision to college rodeo during law school. However, I could not be happier with the decision and will continue to strive for success both in the arena and academically.

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- **EMILY MAURICE**
- **BETH ROESLER**
- **ROBIN ZEPHIER**
- **TERRI WILLIAMS**
- **DIANA BONI**
- **THOMAS KELLER**

AND MUCH THANKS TO:

- **KYLE KRAUSE**
- **DENISE LANGLEY**
- **BETH BALOUN**
- **BOB MORRIS**
- **STEVE HUFF**
- **SCOTT MOSES**
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I will live in
the Past,
the Present,
and the Future.
The Spirits of
all Three
shall strive
within me.
I will not
shut out the
lessons
that they teach.”

“
-EBENEZER SCROOGE

TRIVIA: Charles Dickens sued Lee & Haddock for copyright infringement of "A Christmas Carol" in 1844.



A2J

HERO



*a person who is
admired or idealized
for courage,
outstanding
achievements, or
noble qualities*

ANNOUNCEMENTS

Myers Billion, LLP
is pleased to announce that

Koln Fink

has joined the firm as a partner
effective October 1, 2020.

Myers Billion, LLP
230 S. Phillips Ave, Suite 300
PO Box 1085
Sioux Falls, SD 57101-1085

Telephone: (605) 336-3700

kfink@myersbillion.com
www.myersbillion.com

Woods, Fuller, Shultz & Smith P.C.
is pleased to announce that

Jordan J. Feist

has become a shareholder in the firm
effective January 1, 2021.

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jordan.feist@woodsfuller.com
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Thompson Law, PLLC
is pleased to announce that

Samuel A. Krystosek

has joined the firm as an associate attorney.

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Lynn, Jackson, Shultz & Lebrun, P.C.
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MorganTheeler LLP
is pleased to announce that

Ryan S. Armstrong
Bryce J. Krieger
and
Skyler D. Mickelson

have become associates with the firm
effective August 3, 2020.

MorganTheeler LLP
1718 N. Sanborn Blvd.
P.O. Box 1025
Mitchell, SD, 57301

Telephone: (605)605-996-5588
Facsimile: (605) 996-6129

rarmstrong@morgantheeler.com
bkrieger@morgantheeler.com
smickelson@morgantheeler.com



has moved to a new location
effective October 19, 2020.

Redstone Law Firm LLP
1300 W. 57th Street, Suite 101
Sioux Falls, SD 57108

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Goosmann Law Firm, PLC
Is pleased to announce that

Stefan Szwarc

has joined the firm at their Sioux Falls Office
Location.

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Telephone: (605) 275-7981

SzwarcS@Goosmannlaw.com
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Thomas, Braun, Bernard, & Burke, LLP
is pleased to announce that

Lora A. Waeckerle

has joined the firm as an associate attorney.

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State Bar of South Dakota CLE, Inc. Presents

INTRODUCING THE SERIES LLC

On November 15, 2020, South Dakota's Series LLC statutes will take effect, permitting Series LLCs to be formed and operated in South Dakota. Members of the committee that drafted the Series LLC legislation will describe what a Series LLC is, how a Series LLC is formed in South Dakota, the benefits a Series LLC could provide your clients, and a few pitfalls to be wary of, with practical examples and tips discussed throughout.

Wednesday, December 9, 2020
12:30 PM - 1:30 PM CST


[Register Here](#)


Presenters:

Heath Oberloh, Ballard Spahr, LLP
Jordan Veurink, Ballard Spahr, LLP
Chad Hansen, Chad L. Hansen, PC

The USD Knudson School of Law will be hosting Spring On Campus Interviews (OCIs) on January 28-29 and February 25-26. Employers are invited to participate in OCIs to interview our 1L and 2L students for internship and externship opportunities, and our 3L students for post-graduate positions. Interviews may be conducted either in-person at the law school or virtually. To register, please contact Brian Boyenga, Director of Career Services, at brian.boyenga@usd.edu with your preferred interview date and a job description of the position(s) you are seeking to fill.

BRIAN BOYENGA

Director of Career Services



THANK YOU FOR

VOLUNTEERING!

I WOULD LIKE TO START BY THANKING **EVERYONE** FOR ALL OF THEIR HELP AND SUPPORT THIS YEAR. DESPITE THE DIFFICULT TIMES WE ARE IN, WE WERE ABLE TO HOST AN AMAZING CLINIC LAST FRIDAY. WE HELPED MORE THAN **17 CLIENTS** WITH A VARIETY OF LEGAL ISSUE INCLUDING ESTATE PLANNING, INSURANCE CLAIMS, MODIFICATION OF CHILD SUPPORT, AND TAX ISSUE, JUST TO NAME A FEW.

I WOULD ALSO LIKE TO SAY THANK YOU TO ALL OF THE ATTORNEYS THAT HELPED US OUT ON FRIDAY, **OLE J. OLESEN, KALEB R. PAULSEN, ERIKA S. OLSON, NATHAN CHICOINE, AND DUSTY GINSBACH.**

Levi Mitchell



**SD CLE, INC.
PRESENTS:**

**Employer Responses to Crisis:
Lesson Learned from Navigating Covid-19**

To say Covid-19 has created challenges for both employees and employers is an understatement. Lawyers throughout South Dakota, particularly those who practice employment law, have been busy fielding calls from both employees and employers with unique situations caused by this pandemic. This program will provide a question and answer session from our speakers Nicole Tupman and Nichole Mohning, who will share their first-hand experiences in navigating through the uncharted Covid-19 questions in the employment law field. Ms. Tupman and Ms. Mohning will share examples of what employers are doing to navigate the Covid-related questions.

Join Nicole Tupman & Nichole Mohning

December 1, 2020 1pm - 2pm CST

**Register For the Webinar
[Here](#)**

AMERICAN BAR ASSOCIATION

STATE DELEGATE REPORT
SOUTH DAKOTA
Dick Travis
dtravis@mayjohnson.com

Post 2020 Virtual Annual Meeting

The American Bar Association convened for its 143rd and first ever virtual Annual Meeting on **July 29 – August 4, 2020**. Over 5,000 members and guests registered to participate in this historic event. Participants from across the country attended virtual forums, conversations, CLE Sessions, award events and even had the opportunity to view a virtual tour of the Notorious RBG: The Life and Times of Ruth Bader Ginsburg exhibit. There were many wonderful opportunities to engage with others as well, including the virtual President's reception and the widely popular ABA Trivia night. Highlights from the virtual conference included:

