



# State Bar of South Dakota

*December 2021  
Newsletter*



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# State Bar of South Dakota

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## PRESIDENT'S CORNER

*William C. Garry*

As I write this column, COVID has once again reared its ugly head. The world is being warned about a new potentially more contagious Omicron variant of the Coronavirus. Governments around the world are imposing restrictions on travel from nations in Southern Africa. The stock market reacted to the news as well, as the Dow Jones dropped more than 900 points. Unfortunately, we probably need to get used to the fact there will be large numbers of variants appearing globally over the coming months and years.

Over the last 20 months, the legal profession has faced extraordinary challenges. Nonetheless, our Bar proved to be a resourceful and resilient organization. Going forward, we must learn from our recent experiences and draw on them to overcome the challenges ahead. I am confident we will continue to find innovative ways to meet these challenges and, as a result, we will be a stronger organization and better lawyers.

Brent Thompson, Executive Director of East River Legal Services, recently circulated a communication among Bar members citing the good works accomplished by ERLS in 2020. Despite the outstanding work of ERLS, Brent reminded us there remains a critical justice gap in our state. In fact, South Dakota ranks dead last in the nation for ensuring access to justice according to the National Center for Access to Justice at Fordham Law School 2021. Brent's communication is a compelling reminder of our ethical obligation as officers of the court to remedy this crisis. Please consider making a

donation to one of the legal services agencies in South Dakota (East River Legal Services, Dakota Plains Legal Services, Access to Justice, Inc.) or volunteer to take on or co-chair a pro bono case.

I recently attended the rivalry football game between SDSU and USD in the Dakota Dome. I enjoyed the pre-game tailgating with a mixture of Coyote and Jackrabbit fans. There was plenty of good-natured ribbing between these friendly foes. The outcome of the game was not what I was hoping for, but it was a spectacular, although improbable, finish. After the game, many of the tailgaters moved the party to Carey's where the good-natured fun between Coyote and Jack fans continued. All in all, no matter the outcome, it was a good day and reminded me how great it is to call South Dakota home.

It is very easy to get caught up in the daily anxieties of the world. These days, there is plenty to be anxious about. As we begin the Christmas season, however, perhaps it makes sense to step back for a moment to refocus, relax and recharge. Wishing you and your family a wonderful Christmas season and a happy and peaceful New Year!

Over the next several months, I will continue to introduce you to the members of the Bar Commission. This month features Brent Kempema (Sixth Circuit), Stacy Johnson (Fifth Circuit), and Marilyn Trefz (First Circuit).

## Brent Kempema

I was born and raised in Sioux City, Iowa. After graduating from Sioux City West High School I moved to South Dakota where I attended USD. After completing my undergraduate degree, I remained at USD to attend law school, graduating in 2000.

Since law school, I have dedicated a majority of my legal career to public service. I began my legal practice as a deputy state's attorney in Walworth County. While in Walworth County, I met my wife, Silka. In 2003, Silka was accepted into a master's program at the University of Nebraska in Lincoln. I followed, accepting a position with a legal aid organization representing victims of domestic violence in family law matters. In 2004, as Silka was completing her classroom studies, I returned to South Dakota to work for the Department of Social Services in Pierre prosecuting crimes against children. In 2012, I transitioned to my current position in the criminal division of the Attorney General's Office.

When not working, Silka and I enjoy spending our summers outdoors and camping with our 6-year-old daughter (Claire). We also enjoy spending some of our free time hunting and fishing. Our main hunting activities center around hunting upland game birds with our dog (Piper).



"Picture by Claire Kempema"

## Stacy M. Johnson

25 Random Facts About Me:

1. I don't drink coffee. Diet Coke is my drink of choice.
2. I have a BA in Political Science from SDSU (1998) and a JD from USD (2002).
3. Chewy ice is the best ice. If you don't know what chewy ice is, what are you even doing with your life?
4. I was Miss Prairie Village 1994.
5. I am an SNL fanatic. Sally O'Malley is my favorite SNL character.
6. I clerked for the Honorable Justices Robert A. Amundson and Judith K. Meierhenry.
7. I played the tenor sax in high school.
8. I have been married to Aberdeen native, Heath Johnson, for 18 years.
9. I only write with .5 gel ink Pentel pens.
10. My favorite city to visit is New Orleans.
11. I have three children - Palmer (15), Linus (12) and Louise (8) and a dog named Gus.



