



State Bar of South Dakota

NEWSLETTER

FEBRUARY 2021



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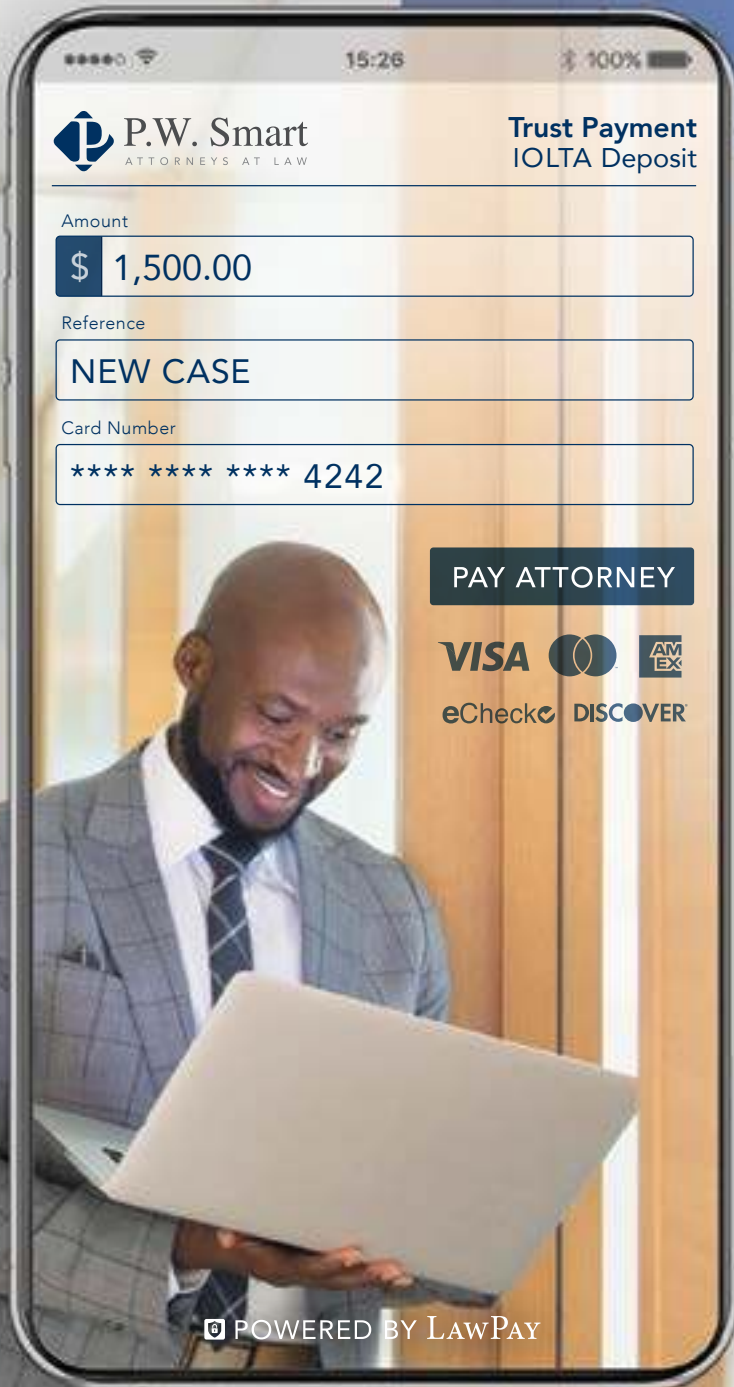
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State Bar of South Dakota



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State Bar of South Dakota

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President's Corner

Terry G. Westergaard

The State Bar of South Dakota began strategic planning ten years ago. Since then, the Strategic Plan has been adopted by the Bar Commission and implemented by leadership and staff through State Bar committees, sections, and in collaborative effort with partners and stakeholders. Generally, it has been a three-year plan. The vision for our current plan is that we are, “an invaluable partner in every attorney’s practice, and a trusted community leader that ensures the justice system is evolving to meet the needs of all South Dakota residents.” The goals of the plan attempt to carry out that vision.

The current plan is reprinted in this Newsletter. As goals are accomplished and priorities shift, the focus of the plan changes. One current focus is working with USD Knudson School of Law in recruiting and retaining lawyers who will competently and effectively serve communities throughout South Dakota. As Dean Fulton said in the November newsletter, predictions indicate a precipitous drop in high school graduates by 2025. The State Bar with the direction of the Strategic Plan is determining how to address this and a host of other issues when it comes to supporting our Law School.

Likely, recruitment efforts will need to be started at an earlier age, so the high school graduates begin thinking about law school. Recruitment will need to take place in previously overlooked areas of our state. The Law School will be recruiting from a shrinking environment of candidates seeking higher education. In previous newsletters, I highlighted members of our bar staff. This month I highlight the staff member who oversees the strategic planning process for our State Bar as well as handles a host of other responsibilities in order to assist in implementation of the plan. That is no small task when you consider all the moving parts of the State Bar. Please review the plan and contact Beth or me with suggestions or comments.

Beth has worked with the State Bar for five years. Here is my conversation with Beth.

TERRY: Thanks for taking some time to answer a few of my questions, Beth. First, why did you apply for a position with the State Bar and what keeps you here?

Beth: Hi Terry! Glad to be here. Let’s see... When I reviewed the job description and observed what my predecessor did, I knew this position would be a great fit for me. I love strategic thinking, supporting our leadership and volunteers, and designing creative solutions for whatever comes through the door – or, more likely this year, my inbox. The job continues to evolve to fit the needs of the strategic plan and I enjoy the opportunity to learn something new on an almost daily basis. It is never dull around here.

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

Beth: When not in the middle of a pandemic, I love to travel and spend time with my family who live across the country. I also enjoy trying out new restaurants, visiting local breweries, and concert-going. A few years ago, I also picked up hot yoga as a personal form of torture – I mean, exercise. This past year, much of my “favorite things” have gone to the wayside. Instead, I’ve taken to home projects, online karaoke, Zoom happy hours, and walking the dog.

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

Beth: I think the term is an extroverted introvert? I fall in the middle of the introvert/extrovert scale, but lean introvert. I get mistaken for an extrovert, but I relate to so many introvert qualities. For those who are curious, here is a link to learn more about the extroverted introvert: <https://introvertdear.com/news/extroverted-introvert-signs/>

TERRY: Let’s hear more about this dog of yours, I hear he’s an important part of the family.

Beth: Absolutely! Cole is my 11-year-old black lab puppy. I adopted him from a rescue about ONE WEEK after graduating law school. This past May, we celebrated his tenth “adoptionsary.” He has been a constant and loyal friend throughout my entire

legal career and travels with me all the time. He also takes up about 80% of my posts on Instagram.

TERRY: Cole is also a co-worker, of sorts?

Beth: Yes. Remote work was not an issue for me this past year as I have been working remotely from Sioux Falls since joining staff in 2015. Cole joins me in the home office frequently.

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

Beth: Besides being able to do all the “favorite things” I mentioned previously? One thing I am looking forward to, probably more than all the rest, is visiting my family and giving each one of them an uncomfortably long BIG BEAR HUG.

TERRY: You’ve talked a bit about some of your favorite things, how about your favorites for this list?

MOVIE: Lord of the Rings...the entire thing.
BAND/MUSICIAN: My favorite is CONSTANTLY changing, I’m currently listening to Taylor Swift, Lizzo, Eagles, Lauren Daigle, and Jon Batiste
VACATION SPOT: This changes, too. Today I am dreaming of Coogee Beach, New South Wales.
HOLIDAY: 4th of July
COLOR: Emerald green
ICE CREAM FLAVOR: Cookies and Cream
MEAL: A ribeye steak (medium rare) with veggies and a salad
RESTAURANT IN PIERRE: La Minestra
SEASON OF YEAR: In South Dakota, definitely summer.