- *The General Assembly:* This year's General Assembly opened with a message from Other highlights included a talk between ABA President Judy Perry Martinez and U. S. Supreme Court Justice Stephen Breyer, and the awarding of the [2020 ABA Medal](#) to Bill Neukom, former ABA President and founder of the World Justice Project.
- *Exceptional Programming:* This year's CLE showcase programs featured a variety of topics including legal issues related to Covid-19, judicial independence, women of color in the legal profession, access to justice, climate change, and the power of women in U.S. elections, while the ABA forum focused on justice and policing.
- *Honors and Awards:* In addition to the awarding of the 2020 ABA Medal to Bill Neukom, several other honors and awards were bestowed virtually throughout the week. To name a few, Marian Wright Edelman was honored at the [Thurgood Marshall Award Celebration](#), and the [Pro Bono Publico and SCLAID Awards](#) honored lawyers and law firms for demonstrating outstanding commitment to volunteer legal services for the poor and disadvantaged.
- *The Membership Meeting:* Deborah Enix-Ross of New Jersey, candidate for President-Elect of the Association for the 2021-2022 term, gave remarks and answered questions from the Steering Committee of the Nominating committee.
- *House of Delegates Proceedings:* The House met for 1½ days. The [Daily Journal](#) of the actions of the House and the [Select Committee Report](#), can be found on the [House of Delegates Webpage](#). The gavel was passed to the Incoming President, [Patricia Lee Refo of Arizona](#), and the House welcomed its newly elected President-Elect, [Reginald M. Turner of Michigan](#), as well as the [new Board of Governors](#). The House also voted on amendments to the Association's Constitution, Bylaws and House Rules of Procedure. The House also considered many resolutions on an array of topics and issues of law including civil rights and social justice, criminal justice, domestic and sexual violence, ethics and professional responsibility, paralegal education, human rights, intellectual property, civic education, international law, law and aging, legal education, legal services, professional regulation, sexual orientation and gender identity, specialization, voting rights, remote court proceedings, paid family leave, and youth at risk. If there are any questions or if any further information is needed in respect to the issues and matters addressed by the House of Delegates, please contact Sarah Theophilus, Beth Overmoe, Pat Goetzinger or me.

Please visit the [ABA Home page](#) to see the most current news on issues impacting our profession and how you can help make a difference, and be sure to view [ABA Member Advantage](#), the benefits discount program exclusively for ABA members, where you can find products and services of value for your practice, your home and your leisure time.

Please join us on **February 17 – February 22, 2021** for the ABA 2021 Midyear Meeting. More information on this will be provided in the coming months.

As always, if you have any questions or comments, or if I can be of assistance helping you navigate the many programs and benefits of our Association, please email me.

Regards,
Dick Travis
ABA South Dakota State Delegate

SOUTH DAKOTA BAR FOUNDATION

111 West Capitol Avenue #1
Pierre, South Dakota 57501
605-224-7554

DIRECTORS:

Eric C. Schulte, Sioux Falls, President
Stephanie E. Pochop, Gregory, Vice President
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Steven K. Huff, Yankton
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Kimberley A. Mortenson, Ft. Pierre
Reed A. Rasmussen, Aberdeen

Pamela Reiter, Sioux Falls
Caroline A. Srstka, Sioux Falls
Andrew L. Fergel, Secretary -Treasurer

Members of the State Bar of South Dakota:

As the holiday season approaches, I write on behalf of the South Dakota Bar Foundation to thank all of you that have generously made monetary gifts to the Foundation. I also write to ask that you remember the South Dakota Bar Foundation in your holiday plans. While shopping for gifts and gathering with loved ones, please consider setting aside part of your budget to support the work of the Foundation with a tax-deductible charitable donation.

By offering an effective means for the legal community to come together to engage in law related philanthropy, the South Dakota Bar Foundation strengthens the profession by providing lawyers the opportunity to give back in a way that is uniquely important and rewarding for us as lawyers.

Just as the State Bar of South Dakota brings lawyers together to address issues that are common to the profession, the South Dakota Bar Foundation complements those efforts by giving the legal community an effective means to focus on charitable initiatives that lawyers are uniquely positioned to take a leadership role in addressing. In that spirit, the South Dakota Bar Foundation works in close partnership with the State Bar to improve the profession, the justice system and the community.

Over the past several years, the generosity of many State Bar members has enabled the South Dakota Bar Foundation to assist in ensuring equal access to justice, promoting pro bono work in the legal community, improving public understanding of the law and the justice system, ensuring that the legal profession remains open to people from all walks of life, and helping lawyers who are experiencing difficulties. The work the South Dakota Bar Foundation has been able to do through its granting program is depicted on the graphs and charts that follow this letter. Please review the charts and be proud of what you have accomplished through your giving.

However, our work is not done, and the South Dakota Bar Foundation asks for your continued support. You can help by participating in the opt out when you receive your dues invoice this Fall or by becoming a fellow of the South Dakota Bar Foundation. Your generosity will have a positive impact on improving our profession, the justice system and our community. Every gift matters! Please help the South Dakota Bar Foundation in "Raising the Bar". After all, it is "Our Profession" and "Our Responsibility".

Best regards,

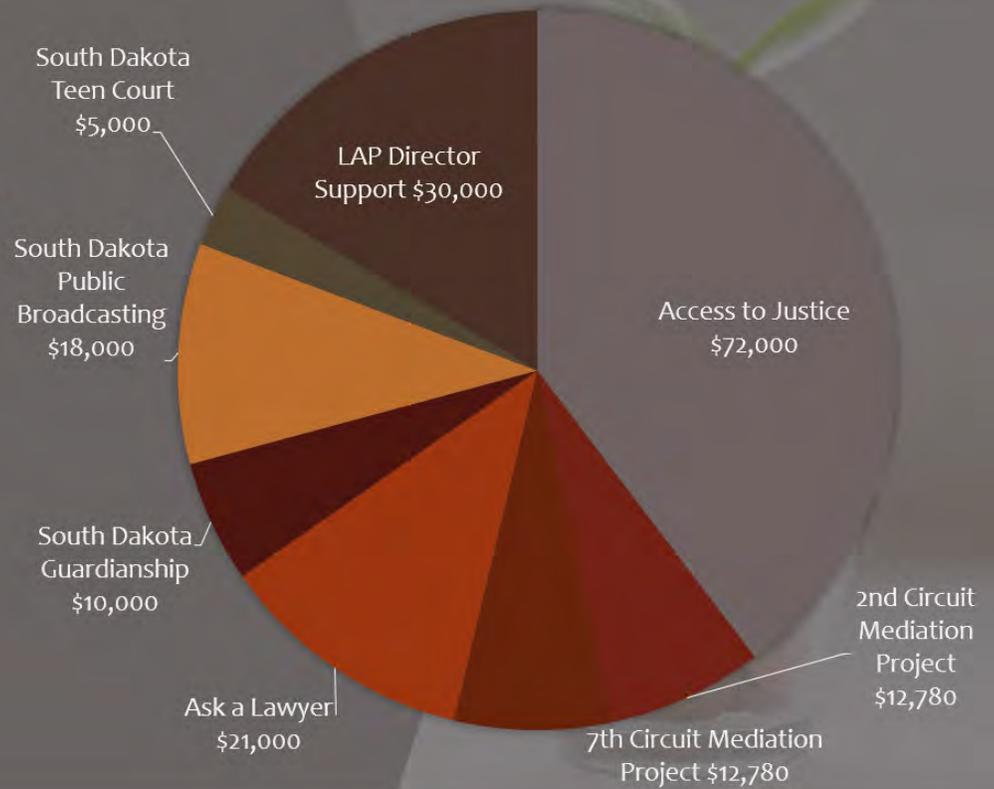


Eric C. Schulte
President
South Dakota Bar Foundation

Raising the Bar
Our Profession. Our Responsibility.