12. Once a year I get together with my law school besties for "Ladies Law Weekend."
13. I suck at golf. Bob Morris calls me "three ball" because that's how many balls it takes me to get off the tee box.
14. High heels are my thing. Don't even bother coming at me with boring lame flats.
15. I am a partner at Richardson, Wyly, Wise, Sauck and Hieb, LLP.
16. My middle child, Linus, once smuggled a Match Box car into daycare by carrying it between his butt cheeks.
17. I like all my beverages to be ice cold, as in 1 degree above freezing.

18. If you stop by my office, you might run into “grumpy cat”.



- 19. I practice primarily in the area of family law and am a court-approved family law mediator.
- 20. I celebrate my birthday for a full month, and for the really big ones, a full year, much to my husband’s dismay.
- 21. I’m also licensed to practice law in Minnesota.
- 22. The lake is my favorite place to be in the summer.
- 23. I was a waitress for 12 years. Always tip your waitress/waiter.
- 24. I am from Colman, SD.
- 25. I hate sprinkles.

Marilyn Trefz

I am originally from Huntington Beach, California. Fortunately, I am able to visit my beautiful hometown, as my parents and brother continue to live in the same house where I was raised. Many long-time neighbors also still live on our street, so a trip there always feels like home.

I received my undergraduate degree and MPA from Brigham Young University in Utah. Once an active Mormon, I served an 18-month mission in Paris, France. I then worked as a Human Resources Manager for 15+ years.

My law degree is from the USD Knudson School of Law, where I am working as a Full-time Visiting Lecturer for

the 2021-22 school year. The law students, staff and faculty amaze me daily with their excellence and I’m appreciating and relishing this opportunity. My duties also include overseeing the WORKS CLINIC (legal aid for divorce forms and mediation)—a role that is very fulfilling. Additionally, I continue to do family mediations through Redwood Mediation & Law in Sioux Falls. Since I co-parented myself for 16 years, I find helping other families create workable agreements that are in the best interests of their children very rewarding.

My husband Jon and I have been married for 18 years. My adult children, Dru, Dylan and Dawson and their partners and families are my greatest blessings. Time spent with them keep me young and happy.



I have enjoyed my time on the Bar Commission and thank Pamela Reiter and Stephanie Pochop for encouraging me to participate on the commission and in other state bar committees. Being involved in the state bar has really helped me integrate into the South Dakota legal profession.





State Bar of South Dakota  
YOUNG LAWYER SECTION



*Ole Olesen*  
YLS President

The holidays are coming, and with that come a few extra days to either spend with family or catch up on work while the office is quiet. Regardless of which you choose, I hope you have a wonderful holiday season this year!

This month I want to talk about two avoidable mistakes that I think young lawyers often overlook. First, striking a balance between work life and home life can be difficult to accomplish and too much of either negatively impacts the other. My advice to any young lawyer that is struggling to find a good balance is to open the lines of communication.

Our expectations for ourselves are often far higher than those around us. This often comes into the picture when finding a good life balance because we want to be able to do it all. We expect ourselves to do it all. The reality is that you cannot do it all and you need to make compromises with your time. So, why not ask the people that are relying on you what their expectations are? Doing so will give you a good starting point for planning to balance your life. Work burnout is not something that only happens to those other people. It can happen to any one of us and statistics say that it hits our profession all too often. Get ahead of it.

Second, your primary career goal as a young lawyer should really be to become a good lawyer. Too often young lawyers have the goal of becoming a partner, but

fail to see the smaller goals necessary to get there. Our clients and our profession need good lawyers, and none of us graduated law school as a good lawyer. Law school gave us our training wheels so that we can navigate around to help our clients, but in our first years we really should not be making our plans to win the Tour de France. Learn about the area of law you are practicing in and keep educating yourself. Ask questions, go to CLEs, and read books. Eventually your training wheels will come off and other lawyers will start asking you questions.

I set aside a little bit of time (almost) every week to read cases, read statutes, or refresh myself on different aspects of criminal defense. This might not work for everyone, but for me it has proven invaluable. That time may not be billable, but I am convinced that it has saved me hours upon hours of research time because I knew the answer when I spotted the issue. I do not know if I am a good lawyer yet, but I know that I am working towards it and have no plan to stop improving my practice. Find what works for you, but more importantly, work towards being the best lawyer you can be.