TERRY: One final question for me to keep in mind when I stop by to see you in Sioux Falls. How do you take your coffee/favorite beverage?

Beth: For coffee, I enjoy a soy vanilla latte. After hours? I’d appreciate a nice glass of red wine. Thanks!



State Bar of South Dakota

STRATEGIC PLAN

2019-2022

State Bar of South Dakota 2019-2022 Strategic Plan

Vision

The State Bar of South Dakota is an invaluable partner in every attorney's practice, and a trusted community leader that ensures the justice system is evolving to meet the needs of all South Dakota residents.

Organizational Values

These core values direct how the State Bar of South Dakota conducts itself as it works to achieve its goals and fulfill its mission.

Integrity

We will strive to earn and maintain your trust.

Professionalism

We respect the rule of law and promote ethical conduct, personal integrity and civility in all our deliberations and decisions.

Diversity and Inclusion

We recognize we are more effective when we bring different perspectives, experiences and backgrounds to our collective activities and decision making.

Transparency

We will strive to promote openness, communication and accountability.

Responsiveness

We will provide excellent service and adjust to the changing needs of members and the public.

Compassion

We will treat one another with understanding and kindness.

Collaboration

We will create alliances that allow us to achieve a greater impact with our limited resources.

Innovation

We will continually explore and advance new ways to provide excellent service to members and the public.

State Bar of South Dakota 2019-2022 Strategic Plan

<p>Goal 1: The State Bar of South Dakota promotes a diverse and inclusive legal profession that competently serves South Dakota</p>	<p>We will achieve this goal by:</p> <ol style="list-style-type: none">1. Assisting the Unified Judicial System to effectively regulate the profession2. Supporting member competence, civility and continuing professional development3. Strategically partnering with the University of South Dakota School of Law to meet the state's legal needs4. Building a profession that reflects the diversity of South Dakota5. Pursuing legislative advocacy that supports the bar's mission and purpose
<p>Goal 2: The State Bar of South Dakota supports lawyers' pursuit of personal and professional satisfaction in the practice of law</p>	<p>We will achieve this goal by:</p> <ol style="list-style-type: none">1. Equipping lawyers to adapt to and compete in the changing legal environment2. Fostering a diverse, inclusive and welcoming environment that enhances collegiality, civility and professionalism3. Focusing on lawyer wellness and increasing resources to support lawyers with mental health issues including depression, substance abuse and other addictions
<p>Goal 3: The State Bar of South Dakota assures access to legal information and services for all South Dakota residents</p>	<p>We will achieve this goal by:</p> <ol style="list-style-type: none">1. Identifying barriers to access2. Facilitating a more comprehensive approach to legal services delivery in South Dakota3. Exploring innovative practice models that would increase the accessibility and affordability of legal services4. Supporting specialty, tribal, state and federal courts to improve the administration of justice
<p>Goal 4: The State Bar of South Dakota builds public trust in the justice system, the legal profession and the law</p>	<p>We will achieve this goal by:</p> <ol style="list-style-type: none">1. Raising the public's awareness of individuals' legal rights and obligations, the importance of the rule of law and our democratic institutions2. Providing lawyers with opportunities to serve as educators and stakeholders in their communities
<p>Goal 5: The State Bar of South Dakota builds a responsive, transparent and forward-looking organization that advances its mission and the strategic plan</p>	<p>We will achieve this goal by:</p> <ol style="list-style-type: none">1. Employing board governance practices that support broad-based decision making and timely action2. Enhancing our technology infrastructure to meet the current and future needs of members and the bar3. Ensuring the bar's critical functions receive appropriate staff support4. Building awareness of SBSB programs and initiatives through a variety of effective communication channels

State Bar of South Dakota 2019-2022 Strategic Plan

GOAL	We will achieve this goal by:	Current Supporting Activities:	Activities to Augment, Continue/Evolve, Downgrade, Phase Out or Stop	Specific New Ideas or Activities
<p>Goal 1: The State Bar of South Dakota promotes a diverse and inclusive legal profession that competently serves South Dakota.</p>	1 Assisting the Unified Judicial System to effectively regulate the profession	Regulatory activities (disciplinary functions, licensing and compliance functions), CLE programming, ethics opinions, rule changes, Hagemann-Morris Mentor Coin Program, collaboration	Continue dialogue with the Supreme Court regarding mandatory bar challenges Educate/encourage interventions prior to discipline-level violations Educate members/develop official statement regarding SBSB's position on the unauthorized practice of law	Create a policy/ mechanism for handling discrimination and harassment complaints
	2 Supporting members' competence, civility and continuing professional development	with the law school and courts	<p>Implement the CLE plan ONGOING</p> <p>Promote the work of the Ethics Committee</p> <p>Improve the impact of the Hagemann-Morris Mentor Coin Program</p> <p>Expand availability of mentoring opportunities beyond young lawyers</p> <p>Promote firm succession planning especially for rural practices</p> <p>Revisit mandatory CLE for SD</p>	<p>-Engage with USD faculty for CLE programming</p> <p>-Coordinate efforts on USD law civility and professionalism module (possibly return to offering SD Practice course to bar members as well)</p>
	3 Strategically partnering with the University of South Dakota School of Law to meet the state's legal needs		Effectively prepare law students and assist with transition to practice (e.g., business of practice, internship opportunities)	<p>Work with the law school to create more diverse pipelines to practice</p> <p>-Legal Needs Assessment to determine strategic partnerships</p> <p>-Internship projects/curriculum</p> <p>Recommendation: high priority</p>
	4 Building a profession that reflects the diversity of South Dakota		<p>Continue Diversity and Inclusion Committee work</p> <p>Better understand the current diversity of the bar and SD community to measure future progress</p>	<p>-Develop potential intern research project on data/census of profession</p> <p>-Support USD law mentorship and outreach efforts (tribal, big-small town, rural, first gen)</p> <p>-Create workgroup to lay out issues and identify entity/process</p> <p>Recommendation: high priority</p>
	5 Pursuing legislative advocacy that supports the bar's mission and purpose		Continue advocacy activities	-Education on state bar legislative advocacy and process