SOUTH DAKOTA BAR FOUNDATION GRANTS

Awarded for
1920-21



EVERY GIFT MATTERS



Please help the South Dakota Bar Foundation in
“RAISING THE BAR”



John R. Justice Student Loan Repayment Program 2020

The John R. Justice (JRJ) Grant Program provides student loan repayment assistance for local, state and federal public defenders and local and state prosecutors who commit to extended service in those roles. Applications are being accepted until December 31st, 2020, for the 2020 John R. Justice Student Loan Repayment Program. All Applications and a Service Agreement along with a recent loan statement must be received or postmarked on or before this day. You can find the link for the forms on our website at <https://atg.sd.gov/OurOffice/JohnJusticeProgram.aspx>.

[2020 John R. Justice Grant Application](#)

[2020 John R. Justice Grant Service Agreements Please select one of the 3 agreements that best fits your situation.](#)

Prosecutor a full-time employee of a state or local government (including tribal government) who is continually licensed to practice law and prosecutes criminal or juvenile delinquency cases at the state or local government level (including supervision, education, or training of other persons prosecuting such cases) (34 U.S.C. 10671(b)(1)). Prosecutors who are employees of the federal government are not eligible.

Public Defender an attorney who is continually licensed to practice law and is a full-time employee of a state or local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education, or training of other persons providing such representation; is a fulltime employee of a nonprofit organization operating under a contract with a state or local government who devotes substantially all of their full-time employment to providing legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education, or training of other persons providing such representation; or employed as a full-time federal defender attorney in a defender organization pursuant to Subsection(g) of section 3006A of Title 18, United States Code, that provides legal representation to indigent persons in criminal or juvenile delinquency cases (34 U.S.C. 10671(b)(2)).

BJA, in its discretion, has determined that policy and ethical considerations preclude elected officials from being eligible.

Application with original signatures must be submitted to the address below. A recent loan STATEMENT must be included that provides the following: (1) account number; (2) your name on the account; and (3) bank payment mailing address.

Lynell Erickson
Office of Attorney General
1302 E. Hwy 14 Suite 1
Pierre, SD 57501

Application for Pro Bono Emeritus Status

I, _____, an active member of the State Bar of South Dakota, do hereby apply for Pro Bono Emeritus Status, for the year 2021.

I understand that if approved, rather than pay regular dues for the year 2021, I will only be required to tender the sum of \$100 (same as inactive dues) but I will be entitled to all the rights and privileges of an active member of the State Bar.

Further, I recognize that this status means that I will be requested from time to time to take a referral from East River Legal Services, Dakota Plains Legal Services, or Access to Justice, and I am willing to accept at least one referral in the year 2021.

Finally, I acknowledge that pursuant to the Pro Bono Emeritus Status, I have retired from the active practice of law and I cannot accept private clients, cases for friends or relatives (even if no fee is charged) and that my practice is limited to such referral cases as I accept from the Legal Services Programs, Access to Justice or a non-profit specifically approved by the State Bar. In the event that I decide to accept cases other than those referred to me and which I accept, that I will tender regular active dues and withdraw from the Pro Bono Emeritus Status Program.

Dated this _____ day of _____, 20____

Signature _____

Printed Name _____

Address _____

City, State, Zip Code _____

Phone _____ Email _____

*Since the Aging Process Never Stops,
the Day Will Come When...*

Mark Bassingthwaighe, Esq.
Risk Manager, ALPS
mbass@alpsnet.com

as one ages and if you're not available due to an unexpected event, it doesn't matter anyway. Given this, committing to keeping the status of all files current at all times is equally necessary regardless of your practice setting.

In the middle of a conversation with one of our insureds on the topic of the difficulty of learning to say no, the fine gentleman I was conversing with did a jump shift on me. For whatever reason, he felt it was important to acknowledge that he was cognizant of his age and he wanted me to know he had taken steps to make sure he continues to practice law competently. What really struck me, however, was his desire to also share he had instructed others at his firm to let him know if they were to ever see him start to mentally slip, because in his words "the day will come when..."

As a risk manager, I found his comments reassuring. In my mind, he's one I would describe as someone who is growing old gracefully. He's not in denial and, unlike far too many, he doesn't appear to be fighting the aging process tooth and nail. He also has recognized that with age comes certain age-related risks and he's doing something about that reality. In light of this conversation, I felt compelled to take a look at a few of these risks and talk about how to responsibly manage them.

The most obvious risk with the aging process is the unexpected event, something along the lines of a medical crisis that leads to a short or long-term absence. Should this ever occur, someone will need to step in and at least temporarily accept responsibility for your client matters, even if you aren't in a solo practice. For the solo practitioner, however, this is a particularly significant issue that underscores the necessity of having a backup attorney in place. Regardless of your age, if you haven't already found one, now's the time.

Next, don't overlook the related file status problem. Lawyers don't always keep files as current as they should. I believe for many it's a time and trust thing. There's never enough time and just about everyone trusts their own memory. Here's the problem with that line of thinking. Memory isn't as trustworthy

Then there are the subtler risks that arise as a result of the aging process itself, many of which can be quite gradual. Sooner or later everyone begins to realize their memory, hearing, and/or sight isn't as sharp as it once was. I've heard all kinds of stories and fears. Some lawyers find they have a hard time accurately seeing everything on a computer screen, which leads them to worry about making mistakes due to incorrectly entering a critical date or misreading what's on the screen. Others struggle with forgetfulness, worrying that it's only a matter of time before they'll fail to show up at a hearing, miss a filing deadline, or incorrectly remember what a client's instructions were. And yet others have shared they have all kinds of fears about their hearing loss, not the least of which is a fear of mishearing something due to being too embarrassed to ask a client or a judge to repeat what was just said.

There are any number of steps one might take to address these subtle risks. In terms of competency issues, the use of checklists can be a great way to make sure nothing is overlooked. Additional training on how to get the most out of your computer tech might become necessary, if for no other reason than as tech evolves so does the standard of care. You might consider prioritizing the pursuit of relevant CLE in the areas in which you wish to continue to practice. Think about it. Just because you've practiced in a given practice area for several decades doesn't mean you can ignore your obligation to remain current on the impact of any recent changes in relevant law or regulations. And finally, be open to acknowledging that at some point you may need to start slowing down because the time and energy necessary to stay on top of it all is no longer there. When that day comes, this might mean taking on fewer matters or no longer taking on certain types of matters.

With visual issues, the purchase of a bigger monitor or having IT adjust your screen settings might solve the problem. With hearing, it might mean finding time

to have your hearing checked. My point with all these ideas is to encourage lawyers to find a way to work the problem of age-related risks instead of ignoring it.

A final risk worth mentioning is the comfort that can arise in long-term attorney/client relationships. Two points to make. First, it's important to remember that these long-term clients are aging as well. As clients age, their legal needs will also change. In some way we've come full circle here. It can be hard to say no to these clients; but that may be exactly what's called for. Don't allow long-term clients to push you into agreeing to help them on matters you have no real experience in. Either refer this work out or do whatever is necessary to come up to speed. Anything short of this is asking for trouble. Second, don't turn a blind eye to the possibility that forgetfulness or confusion may be in play with some of your older long-term clients. Take whatever amount of time is necessary to make

certain these folks understand the advice being given and couple that with a commitment to thoroughly documenting your files, focusing not only on the advice being given but the decision-making process as well.