A vintage black Favorit typewriter is shown from a front-facing perspective. A white paper insert is placed in the carriage, containing text. The typewriter has a prominent 'FAVORIT' logo on the front panel, featuring a stylized winged emblem. The keyboard is visible at the bottom, with keys labeled with numbers and symbols. The background is a plain, light-colored surface.

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# Application for Pro Bono Emeritus Status

I, \_\_\_\_\_, an active member of the State Bar of South Dakota, do hereby apply for Pro Bono Emeritus Status, for the year 2022.

I understand that if approved, rather than pay regular dues for the year 2022, I will only be required to tender the sum of \$125 (same as inactive dues) but I will be entitled to all the rights and privileges of an active member of the State Bar.

Further, I recognize that this status means that I will be requested from time to time to take a referral from East River Legal Services, Dakota Plains Legal Services, or Access to Justice, and I am willing to accept at least one referral in the year 2022.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signature\_\_\_\_\_

Printed Name\_\_\_\_\_

Address\_\_\_\_\_

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

Phone\_\_\_\_\_ Email\_\_\_\_\_

# *Fellows of the South Dakota Bar Foundation*

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

## *Sustaining Life Fellow - \$50,000 plus*

Fred & Luella Cozad

## *Life Fellow - \$25,000 plus*

Frank L. Farrar

## *Diamond Fellows - \$10,000 plus*

Thomas C. Barnett, Jr.  
Robert E. Hayes

## *Platinum Fellows - \$10,000*

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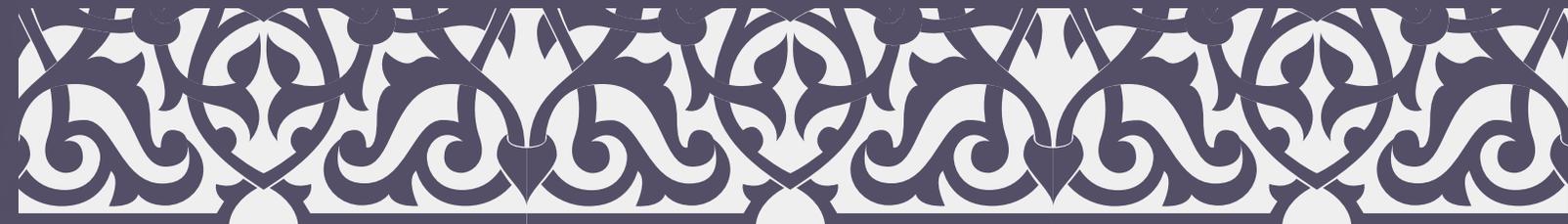
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*Raising the Bar: Our Profession. Our Responsibility.*



## DEAN'S LIST : NEWS FROM THE LAW SCHOOL



Few topics generate as many questions as scholarships. Potential and current students, alumni, accreditors, almost everyone has questions about scholarships. It is a crucial subject and I am glad people ask about it. In this column I want to offer answers to some questions that come up a lot.

### *Why do scholarships matter?*

Scholarships are an investment in the next generation of lawyers. To the students who receive them, they are life changing. This reality cannot be overstated. They matter for two very concrete reasons beyond that.

First, they matter for opportunity. An affordable law school degree provides opportunity. It lets students realize their dream to join the profession, improve their world, and improve their life. Scholarships make that dream a reality for students from all economic conditions. Scholarships also provide opportunity when graduates look for jobs. They help students choose work in rural communities, for state and local governments, in public service and public interest law, or other opportunities that provide important legal services and access to justice but may not be financially lucrative. Significant student debt locks students out of those professional choices. The burden of debt often falls harder on students who are first generation college, women, or Native Americans. We need to draw more students onto pathways to law school as the number of students available to go to college declines in coming years. Expanding opportunities for students in these demographic categories will be important to doing that. USD provides great value to students through an

education that is excellent and affordable, that provides a reliable pathway to employment, and does all of this in a state with an exceptional quality of life. It is an opportunity very different from what students find at larger but more expensive law schools.

Second, scholarships are crucial for competition. Cost is a deciding factor in which law school to attend for many students. Low tuition and competitive scholarship packages are necessary to recruit and retain excellent students who turn into excellent lawyers. We never want to lose great students based on cost.

### *How are scholarships assigned?*

Scholarship assignment is a collaboration between Katey Ulrich (Director of Admissions & Marketing), our Admissions & Financial Aid Committee, and me. We balance the criteria established by the donor who created an endowment, the financial need and academic merit of candidates, and the totality of our recruiting goals in that cycle. The committee takes these decisions very seriously. Our decisions are not perfect, but the goal is always the collective good of the law school community.