State Bar of South Dakota 2019-2022 Strategic Plan

GOAL	We will achieve this goal by:	Current Supporting Activities:	Activities to Augment, Continue/Evolve, Downgrade, Phase Out or Stop	Specific New Ideas or Activities
<p>Goal 2: The State Bar of South Dakota supports lawyers' pursuit of personal and professional satisfaction in the practice of law</p>	<p>1 Equipping lawyers to adapt to and compete in the changing legal environment</p>	<p>CLE programming, Lawyers Assistance Committee, Lawyers Concerned for Lawyers activities, wellness programming (SOLACE, Sand Creek EAP, Mental Health Centers Agreement, #Fit2PracticeSD, Disability Rights SD, SDCL 16-19 changes), Hagemann-Morris Mentor Coin Program,</p>	<p>Continue to evolve existing programming to address technology competence (e.g., cybersecurity, practice tools)</p> <p>Continue to highlight ways practice is changing, including new opportunities for lawyers (e.g., artificial intelligence)</p>	<p>-Review USD curriculum offerings for potential CLE content in AI, tech, cybersecurity, etc...</p> <p>-Coordinate USD calendar of events for larger speakers with CLE -Gunderson Lecture, Constitutional Law Society, Lavender Lecture, Thurgood Marshall, Law Review Symposium...</p> <p>-Tech enhancements at law school will increase availability and access to school programming</p>
	<p>2 Fostering a diverse, inclusive and welcoming environment that enhances collegiality, civility and professionalism</p> <p>Recommendation: high priority</p>	<p>Committee/Section involvement and recruitment, Annual Meeting, online communities</p>	<p>Special attention needed for those in remote areas, lawyers in recovery, tribal attorneys, underrepresented groups, new lawyers and out-of-state students</p> <p>Continue to make this a major theme in communications from SBSB leadership</p> <p>Continue work of the Diversity and Inclusion Committee</p> <p>Engage members in the work of the strategic plan</p>	<p>Designate a point person on CLE and bar event committees to lead this effort</p> <p>-Promote USD faculty (law and campus JDs) to join bar committees, sections, leadership</p> <p>-Continue efforts to support law student affinity groups</p> <p>-Build on ABOTA outreach work</p>
	<p>3 Focusing on lawyer wellness and increasing resources to support lawyers with mental health issues including depression, substance abuse and other addictions</p> <p>ONGOING</p>		<p>Continue and evolve current focus on wellbeing</p> <p>Evolve the Sandcreek service</p>	<p>-Becky's work/outreach/education at the law school continues</p>

State Bar of South Dakota 2019-2022 Strategic Plan

GOAL	We will achieve this goal by:	Current Supporting Activities:	Activities to Augment, Continue/Evolve, Downgrade, Phase Out or Stop	Specific New Ideas or Activities
<p>Goal 3: The State Bar of South Dakota assures access to legal information and services for all South Dakota residents</p>	<p>1 Identifying barriers to access ONGOING YEAR 1 PRIORITY</p>	<p>Advocacy activities and monitoring legislation, Project Rural Practice, Lawyer Referral Program, A2J (pro bono and modest means program), Ask-a-Lawyer, SD Free Legal Answers, VA medical-legal partnership, legal clinics (veterans, WIL, domestic violence), 2nd Circuit WORKS program (expanding to 7th Circuit summer 2019), legal services website and intake system, collaborative grants with legal aid, a LCDI interpreter directory, DLS Guidebook</p>	<p>Revamp Legal Services Committee (to Access to Legal Services Committee) Work with legal aid partners on comprehensive analysis of barriers to access</p>	<p>Legal Needs Assessment</p>
	<p>2 Facilitating a more comprehensive approach to legal services delivery in South Dakota</p>		<p>Continue to develop Project Rural Practice and extend into additional counties and Indian Country Initiate discussions among organizations providing legal services to identify opportunities for collaboration</p>	<p>-Rural Internship Incentive Program structure -SDLawHelp article and resource work (See DLS guidebook)</p>
	<p>3 Exploring innovative practice models that would increase the accessibility and affordability of legal services Recommendation: high priority</p>		<p>Explore opportunities to engage law students in this effort Explore options such as legal clinics in nonprofits, legal information publications, UT small claims model Strengthen the pro bono culture</p>	<p>-Build upon current law school/bar service events -SD Free Legal Answers clinic with students -Bankruptcy education and clinic efforts -Continue to build on WORKS model</p>
	<p>4 Supporting specialty, tribal, state and federal courts to improve the administration of justice</p>		<p>Continue dialogue with the courts about current challenges Strengthen relationship with tribal bars/courts</p>	<p>Work with the courts to address the pro se issue -Family Law Pro Se Committee -Potential to build on tribal wills clinic? -Grant writing to support courts with legal services -Finish SCRA bench book (potential intern/extern project) ONGOING</p>

State Bar of South Dakota 2019-2022 Strategic Plan

GOAL	We will achieve this goal by:	Current Supporting Activities:	Activities to Augment, Continue/Evolve, Downgrade, Phase Out or Stop	Specific New Ideas or Activities
<p>Goal 4: The State Bar of South Dakota builds public trust in the justice system, the legal profession and the law</p>	<p>1 Raising the public's awareness of individuals' legal rights and obligations, the importance of the rule of law and our democratic institutions</p> <p>Recommendation: high priority</p>	<p>Ask A Lawyer, Teen Court volunteer center, Project Destination, Law Day Activities (local bar level), statewide legal services website and intake, A2J recognition and outreach efforts, social media presence</p>	<p>Maximize use of social media to reach the SBSD's target audiences</p>	<p>Identify existing resources/<i>toolkits</i> to reach schools, service organizations, rural communities and other underserved communities</p> <p><i>-Develop Teen Court project for sustainability and student involvement</i></p> <p><i>-Identify civic education organizations to partner on specific projects for statewide outreach (Law Day)</i></p> <p><i>-Utilize Education Law Committee connections to schools if no partnership with civic education group develops</i></p> <p><i>-Inventory what is currently being done and repackage/emphasize as needed</i></p>
	<p>2 Providing lawyers with opportunities to serve as educators and stakeholders in their communities</p> <p>Recommendation: high priority</p>			<p>See above</p> <p>Create local bar association leadership listserv to share ideas, projects and encourage collaboration</p> <p><i>-Research efforts of state bar associations and identify plans suitable for South Dakota Bar – directly targeting 8th grade and up</i></p> <p><i>-How can students assist in coordinating efforts for pro bono hours?</i></p> <p><i>-How can/should technology be employed here?</i></p>

State Bar of South Dakota 2019-2022 Strategic Plan

GOAL	We will achieve this goal by:	Current Supporting Activities:	Activities to Augment, Continue/Evolve, Downgrade, Phase Out or Stop	Specific New Ideas or Activities
<p>Goal 5: The State Bar of South Dakota builds a responsive, transparent and forward-looking organization that advances its mission and the strategic plan</p>	<p>1 Employing board governance practices that support broad-based decision making and timely action</p>	<p>Governance structures/processes, SBSB staff, strategic planning, administrative processes, SBSB Newsletter, website/online communities/social media presence</p>	<p>Continue to communicate the role of Board of Commissioners</p> <p>Maximize non-dues revenue opportunities</p>	<p>Revisit mission/purpose as reflected in SDCL § 16-17-2 and update to be sure it reflects current bar priorities/values</p>
	<p>2 Enhancing our technology infrastructure to meet the current and future needs of members and the bar</p> <p>ONGOING</p>		<p>Explore technology options available to the SBSB</p> <p>Rethink traditional program/service delivery methods and ensure bar resources are available to members throughout the state</p> <p>Move more transactions online</p> <p>Reconsider directory format</p>	<p>-Review website for accessibility – what should be open access to that is currently behind “the wall?”</p>
	<p>3 Ensuring that the bar’s critical functions receive appropriate staff support</p> <p>ONGOING</p>		<p>Dedicate staff to support the LAP, CLE and communications functions</p>	<p><i>-Intern/Extern potential (develop structure and process)</i></p>
	<p>4 Building awareness of SBSB programs and initiatives through a variety of effective communication channels</p>		<p>Communicate with the SBSB membership and entity chairs about the strategic plan</p> <p>Ramp up social media presence</p>	



STATE BAR OF SOUTH DAKOTA
YOUNG LAWYERS SECTION



by: Caroline A Srstka
YLS President

This month, I am featuring a South Dakota Young Lawyer! I always appreciate learning how other young lawyers live and practice around our state, so I asked young lawyer Austin Hoffman to share his perspective on opening his own practice in rural South Dakota with the help of Project Rural Practice.