In sum, since no one has found a way to stop the aging process, the day will come when it's time to cease practicing law. Until that day arrives, however, do all you can to age gracefully. Be aware of your limitations as they arise and be open to hearing the concerns of others. Find ways to identify your specific risks and work to responsibly address them. I say this because I have had to sit down with a few solos over the years and be the one who had to tell them their time had come. Trust me, aging gracefully is the better choice.

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▶ Thomas J. Welk, Boyce Law Firm, Sioux Falls, SD

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Supreme Court of South Dakota

OFFICE OF THE CLERK
500 East Capitol Avenue
Pierre, South Dakota 57501-5070
(605) 773-3511

Shirley A. Jameson-Fergel
Clerk

Laura J. Graves
Chief Deputy

Amy Hudson
Deputy Clerk

Sarah L. Gallagher
Deputy Clerk

November 12, 2020

Mr. Andrew L. Fergel
Executive Director
State Bar of South Dakota
222 E Capitol Ave
Pierre SD 57501-2596

Re: February 2021 Rules Hearing

Dear Mr. Fergel:

A Supreme Court Rules Hearing will be held Tuesday, February 17, 2021, at 11:00 a.m., CT in the Courtroom of the Supreme Court, Capitol Building, Pierre, South Dakota.

An original and five copies of proposals for amendment or adoption of rules should be filed with the Clerk of the Court no later than December 18, 2020. Please comply with SDCL 16-3-5.1 when submitting proposals.

Please publish this letter in the December 2020 edition of the State Bar Newsletter. Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Shirley A. Jameson-Fergel".

Shirley A. Jameson-Fergel



State of South Dakota Unified Judicial System



Office of the State Court Administrator

Telephone: (605) 773-3474
FAX: (605) 773-8437

500 East Capitol Avenue
Pierre, SD 57501-5070

November 13, 2020

Mr. Andrew Fergel
State Bar of South Dakota
222 E. Capitol Avenue
Pierre, South Dakota 57501

RE: 2021 Court-Appointed Attorney Fees and Mileage

Dear Mr. Fergel:

Please publish the following announcement in the December 2020 issue of the State Bar Newsletter:

“Court-appointed attorney fees for 2021 will be \$99 per hour pursuant to UJS policy which provides that these fees increase in an amount equal to any cost of living increase approved for state employees by the Legislature. Mileage for court-appointed attorneys will be paid at the rate of \$1.00 per mile.”

If you have any additional questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Sattizahn".

Greg Sattizahn
State Court Administrator

Our Mission: Justice for All
Our Vision: We are stewards of an open, effective, and accessible court system, worthy of the Public's trust and confidence.



RURAL INTERN INCENTIVE PROGRAM

ABOUT

The Rural Internship Incentive Program is a project designed to match first- and second-year law students with rural lawyers for paid summer internships. The State Bar of South Dakota Project Rural Practice Task Force, with financial support from the SD Bar Foundation, place law students in the offices of rural lawyers. Our goals are three-fold...

EXPOSURE

Expose Law Students to the practice of law in rural South Dakota communities

SUPPORT

Provide financial support to law offices in rural communities to bring an intern to their community

ACCESS

Increase access to justice with placement of lawyers and law students in rural South Dakota communities

HOW IT WORKS

A law student or SD lawyer can request an application from the State Bar office or USD Knudson School of Law Career Services office. Once a completed application and student resume are received by the USD Knudson School of Law Career Services Director, they are forwarded to the PRP Task Force co-chairs, program administrator, and State Bar Executive Director for approval. The lawyer and law student are then notified on the approval or rejection of their application. If approved, the host attorney is required to pay the rural intern a minimum of \$600 per week or \$120 per day for each work day. At the end of the internships, the host attorney is required to submit a voucher to the State Bar for reimbursement by October 1. The State Bar will reimburse the host attorney up to 50% of the gross pay made to their intern, subject to a maximum of \$1,875. Post-internship interviews and/or surveying will also be conducted at the conclusion of the internship for both the student and host attorney.

TESTIMONIALS



Tim was a great mentor for an aspiring attorney, and I am grateful for the opportunity to practice with him this summer. This was a great experience for me because it provided me a glimpse into practicing in a small community, and both the benefits and hardships it brings. I hope to practice in a similar environment upon graduation.

- Mason Juracek, Intern

I would highly recommend this internship. I truly enjoyed working with Emily and the staff in her office. I always felt welcome and comfortable in the office. I was never stressed or felt like my work load was too high. I always had a balanced work load and Emily was always around for questions. Emily truly went above and beyond as my supervisor. She introduced me to the staff in the courthouses. I was able to meet the Hyde county commissioners and visit with them during monthly meetings. I enjoyed my blended internship and am hoping to work with Emily after graduation.

- Liz Welk, Intern

I gained skills in legal research, including case law, South Dakota statutes, and various city ordinances. I learned about real estate transactions, seeing various aspects from purchase agreements to closing documents. I was able to work on a wide variety of projects in multiple areas of the law.

- Madison Jons, Intern

GET IN TOUCH:

BRIAN BOYENGA, Career Services Manager
USD School of Law
Brian.Boyenga@usd.edu
(605) 658-3546

ELIZABETH OVERMOE, Strategic Plan Coordinator
State Bar of South Dakota
Elizabeth.Overmoe@sdbar.net
(605) 929-5980



STATE BAR OF SOUTH DAKOTA
PROJECT RURAL PRACTICE

PRP SUMMER RURAL INTERNSHIP PROGRAM
RURAL ATTORNEY APPLICATION

APPLICANT INFORMATION					
Firm Name					
Managing Attorney Last		First		Date	
Mailing Address				County	
City			State	ZIP	
Phone			E-mail Address		
Expected Start Date			Expected End Date		
INTERNSHIP REQUIREMENTS/INFORMATION					
Years of Experience	1L <input type="checkbox"/>	2L <input type="checkbox"/>	3L <input type="checkbox"/>		
Preferred Characteristics (ie. Class Rank; Journal)					
Wage Offered					

ADDITIONAL EMPLOYMENT WAGE/BENEFIT/INCENTIVE TO BE PROVIDED
<p>IN ORDER TO PROVIDE THE PROGRAM ADMINISTRATOR AND PROSPECTIVE APPLICANTS WITH INFORMATION REGARDING YOUR LEGAL PRACTICE, PLEASE DESCRIBE THE TYPE OF LEGAL PRACTICE THAT YOU ENGAGE IN ON A DAILY OR WEEKLY BASIS. IF THERE ARE AREAS OF YOUR PRACTICE IN WHICH YOU HAVE A PRIMARY EMPHASIS, PLEASE DESCRIBE. PLEASE AVOID GENERALITY BY USING THE TERM "GENERAL PRACTICE OF LAW."</p>

*** SEND COMPLETED APPLICATION TO ANY OF THE FOLLOWING ***

Beth Overmoe, elizabeth.overmoe@sdbar.net
 Bob Morris, bobmorris@westriverlaw.com, 605-723-7777
 Patrick Goetzinger, Patrick@gna.com, 605-342-1078

CERTIFICATE OF COMPLIANCE

INSTRUCTIONS

The certificate of compliance for the year 2020 must be submitted to the State Bar of South Dakota by **January 31, 2021**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All ACTIVE members of the State Bar of South Dakota must file the compliance form with the State Bar not later than January 31, 2021. This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc. This reporting requirement does NOT include inactive lawyers nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients.