### *How many? How much?*

The most common group of questions is about how many scholarships the Law School has available, who they go to, and in what amounts.

The Law School has more than 100 endowed scholarship funds that generate earnings to fund scholarships every

year. Each of them is important, but most are relatively small. Most of them generate \$1000-\$2500 a year. That makes a real difference for a student, but it certainly is nothing like paying full tuition or costs of attendance.

Endowments vary significantly in their award criteria; most have quite specific qualifications and are restricted to 2L and 3L students. Scholarships with specific conditions can be hard to distribute because we may not always have a student meeting the criteria. Most law schools now offer up-front scholarship packages, so scholarships restricted to 2Ls and 3Ls present a recruiting challenge as applicants compare definite offers up front with the mere possibility of scholarships down the road. To create more flexibility, the Law School and USD Foundation have worked together to create the 1901 Fund, a scholarship endowment with open eligibility criteria to which anyone can contribute in any amount. This provides the flexibility to respond to changing recruiting needs for decades to come.

How much an individual student receives depends on academic merit, financial need, and in no small part on the offers they have from other schools. It is a very competitive market for students, and cost is a primary deciding factor. We are working to increase our award of scholarships based on need, but rankings and other criteria impose great pressure to place merit recruiting first. We try to be strategic with scholarships in order to advance a variety of admissions and recruiting goals, some of which are cut against each other. Most awards are relatively modest, but all are important to the students who receive them.

The ABA requires us to publish general information about the number and amount of scholarships. This table contains our most recent data; I hope you find it helpful.

<b>Total students receiving scholarships</b>	<b>97</b>
<b>Less than 1/2 tuition</b>	<b>56</b>
<b>Half- tuition or more</b>	<b>36</b>
<b>75th Percentile award amount</b>	<b>15000</b>
<b>50th Percentile award amount</b>	<b>6987</b>
<b>25th Percentile award amount</b>	<b>753</b>

*Don't you have enough scholarships?*

Particularly because of our naming gift, I've had people ask if the Law School has enough scholarships. In fact, a couple said outright that we no longer need more scholarships or their investment. I respectfully disagree.

Scholarship dollars help us recruit students with strong credentials, support students in financial need, and keep South Dakota students at home for law school. Candidly, scholarships and tuition discounting are an arms race among schools. Larger public schools have correspondingly larger stockpiles to fight with. Private schools, particularly "elite" schools, have seemingly endless resources and an intense hunger for exceptional students from our region who are "unique" in their applicant pools because they are from rural areas, first generation students, and students from Indian Country. Getting a student here and a student there from these pools is neat for bigger schools but losing them is an existential threat for USD and the profession. Students who go away are less likely to come back. Students who do not go to law school because they cannot afford it never enter the profession.

I never want to lose a potential student based on cost. We have the lowest per credit tuition in the region. Our graduates have the second lowest debt load in the nation. We work to be affordable. Scholarships are a vital part of that work equation.

The Law School has built its scholarship endowments by about \$14 million in the last couple years. Every dollar of scholarship endowment is an investment in students for generations. It is an investment in the profession and the future. We reach "enough" scholarships, when the Law School never loses a student based on cost, and every student graduates with enough financial freedom to decide where they want to put their degree to work, not where they must work to pay for their degree.

*Why should I invest in scholarships?*

The most direct answer to this question is, "because of the difference they make for students." But honestly, this question comes up most often from folks who say, "no one helped me pay for law school, why should I help someone else?" Fair question.

My first answer is that investing in the ability of the

Law School to attract great students is an investment in the value of your degree. For all of us, alumni and not, it is an investment in the future of our profession in or around South Dakota.

The second answer is that investing in scholarships is not the only way to invest in the Law School. We all have time, talent, and treasure to devote to things that are important to us. The Law School benefits from your investment of each of these things. Financial investment may not be for you, but hopefully you can invest some time and talent as an adjunct or guest speaker, judging a competition, or mentoring student interns and graduates. If you can invest your treasure, investments in faculty and facilities are also important. Hopefully each of us can consider what we are most passionate about in our profession and how the Law School might work with you to advance that passion.