Austin Hoffman

Going into law school, I was very unsure where my path would lead after graduation. While the thought of moving back home, to Eureka, and hanging my own shingle was in the back of my mind, I did not know if it was something that was going to be possible. The same year I started law school, 2013, the South Dakota Legislature passed Project Rural Practice (PRP). This was something that I knew I wanted to look at as a possibility. When I started law school, we were expecting our first child right around my first semester finals. I will never forget getting out of my Property final with an uncountable number of missed calls and text messages. Our first child was on the way. I won't say how fast I drove from Vermillion to Sioux Falls, but it wasn't the speed limit.

After our first child was born, the idea of moving back to where I called home became even more attractive. Throughout my second year of school, I started becoming more involved with PRP. Understanding how it works, meeting the people who run the program, and looking to get the McPherson County Board of Commissions on board with the program. The county would also have a monetary obligation if an attorney took part in the program.

At the beginning of my 2L second semester, we found out that baby number two would be arriving shortly before I began my 3L year. With PRP now well underway in South Dakota, and knowing we would have two children to think about after graduation, we finalized the decision to move back to Eureka and I signed my contract with PRP.

There were a lot of factors that went into the decision to come home. Raising two kids in a rural community with several family members was at the top of the list. However, if it wasn't for PRP, I do not think that we would have moved back to Eureka and I certainly would not have opened my own practice. It took a level of financial stress off that made all the difference. While the monetary part of PRP is a great benefit, it also immediately opened up a network of attorneys who were willing to help me get my practice started and were always there to answer questions or provide forms. Without a support network of other attorneys, it would have been impossible for me to go from being a student to having my own practice. In that sense, PRP rural practice is likely the reason I am still a solo practitioner.



When PRP began, there were few rural attorneys in South Dakota and many of those practicing in less populated areas were on the cusp of retirement. While PRP has certainly helped get attorneys into these areas, the problem is still very real. The other attorney in Eureka will be quasi retiring at the end of 2020. There is one other attorney in a neighboring community, roughly 20 miles away. The next closest attorneys, two of them, are roughly 40 miles from Eureka. And the farther west you go, the worse the situation gets. If no other attorneys move into my area, I will likely be the only attorney in a 70 – 80 square mile area within the next 15-20 years.



I don't know what the future of PRP looks like. But I do believe that the rural residents of South Dakota shouldn't be forced to travel several hours to meet with an attorney. My hope is that the South Dakota State Legislature sees that rural South Dakota is still becoming a legal black hole and continues funding for PRP. Its not just about helping pay off the debt of your attorneys, but it's a program that helps ensure everyone has fair access to legal help.



Tips for De-Stressing

Clear your mind

Breathe

Go for a walk

Read a book

Work out



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.

Sustaining Life Fellow - \$50,000 plus

(cumulative, including pledges & testamentary gifts)

- * Fred & Luella Cozad

Life Fellow - \$25,000 plus

(cumulative, including pledges & testamentary gifts)

- * Frank L. Farrar

Diamond Fellows - \$10,000 plus

(cumulative, including pledges & testamentary gifts)

- * Thomas C. Barnett, Jr.
- * Robert E. Hayes
- * Scott C. Moses

Platinum Fellows - \$10,000

(cumulative, including pledges & testamentary gifts)

- * Hon. Richard H. Battey
- * Hon. John B. Jones
- * Charles L. Riter
- * William Spiry
- * Hon. Jack R. Von Wald

Gold Fellows - \$5,000

(cumulative, including pledge)

- * Richard A. Cutler
- * William F. Day, Jr.
- * P. Daniel Donohue
- * Dana J. Frohling
- * Richard L. Kolker

Silver Fellows - \$1,000 (per year)

- * Frankianne E. Coulter
- * Kimberley A. Mortenson
- * Timothy J. Rensch
- * James E. Smith

Fellows of the South Dakota Bar Foundation

Presidential Fellows - \$10,000

- * John P. Blackburn
- * Richard D. Casey
- * Hon. Michael Day
- * Robert B. Frieberg
- * Thomas H. Frieberg
- * William C. Garry
- * David A. Gerdes
- * Hon. David R. Gienapp
- * Patrick G. Goetzinger
- * G. Verne Goodsell
- * Robert E. Hayes
- * Terry L. Hofer
- * Steven K. Huff
- * Hon. Charles B. Kornmann
- * Bob Morris
- * Thomas J. Nicholson
- * Gary J. Pashby
- * Stephanie E. Pochop
- * Reed A. Rasmussen
- * Pamela R. Reiter
- * Robert C. Riter, Jr.
- * Eric C. Schulte
- * Jeffrey T. Sveen
- * Charles M. Thompson
- * Richard L. Travis
- * Thomas J. Welk
- * Terry G. Westergard

Fellows - \$500 (per year)

- * Hon. John Bastian
- * Mary Jane Cleary
- * Andrew L. Fergel
- * Craig A. Kennedy
- * Hon. Judith K. Meierhenry
- * Hon. Bobbi Rank
- * Robert C. Riter, Jr.
- * Laura Clark Rowe
- * Thomas Eugene Simmons
- * Jason R.F. Sutton
- * Barry R. Vickrey



Our Profession. Our Responsibility.

Dean's List: News from the Law School



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

Finding opportunities for students to gain hands-on experience in law school is imperative. Employers consistently express their desire for graduates to come to work with practical experience and preparation, even if that preparation is inevitably incomplete. Students consistently express their desire to put what they learn in the classroom to work in practical settings. As we all remember from law school, it is fun to find ways to start using what you know. Experiential opportunities are critical, so we work hard to develop opportunities for students to have them in a variety of settings.

I am excited to tell you about an initiative this year to give USD students hands-on experience with the legislative process. Thanks to the help of several lawyers who serve as lobbyists and legislators, six USD students will get hands on experience during the South Dakota Legislative Session. These students will get invaluable experience drafting and tracking legislation, preparing materials in support of legislative presentations, and actively lobbying legislation themselves. This inside look at the legislative process is a great opportunity. While hands on experiences are vital wherever they come, I think experience with the legislative process is particularly important for a few reasons.

First, we are a nation of statutes despite the overwhelming focus on common law in the first year of law school. Whether the U.C.C. or bankruptcy code, criminal statutes, statutes codifying principles of tort or contract, or the statutes regulating complex industries like healthcare or banking, statutes drive much if not most of the work lawyers do. The debate about how central statutory study should be is long running within the legal academy. One of my law school mentors, Phil Frickey, was a vocal proponent

of making the study of statutes and the legislative process central to the law school curriculum. Between Phil's guidance, my work at a firm with an extensive lobbying practice, and my personal interest in public policy and the political process, I have always believed that studying statutes and the legislative process is imperative.

Second, having a solid understanding of how statutes are made and interpreted is enormously valuable. If a lawyer can advise a client not only about what the law is, but how it has been formed and could be changed increases the options that lawyer can put in front of their client. It also increases the ability of that lawyer to protect their client's interests when statutory changes are proposed. Getting students directly involved in the legislative process while in law school gives them an enormous leg up as they move into practice.

Third, having lawyers involved in the legislative process improves the process. A citizen legislature certainly benefits from having representatives from many professions and walks of life. However, lawyers bring special skill and perspective to the legislative process. Lawyerly focus on precise drafting, understanding how statutes are applied in practice, and the ability to balance a search for compromise with advocacy for preferred outcomes makes the legislative process run more effectively. The habits of mind lawyers possess fit well within the legislature. I believe with the Law School's commitment to developing leaders oriented toward service, nothing is more important than exposing students to opportunities to serve and lead. Many of our graduates have been and are legislators; I hope that this new opportunity will inspire many current students to someday follow that path as well.