Andrew L. Fergel
Secretary-Treasurer

TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

Immediately following these instructions, a model form has been reproduced. The form may be modified to accommodate multiple signatures where a number of or all partners in a law firm utilize a single trust account. Please type the name of the sole practitioner or, if using a common firm trust account, the names of all lawyers utilizing the trust account. For the balance of the form, fill in the blanks, check the spaces, or leave blank or mark n/a where appropriate.

1 - check (a), (b), or (c) if applicable

2 - self explanatory (usually appropriate for inactive or retired members)

3 - self explanatory (usually exclusive or full-time corporate, legal aid, or public sector lawyer. Please identify the employer.)

3(a)- self explanatory (usually appropriate for part-time Bankruptcy trustees)

4 - self explanatory (usually appropriate for the employee or associate of a law firm who does not have trust account writing authority.) At this point, inactive, retired, full-time corporate, legal aid, or public sector lawyers, and associates without trust account check writing authority may sign the form and stop.

All others should have trust accounts and must provide the following information:

5 - state the name, address, and account number of trust account financial institution

6 - the blanks should be completed with the most recent monthly trust account reconciliation.

Keep in mind monthly reconciliations are required. For example, if this form were completed on 12-15-10, you would insert the closing date of the most recent bank statement (i.e. 11-30-10).

6(a)-(h), and 7 - type or print yes or no in space provided. If you can answer "yes" to each of these questions, you are in compliance with Supreme Court Rule 91-10. If you must answer any of these in the negative, you need to make changes in your trust accounting system. A negative answer will result in further inquiry.

8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain the same. I remind you that the effective date of this rule was July 1, 1991.

It is not too late to perform the monthly reconciliations from and after July 1, 1991, through the date of completion of this form; however, monthly reconciliations must be performed prospectively.

I have heard from a number of lawyers who have said that their trust account has an odd amount, such as \$4.54, which has been in the account for ages and the client has disappeared. The compliance report should so note the amount and reason (lawyer unable to disperse the sum of \$4.54 belonging to a client because client is not able to be located).

Thereafter, if the amount remains constant (\$4.54 as in this example), no further explanation is necessary in subsequent compliance forms.

The rule does not require nor do we want the amounts held in trust, the identities of clients, or any other confidential information.

If all partners in a law firm use a common trust account, one form may be submitted provided all partners sign the form. Please type your name under your signature. This will avoid nuisance phone calls or letters trying to ascertain who signed the forms.

All lawyers must submit the compliance form no later than January 31, 2021. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give me a call. ALF

2020 CERTIFICATE OF COMPLIANCE

TO: The Secretary-Treasurer, The State Bar of South Dakota, 111 West Capitol Avenue, Suite 1, Pierre, SD 57501

Dear Sir: I/we (Please list all persons signing the form here) _____

member(s) of the State Bar of South Dakota certify that during the 12-month period preceding the date of this report: **(check the following items where applicable and/or fill in the blanks)**

1. I (we) have engaged in the private practice of law in South Dakota as:

____ (a) a sole practitioner;

____ (b) a partner or shareholder of a firm practicing under the name of _____;

____ (c) an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of _____

and I maintain separate books, records and accounts showing all legal business performed by me.

____ 2. I have not engaged in the practice of law in South Dakota, and I have neither handled nor been responsible for either clients' trust funds or clients' trust property in South Dakota.

____ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) _____

and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).

____ a. I have served as a trustee in one or more cases under Title 11 of the United States Code, and I am accountable for all funds I handled in connection therewith to the Office of the United States Trustee, which office is statutorily charged with the responsibility for reviewing and supervising my trust operations; therefore, my handling of such funds is not separately accounted for herein in connection with my private practice of law, and I further certify that I am in compliance with all such accounting requirements of said Office.

____ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of _____

and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

(Only lawyers checking categories 2, 3, 3a, or 4 may sign below. See instructions.)

(Signature)

Full Name (Print or Type)

Business Address

City, State, Zip

Date _____

Please state the total number of hours of pro bono service, as defined by the South Dakota Rules of Professional Conduct 6.1, that you (or the whole firm) provided in 2020. Enter 0 if none. Total Hours:_____.

Rule 6.1. Voluntary Pro Bono Public Service

A lawyer should render public interest legal service.

A lawyer may discharge this responsibility by: (a) providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations; or (b) by service without compensation in public interest activities that improve the law, the legal system or the legal profession; or (c) by financial support for organizations that provide legal services to persons of limited means.

(Attorneys checking categories 1a, 1b, or 1c must answer the following questions. See instructions.)

5. My (our) trust account(s) or the trust account(s) of the firm or association of which I am a partner or shareholder is (are) at the (name and address of banking institution) _____

(and bears the following name(s) and number(s)) _____

6. During the fiscal period ended __December 31, 2020_____, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

- a. A separate bank account or accounts located in South Dakota, in the name of the lawyer or law firm and clearly labeled and designated a "trust account." _____(Yes or No) *(An out of state member may strike "South Dakota" and insert the state where his/her trust account is located.)*
- b. Original or duplicate deposit slips and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received, and specific identification of the client or matter for whom the funds were received. _____(Yes or No)
- c. Original canceled checks or copies of both sides of the original checks produced through truncation or check imaging or the equivalent, for all trust disbursements. _____(Yes or No)
- d. Other documentary support for all disbursements and transfers from the trust account. _____(Yes or No)
- e. A separate trust account receipts and disbursements journal, including columns for receipts, disbursements, and the account balance, disclosing the client, check number, and reason for which the funds were received, disbursed or transferred. _____(Yes or No)
- f. A separate file or ledger, with an individual card or page for each client and matter, showing all individual receipts, disbursements and any unexpended balance. _____(Yes or No)
- g. All bank statements for all trust accounts. _____(Yes or No)
- h. Complete records of all funds, securities and other properties of a client coming into my/our possession, and rendered appropriate accounts to my/our clients regarding them. _____(Yes or No)

7. During the same fiscal period identified in section 6 above, I, or the firm of which I am a member, complied with the required trust accounting procedures, and as a minimum I/we prepared monthly trust comparisons, including bank reconciliations and an annual detailed listing identifying the balance of the unexpended trust money held for each client or matter. _____(Yes or No)

8. In connection with section 7 above, I or the firm of which I am a member, have completed the following procedures during the fiscal period herein: compared each month the total of trust liabilities and the total of each trust bank reconciliation, and there were (check one of the following)

- _____no differences between the totals, excepting those determined to be the result of bank error;
- _____differences. (Give full particulars below, identifying the months in which there were differences, the amounts involved, and the reason for each item contributing to a difference. Attach additional pages if necessary.)