*How can I help?*

If scholarships are something you are passionate about, a great place to start is a conversation with me or Tove Hoff Bormes, the Law School's USD Foundation representative. Another great thing to do is to mark your calendars for Unite for USD on February 16-17. We will focus this year on our 1901 Fund and general scholarship support.

Most importantly, if you have questions I did not address, or if any of my answers spurs more questions, please get in touch. Whenever I get a chance to discuss questions about the Law School, I learn something, and the Law School gets better. So please keep your questions coming!

The USD Knudson School of Law will be hosting Spring 2022 On Campus Interviews (OCI) on February 3-4 and March 3-4.

Employers are invited to participate in Spring OCI on the date of your choice to interview 1L and 2L students for internship opportunities, and 3L students for post-graduate positions.

Interviews may be conducted either in-person at the law school or virtually.



SPRING  
2022  
ON CAMPUS  
INTERVIEWS  
(OCI)

To register, please contact Brian Boyenga, Director of Career Services, at [brian.boyenga@usd.edu](mailto:brian.boyenga@usd.edu) with your preferred interview date and a job description of the position(s) you are seeking to fill.



# 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.

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ACCESS.TO.JUSTICE@SDBAR.NET

# ANNOUNCEMENTS

Legacy Law Firm, P.C.  
is pleased to announce that

*Tye Wangberg*  
has become associated with the firm.

Legacy Law Firm, P.C.  
7404 S. Bitterroot Place  
Sioux Falls, SD 57108

Telephone: (605) 275-5665

[ctye@legacylawfirmpc.com](mailto:ctye@legacylawfirmpc.com)  
[www.LegacyLawFirmPC.com](http://www.LegacyLawFirmPC.com)

South Dakota Department of Human Services  
is pleased to announce that

*Jenna Howell*  
has joined our legal department as the lead  
attorney effective June 28, 2021.

SD Department of Human Services  
Hillsview Plaza  
C/O 500 East Capitol Avenue  
Pierre, SD 57501

Telephone: (605) 773-5990

[Jenna.Howell@state.sd.us](mailto:Jenna.Howell@state.sd.us)

Evans Haigh & Hinton LLP is changing office locations and changing the Firm's name.

Effective January 1, 2022, the Firm's name will change to:

*Evans Haigh & Arndt LLP*

The new office location will be  
at the corner of 11th Street and Second Avenue  
in downtown Sioux Falls, South Dakota.

225 East 11th Street, Suite 201  
P.O. Box 2790  
Sioux Falls, SD 57101-2790

Telephone (605) 275-9599  
Fax (605) 275-9602  
[www.ehalawyers.com](http://www.ehalawyers.com)

Please update your records with our new address.  
Our phone numbers will remain the same.  
We look forward to seeing you at our new location.

Mary R. Ash  
will be moving into her own solo firm

*Ash Law Office, PLLC*  
effective December 1, 2021.

Ash Law Office, PLLC  
5101 S Nevada Ave, Ste 130  
Sioux Falls SD 57108

Telephone: (605) 800-1071

[mary@maryashlaw.com](mailto:mary@maryashlaw.com)  
[lacey@maryashlaw.com](mailto:lacey@maryashlaw.com)

Schoenbeck Law, PC  
is pleased to announce that

*Joseph B. Erickson*  
has become a shareholder in the firm.

Effective January 1, 2022, Schoenbeck Law, PC  
will be known as:

*Schoenbeck & Erickson, PC*

Schoenbeck & Erickson, PC  
1200 Mickelson Drive, Suite 310  
Watertown, SD 57201

Telephone: (605) 886-0010

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

Clayborne, Loos & Sabers, LLP.  
is pleased to announce that

*Matthew J. Lucklum*  
has joined the firm as an associate  
effective November 29, 2021.

Clayborne, Loos & Sabers, LLP.  
2834 Jackson Boulevard, Ste. 201  
P.O. Box 9129  
Rapid City, South Dakota 57709-9129

Telephone: (605) 721-1517  
Facsimile: (605) 721-1518

[matt@clslawyers.net](mailto:matt@clslawyers.net)

May & Johnson, P.C.  
is pleased to announce the addition of  
its new associate:

*Tracye L. Sherrill*  
has joined the firm as an associate  
effective as of November 8, 2021.

May & Johnson, PC.  
6805 S Minnesota Ave.  
Sioux Falls, SD 57105

Telephone: (605) 336-2565  
Facsimile: (605) 336-2604

[tsherrill@mayjohnson.com](mailto:tsherrill@mayjohnson.com)

## The Department of Human Service's Establishment Fund Program

is looking for attorneys across  
South Dakota willing to handle  
cases establishing guardianships  
for a flat fee.