To close, I want to say thank you to several lawyers personally. The pace of the Legislative Session is frantic. It is complicated this year by taking appropriate steps to be COVID safe and wrestling with the week-to-week uncertainty that imposes. It is not an easy environment in which to host a law student. Students, while helpful volunteer labor, require time, attention, and teaching. Even when it is easier to do it yourself, it is important to teach someone else along the way. I cannot say thank you enough to these lawyers for hosting legislative externs

this year: Ryan Cwach, Drew Duncan, Jon Hansen, Brett Koenecke, Art Rusch, and Bill Van Camp. I appreciate each them for joining a pilot project. For all the other lawyer lobbyists and legislators, we plan to not only continue but expand this program in the future. I hope to connect with you about participating in future years to the mutual benefit of you and the next generation of lawyers.

To all the lawyers who advance the legislative process through service as legislators or lobbyists, thank you. Your involvement is invaluable to making our system of self-governance run with efficacy and integrity. Your example to the next generation of lawyers is inspiring.



89th
ANNUAL MEETING
JUNE 16-18, 2021

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SAVE THE DATE

The poster features a circular graphic with a brick pattern background containing the text '89th ANNUAL MEETING' and 'JUNE 16-18, 2021'. Below the circle is a silhouette of a city skyline. The bottom section of the poster is dark green with white and yellow text.



PSA

CERTIFICATE OF COMPLIANCE

The Deadline was January 31st!
If you have not sent this in please do so now!

GOOD NEWS!
You can now email in your Certificate of Compliance!

Go green. Save the planet!
Email your Certificate of Compliance to:

kylee.hoffman@sdbar.net

The graphic is a PSA for a Certificate of Compliance. It features a background image of a large tree in a field. The text is arranged in several sections: a large 'PSA' in the top right, 'CERTIFICATE OF COMPLIANCE' in a dark banner, a deadline notice in white boxes, 'GOOD NEWS!' in a large font, a call to action in a grey box, and the contact email in a green box and a pink banner at the bottom.



JUSTICE SQUAD

Thank you to the following attorneys for accepting a pro bono or reduced rate 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.

BRAD REYNOLDS
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AND MUCH THANKS TO:

DENISE LANGLEY
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A2J

HERO



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

ANNOUNCEMENTS

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

Jason A. Glodt

has joined the firm as an associate attorney.

Gunderson, Palmer, Nelson & Ashmore, LLP
111 W. Capitol Ave. Suite #250
Pierre, SD 57501
Telephone: (605) 494-0105

jglodt@gpna.com

www.gpna.com

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

Katelyn A. Cook

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

Gunderson, Palmer, Nelson & Ashmore, LLP
506th Street
Rapid City, SD 57701

Telephone: (605) 342-1078

katie@gpna.com

www.gpna.com

Fuller, Williamson, Nelsen & Preheim, LLP
is pleased to announce that

Molly K. Beck

has become a Partner in the firm.

Fuller, Williamson, Nelsen & Preheim, LLP
7521 South Louise Avenue
Sioux Falls, SD 57108

Telephone: (605) 333-0003

Facsimile: (605) 333-0007

mbeck@fullerandwilliamson.com

Tieszen Law Office, Prof. LLC
is pleased to announce that

Christopher C. Houlette

has joined the firm as an associate attorney
effective January 5, 2021.

Tieszen Law Office, Prof. LLC
P.O. Box 550
306 East Capitol, Suite 300
Pierre, SD 57501

Telephone: (605) 224-1500

Facsimile: (605) 224-1600

chrish@tieszenlaw.com

MorganTheeler LLP
is pleased to announce that

Jacob W. Tiede

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

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

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

jtiede@morgantheeler.com



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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





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Paycheck Protection Program

A Risk Management Tip for Attorneys Who Act as Title Agents

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

Sometimes the teacher becomes the student, which is exactly what happened to me during a post CLE conversation between a panel member and an attendee that I was fortunate enough to be privy to. In short, the conversation centered around the issue of title insurers bringing claims against their attorney title agents for title search errors such as failing to find a mortgage assignment; a land subdivision; a deed entry or deed fraud; a will and probate entry; or liens, encumbrances, easements or encroachments just for starters. Defective title examinations happen and when they do, an attorney title agent will often find him or herself standing in the crosshairs of potential liability, regardless of whether a separate title examiner was involved.

Of course, when malpractice insurers are called upon to defend an attorney title agent in a defective title

examination claim, they will look to any involved title examiner for contribution, if not full indemnity, if he or she really was the one responsible for the defective examination. Unfortunately, and I suspect this comes as no surprise, title examiners don't always maintain their own errors and omissions (E & O) coverage. This is why legal malpractice insurers always advise their insureds to only work with title examiners who can document that they do indeed have an E & O policy in place.

Here's where the conversation got interesting, however, at least from a risk manager's perspective. The attendee asked if we ever look to see if there is a provision in our insured's contract with the title insurer that, in the event of a title search error, would require the title insurer to look to the title examiner for indemnification and not the attorney title agent. The presence of such a provision might enable the legal malpractice insurers to resolve these claims early on without incurring much in the way of defense costs and any loss payout. This is when I learned that finding provisions like these seems to be an uncommon occurrence; but they needn't be.

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If you are an attorney title agent and don't already have such a provision in your contract with the title insurer, perhaps it's worth trying to change that. And as a matter of course going forward, I would encourage you to insist that such a provision be included in all new contracts with title insurers. The basics of this kind of provision are straightforward. The title insurer would agree to hold the attorney title agent harmless from any loss or damage based upon errors in any title examination done by any approved title examiner. An approved title examiner would be someone who not only certifies title or bring-downs in writing but maintains enough E & O coverage to cover the associated risks.

At this point, the conversation ended, and I was left wondering why I hadn't come across this idea sooner. Things could have played out quite differently on past claims had such a provision been included in our insureds' contracts with their title insurers. Thankfully, now there's an opportunity for that to change.

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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.

Membership Directory Updates

can be emailed to

tracie.bradford@sdbar.net

The subject of your email should be "Directory Updates" and include:

- Firm Name
- Zip Code
- Address
- Phone
- City
- Fax
- State
- Public Email

MARCH

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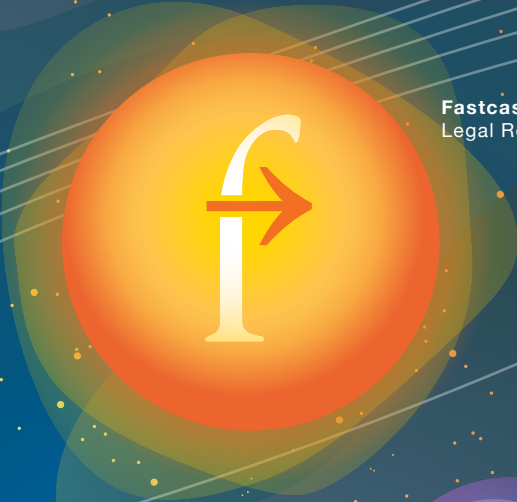
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CERTIFICATE OF COMPLIANCE

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



which should be carefully weighed against the upsides:

- Employees can feel isolated (no in-person contact with coworkers or customers)
- Motivation may be lost, and performance may suffer
- Communication may not be as effective or clear – certain messages can be lost if not transmitted in person
- Difficulty in managing a home environment when others around and distractions
- Confidentiality and security concerns in an at-home work environment

When the COVID-19 pandemic swept the nation in early 2020, businesses had to swiftly shift business models and determine how work could be accomplished while keeping their employees safe, healthy, and socially distant. One of the largest changes in the 2020 workforce was employers’ use of remote work arrangements – otherwise known as “teleworking.”

