

State Bar of South Dakota

*March
Newsletter*



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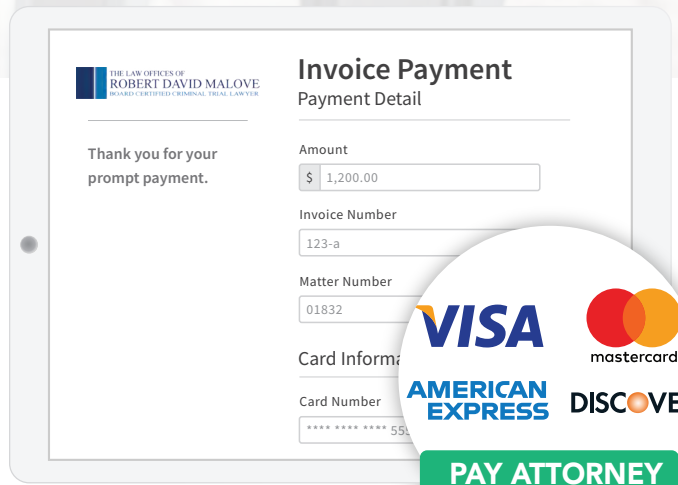
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State Bar of South Dakota

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President's Corner *Reed A. Rasmussen*



the current dean of the Concordia University School of Law in Boise, Idaho; Chris Behan, the former acting dean of the Southern Illinois University School of Law in Carbondale, Illinois ; and Neil Fulton, the Federal Public Defender for South Dakota and North Dakota. All three candidates have completed visits to Vermillion where they met with faculty, students, administrators and other interested parties. The ultimate hiring decision will be made by the President and the Provost at USD. All three candidates have excellent credentials. In my opinion, any of them would make an excellent Dean.

I am really looking forward to spring. Other than working, most of my time this winter has been spent blowing or shoveling snow. I hope all of you are doing your best to stay warm.

I appreciate all the comments that have been sent to me regarding Model Rule 8.4(g). There are definitely strong feelings on both sides of this issue. The Bar Commission will undoubtedly be discussing it at our next meeting in April. Please feel free to provide me or any of the Commissioners with your thoughts about the issue before our April meeting.

The Commission does not have the power to adopt a new rule. The only thing the Commission might do would be to recommend the adoption of a new rule in which case it would be discussed at the annual meeting. If the membership voted to recommend a rule, it would then go to the Supreme Court for consideration. Even if the Commission or the membership does not recommend the adoption of a rule, an interested member can make a proposal at the annual meeting or directly to the Supreme Court.

As mentioned in prior newsletters, the Chief Justice and I are part of the Search Committee for the new Law School Dean. The Search Committee recommended three finalists for the position. They are Elena Langan,

The Legislature is in full swing. The Bar's primary emphasis has been on HB 1046, which would remove the July 1, 2022 sunset provision for the Attorney Recruitment Assistance Program, and SB 80, which is the Equal Access to the Court's Appropriation Bill. We are hoping to get good news from the Legislature regarding these efforts. Weekly updates regarding the Legislative session are available on the State Bar's website.

I continue to encourage all of you to sign up for the Lawyer Referral Program. The more people who sign up, the more services we can make available to the public. As has been noted previously, this is not a pro bono program. It is merely an effort to help members of the public find a lawyer who might be able to assist them.

The photograph this month was taken shortly after I graduated from Law School and started as a Law Clerk for Judge Andrew Bogue in Rapid City. That was a long time ago.

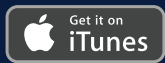
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by: Tamara Nash, YLS President

March Greeting,

This month I would like to focus my address on the importance of State Bar involvement! While I know not all of us are bar junkies, it is nonetheless important for each of us to play our role in giving back to our profession. We are blessed to practice in a tight-knit Bar, where the opportunities to get involved are vast. This month, please consider volunteering your time.

I think the list of reasons “why” to get involved would be as diverse as the members in the Bar itself. However, I would like to highlight a few reasons why I like to stay active in our Bar.

Involvement allows me to:

- Play an active role in the planning and implementation of training/CLE
- Advance the perception of lawyer competency and integrity
- Strive for work/life balance
- Seek networking/fellowship opportunities
- Find a sense of purpose within our profession
- Stay apprised of professional standards

There are so many places to get involved. Where can you get involved, you ask? Great question!

You can serve as a bar commissioner. Elections for the upcoming vacancies (1st, 2nd, 6th, and 7th circuits) will be held at our annual meeting this June.

You can serve on the young lawyers board of directors. Elections for the odd circuits and officer positions will also be held at our annual meeting this June.

You can also serve on a committee or section. Do you feel lost in the maze of committees and sections? No need! Here is a quick rundown. We have three state bar sections, which are created by the Bar Commission when there is sufficient interest by at least 50 members of the bar in a particular field of law. Membership is based on the bylaws of each sections (for example, the young lawyers section is available to any member under the age of 36 or less than ten years in practice (whichever occurs later). We have 37 state bar committees, which are created by the president. Committees develop, implement, and oversee many State Bar goals and programs. Members volunteer their leadership, expertise, and service to benefit the State Bar of South Dakota, the legal profession, and the community.

Interested in signing up for a committee?

Just check out the Bar website and complete the committee preference form (<http://www.statebarofsouthdakota.com/p/bl/ar/blogaid=398>). The process is simple, you access the form and list your top three preferences. From there, president-elect Steve Huff will then make the 2019-2020 committee appointments in April. **Committee preference forms are due April 1, 2019.**

Have a question about what a section/committee does? Check out committee mission statements on the state bar website, contact the committee chair, or Strategic Plan Coordinator, elizabeth.Overmoe@sdbar.net.

In closing, I encourage you to reach out to any of our Board members to voice your concerns and ideas. Your 2018-2019 Board of Directors are:

- President- Tamara Nash (Sioux Falls)
- Vice-President – Nathan Chicoine (Rapid City)
- Secretary/Treasurer – Carrie Srstka (Pierre)
- 1st Circuit Representative – Justin Johnson (Mitchell)
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- 7th Circuit Representative – Kassie Shiffermiller (Rapid City)
- At Large Representative – Kelsey Knoer (Sioux Falls)
- Law Student Representative – Jenna Schweiss (Vermillion)

Kindest Regards,
Tamara Nash



Fellows of the South Dakota Bar Foundation

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

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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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- Gold Fellow – \$5,000, cumulative.
- Silver Fellow – \$1,000 per year.
- Fellow – \$500 per year.

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:
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222 E. Capitol Ave., #3
Pierre, SD 57501

Or you can email this form to:
tracie.bradford@sdbar.net or call 605-224-7554 to set up a payment.

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

Bar Commissioners Spotlight

Edward Hruska

Greetings all. I hope this article finds you well-protected from our continuing winter. As put to me recently, I'm the lucky commissioner chosen for this month's spotlight. I suspect that I'm like many South Dakotans who generally dislike talking about themselves. Nevertheless, I told President Rasmussen I would, so here I am.

My name is Edward Hruska. I'm currently the at-large commissioner for the 6th Circuit and I work as a lawyer at Moreno & Bachand, P.C. of Pierre, S.D. I also have the good fortune to be a Captain in the South Dakota Army National Guard, where I serve alongside fellow commissioners Dusty Ginsbach and Kellen Willert.

My wife, Katie Hruska (also a lawyer), joins me in the photo. Yes, I'm one of those people that married within his career field. Katie's current position is as the Deputy General Counsel for the Governor's Office, and with the Legislative Session winding down, I may get to see her again soon. The photo is from the inauguration of Governor Noem.



Whatever your political leanings, the inaugural is one of those great Pierre events where you get to gather with the community and celebrate a changing of the

guard. Joined by several of our friends and peers (not to mention a few cattle barons), a good time was had by all. Fortunately, Pierre seems to have these events in spades.

Getting our start in Pierre is as good an analogy as any for why I ran for commissioner. I imagine that Pierre is like many towns [read: Aberdeen, Watertown, Belle Fourche, ect.] where they are clamoring for folks to engage on multiple levels. I found myself on the Junior Achievement Board within a few months, working on behalf of our downtown association with a year, and I lowered the median age of my American Legion post by probably 20 years. My wife and I also dropped a few shekels, buying a dilapidated building in the downtown area and refurbishing it. So, when approached by a few folks to run for the at-large position, it wasn't that far of a leap.

Fortunately, the commission is chock-full of good people who also happen to work as lawyers. And while the commission has been challenged with some firebrand issues lately, it's always encouraging to see folks being able to disagree, without being disagreeable. It's certainly a characteristic that I work to have in myself and, admittedly, one I continue to work at.

The important takeaway here is similar to what an old friend/commanding officer once told me: "I'm the litmus test; if I can do it, so can you." My friend meant just what he said, and I mean it here as well. If I can get out and engage with these things, so can you. Once you do so, you may also realize that this engagement, on whatever level, has a certain ripple effect. It's not a heavy lift to join a fraternal/sororal organization, and by doing so, others will follow. Giving time to the community (especially as a lawyer) can have a lasting impact and encourages others to join in. If you work to better the Bar, you will find others following your lead.

That said, I'm optimistic. At VLEG's recent drop-in clinics, it looked like they had anywhere from 10-15 lawyers, 20-30 law students participating, had coordinated with a crew from the VA, and I believe ended up helping 35(+) Veterans. Those are the good works in action. Take a look around and, without fail, you'll see where your help is needed.

SHARE YOUR STORY

Are you willing to share your personal journey to help others? Our “Living Above the Bar” series, which kicks off this month with an article by Mike McKnight, highlights new and better ways to be successful as a lawyer using the experiences of successful South Dakota lawyers. We are seeking true stories of success redefined and authentically told... in your own voice, in your own style and with your own message. The only requirement: your story must include one concrete suggestion about how to help other lawyers.

Why do personal stories help? The SD Bar has not done a recent study of the health of our 2000+ members and likely could not afford to do so in a way that would yield highly reliable data. We generally rely upon the ABA’s evidence-based national study of the issue (as posted on our Bar webpage). Statistics aside, most of us respond to information when it has a personal connection. Anecdotal evidence suggests that around a quarter of our Bar members have health issues that can or do negatively impact professional performance and/or professional fulfillment. For example, one (1) Lawyers Concerned for Lawyers member received fourteen (14) calls for help over the 2018 Christmas holiday.

How does a tsunami of pain and burn-out like that happen among smart people who have chosen to dedicate their careers to helping others? The obvious reason is that lawyers tend to internalize their clients’ traumas and stressors. A growing body of research documents that lawyers, judges, police officers and court services workers alike can suffer from second-hand trauma as the result of repeated exposure to the violence, pain and traumas that our clients have endured or inflicted upon others. Practice areas like criminal law, family law, personal injury and child protection advocacy frequently expose the legal professionals involved to horrifying facts and images.

Untreated vicarious trauma -- short-handed in medical circles as “VT” -- can alter or damage a lawyer’s view of the world after repeated exposure to the ugliest sides of human nature. It can also trigger compassion fatigue, a medically recognized condition which can leave a lawyer feeling drained and unable to refuel or regenerate. These “costs of caring” can be a particularly

high for lawyers: these conditions can contribute to serious depression, anxiety and burn-out in the form of impaired sleep, concentration, optimism, trust and/or the ability to intimately connect with others. Perhaps the cruelest reality of VT and compassion fatigue is that they affect lawyers and judges who truly take their work in the justice system to heart. Most do not even think to seek help because lawyers also tend to accept an abnormal level of stress as the norm.

Another reason that lawyers, as a professional tribe, are prone to delay in seeking help. Cultural expectations regarding stress management, time-pressures and confidentiality concerns are some factors that underlie this trend. Even with engaged Bar leadership and a judiciary that is engaged in promoting mental health within the justice system as a whole, SD Bar members are still inclined to define health and well-being issues among our peers in stereotyped ways.

We maintain an outdated and utterly unrealistic stereotype to define the “successful lawyer.” This person is an inexhaustible workhorse -- unflappably confident, prepared and financially fancy-free -- who can handle any stressful situation with panache. Ironically, a term commonly used to positively identify a successful lawyer is as “a grinder.” The grinder will “gut it out to get it done.” Maybe we can all admit there is a problem when the most positive stereotype about our profession almost automatically triggers a stress response! But we have an equally outdated negative stereotype for the “struggling lawyer”: this is a book-smart but disorganized person whose issues with deadlines suggest a chronic lack of effort and focus.

Which type of lawyer are you? For most of us, it depends on the day. Nonetheless, on most days, most of us will go through the effort of squeezing our professional personas into our individual version of the successful lawyer. It’s wonderful on those days when the title feels like it fits, but it can be excruciating when it feels like a mask. On those days, the anxiety of being exposed as an imposter compounds with the effort it takes to fake that everything is under control to make us feel absolutely exhausted or even empty. It can be a circular firing squad of our own creation.

Somehow, though, the fear of being flagged by Bar administration and competitive peers as a “lawyer in trouble” because of health care concerns remains a worse fate than badly faking professional satisfaction until the hope of achieving it slowly fades away. Some of us simply suffer through the effort required to be considered a successful lawyer. Some of us stumble, and some of us painfully fall in the process. Most of us do manage to find a more than tolerable purchase between the rock and hard place that balancing between these two stereotypes creates, but that should not be the best we can hope for after our rigorous and expensive JD training.

We are not the only Bar in the nation where an entire table of visibly stressed-out lawyers will earnestly discuss the topic of stressed-out lawyering as if it is an isolated issue that only affects a handful of other lawyers. Here again, South Dakota lawyers trend toward “normal.” We are asking, “What can we do to help those lawyers?” when we really need to be asking, “What can we do to help ourselves?” I wish I had a buck for every senior partner I have heard talking in exasperated tones about “coddling” millennial lawyers because younger lawyers want reasonable office hours, more collaborative work

assignments, more family time and expect to enjoy social activities that do not revolve around client marketing. When you think about adjusting your professional life to have less hours, less stress to perform alone and more family and personal time... it sort of makes being a lawyer sound like the dream job we imagined back in law school, no?

Virtually every modern study tells us that we need to regularly engage in relaxing activities in order to perform better and live longer. Our friends in the medical arts will confirm our need to work smarter, not harder. There are multitudes of books and blogs, such as Jeanna Cho’s *The Anxious Lawyer*, that literally provide a blueprint for ways to be more focused, productive and happy in as little as one six-minute billing increment a day. Most of us, though, are too busy to read them.

Changing our work habits and stereotypes is hard. Even finding the time to think about how to change our work habits and stereotypes is hard. But for some of us, not changing could be deadly. There isn’t a better time to share this message, and your “successful lawyer” story can make a difference for another lawyer. Please let a member of the LAC know if you will share your personal experience as a successful lawyer.



LIVING ABOVE THE BAR

By: Mike McKnight

The story of my struggles with anxiety and depression are not unusual. Those closest to me would say I began showing signs and symptoms of my struggle at least ten years before I finally broke down and sought treatment. For me, the most prevalent sign was a never-ending feeling of frustration and anger with everything - my personal life, professional life and even my favorite forms of recreation. Nothing was ever good enough. No one, including me, could do anything right. Misery became a constant unwanted and unwelcome companion and I didn't even realize it at the time.

Until one Monday morning one day after my 57th birthday I reached that point where I realized I could no longer live as I had been for the preceding decade. I remember that day vividly. I came to the realization that what I was going through was not something I could control no matter how hard I tried. I could not just work a little harder and get past it. It would not get better when (insert a stressful life event) was behind me. It would not be solved by making more money. I finally admitted to myself for the first time that being a miserable, crabby, frustrated curmudgeon was not a badge of honor. I picked up the phone and placed the call that I truly believe helped me get my life back.

My wife and family tolerated me and my attitude for a lot of years. Through it all, they stuck with me and loved me despite the issues I was unwilling to face. As time passed, my wife began suggesting to me with increasing frequency that I get some professional help. But I refused.

I convinced myself that I didn't need any help. I told myself that is not what a man of my vintage did. I assured myself and my family that I wasn't crazy. I foolishly believed that I would work my way past it, hoped that money would solve my worries and make me happy again. Not to spoil the surprise, but none of that worked. On at least two occasions, my wife even scheduled appointments for me to see someone. Angered, I told her to cancel them, telling her that I would get past and beat it on my own. But I couldn't.

When the time came for an appointment I finally didn't cancel, I was scared. I sat there in the waiting room physically shaking in a way I had not experienced. I had no idea what to expect. The entire situation felt out of my control and that was not a situation me or any lawyer relishes. As the provider asked me questions about my problems the fear quickly diminished, and it was as though she had known me for years: Are you easily angered? Do you get frustrated easily? Difficulties with sleep or sleeping too much? Intolerant of others? Unhappiness? Lack of motivation? Stopped doing the outside activities you previously enjoyed? The list went on, and as it did, the picture of what was happening in my life became crystal clear.

When I left the first appointment, I felt as though ten tons had been lifted from my shoulders. It is not lost on me that there was no rational reason to be afraid or embarrassed of getting treatment for a disease. My family was relieved, happy and supportive. They were proud that I had finally realized, and accepted, that I needed help and had the courage to get it. With the medication prescribed, I noticed the change in a short time, and my family did as well. It took me awhile to tell others of my struggles as I was worried about the stigma that might attach. I knew that sharing that with others made me vulnerable, and for a long time, I felt like vulnerability was a weakness. I am grateful I have come to realize that the opposite is true. Vulnerability is courageous and I hope that my story encourages others to share theirs. As time passed and I started to share my story, it became easier and easier. I have done a "Living Above the Bar" video and now this article.

The practice of law is stressful, and it can be incredibly isolating. I don't mean to imply that my professional life is not still stressful at times - it is. The difference now is that I am in a much better place to accept and address the stress than I was before. I still have my moments, but they are much occur with much less frequency and their impact on my life is much smaller. You have probably heard this before, but I truly wish I would have gotten help years earlier.

Please know that help is available to you and that you and your loved ones do not have to live in misery. The Lawyers Assistance Committee is available to help point you in the right direction for your particular situation. Call and get help if needed. Feel free to call me (941-2218) anytime, day or night.

2019 ABA Midyear Meeting Report

The 2019 ABA Midyear Meeting was held in Las Vegas, Nevada. The meeting brought together hundreds of members of the ABA's various Sections, Divisions, and Forums including the Young Lawyers Division (YLD). During the meeting, the ABA YLD hosted its own programming, Assembly, and networking events. Below is a summary of the events attended by South Dakota Young lawyer, Tamara Nash.