*The goal is to increase access  
for those needing to create  
guardianships for individuals  
with disabilities.*

If interested, please contact Jenna  
Howell at 605-773-5946 or  
Jenna.Howell@state.sd.us.

## In Search of

*Will for Dorothy Vanderberg  
from Brandon, South Dakota.*

Please contact  
Kevin Hoffmann  
at 605-261-4936.



## Looking for more information on the Involuntary Commitment Process for Substance Abuse Disorder?

The Department of Social Services, Division of Behavioral Health and the Unified Judicial System created a short video and workbook outlining the role and responsibilities of attorneys in the substance use disorder involuntary commitment process, including the procedures to be followed. View the video and download a copy of the workbook on the DSS Behavioral Health website under the Substance Use Disorder Involuntary Commitment Criteria Tab.

<https://dss.sd.gov/behavioralhealth/services.aspx>



South Dakota  
Department of  
**Social Services**

*Strong Families - South Dakota's Foundation and Our Future*

*South Dakota Law Review* cordially invites you to

# Wine Review

Saturday, January 29th - 6:00 p.m.

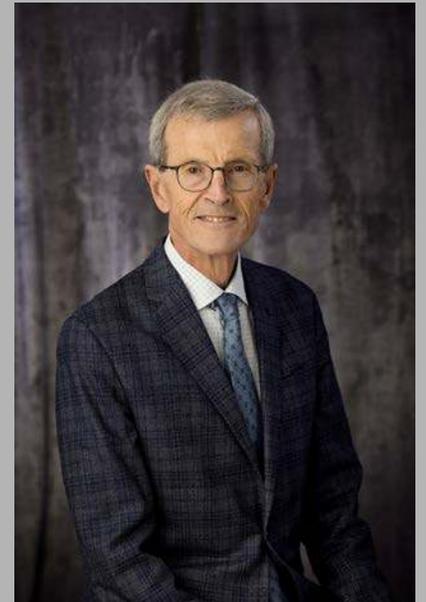
Drifters Event Center - Fort Pierre, South Dakota

Tickets: \$50

---

Join us for a wonderful evening of wine, food, and celebration as we present the Distinguished Alumni Award to **Robert C. Riter, Jr.**

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Special thanks to our sponsors: Cutler Law Firm, LLP;  
Boyce Law Firm LLP; and Lynn Jackson

Contact Madison Jons for additional sponsorship opportunities.

Please RSVP by January 7th to [Madison.Jons@coyotes.usd.edu](mailto:Madison.Jons@coyotes.usd.edu) and mail a check to:  
University of South Dakota Knudson School of Law, Attn: Madison Jons,  
414 E Clark St, Vermillion, SD 57069

Checks should be made out to "South Dakota Law Review" with  
"Wine Review 2022" in the memo line.





# State of South Dakota Unified Judicial System



## Office of the State Court Administrator

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

500 East Capitol Avenue  
Pierre, SD 57501-5070

November 15, 2021

Mr. Andrew Fergel  
State Bar of South Dakota  
111 W. Capitol Avenue, #1  
Pierre, South Dakota 57501

**RE: 2022 Court-Appointed Attorney Fees and Mileage**

Dear Mr. Fergel:

Please publish the following announcement in the December 2021 issue of the State Bar Newsletter:

**“Court-appointed attorney fees for 2022 will be \$101 per hour pursuant to UJS policy which provides that these fees increase in an amount equal to any cost of living increase approved for state employees by the Legislature. Mileage for court-appointed attorneys will be paid at the rate of \$1.00 per mile.”**

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

Sincerely,

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

Greg Sattizahn  
State Court Administrator

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

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### ATTORNEYS - OATH OF ATTORNEY

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

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

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

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

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

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

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

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



# Supreme Court of South Dakota

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

Shirley A. Jameson-Fergel  
Clerk

Laura J. Graves  
Chief Deputy

Amy Hudson  
Deputy Clerk

Sarah L. Gallagher  
Deputy Clerk

November 30, 2021

Mr. Andrew L. Fergel  
Executive Director  
State Bar of South Dakota  
111 West Capitol Ave #1  
Pierre SD 57501-2596

Re: February 2022 Rules Hearing

Dear Mr. Fergel:

A Supreme Court Rules Hearing will be held Tuesday, February 15, 2022, at 11:00 a.m., CT in the Courtroom of the Supreme Court, Capitol Building, Pierre, South Dakota.