While at first blush the use of remote working arrangements seems like a “no brainer,” with numerous advantages for both the employee and employer, there are downsides that must be considered. In addition, there are hidden legal issues to be identified, explored in advance, and carefully analyzed, to avoid unwanted surprises down the road.

Let’s take a look at the vast amount of advantages offered by telework:

- Increased employee productivity
- Increased employee mental health/morale
- Cut down on employee commuting (time and dollars)
- Employers can save thousands of dollars per employee on office costs/expenses
- Reduces carbon emissions (environmental)
- Economy benefits as employees have more free time to spend and shop more
- Flexible work arrangement seen as an employee benefit
- Employee relations / engagement
- Company leaders can still manage the business effectively

On the other hand, there are a handful of downsides,

Before a business determines whether it can or should offer employees a work-from-home alternative, it is best to understand the array of legal issues and determine if a teleworking arrangement is still a viable one.

Time tracking. Many employees are considered non-exempt from the Fair Labor Standards Act (FLSA) and are entitled to be paid on an hourly basis for all hours “suffered or permitted to work.” This means if they perform work - even when those hours are not assigned or authorized – they are entitled to be paid for it. In addition, for employers subject to the FLSA, they must pay their non-exempt workers overtime on hours worked over 40 in a workweek. The federal Department of Labor issued guidance on August 24, 2020, discussing employers’ duty to track compensable hours worked of remote workers. Employers will need to consider whether they will monitor employees’ computer time or some other method to determine “hours worked” – such as requiring daily or weekly time sheets from those workers.

Performance management. With employees no longer in the office or workplace with their manager, performance management can become trickier. Businesses will need to consider how employees will demonstrate productivity and turn in their work product. Managers are well advised to establish employee to-do lists, indicating the frequency of required reporting in, as well as having regular check-ins with employees and the team. Managers should also identify measurable productivity

goals and establish priorities and deadlines. Finally, supervisors/managers should still conduct performance reviews on their employees, and organizations will need to determine how they will be conducted (Zoom? Phone? In-person?) and when they will be conducted.

Home office space. Several issues need to be considered as employees carve out a space in their homes from which they will be working. First, the employer needs to establish with the employee what space is considered the actual “office” so that workers’ compensation exposure can be limited in the case of an on-the-job accident or injury. The whole house or apartment should not be considered the workspace!

Next, the employer needs to identify what business-related expenses are being incurred by the employee. South Dakota law (SDCL § 60-2-1) requires employers to indemnify employees for what they “expend or lose in direct consequence of the discharge of duties.” Consider items such as computer, internet connection, printer, paper, office supplies, electricity, hardware/software, desk/chair/stand-up desk, and cellphone. If the employer is providing items to the employee, it should take an inventory of those items. Employers also need to consider IT and technology support, who will manage it, and what the procedures will be to ensure smooth operational flow.

Communication. Managers need to be clear and up-front with employees about the manner and method of expected communication (e.g., email, Zoom call or phone call?) and what is the expected frequency. Also, managers should let employees know if they will be required to come into the office or workplace and when.

Remote work agreement/policy. Employers should consider using a formal remote work agreement, which the employer and employee will both sign and date. The advantage of this approach is that it will memorialize the understanding of the parties, details can be provided, and expectations established. Employers should be careful not to promise an indefinite at-home work arrangement,

but instead put a time limit on it (which can be extended, if needed). Finally, employers should implement a telecommuting policy and procedure so that guidelines and rules are clearly established and communicated.

Many recent research studies have concluded that remote working is here to stay for the long-term, and many employees desire to continue working remotely, at least part of the time. Each business will need to evaluate the pros and cons of going remote (or continuing remote work arrangements) and whether it makes business sense to allow employees the opportunity and flexibility of working from home. Employers will need to evaluate the job role being considered and the reasonable expectations for the job. In sum, employers will need to balance flexibility and the potential upsides with needed employee productivity and performance, as well as costs and legal compliance considerations. To be sure, remote working arrangements can continue to be a strategic advantage for certain businesses as the pandemic continues on into 2021, and beyond.

NEW UPDATES

2020-2021
COMMITTEE ASSIGNMENTS

CHECK IT OUT

In Memoriam



Michael E. Sebastian

On January 13, 2021, Michael E. Sebastian, loving husband and father, passed away at the age of 74 after a long battle with cancer.

Mike was born on October 14, 1946 in Mitchell, SD to Edward and Gladys (Teesdale) Sebastian. He married Marlene Ring on August 16, 1969. He graduated from the University of South Dakota School of Law in 1971, after which he and Marlene moved to Kimball, SD. He practiced law there until 2002, earning the trust, loyalty, and friendship of many in the community. Mike and Marlene raised two children in Kimball, David and Megan. After 2002, Mike and Marlene split their time between Sioux Falls, SD and Mesa, AZ.

Mike was preceded in death by his parents, Ed and Gladys, and by his brother, Steven. He is survived by his wife Marlene, his son David, his daughter Megan Wright (Adrian), his two grandchildren Rebecca and Ethan, his sister Patricia Fishback (Bob), and a beloved extended family.

A celebration of life will be scheduled in the future. In lieu of flowers, the family requests memorials in Mike's honor to the Kidney Cancer Association.



John L. "Jack" Morgan

Feb. 6, 1931 - Dec. 25, 2020

John L. "Jack" Morgan, 89, passed away peacefully on Christmas Morning, 2020 surrounded by loved ones at his home in Niles, Michigan.

Jack was born on February 6, 1931 to Chester and Phyllis Morgan in Mitchell,

South Dakota. After graduating from Mitchell High School, Jack attained his bachelors and law degrees at the University of South Dakota. He served as a Second Lieutenant in the U.S. Army in Korea, landing there on the day of the Armistice in 1953. After his service, in 1957 he joined his father Chet and his brother Bob at the firm, Morgan & Fuller in Mitchell.

Jack, at the time an eligible bachelor, met Nancy Wagner of Elgin, Illinois, at a resort near Brainerd, Minnesota, where she played the piano. They were married at Holy Family Catholic Church in Mitchell on August 24, 1963. Jack and Nancy raised their three children - Pat, Pete and Sheila - to also be proud graduates of Mitchell High.

Jack continued with the firm for 42 years. While his brother Bob was elected to the South Dakota Supreme Court in 1976, Jack Morgan and partner Jack Theeler continued to build the firm, which traces its roots in Mitchell to 1893. He retired in 1999, and Morgan & Theeler, LLC remains today one of the most well-respected firms in eastern South Dakota.

Jack was a lifetime member of the South Dakota Bar Association, and an invited member of the American Board of Trial Advocates. In addition to his distinguished career in the law, he was a member of the Elks Club and the Knights of Columbus, and he served as board member of the former Crippled Children's Hospital in Sioux Falls, known later as the Children's Care Hospital, and today as LifeScape. He was a patient and caring father and grandfather, a respected member of his community, and a loving husband to the end of his days to his wife, Nancy. He loved to hunt pheasants and ducks, play golf, spend time with good friends, watch sports, and take in the news.

Jack was predeceased by his parents, Chet and Phyllis, his sister Constance, who died as an infant, and his brother Bob. He is survived by Nancy, his beloved wife of 57 years, and by their three children, Pat of Danville, California, Pete of South Bend, Indiana, and Sheila of New Canaan, Connecticut, and six grandchildren. An intimate family funeral was held for Jack at St. Augustine's Parish in South Bend, Indiana, where he and Nancy were members, on December 28. The family plans a wider celebration of Jack's life at a later date. In lieu of flowers, please consider a donation to the Abbott House of Mitchell, SD at abbotthouse.org.