Tamara P. Nash

Tamara serves within the Division in several capacities. She serves as Chair of the Minorities in the Profession Committee (MIPC), Liaison to the ABA's Commission on Women in the Profession, she is a member of the Resolutions team, and she was appointed to serve on LORALAB (the YLD's long-range planning board). Due to her various roles within the YLD, Tamara sits on Council and Cabinet. This meeting, Tamara attended all governance events and as well as programming hosted by sister-entities. Tamara also had the honor of introducing ABA President Bob Carlson during the ABA YLD Assembly meeting. Conference highlights for Tamara include:

- **GOOD Guys (Guys Overcoming Obstacles to Diversity): The Next Generation of Leaders-** This program was co-sponsored by the National Conference of Women's Bar Associations National Conference of Bar Presidents, ABA Commission on Women in the Profession, and the ABA Young Lawyers Division. This program focused on how men, as GOOD Guys, could serve as allies to women in the profession. This panel presentation highlighted speaking up, speaking out, and advocating for each other in the workplace.

YLD Assembly

The ABA Young Lawyers Division Assembly ("Assembly") is the principal policy-making body of the ABA YLD. Assembly convenes during the ABA's Midyear and Annual meetings. During Assembly, young lawyer issues and resolutions are debated and voted upon. This meeting, two YLD Resolutions (HOD Resolution 101B and HOD Resolution 101A) were written by young lawyers, passed on the Assembly consent calendar, and were passed by the ABA House of Delegates (HOD)! The following resolutions were debated by the delegation, comprised of 183 young lawyers from across the country.

Resolution 19-3YL	This Resolution urges federal, state, local, tribal, and territorial courts to adopt laws that require specific due process considerations regarding the doctrine of qualified immunity as applied in the context of shootings by police officers and police officer use of force. It further urges courts and legislatures to bar disposition, by way of a defendant's motion to dismiss or motion for summary judgment, cases involving police officer use of force and the doctrine of qualified immunity prior to trial.	failed by majority vote
Resolution 19- 4YL	This resolution urges state supreme courts to study and adopt proactive management-based regulatory programs appropriate for their jurisdiction to assist lawyers and law firms in the development and maintenance of ethical infrastructures that help to prevent violations of the applicable rules of professional conduct and complaints to lawyer disciplinary authorities, and to enhance lawyers' provision of competent and cost-effective legal services.	Passed by majority vote
HOD Resolution 106A	This Resolution opposes laws that would authorize teachers, principals or other non-security school personnel to possess a firearm in, or in the vicinity of, a pre-K through grade 12 public, parochial, or private school, and the use of government or public funds to provide firearms training to teachers, principals, or other non-security school personnel, or to purchase firearms for those individuals.	Passed by majority vote Passed in HOD
HOD Resolution 105	This Resolution concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated January 2019 to Standard 316 (Bar Passage) of the ABA Standards and Rules of Procedure for Approval of Law Schools.	Failed; adopted in the negative Failed in HOD
Resolution 10C	This resolution opposes the withholding by the Executive Branch of funds previously appropriated by Congress for disaster relief and recovery, or their diversion for other purposes, including but not limited to construction of a border wall with Mexico. It also reaffirms the ABA's support for the Principles of Rule of Law in Time of Major Disaster, including the principle that government assistance authorized by law should be distributed in an expeditious and efficient manner consistent with principles of equal treatment, due process and transparency.	Passed by majority vote

Thank you to the SD Young Lawyers Section and State Bar of South Dakota for your continued support as we learn and grow through our involvement in the ABA YLD!

If you have interest in becoming involved in the ABA YLD or the State Bar Young Lawyers Section, please feel free to contact the Section President Tamara Nash (Tamara.Nash@state.sd.us).

ABA YLD conferences for the 2018-2019 bar year are the YLD Spring Conference (May 2-May 4, 2019), and ABA Annual (August 8-10, 2019).



ACCESS TO JUSTICE, INC.

**THERE
GOES
MY
HERO...
WATCH
HIM AS
HE
GOES.**

- Foo Fighters

A2J 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.

- Tara Adamski
- Richard L. Johnson
- Kaleb Paulsen
- Jennifer Frank
- Erika Olson
- Dennis Groff
- Thomas Keller
- Hope Matchan
- Tiffani Landeen
- Justin DiBona
- Donald Gellhaus
- Katie Thompson
- Jacob Dawson

**AND MUCH THANKS TO SCOTT MOSES FOR HIS
ASSISTANCE ON SD FREE LEGAL ANSWERS THIS
MONTH!**

Are you interested in becoming a legal superhero and member of the A2J Justice Squad? Please send a message to Denise Langley at: access.to.justice@sdbar.net.

This is a Disaster!

Ethically planning for the worst case scenario.

By
Neil Fulton
Chair, Ethics Committee

I am a sucker for Hollywood blockbusters, especially disaster movies. Heck, I've seen each entry in the Sharnknado franchise. Disasters have long been a staple of those popcorn mills for good reason. A capsizing ship, a flaming skyscraper, a radioactive giant lizard, or a bunch of tornadoes ripping through middle America is all you need to make escapist summer box office gold. Sign me up, and box office receipts say I'm not alone.

But disasters are not just the imaginary stuff of Hollywood. Unfortunately, disaster in many forms stalks us in real life. There are floods, tornados, cybersecurity breaches and hacks, and unexpected deaths of partners or sole practitioners. For lawyers, disaster is not a movie, it is a terrifying reality. And a reality that implicates our ethical obligations. As practicing lawyers, each of us faces an important ethical question: am I ready for disaster?

The ABA recently issued two formal ethics opinions addressing the obligations lawyers have in the face of disaster. I want to briefly highlight each and suggest where we can all look for more resources to plan for disaster.

ABA Formal Opinion 482 addresses the ethical obligations we all have when affected by large scale disasters. The shortest summary of the opinion is that we have an ethical obligation to put reasonable measures in place to carry on client communications, safeguard client property, and manage ongoing client

matters when our practice is interrupted by disaster. A great place to develop those plans is looking at the resources prepared by the ABA Committee on Disaster Response and Preparedness. Those can be found at <http://www.americanbar.org/groups/committees/disaster>. But let's talk about some specific concerns we should all consider.

A first step is that every lawyer must have arrangements in place to safeguard client funds and property under Rule 1.15. For disaster preparedness this means a few things. First, there must be records of client property and its location with adequate backups of those records. Second, documents or items of intrinsic value must be stored in a place that provides reasonable protection against foreseeable disasters. Third, proper backup or security of electronic client information must be in place. Recognize that preparation can create tradeoffs—while cloud storage may provide protection against local disasters, it may implicate a whole additional group of ethical questions about maintaining confidentiality. Last, lawyers must properly arrange with their financial institutions to ensure access to client funds held in trust.

A second step lawyers must take is to have plans to maintain client communications in the face of disaster. Lawyers should have plans to maintain continuity of operations if a disaster compromises or wipes out their primary communications systems. They likewise should have a plan for how to

communicate to clients about the status of their matters and other critical information if ordinary channels are disrupted. Even when a disaster cuts off normal operations in the lawyer's office, it may not cut off the ordinary course of a client matter or the court's docket and lawyers must be prepared to continue business as well as they can.

A last step lawyers must consider is, sadly, our own mortality. Lawyers should have succession plans for their files if they are rendered unable to continue with the matter due to disability or death. This is an acute concern for sole or small firm practitioners. When there are fewer or no partners to share the load with, there must be a more concrete plan of who can and will step in to handle files, have signatory power for trust accounts, access to safe deposit boxes or other client property storage, and wind up practice in the worst case. These succession plans should be communicated to clients or documented in places readily accessible to those who will be implementing them.

In today's world, disaster can also come in the form of cyberattacks or security breaches. ABA Formal Opinion 483 addresses the response lawyers must take to a confirmed cyber security breach. To again provide a one sentence summary, lawyers must try to monitor and detect breaches and also to notify clients and remediate those events if they occur.

The first step to meet ethical obligations regarding cybersecurity is recognizing that lawyers have an obligation of competence under Rule 1.1 relating to technology. That means understanding your IT systems, understanding adequate security protocols and monitoring, and basic knowledge of how to implement proper response protocols. That may involve assistance from outside vendors, but each lawyer has an ethical obligation to know enough about their IT systems to know when there are problems and how to reasonably avoid or remediate them.

The second critical step is to reasonably monitor your cybersecurity. Lawyers cannot rely on happenstance to discover if they have suffered a cyberattack or data breach and call it good. Affirmative measures must

be in place to recognize and notify the lawyer when breaches or attacks occur. This includes tracking systems to learn if confidential client information is directly misappropriated, destroyed, or otherwise compromised as well as instances when the lawyer's ability to provide services are compromised in ways that might indirectly affect client confidentiality or representation.

The last step is having a response protocol to take reasonable remedial steps if breaches occur. What will constitute a "reasonable" response will depend on a balance of factors such as the sensitivity of the compromised information, the likelihood of disclosure without further safeguards, the cost additional safeguards, and the difficulty of implementation. Lawyers must also recognize that ethical obligations regarding client communication will mandate notice to clients of a breach involving their confidential information. Lawyers may not simply keep the client in the dark and try to remediate the situation. Instead, they must provide notice to their clients of the situation, the data possibly implicated, and the response protocols in place.

In the movie theater, disasters are exciting, fun and exciting. We can even cheer for the flying sharks to eat a few D list celebrities before the hero and heroine boldly slice them up with chainsaws (which, for the unfortunate few to have missed it, is the basic plot of Sharknado). Disasters are just harmless make believe in the movies. But in real life, disasters have real consequences and impose real ethical obligations. Please take the time to look at these opinions on the ABA's website, https://www.americanbar.org/groups/professional_responsibility/publications/ethics_opinions/aba_formal_ethics_opinions_index_by_issue_dates/, then consider your own preparedness to develop a plan before disaster strikes. Doing so will protect you, your firm and partners, and your clients. Even if sharks fly.

Save the Date

2019 ANNUAL MEETING

Ramkota Hotel

*June 19-21
2019*

Rapid City



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ANNOUNCEMENTS

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Facsimile: (605) 775-2531

Wade L. Fischer is pleased to announce the opening of

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Fischer Law Office, Prof. LLC
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Pierre, SD 57501

Telephone: (605) 224-7700

wade@fischerlaw.us
office@fischerlaw.us

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

Wade E. Warntjes
has joined the firm effective February 4, 2019.

Lynn, Jackson, Shultz & Lebrun, P.C.
110 N. Minnesota Ave., Suite 400
Sioux Falls, SD. 57104

Telephone: (605) 332-5999
Facsimile: (605) 332-4249

Lynnjackson.com

Bormann, Myerchin & Espeseth, LLP has changed their name to

*Bormann, Myerchin, Espeseth
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Facsimile: (701) 250-8982

Griese Law Firm, P.C.

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Sioux Falls, SD 57104

Telephone: (605) 271-0115

www.grieselawfirm.com

April Medley CLE

Special **THANKS** to the Public Sector Section and the Administrative Law and Labor & Employment Law Committees for organizing this CLE!



April 12, 2019



Ramkota Hotel -
Washington Room,
Rapid City



Check-in: 8:30 am MST

9:00AM-9:15AM **Introductory Remarks** – The Honorable Craig Pfeifle, Seventh Circuit, Rapid City

Public Sector Law

9:15AM-10:15AM **Ensuring Public Access – An Update on Open Meetings Laws**
Steve Blair, Attorney General's Office, Pierre

10:15AM-11:15AM **Navigating the Quasi-Judicial Hearing**
Jack Hieb, Richardson, Wyly, Wise, Sauck & Hieb, Aberdeen

Administrative Law

11:15AM-12:15PM **Start to Finish: Handling an Administrative Appeal**
Rosa Yaeger, Department of Revenue, Pierre
Frank Marnell, SD Division of Insurance, Pierre

12:15PM-1:30PM **Administrative Law Practice: A Perspectives Panel**
(LUNCH PROVIDED BY [SD PUBLIC ASSURANCE ALLIANCE](#))

- ALJ Catherine Williamson, Office of Hearing Examiners, Pierre
- Rosa Yaeger, Department of Revenue, Pierre
- Steve Blair, Attorney General's Office, Pierre
- Hon. Craig Pfeifle, Seventh Circuit, Rapid City

Labor & Employment Law

1:30PM-2:30PM **Navigating the Employment Relationship: Hiring, Firing & Disciplining Employees**
Jennifer Frank, Lynn, Jackson, Shultz & Lebrun, Rapid City

2:30PM-3:30PM **Recent Developments & What Lies Ahead for Public Sector Employment Law & Labor Relations**
Nichole Mohning, Cutler Law Firm, Sioux Falls

This program is free to all Active Members of the State Bar of South Dakota; all others \$100.

Pre-register Online: www.statebarofsouthdakota.com



Save The Date!

**RURAL ATTORNEY RECRUITMENT
ANNUAL CONFERENCE**

**FRIDAY, MAY 17 FROM 10:00 AM
TO 5:00 PM**

**RedRossa Italian Grille
808 West Sioux Avenue
Pierre, SD 57501**

NORTHERN PLAINS WEATHER SERVICES

Dr. Matthew Bunkers of Northern Plains Weather Services is a certified consulting meteorologist (CCM) and forensic meteorologist with over 25 years of weather analysis and forecasting experience. He can provide reports, depositions, and testimony in the areas of weather and forecasting, severe summer and winter storms, flooding, applied climatology and meteorology, agriculture meteorology, and statistics. More information is provided at <http://npweather.com>, and you can contact Matt at nrnplsweather@gmail.com or 605.390.7243.

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THE
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**WEDNESDAY
6.19.19**

**CLASS
OF**

1979

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AND GATHER AFTERWARDS FOR MORE FUN AND STORY-TELLING!
IF YOU WOULD LIKE TO JOIN US – PLEASE EMAIL BOB
[RAM@ROBERTMARTINPC.COM] AND TOM [TOM@NICHOLSONANDNICHOLSON.COM].
WE WILL HAVE MORE INFORMATION ABOUT REGISTERING
FOR THE BANQUET IN THE UPCOMING MONTHS!**

ATTENTION State Bar of South Dakota Members

As President-Elect, it is my privilege to fill vacancies on State Bar Standing and Special Committees for the 2019-2020 Association year. To assist our Appointments Committee with this important process, please complete the survey at the link below to indicate your desire to join or retain your appointment to our State Bar Committees.

This survey also provides you the opportunity to join Sections of the Bar. State Bar Sections are self-governing and do not require presidential appointment but indicating your desire to join the Sections through this survey provides us with the information we need to add you to the Section's community on the State Bar website and notify Section leadership of your affiliation with the Section.

Requests for appointment should be made electronically – click the sign up link below.



Requests must be received by **April 1, 2019** for consideration. In addition to your request, we hope that you will encourage any other interested members to fill out the electronic application.

Thank you in advance for your assistance. Although there are a limited number of vacancies to fill, I will give each application thorough consideration. If you would like to discuss this process or application process, please feel free to contact Elizabeth Overmoe at (605) 929-5980, or elizabeth.overmoe@sdbar.net.

The Appointments Committee and I look forward to hearing from you and thank you for your assistance in this important process for our State Bar.

Sincerely,

Steve Huff



South Dakota Young Lawyers Section

2019 SIOUX FALLS BOOTCAMP

Transactional Agenda

- 9:00-9:15AM: Registration** (free)
9:15: Welcome (Tamara Nash, President of South Dakota Young Lawyers Section)
9:20-10:05: Working with In-House Counsel (Nicole Tupman, Midco Assistant General Counsel)
10:05-10:50: Power Balance: Utilizing Workplace Staff (Lisa Prostrollo, Redstone Law Firm)
10:50-11:00: #Fit2PracticeSD (Kelsea Sutton, Compliance Officer at First Fidelity Bank)
11:00-11:10: Break
11:10-11:55: Writing in Plain English: Legal Drafting 101 (Rod Tobin, Siegel Barnett & Schutz)

Judges Panel: "Where Do Young Lawyers Fit?"

Justice Mark Salter, U.S. District Judge Roberto Lange, and Judge Susan Sabers

Litigation Agenda

- 12:45-12:55PM: Registration** (free)
12:55: Welcome (Tamara Nash, President of South Dakota Young Lawyers Section)
1:00-1:45: Making Your Record (Lisa Carlson and Carla Dedula, UJS Court Reporters and Ron Parsons, United States Attorney for South Dakota)
1:45-2:30: Advanced Discovery Practice (Jason Sutton, Boyce Law Firm)
2:30-2:40: #Fit2PracticeSD (Alison Ramsdell, Assistant United States Attorney)
2:40-2:50: Break
2:50-3:35: A Clerk's Perspective: What Clerks Want Attorneys to Know (Angelia Gries, Minnehaha County Clerk and Matt Thelen, Clerk of Courts for the U.S. District of South Dakota)
3:35-4:20: Professional Responsibility: Communications with Clients, the Court, & Counsel (Russ Janklow, Johnson, Janklow, Abdallah & Reiter and Eric Schulte, Davenport Evans Law Firm)

FRIDAY, MARCH 1 • 9AM - 4:20 PM
LUMBER EXCHANGE BUILDING, 101 S. REID STREET
SIOUX FALLS, SOUTH DAKOTA

Circuit mixer to follow at Monk's House of Ale
Sponsored by Ballard Spahr LLP

RSVP to Anthony Sutton (anthony@janklowabdallah.com)

South Dakota Young Lawyers Section

2019 RAPID CITY BOOTCAMP

Transactional Agenda

9:00-9:15AM: Registration (free)

9:15: Welcome (Kassie Shiffermiller, South Dakota Young Lawyers Section)

9:20-10:05: Working with In-House Counsel (Amy Koenig, Black Hills Corporation)

10:05-10:50: Power Balance: Utilizing Workplace Staff (Bob Morris, Morris Law Firm)

10:50-11:00: #Fit2PracticeSD (Catherine Chicoine, South Dakota Trust Company)

11:00-11:10: Break

11:10-11:55: Professional Responsibility: Communication with Clients, the Court, & Counsel (Barb Anderson Lewis, Lynn, Jackson, Shultz & Lebrun, P.C.)

Judges Panel: "Where Do Young Lawyers Fit?" Seventh Circuit Judges

Litigation Agenda

12:45-12:55PM: Registration (free)

12:55: Welcome (Kassie Shiffermiller, South Dakota Young Lawyers Section)

1:00-1:45: Making Your Record (Jacque Weller, Rushmore Reporting)

1:45-2:30: Advanced Discovery Practice (Sara Frankenstein, Gunderson, Palmer, Nelson & Ashmore)

2:30-2:40: #Fit2PracticeSD (Jenny Pederson, Life Coach)

2:40-2:50: Break

2:50-3:35: A Clerk's Perspective: What Clerks Want Attorneys to Know (Pennington County Clerks' Office)

FRIDAY, MARCH 1 • 9AM - 3:35 PM
PENNINGTON COUNTY COURTHOUSE (COURTROOM 7)
315 JOSEPH STREET
RAPID CITY, SOUTH DAKOTA

Circuit mixer to follow at Blind Lion
RSVP to Kassie Shiffermiller (Kshiffermiller@lynnjackson.com)

SOUTH DAKOTA DEPOSITION ACADEMY

TO ALL MEMBERS OF THE STATE BAR OF SOUTH DAKOTA

The purpose of this notice is to give the membership of the State Bar an explanation of the second Deposition Academy to be held this summer at the USD Law School on July 18 & 19. The first Deposition Academy was held during the summer of 2014.