9. a. _____The undersigned lawyer(s) do not have professional liability insurance; ***(If you checked box 9(A), you must attach a representative copy of the letterhead you used to disclose the lack of insurance to your clients.)*** or

b. _____The undersigned lawyer(s) have professional liability insurance, the name of the insurance carrier, policy number and limits are as follows: _____

10. If you are a solo practitioner, have you made arrangements with another lawyer to secure your files and trust account and protect your clients in the event of your death or disability? Yes _____No _____ *(This is not currently a requirement, but very much encouraged. Please check out the state bar website for checklists and forms for solo practitioner planning for unexpected death or disability.)*

I am a member of the State Bar of South Dakota filing this report, and to the best of my knowledge and belief the facts as reported herein are accurate, and I certify that I have at all material times been in compliance with Rule 1.15 of the Rules of Professional Conduct entitled Safekeeping Property and SDCL 16-18-20.1 and 16-18-20.2. (All partners, shareholders, or associates checking categories 1a, 1b, or 1c must sign here.)

(Signatures)

_____, 2021
Date

Additional signature and attachment is needed if responding lawyer checked box 9(A) : The undersigned lawyer(s) not having insurance, do hereby certify that pursuant to Rule 1.4(c), I have advised my clients of the lack of professional liability insurance during the reporting period and I have attached hereto a copy of my law office letterhead disclosing the lack of insurance, in the required format, pursuant to Rule 7.5 of the Rules of Professional Responsibility.

All Responding Lawyer Signatures:

_____, 2021
Date

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

In the Matter of)	JUDGMENT OF DISBARMENT
the Resignation of)	
ERIK J. EVANS,)	
as an Attorney at Law.)	#29438
)	
)	

The Disciplinary Board of the State Bar having filed with the Court a resignation executed by respondent Erik J. Evans, consenting to disbarment pursuant to the provisions of SDCL 16-19-65, now, therefore, in compliance with the provisions of SDCL 16-19-66, it is

ORDERED that Erik J. Evans be and he is hereby disbarred from practicing as an attorney and counselor at law in all of the courts of this state, and the license to practice law heretofore granted by this Court to said attorney is hereby canceled and revoked and the Clerk of the Court is authorized and directed to strike the name of Erik J. Evans from the roll of licensed attorneys and counselors at law on file in the office of the Clerk.

IT IS FURTHER ORDERED that respondent shall comply with the provisions of SDCL 16-19-77 through 16-19-81 and that noncompliance shall constitute contempt SDCL 16-19-82.

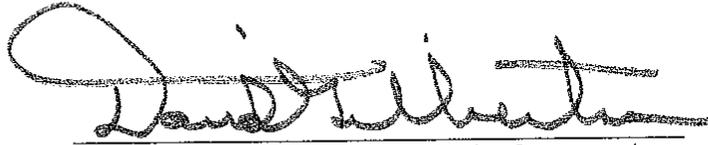
IT IS FURTHER ORDERED that pursuant to SDCL 16-19-77, the disbarment of respondent shall become effective as of the date of this judgment.

#29438, Judgment of Disbarment

IT IS FURTHER ORDERED that Erik J. Evans shall on or before December 28, 2020, pay to the State Bar of South Dakota allowable costs and expenses in the amount of \$1,199.27 as reimbursement of its itemized costs and expenses allowed under SDCL 16-19-70.2, proof of said payment to be filed with the Clerk of this Court on or before January 27, 2021.

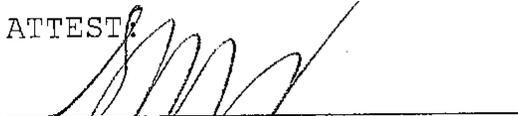
DATED at Pierre, South Dakota this 25th day of November, 2020.

BY THE COURT:

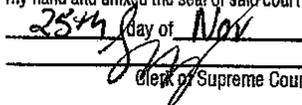


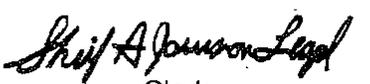
David Gilbertson, Chief Justice

ATTEST


Clerk of the Supreme Court
(SEAL)

PARTICIPATING: Chief Justice David Gilbertson, Justices Janine M. Kern, Steven R. Jensen, Mark E. Salter and Patricia J. DeVaney.

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jameson-Fergel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said Court at Pierre, S.D. this
25th day of Nov, 20 20

Clerk of Supreme Court
Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
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Clerk

BOARD OF BAR COMMISSIONERS

Minutes, September 17, 2020

Meeting Held by ZOOM

President Terry Westergaard called the meeting to order at 9:00 a.m. on Thursday, September 17, 2020. Present were: President Westergaard, Commissioners Dougherty, Ginsbach, Hruska, Johnson, Kempema, Pilcher, Roby, Trefz, and Wurgler. Also present were Secretary-Treasurer Andrew Fergel and Assistant Director Nicole Ogan, Strategic Plan Coordinator Beth Overmoe and Young Lawyers President Caroline Srstka.

Minutes of July 24, 2020 Bar Commission Meeting: Commissioner Pilcher made a motion to approve the minutes of the July 24, 2020 Bar Commission meeting. The motion was seconded by Commissioner Dougherty. Motion passed.

Executive Director's Report: Executive Director Fergel updated the Commission on the items he and staff has been working on since the July 24, 2020 Bar Commission meeting.

Recommendation for Bar Dues Increase: Executive Director Fergel and Assistant Director Ogan presented a recommendation for a Bar dues increase to be voted on by the membership in June of 2021 and to become effective for dues payable for the year 2022. The Commission discussed the recommendation and information presented but did not take any action.

ABA and Voting by SD Delegates in ABA House of Delegates: A discussion was held about the ABA and voting by South Dakota delegates in the ABA House of Delegates on Resolution 301A concerning qualified immunity for law enforcement officers. No action was taken related to the discussion and the Commission was informed that the delegates would be invited to the November Bar Commission meeting to present information on their roles as delegates and to answer questions of the Commission.

Other Business: Other items discussed where no action was taken was the November 6, 2020 swearing in ceremony and related programming for that day.

Motion to Adjourn Meeting: A motion was made by Commissioner Ginsbach to adjourn the meeting. The motion was seconded by Commissioner Kempema. The motion passed and the meeting was adjourned.

Respectfully submitted,

Andrew L. Fergel
Secretary-Treasurer

Attorney Health & Wellness Resources



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In Memoriam



Edwin Steeves Smith
June 24 1938 -
October 30-2020

Edwin Steeves (“Steeves”
or “Steve”) Smith
was born June 24,

1938 in Rochester, Minnesota to John and Florence Smith. The family moved to Watertown, SD in 1945 where John managed the local J C Penney store and they built their lives as South Dakotans. Steeves was active in debate and drama in Watertown High School. His participation in Boys’ State introduced him to politics-- a lifelong passion. From then on, Republican politics became a defining factor of his life. Steeves attended Carleton College in Northfield, Minnesota, and in 1960 earned his Bachelor’s degree in political science. While at Carleton, Steeves became State Chairman of the Minnesota College Republicans and Chairman of the Midwest Federation of College Republicans. Steeves then attended the University of Minnesota Law School and continued his involvement in state and local politics, even serving as State Chair of the Minnesota College Republicans and Chair of the Midwest Federation of College Republicans.