YOU ARE INVITED TO JOIN!

Fellows of the South Dakota Bar Foundation

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 aging, substance abuse and mental health issues.

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- Platinum Fellow – \$10,000, cumulative.
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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.

Mail payment to:

State Bar of South Dakota

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.

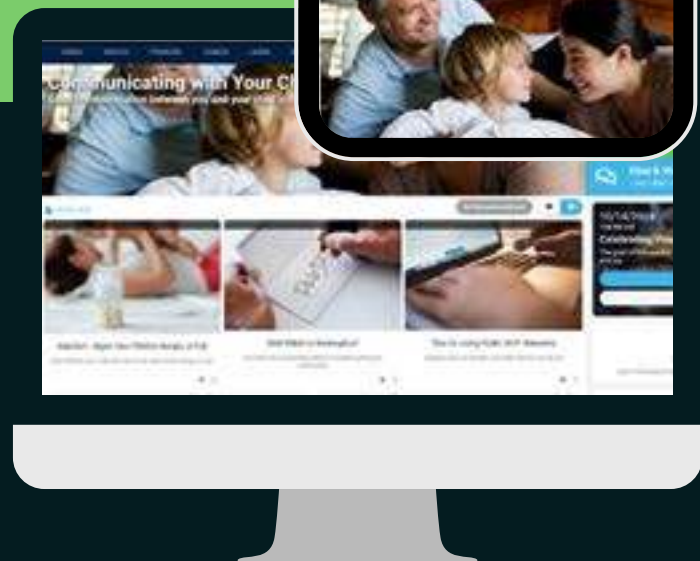
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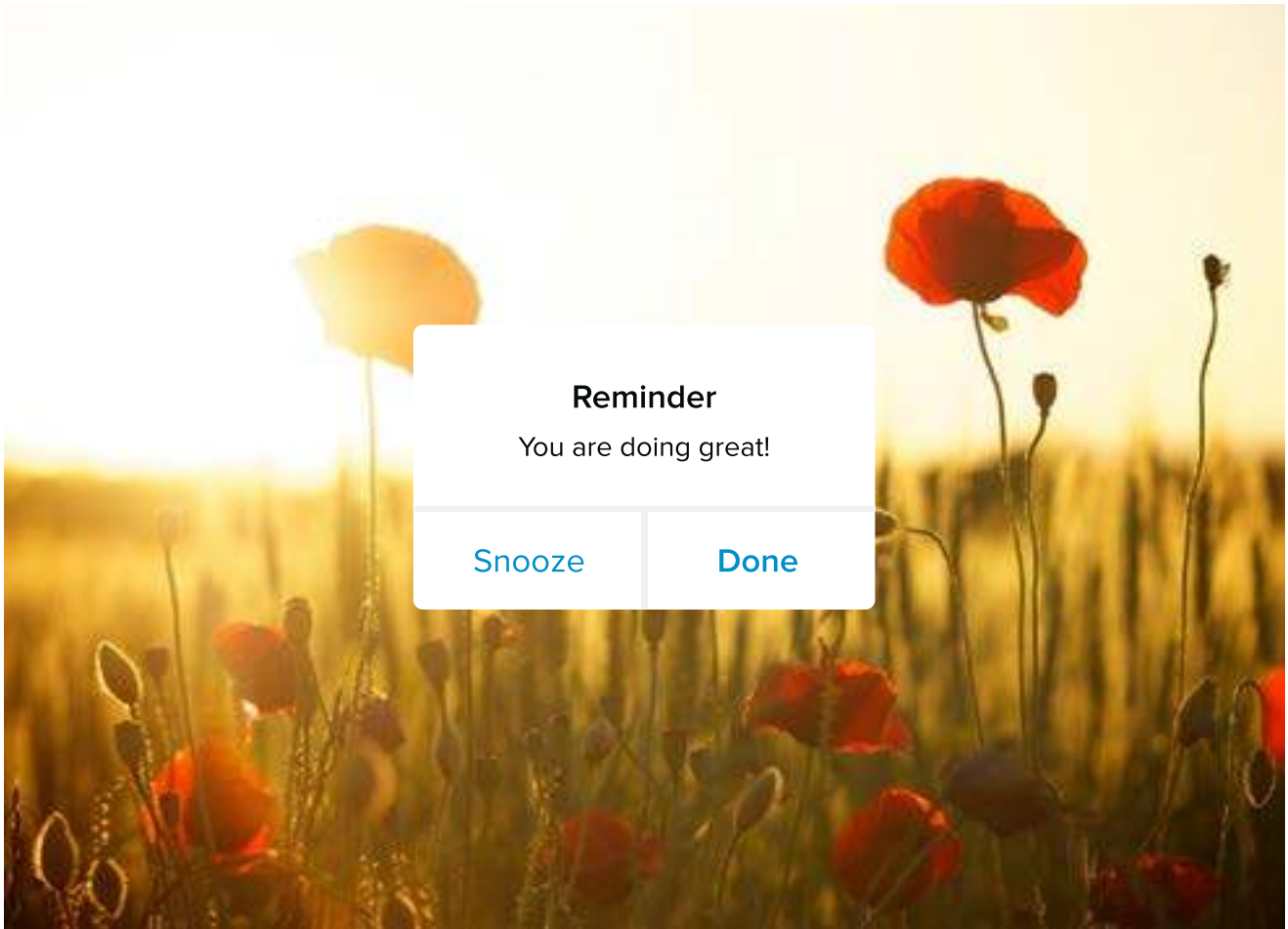
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PUBLIC NOTICE

REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE

The current appointment of Magistrate Judge Chad Callahan is due to expire on July 9, 2021. Magistrate Judge Callahan serves in the Fourth Judicial Circuit.

The duties of a magistrate judge include conducting preliminary hearings in all criminal cases, acting as committing magistrate for all purposes and conducting misdemeanor trials. Magistrate judges may also perform marriages, receive depositions, decide temporary protection orders and hear civil cases within their jurisdictional limit.

Pursuant to UJS policy members of the bar and the public are invited to comment as to whether Magistrate Judge Chad Callahan should be reappointed to another four-year term. Written comments should be directed to:

Chief Justice Steven R. Jensen
Supreme Court
500 East Capitol
Pierre, SD 57501

Comments must be received by April 10, 2021.

**JUDICIAL QUALIFICATIONS COMMISSION
STATE OF SOUTH DAKOTA**

500 East Capitol Avenue
Pierre, SD 57101
Telephone 605-773-3474
Fax 605-773-8437

Mark Haigh, Chair
Mark Roby, Vice Chair
Hon. Robin J. Houwman, Secretary
Hon. Robert Gusinsky
Rebecca Porter
Timothy Engel
Robert Morris

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

December 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 retirement of the Hon. Robert A. Mandel will create a vacancy for a Circuit Court Judge position (Position A) in the Seventh Judicial Circuit. 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://uj.s.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 February 26, 2021**. Applicants should make sure the application submitted is the 2018 revision. The duty station for this position shall be in Rapid City, South Dakota.

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: 605-773-3474
Email: lori.grode@uj.s.state.sd.us

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

The Seventh Circuit is comprised of the following counties: Pennington, Custer, Fall River and Oglala Lakota.