Initially, a deposition program was included in the Trial Academy Program but later abandoned to devote more available time to the jury trial. Yet a key component of a successful trial practice includes training in the taking of depositions.

We were again able to partner with National Institute of Trial Advocacy (NITA) to assemble an intensive two-day program which combines instruction with student involvement in the deposition process utilizing a hypothetical fact pattern. Participants are assigned to either the plaintiff or defense side. The student involvement will be critiqued and evaluated by faculty members.

Those attending the program will master NITA's proven Funnel Technique, which provides a process to learn everything the deponent knows about a subject. In addition, participants will learn to apply various forms of questioning to gather information, gain admissions, and test theories. The program also works with participants on ways to appropriately defend a deposition, including making appropriate objections and instructions not to answer.

The South Dakota faculty has yet to be selected but, as in the past, there will be some of our best practitioners selected from plaintiffs and defense lawyers from small and large firms in the State. The USD Law School is again providing the logistic support for the program. Without the faculty and Law School, this program could not be offered.

In addition, we are fortunate to have Peter Hoffman again assisting us in the Deposition Academy. Mr. Hoffman will be giving the majority of the instructive lectures and will assist the other faculty members in their teaching duties. Mr. Hoffman has an impressive resume. Peter is a longtime law school faculty member and practicing attorney. He is also the co-author of the largest selling book on deposition practice. The combination of a national instructor and local knowledge of how depositions in South Dakota are conducted by our faculty promises a rewarding experience to participants.

The cost of the Deposition Academy is \$1,000. The Academy will be limited to 24 so the sooner you cement your spot in this year's Academy the better.

Depositions have evolved to be such an important and intricate part of a successful trial practice. The importance has increased with the evolution of more mediations and fewer trials. Learning effective deposition techniques can only increase a litigator's advantage in the practice of law. Registration requires completion and submission of an application form found in the State Bar Newsletter.

SOUTH DAKOTA STATE BAR TRIAL ACADEMY COMMITTEE

Thomas J. Welk
Chairperson

David R. Gienapp
Co-Director

Richard Casey
Co-Director

Thomas J. Welk
David R. Gienapp
Richard Casey
Lonnie Braun
Melanie Carpenter
Gary Jensen
Stephanie Pochop
James Roby
Clint Sargent

Deposition Academy Registration

Sponsored by the State Bar of South Dakota and the National Institute for Trial Advocacy
July 18 to 19, 2019
USD School of Law, Vermillion, SD

Name: _____
Address: _____

Phone: _____
Email: _____
Date: _____

Please register me for the Deposition Academy. I enclose a deposit of \$500 (made payable to SD CLE, Inc.) toward the tuition cost of \$1000. I acknowledge that the deposit, should I be accepted and subsequently am not able to attend, is non-refundable unless a replacement is found. If I am not accepted, I understand that my deposit will be returned to me. I understand that no interest will be payable on returned deposit. I further understand that I will be responsible for motel and meal costs. If I am accepted, I will tender the balance of \$500 no later than July 1, 2019.

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

Size of law firm: _____
Years of practice: _____
of depositions taken (estimated): _____
Brief description of your current law practice:

Mail this registration form, together with a check in the sum of \$500, payable to SD CLE, Inc. to:
State Bar of South Dakota
222 E. Capitol Ave.
Pierre, SD 57501



THANK YOU FOR VOLUNTEERING!



WATERTOWN

- Edward Hruska
- Beth Overmoe
- Ramon Ortiz
- Chad Boelhower
- Amber Walter
- Melissa Sommers
- Craig Evenson
- Liam Culhane
- Amanda Thole
- John Knight
- Christian Jensen

SIOUX FALLS

- Edward Hruska
- Beth Overmoe
- Ramon Ortiz
- Nikki McCain
- Kelsey Knoer
- Kaleb Paulsen
- Chad Boelhower
- Amber Walter
- Cody Raterman
- Tanner Jackson
- Gary Thimsen
- Jack Der Hagopian
- James DeSaix
- Josh Brown
- Eric Ronke
- Tim Rahn
- Brian Kirby
- John Taylor

YOU ARE GOLD

The USD Veterans Legal Education Group ("VLEG") would like to thank the attorneys who volunteered during the Veterans Walk-In Legal Clinics on February 20-21, 2019, in Watertown and Sioux Falls. Special thanks to the State Bar of South Dakota Young Lawyers Section and Veterans Committee for their support in planning and sponsoring the two-day event.

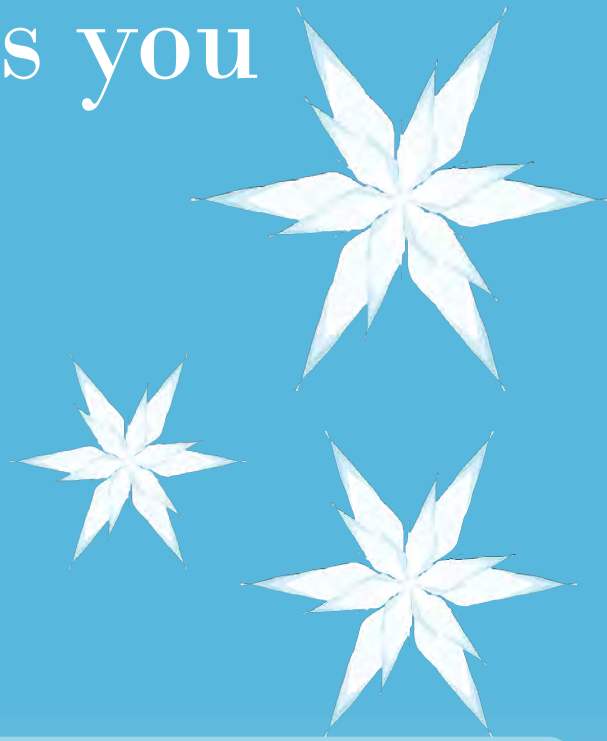
The 6th Circuit Women in Law invites you to join them!

The Honorable Karen E. Schreier

Friday March 15, 2019

12 p.m.

RedRossa Italian Grille, Pierre SD



The 6th Circuit Women in Law is working to create opportunities for attorneys to advance our profession, learn, network, and serve our community. We have monthly meetings and invite you to join us!

Questions can be directed to Kirsten Jasper: Kirsten.Jasper@usdoj.gov

Like us on Facebook: 6th Circuit Women In Law



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

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

Ketel Thorstenson, LLP

Certified Public Accountants/Business & Personal Consultants

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Welcome to the team.

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Kelly L. Herrmann
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Timothy R. Rahn
LITIGATION



Joshua R. Brown
BUSINESS AND FINANCE

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LEGAL SERVICES CORPORATION Notice of Availability of Grant Funds for Calendar Year 2020

The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2020. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal, will be available at <http://www.lsc.gov/grants-grantee-resources/grantee-login> during the week of April 8, 2019. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. On or around the week of March 11, 2019, LSC will publish the list of service areas for which grants are available and the service area descriptions at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant/lsc-service-areas>. Applicants must file a Notice of Intent to Compete (NIC) and the grant proposal through LSC's online application system in order to participate in the grants process. The online application system will be available at https://lscgrants.lsc.gov/EasyGrants_Web_LSC/Implementation/Modules/Login/LoginModuleContent.aspx?Config=LoginModuleConfig&Page=Login during the week of April 8, 2019.

Please visit <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant> for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to LSCGrants@lsc.gov.

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BOARD OF BAR COMMISSIONERS
Minutes, January 4, 2019
Dakota Events Center – James River Room
Aberdeen, South Dakota

President Reed Rasmussen called the meeting to order at 8:30 a.m. on Friday, January 4, 2019, in Aberdeen, South Dakota. Present at the meeting were Rasmussen, President-Elect Huff, and Commissioners Ginsbach, Hopper, Hruska, Pilcher, Sutton, Thompson Kerver, Tobin, Willert, Williams (Jennifer), Williams (Rich), Wurgler, and Zea, and Secretary-Treasurer Andrew Fergel. Also, present during part or all of the meeting were Strategic Plan Coordinator/A2J Co-Coordinator Elizabeth Overmoe, Young Lawyers Section President, Tamara Nash, Andrew Knutson (appeared by telephone), and Stephanie Pochop (appeared by telephone). In addition, a majority of the members of the Young Lawyers Section Board were present for the opening portion of the meeting.

Minutes of December 20, 2018 Commission Meeting held by Teleconference: Commissioner Tobin moved to approve the meeting minutes of the Board's December 20, 2018 meeting held by teleconference. Commissioner Williams (Jennifer) seconded the motion. Motion passed.

Young Lawyers Section Report: SDYLS President Nash reminded the Commission that this year's theme for the Section is "Engage." Ms. Nash informed the Commission that the SDYLS will be sending her to attend the ABA YLD Cabinet meeting in Asheville, North Carolina (January 11-13) and the ABA Midyear Meeting in Las Vegas, Nevada (January 25-27). She also informed the Commission that the SDYLS will be exploring the idea of sponsoring lunch for one day of the South Dakota Bar Exam. Ms. Nash announced that SDYLS will be hosting its annual Bootcamp CLE on March 1, 2019, in Rapid City (Pennington County Courthouse) and Sioux Falls (Lumber Exchange Building) with Mentorship Mixers to follow. She encouraged all Commissioners to attend. Ms. Nash also informed the Commissioners that the spring veterans legal clinics would be held on February 21, 2019 (Watertown) and February 22, 2019 (Sioux Falls). The SDYLS will sponsor the clinics again this year. Lastly, Ms. Nash informed the Commission that Project Destination would be implemented for the third year and that any commissioner interested in participating should contact her.

Financial Report: Secretary-Treasurer Fergel updated the Board on the state of the Bar's finances using a short PowerPoint presentation. After the presentation, Commissioner Williams (Jennifer) moved to approve the financial report. The motion was seconded by Commissioner Pilcher. Motion passed.

Strategic Plan Update: Strategic Plan Coordinator Overmoe updated the Commission on the changes to the State Bar strategic plan during the 2018-2019

bar year. The strategic plan committee is working with the ABA Division of Bar Services to develop new goals and initiatives for the State Bar strategic plan. To date, the strategic plan committee has met by phone and established a timeline to interview and survey community stakeholders. The committee will review all information and develop the State Bar's next strategic plan during their retreat on May 9-10, 2019, in Sioux Falls.

Lawyer Referral Service Update: Executive Director Fergel updated the Board on the State Bar's new on-line Lawyer Referral Service Program. Fergel reported that for the Program to work optimally additional lawyers are needed to participate and fill a few remaining panels. Geographically, the Program needs additional lawyers from central and western South Dakota. It was reported that the Lawyer Referral Service Committee has begun the work to implement a marketing plan to promote the Lawyer Referral Service Program to the public.

Report on CLE Retreat: Commissioner and CLE Committee Chairperson, Jason Sutton, provided a report to the Commission on the CLE retreat held on October 26, 2018, and subsequent plan based from the retreat discussion. Almost all twenty members of the CLE committee were present for the retreat. Jennifer Lewin, from the ABA Division of Bar Services, facilitated a review of the existing structure/programming/survey results and assisted in strategizing how to advance CLE for State Bar members moving forward. The retreat allowed the CLE committee to develop a vision and measurements for success as well as four separate strategies to advance CLE. Those strategies include; curriculum development, enhanced use of technology, increasing community-building events, and creating an organizational structure to support the work.

Midyear Committee and Section Report: Elizabeth Overmoe highlighted items in the written midyear reports of the committees and sections to the Commission. The combined forty-page report provides substantial information related to reporting committees' current projects and plans for the remainder of the bar year. The report reflects whether the committees intend to meet during the 2019 Annual Meeting and if there are any committee-related budgetary items for the Commission to consider.

Lawyers Assistance Committee: Stephanie Pochop, Chair of the Lawyer Assistance Committee ("LAC"), joined the meeting by telephone and discussed issues related to lawyer health and wellbeing. Thereafter, Ms. Pochop made several requests of the Commission on behalf of LAC. Those requests include:

1. That the Bar Commission direct Bar Administration identify and report the number of contacts made by members to those contracted to provide mental health and addiction disorder referrals to the LAC so the committee can assess the efficacy of the referral service.
2. That the Bar Commission adopt a policy that every bar meeting or bar

function contain a recitation about the importance of attorney health and wellbeing.

3. That as an alternative to the third-party contract providers utilized now, the Bar Commission study the feasibility of hiring a part-time or full-time Lawyer Assistance staff member or contract with a healthcare professional.
4. That the Bar Commission increase the LAC's budget next year by \$1,500 or \$1,600 to allow a LAC member to attend the National ABA LAC Conference.
5. That the Bar Commission adopt a policy that there be an alcohol-free event offered at all bar functions.

After discussing the requests, the Board agreed to consider them as it prepares the budget for the next fiscal year.

Location of 2023 Annual Meeting in Sioux Falls: A discussion was held concerning the location of the Sioux Falls 2023 Annual Meeting. After the Board considered the pros and cons associated with the two locations suited to host the annual meeting, Commissioner Hruska made a motion to enter into a contract with the Ramkota. The motion was seconded by Commissioner Wurgler. Motion Passed.

Proposal for Legislation to be Supported by the State Bar: Andrew Knutson, a member of the Business Law Committee, appeared by telephone to discuss two pieces of proposed legislation related to blockchain. He reported that the Business Law Committee is requesting the State Bar support the proposed legislation during the 2019 legislative session. After Mr. Knutson's presentation, the Commission discussed the procedure for committees and sections to request approval for proposed legislation. In light of that discussion, Commissioner Sutton made a motion to deny the committee's request because the proposed legislation had not been submitted to the membership at the annual meeting in June 2018. Commissioner Willert seconded the motion. Motion passed with Commissioners Tobin and Williams (Jennifer) abstaining. Thereafter, Commissioner Hopper made a motion to present the proposed legislation to the membership at the 2019 annual meeting. The motion was seconded by Commissioner Willert. Motion passed with Commissioner Williams (Jennifer) abstaining.

2019 Legislative Session: A short discussion was held about the upcoming session and the potential for legislation that would supplement current funding for legal services in South Dakota. After the discussion, Commissioner Tobin made a motion to revoke the motion passed by the Commission at the October 2018 meeting concerning legislation. Commissioner Tobin's motion included the caveat that the State Bar lobby team continue to seek additional funding through the 2019 legislative session for the Equal Access to Our Courts fund/legal services. The motion was seconded by Commissioner Willert. Motion passed.

Rule 8.4 of the South Dakota Rules of Professional Conduct: The Commission revisited the issue whether to adopt a change to Rule 8.4 of the South Dakota Rules

of Professional Conduct. After discussion, Commissioner Sutton moved that the Commission adopt option 1 of three different alternatives drafted by the Ethics Committee for the Commission's consideration. The motion was seconded by President-Elect Huff. The motion failed with Commissioner Williams (Jennifer) abstaining. After the vote, another lengthy discussion was had by the Commission concerning potential changes to the rule. Ultimately, it was decided that Commission would seek input from the general membership concerning an amendment to Rule 8.4 through a call for input by President Rasmussen in his February 2019 President's Corner.

Amended By-Laws: Executive Director Fergel reminded the Commission that the Supreme Court will hold a hearing on February 20, 2019, at 11:00 a.m. concerning the Revised and Restated By-Laws approved by the membership at the 2018 annual meeting.

State Bar Headquarters: A motion was made by Commissioner Williams (Rich) to go into executive session to discuss two lease proposals. Commissioner Willert seconded the motion. Motion passed, and an executive session was held. At 2:36 p.m. Central Time, President Rasmussen declared the Commission out of executive session. Thereafter, Commissioner Tobin made a motion to accept the lease proposal of Piercap, LLC with the provision that the Executive Director be allowed to negotiate the date of occupation of the new space in the best interests of the State Bar of South Dakota and execute the same. Commissioner Willert seconded the motion. Motion passed.

There being no further business, President Rasmussen adjourned the meeting.

Respectfully submitted,

Andrew L. Fergel
Secretary-Treasurer

**BOARD OF BAR COMMISSIONERS SITTING AS ACCESS TO JUSTICE,
INC. BOARD OF DIRECTORS**

Minutes, January 4, 2019
Dakota Events Center – James River Room
Aberdeen, South Dakota

President Reed Rasmussen called the meeting to order immediately after the conclusion of the Board of Bar Commissioners meeting on Friday, January 4, 2019, in Aberdeen, South Dakota. Present were Rasmussen, President-Elect Huff, and Commissioners, Ginsbach, Hopper, Hruska, Pilcher, Sutton, Thompson Kerver, Tobin, Willert, Williams (Jennifer), Williams (Rich), Wurgler, Zea, Secretary-Treasurer Andrew Fergel, and A2J Co-Coordinator Elizabeth Overmoe.

Access to Justice, Inc. Report: Elizabeth Overmoe provided a summary of Access to Justice's activity in 2018. In 2018, A2J, Inc., provided more than \$217,000 in pro bono legal assistance through volunteer attorneys that donated 1,066 hours of pro bono time. There were 214 cases opened and closed during 2018. In addition, SD Free Legal Answers has fourteen attorneys signed up to answer questions online for qualifying South Dakotans. SDFLA answered 225 questions in 2018 as compared to 96 questions in 2017. Ms. Overmoe attributed the increase to outreach efforts with the judiciary and clerk of courts. A2J, Inc. continues to collaborate with ERLS and DPLS on multiple grants and technology services, including online intake and the statewide legal services website.

MOU Between East River Legal Services and Access to Justice, Inc.: The Board reviewed a draft Technology Services Agreement between Access to Justice, Inc. and East River Legal Services. After review, Willert made a motion authorizing Access to Justice, Inc. to enter into the agreement and to have Executive Director Fergel execute the same. Ginsbach seconded the motion. Motion passed.

There being no further business, President Rasmussen adjourned the meeting.

Respectfully submitted,

Andrew L. Fergel
Secretary-Treasurer

STRESS and DEPRESSION HELP

Contact information for the regional mental health centers in South Dakota is located at www.statebarofsouthdakota.com ("For SDBAR Members" Under the Health & Wellness tab, click on the Stress/Depression/Addiction link. We have reached an understanding with all these centers and all will honor our agreement. If you are stressed out or you believe that you may be suffering from depression, the State Bar encourages you to seek a professional evaluation. If you don't have insurance or otherwise lack the financial resources, the State Bar project, funded by ALPS and the SD Bar Foundation, will cover the evaluation and several follow-up counseling sessions if indicated. You need only schedule the appointment and show them your 2018 active membership card. This is a confidential project. Counseling records are not, repeat, are not made available to the State Bar. We just pay the bill for those who can't afford it, up to the limit of \$500 per lawyer.