Despite having gone to school in Minnesota, Steeves never contemplated living anywhere other than South Dakota. After graduation and marriage to Louise Blair in 1963, Steeves returned to South Dakota to be the Aberdeen National Bank trust officer. However, Steeves always planned to practice in a SD law firm and in 1965 joined the firm that eventually became Tinan Smith in Mitchell. The next years in Mitchell saw two more children born, John Blair (JB) and Rosemary.

A member of First Lutheran Church, Steeves also became a highly active member of the community and volunteered his time by serving numerous non-profit organizations. Throughout the years, Steeves served as the Deputy State’s Attorney, President of Kiwanis, SD Children’s Aid, and Methodist Hospital Board of Trustees. During a several month transition

period for the hospital Steeves served as administrator simultaneously while also practicing law. Professional activities included Chairman of the South Dakota Bar Association Young Lawyers’ Section and various state bar committees. One notable professional highlight was successfully arguing a holders in due course case in front of the Federal Court of Appeals in St. Louis, MO.

Steeves had the unenviable position to serve as the Chairman of the South Dakota Republican Party during the Watergate hearings from 1973-75. Because the sitting governor was a Democrat, Steeves was also the head of the Republican Party, a challenging position which demanded finding monetary support for the Party to pay even the smallest of bills. In subsequent years, he served in various positions for the Republican Party, including a Member of the National Board of Directors of the American Council of Young Political Leaders and as a delegate to the National Republican Convention in 1976 and 1992. In 1977, Steeves was one of twenty-four national bipartisan delegates to the Atlantic Association of Young Political Leaders General Assembly and Western European Study Tour in Berlin, London, Bonn and Brussels. Steeves was adamant about the importance of education and told his children that, “an education was something that could never be taken from you.” It was education that provided the path to an enriched life and the ability to see the world from a larger perspective. During the 1980’s, his commitment to education led him to become heavily involved in South Dakota education, serving as Vice President of the State Board of Education and being appointed by the Governor to the Board of Regents. During his tenure as president of the Board of Regents, Steeves oversaw the hiring of Betty Turner Asher, the first female president of the University of South Dakota.

Through the years Steeves enjoyed golfing, hunting pheasants and indulged a lifelong passion for duplicate bridge (Silver Life Master). One memorable bridge tournament included playing against Bill Gates. A rabid Vikings supporter since 1961, Steeves often traveled to Minneapolis to see the games with his son JB. Despite constant disappointment and heartbreak as a Vikings fan, Steeves even endured the last and coldest outdoor game the Vikings played (minus 6 degrees F at kickoff) wearing heated socks, hand warmers and mounds of clothing.

Steeves's family will always remember him as a man who lived life in his own way on his own terms, a man who loved to travel and experience other cultures with friends and family trips. He cherished his friendships and loved his fifty-seven years as a lawyer. Steeves continued to work every day until the week of his death. Steeves passed away October 30, 2020, and is survived by his wife, Louise, his three children, Andrea of Sherman Oaks, CA; John (JB) and wife Lenee, of Fuquay-Varina, NC; a granddaughter Blair and grandson Edwin; his sister Marcia Drumm (Gene) of Manitowoc, WI; niece, Carrie Barner (Jeff), Abby and Luke Barner; nephew Steven of Chicago and also his beloved Labrador Buddy 14 ½.

Because of the pandemic, the family will wait until spring to gather with friends and share memories of Steeves in Mitchell.

In honor of his commitment to South Dakota education and the rule of law, the family is establishing an endowed scholarship in Steeves' name at the University of South Dakota and asks that memorials be directed the USD Foundation in memory of E. Steeves Smith 1110 N Dakota Street Vermillion, SD 57069 or by phone at 605-677-6703.



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**2020-2021
COMMITTEE ASSIGNMENTS**

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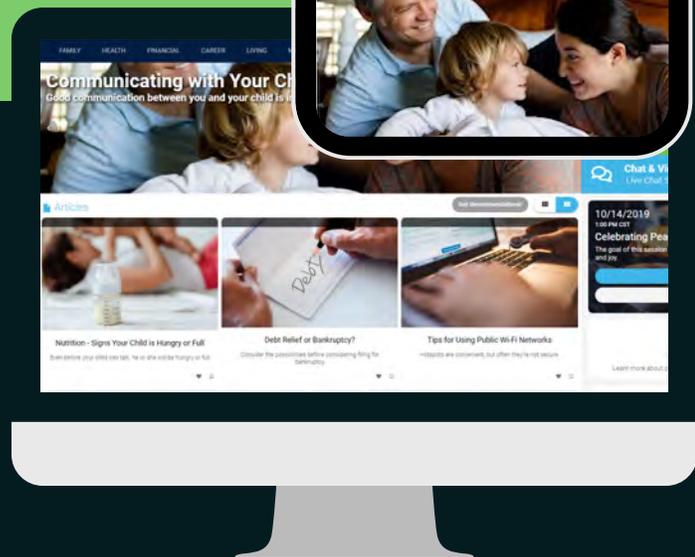
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Hon. Robin J. Houwman, Secretary
Hon. Robert Gusinsky
Rebecca Porter
Timothy Engel
Robert Morris

Lori Grode, Executive Assistant
Email: Lori.Grode@ujs.state.sd.us

October 30, 2020

Notice of Judicial Vacancy

TO: All Active Members of the State Bar of South Dakota

FROM: Robin J. Houwman, Secretary, Judicial Qualifications Commission

The appointment of the Hon. Scott P. Myren to the Supreme Court will create a vacancy for a Circuit Court Judge position (Position C) in the Fifth Judicial Circuit for the State of South Dakota. The duty station for this position shall be located in Selby, SD. The Judicial Qualifications Commission is now taking applications for this position.

All lawyers and judges interested in applying should obtain the application form at <http://ujs.sd.gov/>, or contact Lori Grode at the State Court Administrator's Office. The application must be returned to the Administrator's Office and must be postmarked no later than **5:00 PM on December 10, 2020**. Applicants should make sure the application submitted is the 2018 revision.

You may also obtain the application form by writing or telephoning:

Lori Grode
State Court Administrator's Office
500 East Capitol Avenue
Pierre, SD 57501
Telephone: 605-773-2099
Email: lori.grode@ujs.state.sd.us

Or, visit <http://ujs.sd.gov/> for current job openings.

The Fifth Circuit is comprised of the following counties: Brown, Campbell, Day, Edmunds, Faulk, Marshall, McPherson, Roberts, Spink, and Walworth.

Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

Email your employment announcement to tracie.bradford@sdbar.net by December 24th to have it included in the January Newsletter. Please be sure to include a closing date. To see more jobs listings, visit www.statebarofsouthdakota.com

ATTORNEY

Associate Attorney – Rapid City

Gunderson, Palmer, Nelson & Ashmore, LLP, an AV-Rated 20+ lawyer firm located in Rapid City and Pierre, South Dakota, is looking for an associate attorney for the firm's litigation section in our Rapid City office. The ideal candidate must be in good standing with the South Dakota State Bar and have strong legal research and writing skills. Class ranking of top 1/3 or 3 years minimum litigation experience is required.