ATTORNEY

Associate Attorney - Sioux Falls

Griese Law Firm, P.C., is seeking a full time associate attorney to join the growing law office. Griese Law handles a variety of litigation matters. Position would primarily handle criminal defense cases on their own, with work on civil litigation as the applicant wanted. Applicant must be a strong advocate, self-starter, motivated, and comfortable managing a caseload.

Must be admitted to practice law in South Dakota. Previous criminal defense experience preferred.

Firm offers an incentivized pay package with benefits including a monthly advertising budget.

Please send Resume, cover letter, and 2 attorney references to Nicole@grieselawfirm.com. Position open until filled.

All applications will be held confidential.

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.

Associate Attorney – Pierre

Moreno, Bachand, Hruska & Scheibe, P.C. is currently accepting applications for an associate attorney. This is a growing firm that practices in general civil litigation, family law, personal injury, probate, estate planning, real estate and governmental matters. We are looking for an attorney who is a self-starter and has strong written and verbal communication skills. This position offers a competitive salary with a generous retirement plan. Visit our website at www.pirlaw.com to learn more about our firm and its long-standing history in the Pierre area.

All applicants are welcome to apply. Please send a cover letter and resume to:

Paul E. Bachand
Moreno, Bachand, Hruska & Scheibe, P.C.
PO Box 1174
Pierre, SD 57501
pbachand@pirlaw.com

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. Position opened until filled.

Deputy/Senior Deputy State's Attorney - Sioux Falls

All applications must be submitted by 5:00 p.m. on the date the position closes.

SALARY: \$2,735.20-\$3,250.40 Biweekly OPENING DATE: 1/12/21 CLOSING DATE: Continuous

The Minnehaha County State's Attorney's Office is accepting applications for attorneys to join our top performing team of prosecutors. Supported by experienced investigators, victim/witness assistants, paralegals, and legal office assistants, our attorneys enjoy a strong sense of camaraderie working in a think tank of legal minds.

Minnehaha County prosecutors are an integral part of the criminal justice system closely collaborating with law enforcement, probation, parole, juvenile justice centers, and numerous community agencies. With a high volume caseload in a fast-paced environment, our office provides an intriguing challenge for attorneys who want to make a difference in their community by helping victims of crime and ensuring due process for the accused. Even our new attorneys experience the excitement of a job regularly engaged in hands-on courtroom trial work.

Attorneys who work in the Minnehaha County State's Attorney's office have had impressive accomplishments! Three of our former attorneys have been appointed as magistrate judges and another served as a circuit court judge. Since 2002, six of our prosecutors have been named South Dakota State's Attorney's Association's ****Prosecutor of the Year****.

To be considered for this extraordinary opportunity, submit your application today. Contact us for more information, or with questions, at 605-367-4337.

***Please include cover letter and resume with online application.

Posting to remain open until positions are filled. Application review begins on January 27, 2021. Minimum Qualifications Vacancies will be filled at either a Deputy State's Attorney (Download PDF reader) or a Senior Deputy State's Attorney (Download PDF reader)

level, depending on our selected candidate's level of experience. (Click on the job titles for complete job descriptions and a list of qualifications.)

Compensation for appointment as a Deputy State's Attorney will be between \$2,735.20 - \$2,802.40/bi-weekly. Consideration for appointment as a Senior Deputy State's Attorney requires a minimum of two years of relevant work experience, and compensation will be between \$2,873.60 - \$3,959.20/bi-weekly dependent upon qualifications. Full earning potential for position is \$3,959.20.60/bi-weekly.

We also offer a comprehensive benefits package including paid holidays; health, dental, vision, and life insurance; generous PTO program; extended sick leave program; inclusion into the South Dakota Retirement System (SDRS); and an optional deferred compensation plan. Our insurance rates for single, E+1, & family are highly competitive! (Contact HR for more information at 605-367-4337.)

APPLICATIONS MAY BE FILED ONLINE AT: <http://jobs.minnehahacounty.org> OUR OFFICE IS LOCATED AT: 415 N Dakota Avenue, Sioux Falls, SD 57104 605-367-4337 jobs@minnehahacounty.org Job #21-14 DEPUTY/SENIOR DEPUTY STATE'S ATTORNEY MB

Trust Officer - Sioux Falls

CISA Trust Company South Dakota is currently accepting applications for an experienced Trust Risk/Compliance officer. Applicants should have 3 years of experience in the trust industry in a compliance/audit role or have equivalent 5 years trust administration experience. Applicants with a working knowledge of BSA/KYC protocols, FinCen are desired. Applicants with international trust experience and relevant professional designations will be given priority consideration. Must be able to think and work independently. To apply, please email resume and cover letter to jolson@cisatrust.com.

Staff Attorney - Rapid City

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Rapid City, South Dakota, branch office. The Rapid City office serves the counties of Butte, Custer, Fall River, Harding, Lawrence, Meade, Pennington and Perkins in South Dakota.

QUALIFICATIONS/RESPONSIBILITIES: 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 willing and 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. Experience representing veterans and Victims of Crime Act victims a plus.

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

APPLICATION INFORMATION: Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, tmortland@dpls.org.

Native Americans, Women and Minorities are encouraged to apply. Dakota Plains Legal Services is an Equal Opportunity Employer.

Staff Attorney - Mission

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Mission, South Dakota, office. The Mission office serves the Rosebud Sioux Indian Reservation and Gregory, Jones, Mellette, Todd and Tripp counties in South Dakota.

QUALIFICATIONS/RESPONSIBILITIES: 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; and must demonstrate an interest in poverty law and working with Native American and low income clients.

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

CLOSING DATE: Open until filled.

APPLICATION INFORMATION: Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, tmortland@dpls.org.

Native Americans, Women and Minorities are encouraged to apply. Dakota Plains Legal Services is an Equal Opportunity Employer.

Staff Attorney - Pine Ridge

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Pine Ridge, South Dakota, branch office. The Pine Ridge office serves the Pine Ridge Indian Reservation in South Dakota and Oglala Lakota, Jackson and Bennett counties in South Dakota.

QUALIFICATIONS/RESPONSIBILITIES: 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 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.

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

APPLICATION INFORMATION: Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, tmortland@dpls.org.

Native Americans, Women and Minorities are encouraged to apply. Dakota Plains Legal Services is an Equal Opportunity Employer.

City Attorney - City of Grand Island, NE

The City of Grand Island, Nebraska, a community of approximately 50,000 residents, is seeking a highly ethical leader and manager with proven successful experience in municipal law to serve as the next City Attorney. The City Attorney, plans, directs, and participates in the provision of complex professional legal services to the Mayor, City Council, City

Administrator, City departments and various boards and commissions.

Qualified candidates must have a Juris Doctorate from an accredited law school and increasingly responsible experience as a municipal law attorney including trial, administrative and supervisory responsibility. Must reside within twelve (12) miles of the City limits upon completion of the six (6) month introductory period. Salary range: \$111,224.88-\$154,101.17 annually plus great benefits.

The City Attorney position is required to attend weekly Tuesday evening City Council meetings. This position is statutory and serves in conjunction with the term of the Mayor.

For more information and to apply visit www.grand-island.com/jobs. A copy of your Juris Doctorate diploma must be submitted with your application. Position will remain open until filled. EOE/AE including disability/vets

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February 2021

February 18 | Bar Commission Meeting | Teleconference

February 18 | Preventing & Fixing Problems with Real Estate Documents CLE | Webinar

March 18 | Bar Commission Meeting | Teleconference

April 8 | Disciplinary Board Meeting | Red Rossa, Pierre

June 14 | Disciplinary Board Meeting | Club House, Sioux Falls

June 16-18 | Annual Meeting | Sioux Falls Convention Center & Sheraton Hotel

Events