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



SOLACE PROGRAM

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

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

March 2019

Official Publication of the State Bar of South Dakota

If you wish to advertise in our publication or post job opportunities, please contact:
Tracie at tracie.bradford@sdbar.net.

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

Address Changes:

email tracie.bradford@sdbar.net or log in to your profile at www.statebarofsouthdakota.com

Board of Bar Commissioners:

President – Reed A. Rasmussen, Aberdeen
President Elect – Steven K. Huff, Yankton
Executive Director & Secretary/Treasurer – Andrew L. Fergel, Pierre
1st Circuit - Dennis Duncan, Parker
2nd Circuit - Jason Sutton, Sioux Falls
3rd Circuit - Arthur Monte Hopper, Watertown
4th Circuit - Kellen Willert, Belle Fourche
5th Circuit - Rodrick Tobin, Aberdeen
6th Circuit - Rich Williams, Pierre
7th Circuit - McLean Thompson Kerver, Rapid City
At Large - Dusty Ginsbach, Buffalo
Jennifer Williams, Rapid City
Joshua Wurgler, Aberdeen
Edward S. Hruska III, Pierre
Aaron Pilcher, Huron
Colleen Zea, Sioux Falls

LAWYERS CONCERNED FOR LAWYERS LAWYERS ASSISTANCE COMMITTEE

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

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

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

Caribou Coffee Club

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

Attendance is limited to lawyers.

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

For more information or to receive blind copies of group announcements, send an email to:
cariboucoffeclub@gmail.com



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

Sand Creek

WORKPLACE WELLNESS

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

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

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

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

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

The Sand Creek website, www.sandcreekeap.com,

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

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

Sand Creek is a HIPPA compliant service.

Go to www.sandcreekeap.com
Click the Work Life Wellness Login Link

Our Company ID is sbsd1

Or call 800-632-7643

Monday-Friday, 7:30am-5pm CT

Immediate, Confidential Support

24 hours a day/7 days a week:

888-243-5744

All discussions and services are kept strictly confidential.



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

In Memoriam



Jeanne Reisenweber Lyke

Sioux Falls - Jeanne Carol (Reisenweber) Lyke, 67, a family law attorney and longtime resident of Sioux Falls, South Dakota, passed away peacefully at the home of her sister in law in El Dorado Hills, California on February 2, 2019.

Jeanne was born on March 20, 1951 in Huron, South Dakota to Merrill and June Reisenweber. Jeanne graduated from Aberdeen Central High School, Northern State College and received her law degree from the University of North Dakota School of Law.

Jeanne was a devoted mother, grandmother, wife, avid reader, and Christian. Jeanne loved the triune God-Father God-Jesus, the son and the Holy Spirit and wanted you to know him. Jeanne was involved in many church activities, including teaching and counseling. She will be deeply missed by her friends, family and all that knew her.

A Celebration of Life service is scheduled for February 16, 2019 at 9:30 am at Crosswalk Community Church in Sioux Falls, South Dakota followed by a private burial service in Aberdeen, South Dakota at Riverside Memorial Cemetery at a later date. Flowers, donations and condolences may be offered at Crosswalk Church and Alliance Defending Freedom.

Cards and Condolences can be mailed to 1518 W. Sioux St, Sioux Falls SD, 57104

**DeRouchey Agriculture
Legal Consulting**

Roger DeRouchey
700 Broad St. Alexandria, SD 57311
605-770-8080
derouchey.agconsulting@triotel.net

- 34 years Farm Business Instructor at Mitchell Tech
- 3 years of Ag Lending
- 9 years Researching, Deposition, Testifying
- Expert witness on agriculture issues

www.deroucheyagriculturealllegalconsulting.com/services.html

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;

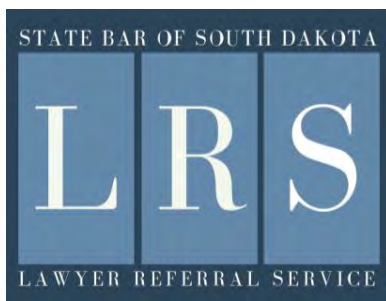
I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

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.



South Dakota Lawyer Referral Service ENROLLMENT AGREEMENT

Mail completed form and payment to:
State Bar of South Dakota - SDLRS
222 East Capitol Avenue, #3
Pierre, SD 57501

Or pay online at: www.findalawyerinsd.com

If you pay online, scan and email this completed form to: findalawyer@sdbar.net

1. I am an active member in good standing of the State Bar of South Dakota.
2. I wish to be a member of the South Dakota Lawyer Referral Service (“SDLRS”) and agree to pay a \$50 service fee on an annual basis.
3. Once I receive notice that my payment to SDLRS was received and processed, I will create my referral profile at www.findalawyerinsd.com.
4. The service fee is invoiced to participating attorneys in August. I understand that failure to pay the \$50 fee within 30 days will result in a suspension of referrals until the fee is received.
5. In the event I am suspended from the SDLRS for nonpayment of the invoiced amount, I agree that in order to be reinstated to the SDLRS I will pay the balance owed.
6. My practice is covered by Errors and Omissions Insurance totaling at least \$100,000/\$300,000. My policy is issued through:
Name: _____
Dates of coverage: _____
Limits of coverage: \$_____ \$_____
I will maintain such insurance at all times while participating in SDLRS. (You will be required to upload a pdf copy of your insurance declaration page to the SDLRS website to begin receiving referrals.)
7. I will promptly inform the State Bar of South Dakota Bar of any change in my address or phone number.
8. Enclosed is the total amount of \$50, to cover the registration fee for the following Practice Panels:
1. _____
2. _____
3. _____
9. I would like to add the following Practice Panels at the rate of an additional \$20 per panel:
1. _____ (add \$20)
2. _____ (add \$20)
3. _____ (add \$20)
10. If any of the following occur, I hereby agree to a suspension of referrals until final resolution of the matter:
 - a. My license to practice law is suspended for any reason;
 - b. I transfer to inactive status for any reason;
 - c. Formal disciplinary proceedings are initiated against me; or
 - d. A criminal complaint is filed or an indictment returned against me alleging a serious crime as defined in SDCL 16-19-37.
11. In the event I receive a referral through the SDLRS that results in attorney fees, I understand it is strongly encouraged I contribute 7% of those fees to the SD Bar Foundation.

I have read the foregoing and hereby certify that the answers are complete and true to the best of my knowledge.

Name: _____
(Signature)
(Print or Type)

Date: _____ Member No.: _____ Amount Enclosed: _____



South Dakota Lawyer Referral Service **PANEL & SUB-PANEL LIST**

BANKRUPTCY

- Business Bankruptcy(Creditor)
- Business Bankruptcy (Debtor)
- Personal Bankruptcy (Creditor)
- Personal Bankruptcy (Debtor)

BENEFITS & ADMINISTRATION

- Medicaid/Medicare
- Municipal or Local Government
- Professional Licensing
- Social Security
- State Government
- Unemployment
- Utilities
- Veterans Benefits

BUSINESS

- Antitrust litigation
- Business dissolution
- Business formation
- Business litigation or dispute
- Buy-sell agreements
- Compliance
- Contracts
- Franchise Agreements or purchase of franchise
- Gaming Law
- Non-profit formation
- Online business law
- Partnership agreements
- Securities
- Trade regulation
- Business mediation

CONSUMER & DEBT

- Collection Practices & Creditor Harassment
- Car repair/lemon law
- Credit Reports
- Debt Collections (Creditor)
- Debt Collection (Debtor)
- Identity Theft
- Predatory Lending Practices
- Small Claims Court
- Unfair and Deceptive Sales and Practices

CRIMINAL

- Appeals
- Criminal Record
- DWI/DUI
- Drugs
- Federal Criminal Defense
- Felony (non-homicide)
- Homicide
- Juvenile Delinquency
- Misdemeanor
- Probation Violation
- Property Forfeiture
- Traffic

DISPUTE RESOLUTION

- Arbitration
- Mediation

EDUCATION

- Academics
- Access (including bilingual and testing)
- Bullying
- Discipline (including Expulsion and Suspension)
- Special Education & Learning Disabilities
- Teachers and Other Educational Professionals

EMPLOYMENT

- Civil Service
- Employee Benefits
- Employer Representation
- Employment Contracts
- Employment Discrimination
- Medical Leave
- Non-compete/Non-disclosure Agreements
- Professional Licensing
- Safe Working Conditions
- Separation Agreement
- Sexual Harassment
- Wage and Labor Standards
- Whistleblower
- Wrongful Termination

FAMILY

- Adoption
- Alimony/Marital Support
- Annulment
- Child Abuse and Neglect
- Child Support and Custody
- Divorce (complex/contested)
- Divorce (simple/uncontested)
- Domestic Violence/Protection Order (Petitioner)
- Domestic Violence/Protection Order (respondent)
- Emancipation
- Family Mediation
- Guardianship
- Conservatorship
- Interstate/International
- Name Change
- Parental Rights Termination
- Paternity
- Post-nuptial Agreement
- Pre-nuptial Agreement
- Separation
- Visitation

HOUSING & APARTMENT

- Home Construction/Improvement
- Housing Discrimination
- Landlord Representation
- Mortgage Foreclosures (Not Predatory Lending)
- Predatory Mortgage Lending Practices
- Tenant Representation

IMMIGRATION

- Asylum
- Consular Practices
- Criminal Issues
- Employer Sanctions
- Employment-based immigration
- Family-based immigration
- Investors
- Naturalization
- Juvenile Status
- Removal Defense

INDIAN LAW

- Business
- Family Law
- Federal Government
- Housing
- Land
- Probate/Will
- Tribal Court
- Tribal Enrollment/Status
- Tribal Government

INSURANCE

- Automobile/Property Insurance
- Bad Faith
- Employer-provided insurance (disability, health, life, accident)
- Health Insurance
- Homeowner Insurance
- Life Insurance

INTELLECTUAL PROPERTY

- Copyrights
- Patents
- Trademarks

LOBBYING

- Federal
- State

PERSONAL INJURY & RIGHTS VIOLATIONS

- Accountant Malpractice (Defendant)
- Accountant Malpractice (Plaintiff)
- Animals
- Assault and Battery (Defendant)
- Assault and Battery (Plaintiff)
- Auto Collision (Defendant)
- Auto Collision (Plaintiff)
- Civil Rights
- Discrimination
- False Arrest/false imprisonment
- Jail/Prison Injuries
- Legal Malpractice (Defendant)
- Legal Malpractice (Plaintiff)
- Libel, Slander, or harassment (Defendant)
- Libel, Slander, or harassment (Plaintiff)
- Medical Malpractice (Defendant)
- Medical Malpractice (Plaintiff)
- Negligence (Defendant)
- Negligence (Plaintiff)
- Police misconduct
- Product liability (Defendant)
- Product liability (Plaintiff)
- Property Damage (Defendant)
- Property Damage (Plaintiff)
- Slip, trip and fall (Defendant)
- Slip, trip and fall (Plaintiff)
- Toxic tort (Defendant)
- Toxic tort (Plaintiff)
- Wrongful death or catastrophic injuries (Defendant)
- Wrongful death or catastrophic injuries (Plaintiff)

REAL ESTATE

- Commercial real estate litigation
- Commercial real estate transactions
- Condemnation, eminent domain & annexation
- Land Use & Zoning
- Natural Resources
- Neighborhood, Coop & Condominium Associations
- Residential real estate litigation
- Residential real estate transactions

TAX

- Business
- Personal
- Estate Tax
- Tax Litigation/Audits

WILLS, TRUSTS, ELDER

- Conservatorship
- Elder Abuse/Neglect
- Estate Administration
- Estate Court/Probate
- Estate Planning
- Estate Tax
- Guardianship
- Living Will/Advanced Directive
- Medicaid/Medicare/Nursing Home Planning
- Power of Attorney
- Simple Will
- Specialty Trusts
- Estate Dispute (Petitioner)
- Estate Dispute (Respondent)
- Trust Dispute (Petitioner)
- Trust Dispute (Respondent)

WORKERS COMPENSATION

- Federal Employee
- Private Employee
- Private Employer
- State Employee

IS THE LAWYER REFERRAL SERVICE RIGHT FOR ME?

LRS Committee

Are you looking for new clients? If so, the Lawyer Referral Service is right for you! The Lawyer Referral Service is not a free or reduced-fee legal service program. We are simply the right website for clients to find the right lawyer.

In the past, potential clients seeking legal representation were encouraged to call the State Bar Office for a referral. We have replaced that outdated system. Now, potential clients will be directed to our new website at www.findalawyerinsd.com.

Since launching the website in late June, thirty-two lawyers have enrolled. And while we have not yet released our public media campaign (this is coming soon), potential clients are already using our website and have been matched with enrolled lawyers in their area.

Ready to give it a try? Enrolling is easy:

- Send your completed enrollment form to the State Bar Office along with a \$50 payment for the annual service fee
- Create your referral profile on our website at www.findalawyerinsd.com
- Choose up to three practice panels, and an unlimited number of subpanels within your practice panel group (additional practice panels may be added for \$20 per panel)
- Begin receiving matches in your area

Enrollment in the Lawyer Referral Service is a great way to grow your practice, help potential clients seeking legal representation, and support the mission of the State Bar.



www.findalawyerinsd.com

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

In the Matter of the Discipline) INTERIM ORDER OF SUSPENSION
of JOHN A. STIELOW,)
as an attorney at law.) #28764
)

A complaint against John A. Stielow (Respondent) alleging violations of the Rules of Professional Responsibility was filed with the Disciplinary Board of the State Bar of South Dakota.

The Board held disciplinary proceedings and submitted findings of fact, conclusions of law, and a recommendation for formal discipline to this Court.

The findings related to Respondent's failures to: respond to subpoenas for trust account information; appear or timely appear for noticed hearings before the Board; receive and return certified mailings of notices to appear for Board hearings; deposit a cash retainer in a trust account; provide a statement, invoice, or requested accounting for fees; intelligibly respond to Board inquiries during Board hearings; and Respondent's delay and obfuscation in response to the Board's investigation. The Board recommended a sanction of public censure.

Respondent filed an answer, objecting to the Board's recommendation and requesting that the matter be referred to a referee to allow Respondent to present additional "mitigating evidence."

#28764, Interim Order of Suspension

Respondent was ordered to appear for a hearing before this Court on Wednesday, February 20, 2019, 10:00 a.m., C.T., in the Supreme Court Courtroom, City of Pierre, State of South Dakota. Notice of hearing was served by the Clerk of this Court on Respondent by certified mail on December 17, 2018. Respondent acknowledged receipt of notice on January 2, 2019.

On February 11, 2019, the Board filed a supplemental report with this Court setting forth the following:

- a. A complaint filed with the Board in November 2018, in which a complainant alleged she had paid Respondent a retainer of \$5,000 for legal services, but Respondent failed to provide any services, respond to complainant's attempts to communicate, or return the retainer. The Board notified Respondent of the complaint, but, as of February 8, 2019, Respondent had failed to respond to the Board.
- b. A letter from a circuit court judge to the Board dated February 5, 2019, cited instances of Respondent's failure to appear for hearings and to obey orders of the circuit court, dishonesty in responses to the circuit court's inquiries, failure to communicate with clients and resultant harm to clients.

A copy of the Board's supplemental report was served upon Respondent by certified and electronic mail on February 8, 2019.

#28764, Interim Order of Suspension

On the date and time noticed for hearing of this matter before this Court, Respondent did not appear in person or by counsel. Counsel for the Board appeared in person. Counsel represented that, based upon the additional allegations in the Board's supplemental report and Respondent's failure to respond, the Board unanimously recommended an increased sanction of suspension from the practice of law for no less than six months.

This Court has now considered the file and record in this matter, and having determined that Respondent's continuation of the practice of law poses an ongoing risk or danger to his clients, his clients' property, and the public, and that an immediate interim order should enter suspending Respondent from the practice of law in South Dakota, it is

ORDERED that, effective immediately, John A. Stielow is suspended from the practice of law in all of the courts of the State of South Dakota until further order of this Court.

IT IS FURTHER ORDERED that, Respondent shall fully answer and respond to any complaints pending before the Board, and also provide the Board with a complete list of his clients and their pending matters; a satisfactory accounting of his trust account and trust account activity for such period of time as the Board deems appropriate; and such additional information, response, or action as the Board may require during these proceedings.


#28764, Interim Order of Suspension

IT IS FURTHER ORDERED that, upon a Petition for reinstatement by Respondent pursuant to SDCL 16-19-84 through SDCL 16-19-87, but in any event within no longer than six months from the date of this order, the Board shall conduct such investigation and hearings as provided in SDCL Ch. 16-19, and shall file an updated report with this Court and serve notice of the report upon Respondent. The updated report shall include any supplemental findings of fact, conclusions of law, or recommendations by the Board. Upon filing of the updated report, this Court will determine whether a further hearing, discipline, or reinstatement may be appropriate.

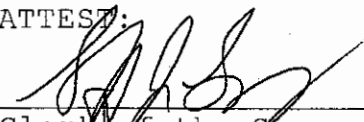
IT IS FURTHER ORDERED that, any noncompliance by Respondent with any order of this Court, may result in a finding of contempt pursuant to SDCL 16-19-82.

DATED at Pierre, South Dakota, this 22nd day of February, 2019.

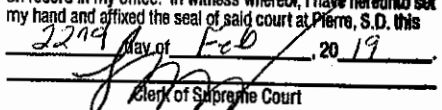
BY THE COURT:


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 Retired Justice John K. Konenkamp.

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
22nd day of Feb, 2019.

Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 22 2019


Clerk

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

20th day of Feb, 20 19

Shirley A. Jameson-Fergel
Clerk of Supreme Court

Deputy

In the Matter of the Discipline
of SCOT D. MANNSCHRECK,
as an Attorney at Law.

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)
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)

SECOND SUPPLEMENTAL ORDER
IN REGARDS TO
ORDER FOR TEMPORARY SUSPENSION

#28775

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 20 2019

Shirley A. Jameson-Fergel
Clerk

Upon petition of the Disciplinary Board of the State Bar of South Dakota, this Court entered its order of October 31, 2018, transferring Scot D. Mannschreck to medical inactive status and temporarily suspending him from the practice of law. The order was made effective immediately. On the later petition of the Disciplinary Board, this Court entered its supplemental order of November 30, 2018 in regard to the order for temporary suspension. The supplemental order directed the Disciplinary Board to: take possession of Mannschreck's client files and records; notify clients and take possession of client funds held in trust; and return the funds to persons entitled to them.

The Disciplinary Board now petitions for a second supplemental order in regard to the order for temporary suspension representing that: active files and records have been returned to Mannschreck's clients; trust account records are insufficient to determine who may be entitled to funds remaining in the account; and Mannschreck's records contain fully executed wills and powers of attorney for persons whose whereabouts are unknown to the Board. The Board further represents that impending mortgage foreclosure

proceedings on Mannschreck's office premises and the need to protect documents require: the deposit of the balance in Mannschreck's trust account and the executed last wills and testaments and powers of attorney with the Clay County Clerk of Court; and public notice of the deposit.