The firm offers a comprehensive benefit plan, a competitive salary structure and the opportunity for professional development in the legal business work environment. You can learn more about our firm by visiting our website at gpna.com.

All inquiries will be kept confidential. Please send your cover letter, resume, unofficial transcript and references to solsen@gpna.com or 506 6th Street, Rapid City, SD 57701.

Deputy State's Attorney – Codington County

The Codington County State's Attorney's Office is inviting applicants for the position of Deputy State's Attorney. The position will be responsible for the prosecution of adult misdemeanor and felony cases occurring in Codington County, South Dakota. Duties include charging determinations, bond arguments,

preliminary and grand jury hearings, drafting and arguing motions, court/jury trials, witness preparation, and briefing the court on relevant case law. Additional duties include assisting in the prosecution of abuse and neglect cases, juvenile cases, and representation in the Codington County Drug Court and the Veteran's Treatment Court, when necessary.

Qualifications:

Applicants must possess a Juris Doctorate degree from an accredited law school and be licensed to practice in South Dakota or willing and qualified to sit for the next available South Dakota bar examination. 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.

Salary: Annual – \$56,710.08 - \$68,549.04, depending on experience. Codington County also offers a comprehensive benefits package including paid holidays; health, dental and life insurance and inclusion in the South Dakota Retirement System (SDRS).

Please submit resume to: Rebecca Morlock Reeves, Codington County State's Attorney, 14 1st Ave. SE, Watertown, SD 57201

Opening and Closing dates: Until filled.

Associate Attorney - Sioux Falls

Boyce Law Firm, LLP, a top-rated 20+ lawyer firm located in Sioux Falls, is accepting applications for ASSOCIATE ATTORNEYS in the firm's litigation section. Applicants must be self-starters with a strong desire to learn. Superior written and verbal communication skills are of utmost importance. Visit our website at www.boycelaw.com to learn more about the firm, our history, and our people.

All applicants are welcome to apply. Preference will be given to applicants in the top 1/3 of their class, to those who have prior work experience, and to those currently licensed to practice in South Dakota. Start Date: Upon hiring.

Benefits include generous 401K match, profit sharing, health insurance, annual CLE tuition, professional dues and memberships, and numerous incidental benefits.

Direct resume, cover letter, and law school transcript to Michele Benson, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to mlbenson@boycelaw.com.

Litigation Associate - Sioux Falls

Donahoe Law Firm P.C. is seeking an associate attorney with 1-3 years of experience. Work will primarily be in litigation, including appeals, with some estate planning and business law/commercial matters. The position requires research and brief writing, trial preparation and participation in client representation for agricultural, intellectual property, construction and railroad law and complex litigation before public bodies or agencies, and the state and federal courts in South Dakota, Minnesota and Iowa (preferably licensed in South Dakota). Candidates should possess excellent research and writing skills, ideally with some trial experience and a desire to learn unique or new areas of the law. All applications will be held confidential.

Please send a cover letter and resume to:
Donahoe Law Firm, P.C., 401 East 8th Street, Suite 215,
Sioux Falls, SD, 57103.

Corporate Counsel – Sioux Falls

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The ideal candidate has 5-10 years of relevant experience, is licensed to practice in MN, ND, and/or SD, and has experience in telecommunications law or is willing and interested in developing this technical expertise. Please apply online at: <https://recruiting.ultipro.com/MID1014MIDCI/JobBoard/ca97a482-b516-4320-be97-08b06a44002f/OpportunityDetail?opportunityId=7c7a10e1-a053-4438-bc31-112cccba95d>

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Trust Officer - Sioux Falls

CISA Trust Company South Dakota is currently accepting applications for a trust officer. Applicants should have at least 3 years of experience in the trust industry as a trust administrator, trust officer or equivalent. Applicants with international trust administration experience and relevant professional designations are desired. Experience with partnership/LLC formation, maintenance and management is also a plus. Must be able to think and work independently. To apply, please email cover letter and resume to jolson@cisatrust.com.

Corson County Public Defender

The Corson County Board of County Commissioners is accepting applications for an independent contractor position as Public Defender for the remainder of 2020. The Contract offered is \$ 3,000.00 per month, no benefits, renewable on the last day of each month and ends December 31, 2020. The Public Defender contract will require representation in all felony and misdemeanor adult and juvenile criminal cases as well as Abuse and Neglect, CHINS and other juvenile actions. Applicants must be licensed to practice in South Dakota and criminal defense experience is required.

Please direct all applications to the Corson County Auditor's Office at
PO Box 255, McIntosh, SD 57641 or email:
corsonauditor@sdplains.com, or my office email:
corsoncosa@faithsd.com.
Cheryl Laurenz-Bogue
PO Box 250
Faith, SD 57626
corsoncosa@faithsd.com

Deputy State's Attorney - Pierre

HUGHES COUNTY: Full-time permanent position now open for a Deputy State's Attorney in the Hughes County Office of the State's Attorney in Pierre, South Dakota.

Looking for a criminal attorney to handle a variety of complex matters and responsibilities including but not limited to preparing and managing a caseload of primarily misdemeanor cases, present those cases for legal proceedings, perform legal research, and prepare, draft and file legal documents and correspondence.

Looking for a team player who would be willing to cover felony hearings, advise local law enforcement agencies, deal with juvenile justice issues, provide information to victims and witnesses, perform civil work on behalf of the County, and help fulfill the statutory responsibilities of the office.

Minimum Qualifications: Graduation from a college of law, attainment of a Juris Doctorate degree from an accredited law school, and admission by the Supreme Court of South Dakota to practice law in the state of South Dakota.

Pay is commensurate with experience and competitive with other local agencies.

Please send a resume and cover letter to Jessica LaMie, Hughes County State's Attorney, 104 E. Capitol, Pierre, SD 57501. Resumes and cover letters will also be accepted via facsimile at 605-773-7460 and email at jessica.lamie@co.hughes.sd.us.

Posting to remain open until the position is filled. All inquiries are confidential. Hughes County is an Equal Opportunity Employer.

Litigation Associate - Rapid City

Goodsell + Oviatt Law Firm is seeking a Litigation Associate in Rapid City, SD. Primary work will be personal injury, construction, insurance law, with some estate planning and business law/commercial matters. This position also requires research, brief writing, trial preparation and complex litigation before state and federal courts in South Dakota, Wyoming, Nebraska, and North Dakota. Strong academic credentials and excellent communication skills (both oral and written) required. The firm offers a comprehensive benefit plan and an opportunity for professional development and growth. Compensation DOE. Confidential inquiries, including résumé and cover letter detailing experience, should be directed to Nathan Oviatt, Goodsell + Oviatt Law Firm, 246 Founders Park Drive, Suite 201, Rapid City, SD 57701 or by email at nate@goodselloviatt.com.

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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.

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Webinar

17

DECEMBER

BAR COMMISSION MEETING

Teleconference

TBA

JANUARY

BAR COMMISSION MEETING

TBA

18

FEBRUARY

BAR COMMISSION MEETING

TBA

18

MARCH

BAR COMMISSION MEETING

TBA