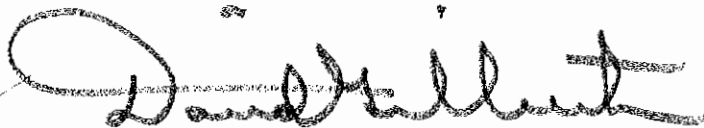
Notice of the Board's petition was served upon Mannschreck. Based upon our review of the petition as well as the file and record in this matter, it is:

ORDERED that, effective immediately, the Disciplinary Board shall deposit with the Clay County Clerk of Court the executed last wills and testaments, powers of attorney, and other like documents, together with the balance in Mannschreck's trust account, to be held by the clerk for delivery to persons entitled to them upon satisfactory proof of entitlement.

IT IS FURTHER ORDERED that, the Disciplinary Board shall cause public notice of the deposit and for interested persons to contact the Clay County Clerk of Court to be published once in a legal newspaper of general circulation in the Vermillion, South Dakota area and shall further provide proof of publication to this Court.

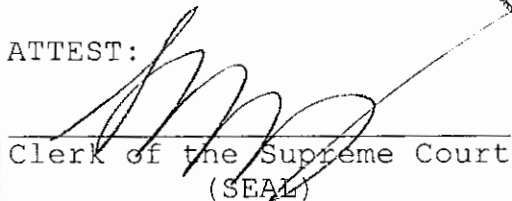
DATED at Pierre, South Dakota this 20th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

(Justice Steven R. Jensen disqualified.)

PARTICIPATING: Chief Justice David Gilbertson and Justices Janine M. Kern and Mark E. Salter.



CAREER CENTER

OFFICE OF ATTORNEY GENERAL ELDER ABUSE PROSECUTION POSITION

DETAILS: The Office of Attorney General seeks an attorney for the Elder Abuse position. The Elder Abuse attorney is responsible for representing the state in criminal prosecutions to address abuse and financial exploitation of the elderly and vulnerable adults in South Dakota. Duties also include preparing and presenting educational presentations regarding elder abuse. Assistant Attorneys General are required to maintain high moral character; have strong legal advocacy skills; have effective research and writing capabilities; and be able to communicate with clients and the courts.

OFFICE LOCATION: This position will be stationed in Pierre or Sioux Falls.

STARTING SALARY: Entry level salary is \$ 63,259.09 annually or greater, depending upon experience and funding availability. The State of South Dakota has an excellent benefit package including retirement, employee insurance coverage and paid leave.

QUALIFICATIONS: Applicants must have a JD degree and be licensed to practice law in South Dakota; must be a motivated self-starter and be prepared to assume immediate responsibilities.

APPLICATION PROCESS AND DEADLINE DATE: Interested persons should send a resume containing three references, a writing sample and a letter describing their qualifications to the address below. This position will be open until filled.

**JASON RAVNSBORG
OFFICE OF ATTORNEY GENERAL
1302 E. HIGHWAY 14, SUITE 1
PIERRE, SOUTH DAKOTA 57501**

**Judicial Qualifications Commission
State of South Dakota**

500 East Capitol Avenue

Pierre, SD 57501

Telephone: (605) 773-2099

Fax: (605) 773-8437

Email: lori.grode@ujs.state.sd.us

Kimberley A. Mortenson, Chair

Mark S. Roby, Vice Chair

Hon. Robin J. Houwman

Mark Haigh

Hon. Bruce V. Anderson, Secretary

Timothy M. Engel

Rebecca A. Porter

Lori Grode, Executive Assistant

Notice of Judicial Vacancy

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

FROM: Bruce V. Anderson, Secretary, Judicial Qualifications Commission

The retirement of the Hon. Gordon D. Swanson in June 2019 will create a vacancy for a Circuit Court Judge position (Position D) in the Fourth 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://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 April 12, 2019**. Applicants should make sure the application submitted is the 2018 revision. The duty station for this position shall be in Sturgis, 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: 605-773-2099
Email: lori.grode@ujs.state.sd.us

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

The Fourth Circuit is comprised of the following counties: Butte, Corson, Dewey, Harding, Lawrence, Meade, Perkins and Ziebach.



STANDING ROCK SIOUX TRIBE Job Announcements

CHIEF PROSECUTOR AND ASSISTANT TRIBAL PROSECUTOR Standing Rock Sioux Tribal Court Fort Yates, ND 58538

OPEN UNTIL FILLED

The Standing Rock Sioux Tribe seeks a Chief Tribal Prosecutor and an Assistant Tribal Prosecutor.

Work schedule is flexible. Salary is negotiable and based on experience. These are contract positions, compensated on an hourly basis.

The Standing Rock Sioux Tribal Code of Justice provides the following statutory qualification requirements: **To be eligible to serve as the Tribal Court Prosecutor or Assistant Prosecutor of the Standing Rock Sioux Tribal Court, a person shall (1) be a member in good standing of the bar in any state or federal court; (2) at least 21 years of age, (3) be of high moral character and integrity, (4) have a law degree from an accredited law school, (5) must never have been convicted of a felony; (6) shall not have been dishonorably discharged from the Armed Services, must (7) be physically able to perform the duties of the office and (8) be qualified to be admitted to practice under the provision of Section 1-601 of this Title.**

The Standing Rock Sioux Tribal Code of Justice, Section 30-202, provides a limited preference based on political status, as follows, to: 1) Tribal members, 2) local Indians, 3) other Indians, and 4) all other qualified applicants. The Standing Rock Sioux Tribe is an equal opportunity employer and does not discriminate on the basis of race (*"Indian" is a federally recognized political status*), national origin, sex or sexual orientation, religion, age, or disability).

Please submit a cover letter, resume, references, writing sample, proof of bar membership, and any additional materials the applicant feels the Selection Committee should consider.

Applications for the Chief Prosecutor and/or Assistant Tribal Prosecutor position may be sent to **Ms. Dellis M. Agard, Court Administrator, Standing Rock Sioux Tribal Court, PO Box 363, Fort Yates, ND**, or by Email to dagard@standingrock.org. Ms. Agard can also be contacted by Telephone at **(701) 854-7244 Ext. 7419**.

The worksite for this position is located at the Standing Rock Sioux Tribal Court in Fort Yates, ND. The Sitting Bull College Transit provides bus services, at nominal cost, to and from Bismarck, ND; Mobridge, SD; McLaughlin, SD and Selfridge, ND and coordinated with the Tribal Work Day, which is 8:00 AM to 4:30 PM (Central Time).

CAREER CENTER

CLASSIFIEDS Contact | Email your employment announcement to tracie.bradford@sdbar.net by January 26th to have it included in the February newsletter. Please be sure to include a closing date. To see more jobs listings, visit www.statebarofsouthdakota.com.

ATTORNEYS

Staff Attorney: Sioux Falls

East River Legal Services (ERLS) seeks to hire a Staff Attorney for our Sioux Falls, South Dakota office. ERLS is a non-profit law firm serving low income individuals in the 33 counties of Eastern South Dakota. East River Legal Services (ERLS) exists to better the lives of the over 46,000 people living in poverty in Eastern South Dakota. We offer free legal services to our community's Veterans, Older Americans (60+), Disabled, Victims of Violence, and all those facing financial insecurity.

The staff attorney position requires the representation of low-income individuals in all areas of poverty law including housing, family law, protection orders, landlord/tenant disputes, evictions, utilities, public benefits, consumer, and other civil matters. The types of services provided include legal advice, brief service or extended representation. Aside from direct services, the staff attorney position requires preparing and delivering client training and other community education; conducting intake and outreach; appearing in administrative and judicial forums; active bar participation and special legal and community projects impacting low income clients.

East River Legal Services is an Equal Opportunity Employer.

Salary and Benefits:

Salary based on experience. Benefits include paid holidays and vacate on days, health, dental, vision, Life, AD & D, IRA.

To apply:

Please send a cover letter and resume with references, to:

Brent Thompson

Executive Director

East River Legal Services

335 North Main Avenue, Suite 200 Sioux Falls, SD 57104

Or email to: brent@erlservices.org

Submission deadline: Friday, March 31, 2019

STAFF ATTORNEY – SIOUX FALLS

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Temporary Staff Attorney position in our Sioux Falls, South Dakota, office which can possibly turn into a permanent position. The Sioux Falls office serves primarily Native Americans in the vicinity of Sioux Falls and in the eastern half of South Dakota. This job may require travel during the day.

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: January 31, 2019.

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

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

Deputy State's Attorney- Lincoln County

Lincoln County State's Attorney's Office

Lincoln County invites applications for a Deputy State's Attorney. The Deputy State's Attorney performs routine professional legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Lincoln County.

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 or be licensed to practice law in any other state and able to take the next available South Dakota bar examination or be a recent or imminent law school graduate, eligible to sit for the next available South Dakota bar examination. Comparable combination of education and experience may be considered. \$2,305.60 - \$2,544.80 bi-weekly. To view a full listing of qualifications and to apply visit: <http://www.lincolncountysd.org> then click on the Employment tab. Application deadline: March 20th, 2019 at 5:00 PM. Contact Human Resources with questions at 605-764-6609. Equal Opportunity Employer.

FINANCIAL INSTITUTION EXAMINER: Pierre or Sioux Falls

The South Dakota Division of Banking is seeking inquisitive and analytical applicants with excellent communication skills to join our team of professional Financial Institution Examiners in Pierre or Sioux Falls. The Division regulates the state's banking, trust, and financial services industries to assure confidence in financial markets and services. Examiners determine the condition of state-chartered banks, trust companies, and other licensed financial institutions; evaluate adequacy of internal control procedures; determine compliance with State and Federal statutes related to banking, trust, licensing, and consumer protection; evaluate trust and loan administration and corresponding investment portfolios for prudence, quality, and suitability; make recommendations on findings; and investigate consumer complaints related to supervised financial institutions.

Bachelor's degree in banking, finance, accounting, business, economics, or a related field, and advanced degrees (JD, MBA, etc.) preferred.

Starting salary: \$40,000 - \$45,000 annually, depending on experience. Excellent training and salary advancement opportunities.

No previous examination experience necessary.

Overnight travel is required. For more information visit <http://bhr.sd.gov/workforus/workbenefits.aspx>

Apply at: <http://tinyurl.com/yaqb8327>. "An Equal Opportunity Employer"

To be considered, please attach a letter of interest, post-

secondary transcripts, and a writing sample. The State of South Dakota offers paid employee health insurance, ten paid holidays, generous vacation leave accrual, plus medical, dental, vision, and other benefits.

Attorney on a Partnership Track - Pierre

Due to recent career changes by May Adam lawyers, we are searching for the right person or persons to join our law firm on a partnership track. We have an established vibrant practice serving government, corporate and individual clients statewide. Our associates are mentored by experienced lawyers and are exposed to a number of areas of practice. We seek bright engaging persons, whether experienced or new admittees to the bar who are motivated and have a record of success to forward a letter, transcript and resume to Doug Abraham at daa@mayadam.net. All inquiries kept in confidence.

ATTORNEY: SIOUX FALLS

Advanced Asset Alliance in Sioux Falls, SD is seeking an Attorney to fill the position of General Counsel. Applicants must have a JD and be licensed to practice, or by reciprocity be able to obtain license to practice, in SD. Additional licensing in IA, NE, ND, and/or MN is beneficial. Ideal candidates will have 1-5 years of experience with a background in insurance law, health-care law, employment law, contract law, litigation, compliance or collections. Excellent communication skills with staff, clients, and the courts is required.

Salary: Competitive, depending on experience, flexible schedule, employee insurance coverage (medical, dental, life, disability).

Closing date: Open until position is filed.

Duties and responsibilities: Oversight of legal staff, monitor and liaison with out-of-state counsel working on behalf the company, responsible for multi-state licensing and corporate and statutory compliance, appear for all legal proceedings on behalf of the company and clientele, advise and offer counsel to upper management and clientele on all legal matters, investigate and respond to regulatory complaints, liaison with industry and trade interest groups and lobbyists, review and execute all legal pleadings on behalf of the company, provide training to employees and clientele on legal matters.

Please send resumes to chris@advancedassetalliance.com and kade@advancedassetalliance.com.

In-House Legal Counsel: Sioux Falls School District

Education/Experience: Juris Doctorate Degree. Admitted to practice law in SD with at least three (3) years of related experience.

The essential functions of in-house legal counsel include the following:

Oversees the development and implementation of District policies; Assists with the review and revisions of District contracts with vendors and outside service providers; Interprets the employee groups' negotiated contract language for executive administration; Assists with the nonrenewal, reduction in force, termination, discipline and other personnel procedures for certificated and non-certificated personnel; Represents the District at grievance hearings. Investigates and provides counsel to arbitration, unemployment hearings, unfair labor practices and discrimination hearings; Serves as the Civil Rights Officer and Title IX Coordinator; Provides counsel to the Director of Special Services on the interpretation and adherence to special education law; Represents the District in Due Process, State Complaint or OCR proceedings; Manages student discipline, suspensions and expulsions; Keeps informed of and interprets court decisions, regulations, statutes, rules and policies affecting education, employee groups and student affairs; Manages communication with outside legal counsel and confers with outside counsel on pertinent legal issues as needed; Performs other duties as assigned.

Calendar: 12-month (year-round) position

Compensation: 111,042 annually + depending on experience

Screening for the position begins February 12 and continues until the position is filled.

Candidates must apply online at www.sf.k12.sd.us. Please include a resume with the online application.

Questions: Sioux Falls School District - HR Department, 605-367-7661, sfsdhrdepartment@k12.sd.us

In-House Commercial Lending Attorney: Sioux Falls

Great Western Bank is seeking an In-House Commercial Lending Attorney with experience in commercial and agricultural lending, workouts and collections, and bankruptcy to join its in-house Legal

Department. Primary duties will include supporting internal staff (such as lenders, the credit department, workout and collections, and loan documentation and closing services staff) in dealing with questions and issues as they arise in connection with structuring and closing commercial loans, workouts and collections. Other duties will include assisting in various administrative functions, such as management of outside counsel.

Interested candidates should apply on our website: <https://www.greatwesternbank.com/about-us/careers/>.

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: John J. Buchy, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, dpls1@gwtc.net.

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

MANAGING ATTORNEY: EAGLE BUTTE

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Managing Attorney position in our Eagle Butte, South Dakota, branch office. The Eagle Butte office serves Cheyenne River Indian Reservation in South Dakota and Dewey, Haakon, Potter and Ziebach 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's experience in the practice of poverty law or Indian law, with trial and appellate experience in state and federal courts or two years' experience in the general practice of law. If Applicant does not possess this experience we would consider Applicant for a staff attorney position until qualified to be a Managing Attorney.

SALARY: Competitive, depending on experience. DPLS has an excellent fringe benefits package 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: John J. Buchy, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, dpls1@gwtc.net

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

MANAGING ATTORNEY - PINE RIDGE

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Managing 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).

CLOSING DATE: April 1, 2019.

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

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



IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)
SDCL 15-26C-1)

RULE 19-01

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 15-26C-1 and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26C-1 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26C-1. Electronic filing.

(1) Effective upon further order of the Supreme Court entered after July 1, 2019, January 1, 2014, and except as specifically exempted by these rules or court order, attorneys shall electronically file all documents, including petitions, notices of review, motions and briefs and any appendices with the Supreme Court through the Odyssey® electronic filing system unless advance permission is granted by the court allowing paper filing or filing through any other method. Self-represented litigants may file electronically, but shall not be required to file electronically. Any other notices, petitions, pleadings, motions, or documents may be filed electronically at the discretion of the attorney. Electronic filing for self-represented litigants is discretionary for all filings with the Supreme Court. On a showing of good cause, an attorney required to file electronically may be granted leave of court to file paper documents with the Supreme Court.

(2) Registered users will receive electronic notice when documents are entered into the system. Registration for electronic filing constitutes written consent to electronic service of all documents filed in accordance with these rules. Documents filed electronically must be submitted by email attachment to SCCLerkBriefs@uds.state.sd.us. The number of the case shall appear in the subject line of the email.

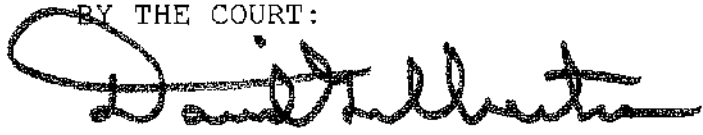
(3) A document filed electronically has the same legal effect as an original paper document.

(4) The typed attorney or party name or electronic signature on a document filed electronically has the same effect as an original manually affixed signature.

(5) A party electronically filing a document that is not accessible to the public, in whole or in part, is responsible for redaction or designating the document as confidential or sealed before transmitting it to the Supreme Court. For any document containing information where redaction is required, in whole or in part, pursuant to chapter 15-15A or order of the Supreme Court or circuit court, the original unredacted document shall also be filed electronically. It is the responsibility of the parties to seek advance approval from the Supreme Court for submitting a document as sealed or confidential if that document is not already declared confidential or sealed by existing law, court rules or order.

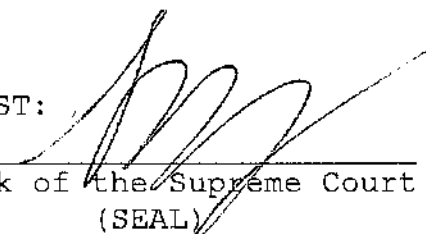
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:

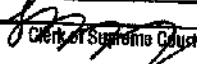


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jameson-Fargel, 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 Feb, 2019

Clerk of Supreme Court
Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)
SDCL 15-26C-2)

RULE 19-02

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 15-26C-2 and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26C-2 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26C-2. Electronic document formats.

(1) All documents submitted to the Supreme Court in electronic form must be in ~~approved word processing format which shall then be converted by the supreme court clerk to portable document format (.pdf)~~ except as follows:

(a) Parties must obtain permission from the Supreme Court Clerk in advance if they seek to submit documents in another format.

(b) Briefs shall comply with chapter ~~15-26A~~ 15-26A-60 and shall consist of a single document submitted in pdf and an approved word processing format.

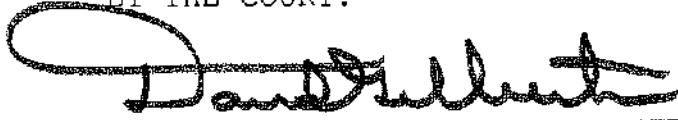
(c) When an appendix is may be filed it shall be in .pdf format and shall be included as part of the brief document. Except for limited excerpts showing a court's reasoning, circuit court transcripts that have been filed electronically with the Supreme Court shall not be included in an appendix. A table of contents with page or paragraph reference as appropriate for each document must precede the appendix. Points of particular interest with page or paragraph reference may also be added to the table of contents. When feasible, electronic bookmarks shall be added to note the first page of each document in the appendix and may be added to note the location of points of particular interest.

IT IS FURTHER ORDERED that this rule become effective upon further order of the Supreme Court entered after July 1, 2019.

Rule 19-02

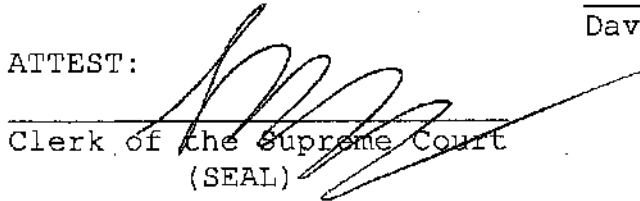
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:


Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

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 Feb, 2019


Clerk of Supreme Court

Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT)
SDCL 15-26C-3)

RULE 19-03

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 15-26C-3 and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26C-3 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26C-3. Time of filing.

(1) A document in compliance with the Rules of Appellate Procedure and this rule and submitted electronically to the supreme court clerk by 11:59 p. m. central standard time or daylight savings time as applicable shall be considered filed on that date.

~~(2) Upon receiving an electronic document, the supreme court clerk will issue an e-mail confirmation that the document has been received. After reviewing an electronically filed document, the supreme court clerk must inform the filer, through an e-mail generated by the Odyssey® system, whether the document has been accepted or rejected. A document may be rejected (a) if it is filed in the wrong court; (b) applicable filing fees are not paid or waived; (c) the document is incomplete or contains missing information; (d) or fails to comply with applicable statutory requirements or these rules.~~

(3) Parties filing briefs electronically must also submit an original ~~and two hardcopies of any document~~ to the supreme court clerk. For any brief filed in an appeal from a judgment or order pursuant to chapter 26-8A, the appellant shall also file a two hardcopy redacted briefs in compliance with subdivision 15-26A-60(9).

(4) The Supreme Court may also order any party to provide additional hardcopies of any documents electronically filed.

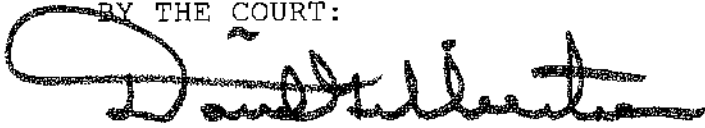
~~(5) A party must pay all required fees and payments within five days of submitting a document filed electronically. If fees and~~

~~payments are not received within five days of submission, the document will not be filed and will be returned by the supreme court clerk and the party will be required to re-file the document.~~

IT IS FURTHER ORDERED that this rule become effective upon further order of the Supreme Court entered after July 1, 2019.

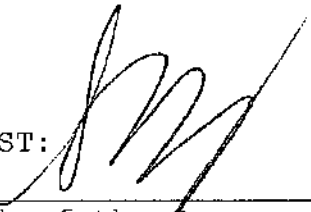
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:




Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jameson-Fergal, 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 Feb, 2019

Clerk of Supreme Court
Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) RULE 19-04
SDCL 15-26C-4)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 15-26C-4 and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26C-4 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26C-4. Electronic service.

(1) All documents filed electronically must be served electronically through the Odyssey® system except for documents served on or by self-represented litigants. On a showing of good cause, an attorney may be granted leave by the Supreme Court to serve paper documents or to be exempt from receiving electronic service.

(2) Electronic service is not effective if the party making service learns that the attempted service did not reach the person to be served.

~~(1) After January 1, 2014, any attorney not exempt from electronic filing or a party filing electronically must designate an email address for accepting electronic service and for receiving electronic service with the supreme court clerk. On a showing of good cause, an attorney may be granted leave of court to serve paper documents or to be exempt from receiving electronic service.~~

~~(2) If a party files a document by electronic means, the party must serve the document by electronic means unless the recipient of service has not designated an email address for receiving electronic service.~~

~~(3) Electronic service is not effective if the party making service learns that the attempted service did not reach the person to be served.~~

~~(4) If a recipient cannot accept electronic service of a document, service under another means specified by § 15-6-5 (b) is required.~~

~~(5) Any party effectuating service electronically must include a certificate of service specifying the items electronically served.~~

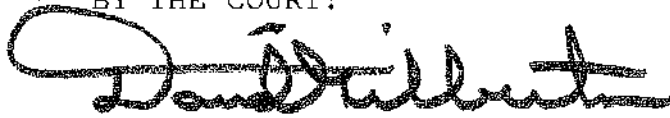
~~(6) Documents served electronically may be in portable document format (.pdf), with the exception of those documents to be filed with the Supreme Court in approved word processing format as previously specified herein.~~

~~(7) The Supreme Court may electronically file and serve on registered attorneys and parties any decisions, orders, notices, remittiturs or other documents prepared by the court in such cases provided the attorney or party to be served has designated an email address for receiving electronic service.~~

IT IS FURTHER ORDERED that this rule become effective upon further order of the Supreme Court entered after July 1, 2019.

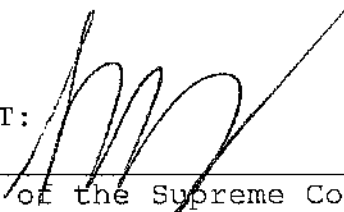
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:

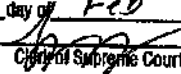


David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

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 Feb, 2019

Clerk of Supreme Court
Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

FEB 25 2019

Shirley A. Jamason-Fergel
Clerk

* * * *

IN THE MATTER OF THE AMENDMENT) RULE 19-05
SDCL 15-26A-79)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 15-26A-79 and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 15-26A-79 be and it is hereby amended to read in its entirety as follows:

SDCL 15-26A-79. Number of copies of briefs to be served and filed.

Two A copy copies of each brief shall be served on the attorney for each party to the appeal separately represented and upon any party who is not represented by counsel. A copy Fifteen copies of each brief shall be filed with the clerk of the Supreme Court. The clerk shall not accept a brief for filing unless it is accompanied by admission or proof of service

IT IS FURTHER ORDERED that this rule become effective upon further order of the Supreme Court entered after July 1, 2019.

DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:

David Gilbertson

David Gilbertson, Chief Justice

ATTEST:

[Signature]
Clerk of the Supreme Court
(SEAL)

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jamason-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 FEB, 20 19
[Signature]
Clerk of Supreme Court
Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) RULE 19-06
TO APPENDIX A. TO SDCL CHAPTER)
16-1A RULES OF PROCEDURE OF THE)
JUDICIAL QUALIFICATIONS COMMISSION)
SECTION II. JUDICIAL NOMINATIONS,)
PART 2)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of Appendix A. to SDCL Chapter 16-1a and the Court having considered the proposed amendment and being fully advised in the premises, now, therefore, it is

ORDERED that Appendix A. to SDCL Chapter 16-1a be and it is hereby amended to read in its entirety as follows:

**APPENDIX A. TO CHAPTER SDCL 16-1A
RULES OF PROCEDURE OF THE JUDICIAL QUALIFICATIONS COMMISSION
SECTION II. JUDICIAL NOMINATIONS, PART 2**

2. Further Investigation; Personal Interviews.

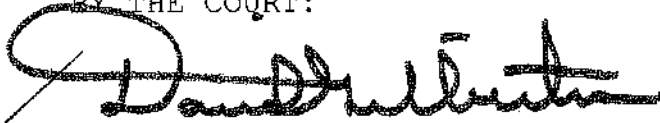
The commission shall investigate the fitness and qualifications of each applicant, utilizing all sources reasonably available. In addition, the commission may invite any applicant to appear before a quorum of the commission sitting as a whole to respond to questions deemed pertinent to each applicant's fitness and qualifications to hold the judicial office. All applications, and other information received from or concerning applicants and all interviews and proceedings of the commission shall be confidential and privileged.

The application and other information received from or concerning an applicant may be released to all members of the Supreme Court with the consent of the applicant for consideration by the Supreme Court as part of the certification process for a magistrate judge position as provided by SDCL 16-12B-1.2. Any person interviewed as part of the investigative process shall be informed the information obtained may also be provided to the Supreme Court as part of the magistrate certification process upon consent of the applicant.

IT IS FURTHER ORDERED that this rule shall become effective immediately.

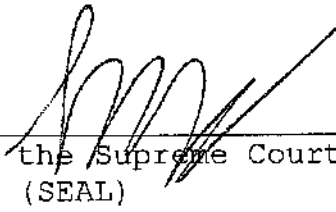
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:




Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jameson-Fergal, 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 Feb 2019

Deputy of Supreme Court
Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE ADOPTION OF) RULE 19-07
RULES CONCERNING ELECTRONIC ACCESS)
TO DOCUMENT AND DOCUMENT CHARGES)
THROUGH THE UNIFIED JUDICIAL)
SYSTEM'S ELECTRONIC ACCESS PORTAL)
TO BE DESIGNATED AT SDCL CH. 16-2)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the adoption of rules concerning electronic access to document and document charges through the Unified Judicial System's electronic access portal to be designated at SDCL Ch. 16-2 and the Court having considered the proposed adoption and being fully advised in the premises, now, therefore, it is

ORDERED that the proposed adoption of rules concerning electronic access to document and document charges through the Unified Judicial System's electronic access portal to be designated at SDCL Ch. 16-2 be and they are hereby adopted to read in their entirety as follows:

**Electronic Access to Document and Document Charges
Through the Unified Judicial System's Electronic Access Portal
to Be Designated at SDCL Ch. 16-2.**

Section 1.

The State Court Administrator's Office shall conduct a pilot program that will allow access to Unified Judicial System case documents through a web-based electronic access portal. The State Court Administrator shall determine the procedure and parameters on how the pilot program shall be implemented and shall report the results of the pilot program prior to December 31, 2020. The pilot program shall continue until further order of the Court.

Section 2.

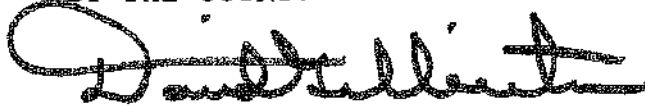
Any documents obtained through an electronic search of the Unified Judicial System's electronic access portal shall be

charged ten cents per page but no more than three dollars per document. This fee shall not be applicable to an attorney of record on a case or an abstractor for use during the normal course of business or any entity that has a data access agreement providing document access. A self-represented litigant may not be charged a copy fee by the clerk of court for documents on cases in which they appear as a party. Any fee collected pursuant to this section will be deposited in accordance with § 16-2-43.

IT IS FURTHER ORDERED that this rule shall become effective immediately.

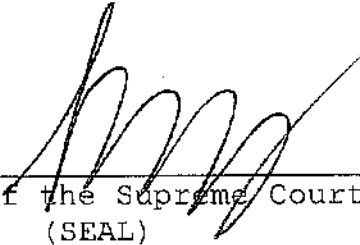
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:



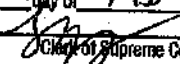
Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019



Clerk

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 Feb, 2019

Deputy

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 Feb, 20 19
[Signature]
Clerk of Supreme Court
Deputy

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019

* * * *

IN THE MATTER OF THE AMENDMENT)
SDCL 16-16-11)

RULE 19-18 Clerk
[Signature]

A hearing was held on February 20, 2019, at Pierre,
South Dakota, relating to the amendment of SDCL 16-16-11 and the
Court having considered the proposed amendment, oral presentation
relating thereto and being fully advised in the premises, now,
therefore, it is

ORDERED that SDCL 16-16-11 be and it is hereby
amended to read in its entirety as follows:

SDCL 16-16-11. Re-examination after three failures prohibited. An applicant who fails three times to pass the bar
examination in any jurisdiction or combination of jurisdictions
will may not be permitted to take another examination in South
Dakota except by permission of the Supreme Court upon a showing
that the reasons for previous failures no longer exist and there
is a reasonable likelihood the applicant will pass the
examination if allowed to take it.

Absent a showing of exceptional circumstances, an
applicant who has failed four times to pass the bar examination
in any jurisdiction or combination of jurisdictions will not be
granted permission to sit for the bar examination under this
rule unless the applicant has obtained a scaled score of at
least 125 on a prior MBE examination.

(This amendment will become effective on August 1,
2019).

DATED at Pierre, South Dakota, this 25th day of
February, 2019.

BY THE COURT:
[Signature]
David Gilbertson, Chief Justice

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

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) **RULE 19-09**
SDCL 16-16-12.1)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of SDCL 16-16-12.1 and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that SDCL 16-16-12.1 be and it is hereby amended to read in its entirety as follows:

SDCL 16-16-12.1. Admission without examination. Eligibility by practice. An applicant may be eligible for admission without examination if the applicant:

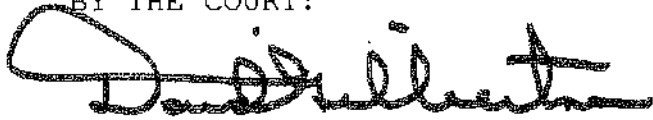
- a. meets the requirements of SDCL 16-16-2;
- b. furnishes satisfactory evidence of graduation from a law school accredited by the American Bar Association, and;
- c. provides documentary evidence showing that for three (3) of the last five (5) years immediately preceding the application for admission without examination, the applicant, as principal occupation, has been actively, continuously, and lawfully engaged in the practice of law, in a state or states that allow South Dakota attorneys substantially similar admission without examination, as:
 - 1) a sole practitioner;
 - 2) a member of a law firm, professional corporation or association;
 - 3) a judge in a court of record;
 - 4) an attorney for any local or state governmental entity;

- 5) inside counsel for a corporation, agency, association or trust department; and/or,
- 6) an attorney with the federal government or a federal governmental agency including service as a member of the Judge Advocate General Department of one of the military branches of the United States.

IT IS FURTHER ORDERED that this rule shall become effective immediately.

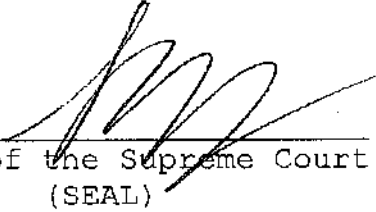
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:




David Gilbertson, Chief Justice

ATTEST:



Clerk of the Supreme Court
(SEAL)

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 Feb, 2019

 Clerk of Supreme Court
 Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

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 Feb, 2019
[Signature]
Clerk of Supreme Court

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA
* * * *

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED
FEB 25 2019
[Signature]
Clerk

Deputy
IN THE MATTER OF THE AMENDMENT) RULE 19-10
SDCL 16-16-13)

A hearing was held on February 20, 2019, at Pierre,
South Dakota, relating to the amendment of SDCL 16-16-13
and the Court having considered the proposed amendment, oral
presentation relating thereto and being fully advised in the
premises, now, therefore, it is

ORDERED that SDCL 16-16-13 be and it is hereby
amended to read in its entirety as follows:

**Amendment of SDCL 16-16-13. Fees payable with
application for admission--Disposition of fees.** An applicant for
an admission on examination shall pay a fee of ~~three hundred
dollars~~ four hundred fifty dollars. ~~and a fee of one hundred
seventy-five dollars for subsequent examinations.~~ An applicant
for admission without examination shall pay a fee of ~~four
hundred fifty dollars~~ six hundred fifty dollars. An applicant
shall also pay the National Conference of Bar Examiners the
applicable fee for preparation of an initial or supplemental
character report. If an applicant fails to appear for the
examination, the fee paid shall only be applied to the next
scheduled combined Multistate Essay Examination which includes
an Indian Law question and Multistate Performance Test, and/or
to the Multistate Bar Examination. The fees thus paid to the
Secretary shall be retained in a special fund and shall be paid
out by the state court administrator when authorized by the
Secretary for the compensation and necessary expenses of the
Board of Bar Examiners.

IT IS FURTHER ORDERED that this rule shall become
effective immediately.

DATED at Pierre, South Dakota, this 25th day of
February, 2019.

BY THE COURT:
[Signature]
David Gilbertson, Chief Justice

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

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) RULE 19-11
TO APPENDIX A. SDCL CHAPTER 16-16)
REGULATIONS OF THE BOARD OF BAR)
EXAMINERS STATE OF SOUTH DAKOTA)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment of Appendix A. to SDCL Chapter 16-16 and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that Appendix A. to Chapter 16-16 be and it is hereby amended to read as follows:

**APPENDIX A. TO CHAPTER SDCL 16-16 (IN PART)
REGULATIONS OF THE BOARD OF BAR EXAMINERS
STATE OF SOUTH DAKOTA**

(1) Application for Admission to Practice Law. Each applicant for admission to practice law shall file with the Secretary of the Board of Bar Examiners a written application, together with ~~five~~ one complete machine or photo copy~~es~~y thereof, in the form prescribed by the Board of Bar Examiners. Such application and copies thereof shall be postmarked on or before November 1 for the February examination and on or before ~~April~~ May 1 for the July examination and shall be accompanied by the fee prescribed in the applicable rules of court and a recent photograph of the applicant, and DCI and FBI fingerprint cards.

Each applicant for admission shall also file a request for preparation of a character report and application with the National Conference of Bar Examiners. Such request and application shall be postmarked on or before November 1 for the February examination and on or before ~~April~~ May 1 for the July examination and shall be accompanied by the fee prescribed by the National Conference of Bar Examiners.

(1.1) Application for Admission Without Examination. Each applicant for admission to practice law without examination shall file with the Secretary of the Board of Bar Examiners a written application, together with ~~five~~ one complete machine or

photo copies thereof, in the form prescribed by the Board of Bar Examiners. Such application and copies thereof shall be accompanied by the applicable fees, a recent photograph of the applicant, and DCI and FBI fingerprint cards.

Each applicant for admission without examination shall also file a request for preparation of a character report and application with the National Conference of Bar Examiners. Such request and application shall be accompanied by the fee prescribed by the National Conference of Bar Examiners.

(2) Application Forms and Payment of Fees. All fees shall be paid by money order or certified check. Payment by credit card or e-check will be allowed when the technology is developed. The applicant will be responsible for any service fee. The application form shall require each applicant to waive confidentiality and privacy rights in order to allow the Board of Bar Examiners to inquire into the applicant's moral character through examination of state, federal, police, court and security records.

(4.1) Examination Results. The Board of Bar Examiners' decision as to whether an applicant has passed or failed the examination is final and not subject to review.

(4.2) Post-Examination Review. For purposes of preparing for reexamination, an applicant who fails the MPT/MEE/ILQ may review the questions and the applicant's answers following the examination. The review must be scheduled within 30 days after May 15 for the February bar examination and November 15 for the July examination. Review will take place in the presence of the Secretary of the Board of Bar Examiners or the Secretary's designee at the Board's office in Pierre, South Dakota. Review of materials is subject to the NCBE's policy on release of MPT and MEE materials. Successful applicants may not review their MPT/MEE/ILQ answers.

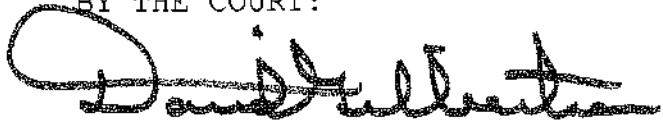
(7.1) Law Student Registration. Applicants to law school and first-or second-year law students who intend to take the South Dakota bar examination following graduation may register with the Board of Bar Examiners on forms prescribed by the Board. The registration must be accompanied by the ~~\$50~~ \$100 South Dakota registration fee as well as the fee required by the National Conference of Bar Examiners' law student registrant program for an initial character report. Registration under the rule is not deemed an application for permission to take the bar examination.

The Board of Bar Examiners shall review the registration and character report to identify character and fitness issues that may hinder or preclude later admission. The Board will report its findings to the registrant. The Board's findings are both preliminary and non-binding in nature. Additionally, the findings will not constitute permission to take the bar examination or a waiver of the consideration of facts or conduct that are either later discovered or occur after the Board's review under this rule.

IT IS FURTHER ORDERED that this rule shall become effective immediately.

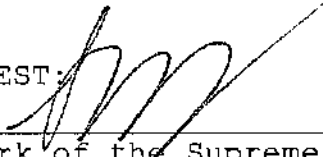
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:



David Gilbertson, Chief Justice

ATTEST:

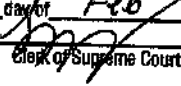

Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019



Clerk

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 Feb, 2019

Deputy
Clerk of Supreme Court

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE AMENDMENT) RULE 19-12
TO APPENDIX TO SDCL CHAPTER 16-17)
THE STATE BAR OF SOUTH DAKOTA)
BY-LAWS)

A hearing was held on February 20, 2019, at Pierre, South Dakota, relating to the amendment to the Appendix to SDCL Chapter 16-17 and the Court having considered the proposed amendment, oral presentation relating thereto and being fully advised in the premises, now, therefore, it is

ORDERED that the Appendix to SDCL Chapter 16-17 be and it is hereby amended to read in its entirety as follows:

APPENDIX TO CHAPTER 16-17
THE STATE BAR OF SOUTH DAKOTA BY-LAWS

ARTICLE I - ORGANIZATION

1.1 Name

ARTICLE II - OPERATIONS

2.1 Purpose
2.2 Mutual Benefit
2.3 Office
2.4 Electronic Communication
2.5 Dissolution

ARTICLE III - ORGANIZATION

3.1 Rules

ARTICLE IV - MEMBERS

4.1 Membership
4.2 Membership Notification
4.3 Reinstatement
4.4 Meetings
4.5 Membership Fees

ARTICLE V - STATE BAR ELECTED OFFICERS

- 5.1 Officers
- 5.2 Installation, Election, and Term
- 5.3 Duties
- 5.4 Vacancy

ARTICLE VI - EXECUTIVE DIRECTOR

- 6.1 Executive Director
- 6.2 At Will
- 6.3 Duties
- 6.4 Bond
- 6.5 Termination

ARTICLE VII - BAR COMMISSION

- 7.1 Governing Powers
- 7.2 Composition
- 7.3 Commissioner Qualifications
- 7.4 Commissioner Nomination
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ARTICLE I - ORGANIZATION

- 1.1. Name. The State Bar of South Dakota is an unincorporated public association authorized by and constituted under South Dakota law.

ARTICLE II - OPERATIONS

- 2.1 Purpose. The State Bar may engage in all activities permitted by the South Dakota Supreme Court ("Supreme Court"), South Dakota Law, and the Internal Revenue Code.
- 2.2 Mutual Benefit. The State Bar, for the mutual benefit of its Members:
- a. must at all times be operated in compliance with IRC §501(c)(6);
 - b. may not pay interest or a dividend on any capital furnished by its Members; and,
 - c. may form, or be an owner or member of, one or more entities it deems necessary or appropriate to accomplish the State Bar mission provided any such entity's activities do not conflict with South Dakota Law or Supreme Court rule.
- 2.3 Office. The State Bar must maintain an office in South Dakota and may have other offices within or outside South Dakota as determined by the Bar Commission.
- 2.4 Electronic Communication. The State Bar may use electronic communications and electronic signatures to give notice and conduct Bar Commission and other State Bar business. Records of all matters governed by these Bylaws may be maintained electronically except to the extent prohibited by law. Electronic communications must include sufficient information for the person receiving the message to reasonably conclude that the communication was sent by the purported sender.
- 2.5 Dissolution. Upon the State Bar's formal dissolution, the Bar Commission will distribute all State Bar assets for one or more exempt purposes within the meaning of the Internal Revenue Code or will distribute the assets:
- a. to the federal government;
 - b. to a state or local government; or,

- c. for an appropriate purpose, as determined by the Bar Commission.

ARTICLE III - ORGANIZATION

- 3.1. **Rules.** The State Bar may formulate rules of professional conduct for all Members from time to time, subject to the approval of the Supreme Court.

ARTICLE IV - MEMBERS

- 4.1. **Membership.** A Member is any person who qualifies for Active or Inactive membership as stated below, pays the requisite Membership Fee unless exempt, and complies with these Bylaws, State Bar rules, and Supreme Court rules. State Bar membership is mandatory for every person actively practicing law in South Dakota. State Bar membership is permissive for all other qualified persons.
 - a. **Active.** Any person authorized to practice law in South Dakota and in good standing with the State Bar is an "Active Member." Active Members have the right to vote in all State Bar matters requiring Member action and as otherwise specified in these Bylaws. Others deemed Active Members are:
 - i. **Law School Faculty.** Fulltime University of South Dakota School of Law faculty members;
 - ii. **Judiciary.** Supreme Court Justices, South Dakota Circuit Court Judges ("Circuit Court Judges"), and fulltime South Dakota Magistrate Judges ("Magistrate Judges"); and,
 - iii. **Emeritus.** An Active Member retiring from active law practice or a retiring judiciary member may take "Emeritus Status" by filing an emeritus registration form with the State Bar and complying with South Dakota statutory restrictions.
 - b. **Inactive.** Any person otherwise qualified to be an Active Member, but who does not actively practice law in South Dakota may become an "Inactive Member" by paying the Membership Fee for an Inactive Member.

4.2. **Membership Notification.** The State Bar will furnish a list of Active Members by April 15th each year to the:

- a. Clerk of Courts for each South Dakota county;
- b. Supreme Court Clerk; and,
- c. Clerk of the United States District Court for the District of South Dakota.

The State Bar will furnish these clerks with updates to the Active Member list from time to time.

4.3. **Reinstatement.** Any person meeting the qualifications of Paragraph 4.1.a. may seek reinstatement as an Active Member as follows:

- a. **Inactive for Five Calendar Years or Less.** Pay the Active Membership Fees by December 31st of the fifth calendar year of the Member being an Inactive Member.
- b. **Inactive for more than Five Calendar Years.** Submit a written request for reinstatement to the Executive Director and include:
 - i. proof that the Member was admitted to practice law in the highest court of any state, United States territory, or the District of Columbia for at least one of the five years immediately preceding the written request;
 - ii. proof that the Member was actively practicing law in that jurisdiction or engaged:
 - 1) as a judge for a court of record;
 - 2) as a commission or tribunal member authorized to address legal matters of a serious nature;
or,
 - 3) as a fulltime instructor at an accredited law school in that jurisdiction;
 - iii. payment of the Active Member Membership Fees;
and,
 - iv. payment of Delinquent Fees, if any, and Delinquency Penalty thereon.

c. **Reinstatement Decision.** The State Bar will reinstate the Inactive Member as an Active Member upon determination that the Inactive Member satisfactorily meets the reinstatement requirements. If the State Bar rejects the reinstatement request, the Member may appeal the State Bar's decision to the Supreme Court, within thirty days after receiving notice of rejection from the State Bar. The Supreme Court may overturn the State Bar's decision. If the Supreme Court declines to hear the appeal or hears the appeal and upholds the State Bar's decision, the State Bar will return the Membership Fees, Delinquent Fees, if any, and Delinquency Penalty tendered with the application.

4.4. **Meetings.**

- a. **Annual Meeting.** The State Bar will hold an annual Member meeting ("Annual Meeting") at the time and place determined by the Bar Commission.
- b. **Notice.** The State Bar will give notice of the Annual Meeting to all Active and Inactive Members at least 30 days before the meeting date.
- c. **Resolutions.** Resolutions for Member consideration at the Annual Meeting must be submitted by an Active Member to the State Bar in writing at least 45 days before the business portion of the Annual Meeting ("Business Meeting"). The State Bar will publish properly submitted resolutions in the Annual Meeting Program, post them conspicuously at the Annual Meeting, and make copies available for Members in attendance. The State Bar will not accept any resolution or motion, complimentary to any Officer or Member, for any service performed, paper read, or address delivered.
- d. **Special Meetings.** Any five Bar Commissioners may call a special Member meeting by signing a written Call for Special Meeting and filing it with the Executive Director. The Call must state the Special Meeting's purpose. Upon receipt of the Call, the Executive Director must fix a date for the Special Meeting no more than 40 days after receipt of the Call and give notice of the Special Meeting to all Active and Inactive Members at least 30 days before the meeting date.

- e. **Waiver of Notice.** A Member's attendance at any meeting will constitute a waiver of notice by the Member, unless the Member announces at the meeting's beginning that the Member is attending solely to object to the meeting on the grounds of improper notice.
 - f. **Quorum.** Twenty-Five Active Members at any Regular or Special Meeting will constitute a quorum. If a quorum is not present, those in attendance may adjourn the meeting until a quorum is present.
 - g. **Proxy.** Members may not vote by proxy.
 - h. **Voting.** Each Active Member has one vote for each matter upon which the Member is eligible and entitled to vote. A matter is approved when a majority of Members present vote in favor of the matter. In the event of a tie vote, lots will be drawn to determine the matter.
 - i. **Fixing of Membership.** The State Bar will determine Membership ten days before an Annual or Special Meeting for voting purposes at the upcoming meeting.
 - j. **Official Record.** The Executive Director will maintain an official record of all State Bar meetings.
- 4.5. **Membership Fees.** The State Bar may annually impose upon the Members approved State Bar dues ("Dues"), CLE Fee, and Client Assistant Fee (collectively "Membership Fees"). Membership Fees will be set to meet the State Bar's financial obligations. The Bar Commission may set the Membership Fees based upon membership type or other criteria. The Executive Director will assess Membership Fees on a calendar-year basis. Members must pay the Membership Fees in advance each January 1st.
- a. **Approval.** The Supreme Court must approve Membership Fees proposed by the Bar Commission before the Executive Director may assess them on the Members.
 - b. **Active Member Dues.** Active Member Dues are:
 - i. **Calendar Year of Admission.** Waived for newly admitted Members the calendar year of admission unless, in a prior year, that Member was a member of another state bar or practiced law in another

state or jurisdiction without mandatory bar membership; in either of those cases, the newly admitted Member will pay Dues based on years in practice specified in Paragraph 4.5.b.ii. or 4.5.b.iii. below.

- ii. **2nd - 4th Calendar Years after Admission Year.**
\$190, except Members electing Emeritus Status will pay \$100.
- iii. **5th Calendar Year after Admission Year and Thereafter.** \$315, except Members electing Emeritus Status will pay \$100.
- c. **Inactive Member Dues.** Inactive Member Dues are \$100.
- d. **Continuing Legal Education.** Each Active Member, except Supreme Court Justices, Circuit Court Judges, Magistrate Judges, and Members electing Emeritus Status, must pay a \$100 Continuing Legal Education program fee ("CLE Fee").
- e. **Client Assistance Fund.** The State Bar may charge each Active Member, after the calendar year of admission, a Client Assistance Fund fee of \$25 ("Client Assistance Fee"). The State Bar will hold this fee in a separate Client Assistance Fund. The State Bar will charge the Client Assistance Fee whenever the fund balance is less than \$80,000 and will continue to charge the fee until the Client Assistance Fund balance reaches \$100,000. The State Bar will not charge the Client Assistance Fee when the fund balance is \$100,000 or greater. Federal Judges, Supreme Court Justices, Circuit Court Judges, and Magistrate Judges will be exempt from the Client Assistance Fee. The Bar Commission may use the Client Assistance Fund to pay premiums on a group insurance policy should the Commission determine that the purchase of such coverage would be an appropriate use of the fund.
- f. **Failure to Pay.** The Bar Commission may suspend any Member who does not pay the Membership Fees when due, and upon suspension, that Member will not be in good standing with the State Bar. A suspended Member may, at any time within five years of the suspension date, be reinstated upon payment of all delinquent and current Membership Fees ("Delinquent Fees") together

with any penalties imposed by the Bar Commission. Penalties imposed by the Bar Commission may not exceed double the Delinquent Fees amount ("Delinquency Penalty"). After five years, a Member may only be reinstated as specified in Paragraph 4.3. above.

ARTICLE V - STATE BAR ELECTED OFFICERS

- 5.1. Officers. The State Bar elected officers are President and President Elect (individually "State Bar Officer" and collectively "State Bar Officers"). Only Active Members may be elected to either of these offices.
- 5.2. Installation, Election, and Term. The President will install the President Elect as President before the Annual Meeting adjourns each year. The Active Members at the Annual Meeting will then, by majority vote, elect the next President Elect. The President will serve a one-year term. The President Elect will serve in that capacity until installed as President the following year.
- 5.3. Duties. The State Bar Officers' duties are as follows:
- a. President. The President may:
 - i. preside at all State Bar and Bar Commission meetings;
 - ii. execute, with the Executive Director, all State Bar contracts and instruments as authorized by the Bar Commission;
 - iii. appoint Members to standing and ad hoc committees;
 - iv. be an ex-officio, non-voting Member of all committees except as specified otherwise herein;
 - v. perform all duties incident to the office of President and such other duties as may be assigned by the Bar Commission; and,
 - vi. perform the duties of the Executive Director in the event the Executive Director is unable to perform. The President may appoint someone

to serve as the Executive Director if the President is unwilling or unable to perform those duties. The President or the President's appointee will serve until the Bar Commission hires a new Executive Director or until the current Executive Director is able to return to and perform the duties of that position.

- b. **President Elect.** The President Elect will perform and be vested with all the powers and duties of the President in the event the President is absent or otherwise unwilling or unable to perform. The President Elect may perform such duties as may be assigned by the President and Bar Commission.

5.4. **Vacancy.** If the office of President becomes vacant for any reason, the President Elect will complete the remainder of the President's term. After completing the President's unfulfilled term, the President Elect will serve his or her full term as President. If the office of President Elect becomes vacant for any reason, the Bar Commission, by majority vote, will fill that vacancy. The person appointed to fulfill the President Elect's remaining term will hold office until the next President Elect is elected at the Annual Meeting of the State Bar.

ARTICLE VI - EXECUTIVE DIRECTOR

- 6.1. **Executive Director.** The Executive Director will have general charge and control of day-to-day State Bar affairs subject to Bar Commission and State Bar Officer direction and Supreme Court rule. The Executive Director is the State Bar's Secretary/Treasurer.
- 6.2. **At Will.** Except as stated otherwise in these Bylaws or by separate contract, the Executive Director is an at-will employee.
- 6.3. **Duties.** The Executive Director will:
- a. carry out and oversee the State Bar strategic plan;
 - b. advocate the State Bar's agenda with South Dakota's legislative and executive branches of government;

- c. work with the Supreme Court to create appropriate rules regulating the State Bar and its Members;
- d. serve notice of all Member and Bar Commission meetings;
- e. keep the minutes of Member and Bar Commission meetings and authenticate State Bar records as necessary;
- f. maintain the State Bar's books, papers, and records and provide for their inspection for any proper purpose at any reasonable time;
- g. maintain a current register of the names and post office addresses of all Members and include other information provided by the Members;
- h. participate in national conferences and forums approved by the Bar Commission;
- i. approve bills for payment, subject to limits prescribed by the Bar Commission;
- j. execute all contracts and instruments of conveyance in the State Bar's name as authorized by the Bar Commission;
- k. have custody, and keep proper account of all State Bar funds;
- l. sign checks, drafts, and notes on behalf of the State Bar;
- m. endorse checks, notes, and other obligations payable to the State Bar and deposit them in the State Bar account determined by the Bar Commission;
- n. pay all normal and ordinary State Bar bills in the ordinary course of business and seek Bar Commission approval before paying any extraordinary bill;
- o. submit State Bar books and records for a Board approved independent audit;
- p. deliver a financial report at each regular Bar Commission meeting and deliver an annual financial report to the Members at the Annual Meeting;
- q. propose policies to ensure proper functioning of the State Bar;

- r. hire, supervise, and, if necessary, terminate State Bar employees and determine State Bar employees' salary and benefits subject to Bar Commission approval;
- s. deliver a report to the Board at each regular Board meeting and to the Members at their Annual Meeting and prepare other reports as requested by the Bar Commission;
- t. call Member and Bar Commission Special Meetings, as provided for in these Bylaws; and,
- u. perform all other duties usually incident to the chief operations officer and corporate secretary/treasurer along with any other duties assigned by the Board and President.

6.4. **Bond.** The Bar Commission in its discretion may require the Executive Director and any other State Bar agent or employee to give a bond in such amount, and with a surety, as it determines. The State Bar will pay the expense of any such bond.

6.5. **Termination.** The Executive Director may resign by delivering written notice to any State Bar Officer or Bar Commissioner. The Board may remove the Executive Director as specified in the Executive Director's employment contract. If the Executive Director is not under a contract, the Bar Commission may remove the Executive Director at any time, with or without cause, by an affirmative vote of 2/3rds of all Commissioners.

ARTICLE VII - BAR COMMISSION

7.1. **Governing Powers.** A Board of Bar Commissioners elected by the Members will govern and manage the business and affairs of the State Bar ("Bar Commission" or "Board"). The Board has all the power and authority necessary or appropriate for the administration of State Bar affairs consistent with Supreme Court rule, South Dakota Law, and these Bylaws. The Board may adopt rules, regulations, policies, and directives necessary for efficient State Bar operation. The Bar Commission will perform the acts necessary to locate and hire the Executive Director and determine the Executive Director's salary and benefits.

- 7.2. **Composition.** The Bar Commission is composed of one Active Member from each of South Dakota's judicial circuits and six at-large Active Members ("Commissioner" individually or "Commissioners" collectively). The Bar Commission also includes the State Bar President and President Elect.
- 7.3. **Commissioner Qualifications.** A Commissioner candidate must be an Active Member at the time of election and reside in the judicial circuit that the candidate is seeking to represent. No two at-large Commissioners may reside within the same judicial circuit.
- 7.4. **Commissioner Nomination.** To qualify as a Commissioner candidate, the Member must meet the election qualifications specified in Paragraph 7.3 above and either:
- a. **Petition.** Complete a nominating petition containing signatures of at least:
 - i. **Judicial Circuit Commissioner.** Five Active Members residing in the same judicial circuit the candidate is seeking to represent.
 - ii. **At-Large Commissioner.** Fifteen Active Members.
- Candidates must file completed nominating petitions with the Executive Director at least 10 days before the Annual Meeting.
- b. **Floor.** Be orally nominated by an Active member from the floor at the Business Meeting, provided the nominee's name and position sought was submitted to the Executive Director or other State Bar employee at least 40 hours before the beginning of the Business Meeting. After the submission deadline and until the beginning of the Business Meeting, the Executive Director will immediately and conspicuously post the names and Commissioner position sought for each candidate eligible for floor nomination.
- 7.5. **Commissioner Election.** The State Bar will conduct Commissioner elections at the Business Meeting according to the Election Cycle. The Executive Director will prepare, or cause to be prepared, ballots in the form determined by the

Bar Commission. Only Active Members may vote in Commissioner elections. Any Commissioner candidate receiving a majority of the votes properly cast will be elected. If no Commissioner candidate receives a majority of the votes, the Commissioner candidate receiving the fewest votes will be eliminated from consideration as a Commissioner. The Members will then vote on the remaining candidates. Any Commissioner candidate receiving a majority of the votes properly cast will be elected. If no Commissioner candidate receives a majority of the votes, the Commissioner candidate receiving the fewest votes will be eliminated from consideration as a Commissioner. Voting and candidate elimination will continue in this manner until a candidate receives a majority of the votes. Tie votes will be determined by lot.

- 7.6. **Commissioner Election Cycle.** Active Members will elect Commissioners to represent each judicial circuit and the at-large positions according to the following election cycle:
- a. **Circuits 1, 2, 3, 6, and 7.** 2019, 2022, 2025, and every third year thereafter.
 - b. **Circuits 4 and 5 and two At Large.** 2020, 2023, 2026, and every third year thereafter.
 - c. **Four At Large.** 2021, 2024, 2027, and every third year thereafter.
- 7.7. **Commissioner Term.** Upon election, Commissioners will hold office for a three-year term beginning at the close of the Annual Meeting in the year of election. No Commissioner may hold office for successive terms. A Commissioner appointed to the Board according to Paragraph 7.19 below may be elected to serve one full term in the appropriate circuit or at-large circuit after the expiration of the appointed term. Upon expiration of the Commissioner's term, or if the Commissioner leaves the Board for any reason, that Member is not eligible for Board appointment or election for one year. After an absence of at least one year, the Member is eligible for Board appointment or Board election provided the Member meets the Board criteria.
- 7.8. **Regular Meetings.** The Bar Commission will meet immediately after the adjournment of the Annual Meeting and transact

any business that may properly come before the Bar Commission. Additionally, the Board will hold at least four regular meetings throughout the year according to a schedule and at locations determined by the Board ("Regular Meetings").

- 7.9. **Special Meetings.** Any State Bar Officer or any three Commissioners may call a Special Meeting of the Board by delivering the Call for Special Meeting to the Executive Director. The Call must state the Special Meeting's purpose. Upon receipt of the Call, the Executive Director must fix a date for the Special Meeting no more than ten days after receipt of the Call.
- 7.10. **Notice.** The Executive Director must, by mail or electronic communication, provide all Board Members at least 20 days' notice of any Regular Meeting and four hours' notice of any Special Meeting. The notice must state the time, place, and, in the case of a Special Meeting, the purpose of the meeting. Notice by mail is given when deposited in the United States mail with sufficient postage. Notice by electronic communication may be given by facsimile, e-mail, text message, or other electronic means, at a number or electronic address designated by the Board Member. Notice is considered received when it is given.
- 7.11. **Waiver of Notice.** Attendance by a Board Member at any Board meeting will constitute a waiver of notice by that Board Member unless the Board Member announces at the beginning of the meeting that he or she is attending for the sole purpose of objecting to the meeting on the grounds of improper notice.
- 7.12. **Quorum.** At the meeting following the Annual Meeting, the Board Members present will constitute a quorum. At all other Bar Commission meetings, eight Board Members will constitute a quorum. The acts of the majority of the Board Members present at a duly held meeting will be the acts of the Board, except when a larger number is required by Supreme Court rule, South Dakota Law, or these Bylaws.
- 7.13. **Proxy.** Board Members may not vote by proxy.

- 7.14. **Voting.** All Board Members have one vote on any matter properly presented to the Board. A majority of the Board Members present at any meeting voting in favor of any matter properly brought before the Commission will constitute passage of the matter.
- 7.15. **Action in Lieu of Meeting.** The Board may, by electronic communication or written action, take any action the Board may take at a meeting, provided all Board Members were notified of the action in lieu of meeting before the action. All electronic communications must comply with Section 2.4 above. The written action is effective when signed or consented to unless a different effective date is stated. When written action is signed or consented to by fewer than all Board Members, the Board will immediately provide all Board Members with the text and effective date of the written action. Failure to provide such notice does not invalidate the written action.
- 7.16. **Expenses.** By resolution of the Board, Board Members will receive reimbursement for reasonable expenses incurred to attend each Board meeting and other meetings authorized by the Bar Commission.
- 7.17. **Compensation.** Board Members will receive no compensation for attending Board meetings and other meetings on behalf of the State Bar or the Bar Commission unless the Board by majority vote determines otherwise.
- 7.18. **Commissioner Termination.** A Commissioner's term will end immediately upon a Commissioner:
- a. ceasing to be an Active Member;
 - b. establishing primary residency outside South Dakota;
 - c. establishing primary residency outside the circuit from which the Commissioner was elected for those Commissioners elected to represent a judicial circuit; and,
 - d. establishing primary residency in a judicial circuit that is the residence of another at-large Commissioner.

A change in circuit boundaries will not terminate a Commissioner's term.

- 7.19. Commissioner Vacancies. A Commissioner vacancy, regardless of cause, including an increase in the number of Commissioners, will be filled by majority vote of the remaining Commissioners. Any Commissioner appointed to fill a vacancy will serve the remainder of the vacating Commissioner's term.
- 7.20. Commissioner Attendance. Commissioners are expected to attend all Board meetings, Member meetings, committee meetings of which the Commissioner is a member, and State Bar functions. Commissioners may participate in any meeting by teleconference or similar communications technology ("Teleconference") that allows all persons participating in the meeting to hear each other at the same time. Participation by Teleconference constitutes presence in person at a meeting. Any Commissioner with more than three unexcused absences from Regular Meetings may be deemed by the Board to have resigned as a Commissioner.
- 7.21. Commissioner Resignation. A Commissioner may resign at any time by delivering a written resignation to the Executive Director or State Bar Officer. The resignation is effective when received, unless a later date has been specified in the notice.

ARTICLE VIII - STATE BAR COMMITTEES

- 8.1. Establishment. The State Bar President or Bar Commission may establish one or more standing and ad hoc committees to carry out the business of State Bar and upon so doing will specify the purpose of each in the State Bar records.
- 8.2. Membership. The President will promptly after installation, appoint Members to State Bar committees and select each committee's chair. Individuals who are not State Bar Members may serve on any committee if the President determines the non-Member's knowledge, skill, and experience is necessary or desirable to the efficient conduct of the committee's business. Non-Members may be voting or non-voting members as determined by the Board. The State Bar Officers and Executive Director are ex-officio, non-voting Members of all

committees except the Executive Director will not be a member of any Nominating Committee established as part of an Executive Director search.

8.3. Term. All committee members serve one-year terms; the number of terms is not limited.

8.4. Reporting. Each committee must report to the Bar Commission actions approved and recommendations adopted promptly after the action or recommendation. Each committee must also provide the State Bar a summary of its activities by April 30th each year.

8.5. Disciplinary Action. The President may remove a member from any committee at any time, except the Executive Committee. The Bar Commission may, by majority vote, remove a committee member if the President is unwilling or unable to do so.

8.6. Standing Committees. The State Bar will have the following Operational and Professional standing committees:

a. Operational. The following committees will assist with the effective administration of State Bar operations and maintain compliance with various requirements under United State Code and South Dakota Law.

i. Executive. The President, President Elect, and Executive Director constitute the Executive Committee. The Executive Committee is authorized to act on behalf of the Bar Commission between meetings on matters that, if action was not taken, would detrimentally affect the State Bar or its Members. The Executive Committee may exercise other powers the Bar Commission may determine and which may be legally delegated. The Executive Committee will report its actions to the Bar Commission at the first Board meeting following any action or by delivering copies of the Executive Committee meeting minutes to each Commissioner in advance of the next Board meeting.

ii. Finance and Audit. This committee will assist the Bar Commission in overseeing accounting policies and practices, financial reporting and auditing, and provide the Bar Commission with recommendations. The committee will, in conjunction with the Executive Director, cause the State Bar's

books and records to be audited by an independent certified public accountant as often as required by statute or rule, or as required by the Board. The committee will recommend independent auditors to the Bar Commission. The committee along with the Executive Director will oversee each audit and present the results to the Bar Commission and Members at the Annual Meeting. The committee will periodically review the State Bar's financial records with respect to: the audit results, changes in accounting principles or practices, areas of audit concern, contents of the independent auditors' management letter, and the State Bar's response thereto.

- b. **Professional.** Any number of committees may be established to provide Members with professional development and continuing education opportunities. The State Bar will note the creation and purpose of each committee in its records. Each committee may establish its own operating rules and procedures and properly memorialize them in the committee records and with the State Bar. All committees must meet as often as necessary to accomplish their stated purposes.

ARTICLE IX - STATE BAR SECTIONS

- 9.1. **Establishment.** The Bar Commission may establish one or more Member Sections when presented with a petition evidencing sufficient State Bar Member interest and when creation of the Section is in the best interests of the State Bar. The Bar Commission will govern any Section created, and the Section will replace any similar State Bar committee. The State Bar will note the creation and purpose of each Section in the State Bar records.
- 9.2. **Membership.** The Bar Commission will determine membership criteria for each Section. The State Bar Officers and the Executive Director will be ex-officio, non-voting members of each Section. Each Section member has one vote to cast on all matters that come before the section.

- 9.3. Operations. Each Section will be self-governing and may establish bylaws, a board of directors, and other governance structure as approved by the Bar Commission. Sections may hold elections of the Section members to select members for governance positions. Sections may establish their own operating rules and procedures and properly memorialize them in the Section records and with the State Bar. All Sections must meet at the Annual Meeting and otherwise as often as necessary to accomplish the Section's purpose.
- 9.4. Reporting. Sections must deliver their meeting minutes to the Executive Director after each Section meeting. Section actions and recommendations are not binding upon the Board. Each Section must also provide the State Bar a summary of its activities by April 30th each year.

ARTICLE X - FISCAL OPERATIONS

- 10.1. Fiscal Year. The State Bar's fiscal year begins on August 1st each year and ends on July 31th the following year.
- 10.2. Document Signing. The Bar Commission may authorize any State Bar Officer or State Bar employee to enter into any contract or execute and deliver any instrument in the State Bar's name. Such authority may be general or confined to specific matters.
- 10.3. Loans. No loans will be taken out in the State Bar's name or no evidences of indebtedness may be issued in its name unless authorized by Bar Commission resolution. Such authority may be general or confined to specific instances. No loan may be granted to the Executive Director, any other State Bar employee, State Bar Officer, or Bar Commissioner.
- 10.4. Checks, Drafts, and Accounts. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the State Bar's name must be signed by those individuals authorized to do so by the Bar Commission by general authorization or specific resolution. The State Bar will deposit all its funds in such banks, trust companies, or other depositories determined by the Board.

10.5. Budget. The Bar Commission must approve the annual State Bar budget.

10.6. Property. Title to all State Bar property will be held in its name or in an entity owned or controlled by the State Bar.

ARTICLE XI - CONFLICTS OF INTEREST

11.1. Basis. Conflicts of interest must be avoided because they place, or appear to place, the interests of others ahead of the State Bar's obligations to its corporate purposes and to the public interest. Conflicts of interest reflect adversely upon the persons involved and upon the institutions with which they are affiliated, regardless of the actual facts or motivations of the parties. A conflict of interest refers only to personal, proprietary interests of the persons covered by this policy and their immediate families and not to philosophical or professional differences of opinion. Real and apparent conflicts of interest with State Bar affairs may sometimes occur because the many persons associated with the State Bar have multiple interests, affiliations, and various positions of responsibility within the community. It is likely that a person covered by this policy will owe identical duties to two or more organizations having similar activities. However, it is not in the long-range best interests of the State Bar to terminate or cease all association with persons who may have real or apparent conflicts or dualities of interest if there is a prescribed and effective method of rendering such conflicts harmless to all concerned.

11.2. Statement. Recognizing the underlying policy basis, the State Bar will not preclude dealings with those having actual or apparent conflicts or dualities of interest so long as the same are promptly and fully disclosed whenever they exist or occur, and the Board determines that the conflict or duality of interest is harmless to the State Bar.

11.3. Application. This policy applies to the Executive Director, all other State Bar employees, State Bar Officers, and Bar Commissioners; the referenced individual's immediate family members; and independent contractors providing services or

materials to the State Bar (collectively "Covered Persons"). Each Covered Person must discharge his or her duties in good faith, in the best interests of State Bar, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. It is the Executive Director's obligation to publicize this policy to all Covered Persons on a recurring basis.

11.4. Full Disclosure. Each Covered Person must disclose all real or apparent conflicts or dualities of interest with the State Bar's activities. Additionally, Covered Persons must annually complete a conflict of interest disclosure form as specified by the Board. "Disclosure" as used in these Bylaws is defined as providing a written description of the facts comprising the real or apparent conflict or duality of interest to the Executive Director, State Bar Officers, or Bar Commission.

11.5. Proscribed Activity. Where a Covered Person believes there may exist a real or apparent conflict or duality of interest, that person must, in addition to filing the notice of disclosure required under Section 11.4, abstain from making motions, participating in relevant deliberations, voting, executing agreements, or taking any other similar direct action on behalf of the State Bar where the conflict or duality of interest might pertain. If a Bar Commissioner discloses a conflict, the Board may:

- a. require the Commissioner to recuse on the conflicted matter;
- b. authorize the Commissioner to opine on the merits of the matter but refrain from voting;
- c. waive the conflict and authorize the Commissioner to vote; or,
- d. take other or no action if the Board determines the conflict or duality of interest harmless to the State Bar.

ARTICLE XII - INDEMNIFICATION

12.1. Coverage. Any person who at any time serves or has served as a Bar Commissioner, State Bar Officer, or State Bar employee, or in a capacity benefitting the State Bar has a

right to be indemnified by the State Bar to the fullest extent permitted by South Dakota law against:

- a. reasonable expenses, including reasonable attorney fees, actually incurred by him or her in connection with any threatened, pending, or completed action, suit or proceedings and any appeal thereof, whether civil, criminal, administrative, or investigative, seeking to hold him or her liable by reason of the fact that he or she is or was acting in such capacity; and,
- b. reasonable payments made by him or her in satisfaction of any judgment, money decree, fine, penalty, or settlement for which he or she may have become liable in any such action, suit, or proceeding.

12.2. Payment. Indemnifiable expenses claimed may not be paid in advance of any final disposition unless the Bar Commission approves otherwise by majority vote.

12.3. Evaluation. The Bar Commission will evaluate the claimant's actions giving rise to the indemnity claim and of the amount of indemnity claimed by him or her.

12.4. Consideration. Any person who at any time after the adoption of this Article XII serves or has served in any of the previously mentioned capacities for or on behalf of State Bar will be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right will inure to the benefit of the legal representatives of any such person and is not exclusive of any other rights to which such person may be entitled. Any repeal or modification of these indemnification provisions will not affect any rights or obligations existing at the time of such repeal or modification.

12.5. Insurance. The State Bar may, by resolution of the Bar Commission, purchase and maintain insurance on behalf of any Bar Commissioner, State Bar Officer, the Executive Director, and other State Bar employee or State Bar agent.

ARTICLE XIII - PARLIAMENTARY AUTHORITY

13.1. Rules of Order. The most current edition of *Mason's Manual of Legislative Procedure* will govern the State Bar in all matters to which they are applicable and in which they are not inconsistent with these Bylaws and any State Bar adopted special rules of order.

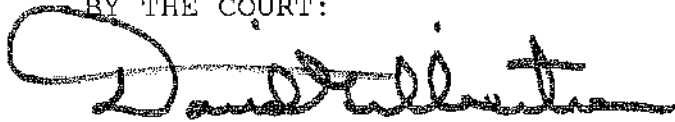
ARTICLE XIV - AMENDMENT

14.1. Amendment. The State Bar may amend or restate the Bylaws at its Annual Meeting. Any proposed amendment or restatement must be submitted to the Executive Director in writing at least 45 days before the Business Meeting. The Executive Director will notify Active Members, in the manner specified in these Bylaws, of properly submitted Bylaw change proposals at least 20 days before the Business Meeting. Active Members will vote on the proposed Bylaw changes Business Meeting. Members may propose amendments to the proposed Bylaw changes from the floor, but all floor amendment proposals must be in writing and pertain to the original Bylaw amendments. Bylaw amendments or restatement will be adopted by an affirmative vote of a majority of the Members present. Bylaw changes will not become effective until approved by the Supreme Court.

IT IS FURTHER ORDERED that this rule shall become effective immediately.

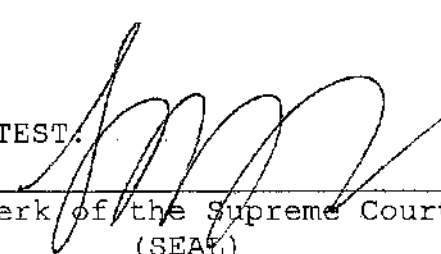
DATED at Pierre, South Dakota, this 25th day of February, 2019.

BY THE COURT:

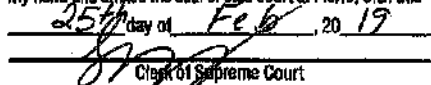


David Gilbertson, Chief Justice

ATTEST.


Clerk of the Supreme Court
(SEAL)

STATE OF SOUTH DAKOTA
In the Supreme Court
I, Shirley A. Jameson-Fergal, 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 Feb, 2019

Clerk of Supreme Court

Deputy

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

FEB 25 2019


Clerk

March

YLS BootCamp.....	March 1.....	Pennington County Courthouse (Courtroom 7), Rapid City
YLS BootCamp.....	March 1.....	Lumber Exchange Building, 101 Reid St., Sioux Falls
Deadline for Committee Request Forms.....	April 4-5.....	Online
Disciplinary Board.....	April 4-5.....	Clubhouse, Sioux Falls
Bar Commission Meeting.....	April 11.....	Ramkota, Rapid City
April Medley CLE.....	April 12.....	Ramkota, Rapid City
Ask A Lawyer.....	April 30-May 2.....	
Strategic Planning Meeting.....	May 9-10.....	Sioux Falls
2019 Annual Meeting.....	June 19-21.....	Ramkota, Rapid City