**An original and five copies of proposals for amendment or adoption of rules should be filed with the Clerk of the Court no later than December 31, 2021. Please comply with SDCL 16-3-5.1 when submitting proposals.**

Please post this letter in the December 2021 edition of the State Bar Newsletter. Thank you.

Very truly yours,

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

Shirley A. Jameson-Fergel



Dear Bar Association Leaders and Counselors:

The COVID-19 pandemic has had profound effects on the way legal proceedings such as depositions are conducted. Necessary and beneficial adjustments have been made to procedural rules across the nation to allow the litigation process to continue safely via remote web conferencing platforms such as Zoom, Teams, WebEx, etc.

Unfortunately, this distanced and virtual practice has spawned a tactic by some vendors that is often not in compliance with the intent, either implicit or explicit, of the deposition notice and, indeed, may be contrary to your state's laws and regulations. The practice that is being employed is that rather than a certified stenographic court reporter keeping a full and accurate record of deposition proceedings, a digital recorder (audio recording conducted by an operator) is instead being assigned. This substitution is often not disclosed until the deposition is ready to begin, at which time a stipulation is demanded to allow this previously unannounced and non-noticed anomaly to proceed. Due to a lack of understanding of these two entirely different means of capturing the record and the commonplace oath and stipulations standardly read, we have grave concern that this does not rise to a level that meets the threshold of a duty to inform. Counsel, facing the prospect of lost time and further costs, are being asked to stipulate that transcripts produced by the **digital recorder** of the proceeding can be used for all uses permitted under applicable procedural and evidentiary rules and laws even though many states require final certification by a **certified stenographic court reporter**.

If a **digital recorder** is assigned to a deposition without advanced disclosure and then demands a stipulation that may not comply with the legal requirements in your state, the client should not have to accept any such stipulation and risk the consequences that the transcript may be held invalid.

As an integral part of the record-making process, it is imperative that the members of the Bar in your state be made aware of these practices so that they can be protected from being forced by circumstances to enter into a potentially unlawful stipulation. If you are practicing in a state that requires your discovery transcripts be prepared and certified by a **certified stenographic court reporter**, be careful to designate that the deposition will be reported by stenographic means, verify the authority of the deposition officer, if appropriate in your jurisdiction, **before** the proceedings begin, and never stipulate away the clients' rights by potentially putting their record in jeopardy.

Out of an abundance of caution to protect your attorneys from entering into a potentially unlawful stipulation and to protect the public we respectfully request that you share this information with members of your bar association and those within your legal community who may be impacted by its effects.

A handwritten signature in blue ink that reads 'Debbie Dibble'.

Debra A. Dibble, RDR, CRR, CRC  
2021-2022 NCRA President

## ADR MATTERS:

### WORKS CLINIC PROVIDES EXCELLENT EXPERIENTIAL LEARNING OPPORTUNITIES

By Promise Costello, JD Candidate May 2022, USD Knudson School of Law

*Introduction by Linda Lea Viken, ADR Committee Chair: The WORKS CLINIC, an ongoing project of the SD State Bar ADR Committee, continues to grow to more areas of our state with the help of the USD Knudson School of Law. This month, I asked one of the law students working on the Clinic to provide a report to the members of our state bar about her experiences. I hope you enjoy learning about the WORKS CLINIC from Promise's perspective as much as I did.*

Having spent the majority of the Spring Semester of my 1L year at home due to the COVID-19 Pandemic, I was eager to jump back into school in the Fall 2020.

During the Fall Semester of my 2L year at the University of South Dakota Knudson School of Law, I registered for the WORKS (Working Out Resolutions for Kids) CLINIC. This Clinic was a fantastic opportunity to combine my interest in Family Law with my passion for public service while fulfilling the experiential learning requirement at the law school.

The mission of WORKS CLINIC is to assist participants who are filing for a divorce and are unrepresented. To qualify for our services, participants must fall within 200% of Federal Poverty Guidelines. Along with the inability to afford an attorney, many participants using the Clinic often do not speak English as their first language and face other social challenges. Because of these barriers, participants often cannot understand and complete the forms without assistance.

During my semester in the WORKS CLINIC, our supervisors, Marilyn Trefz and Kelly Collinworth, trained us on how to use the court approved UJS divorce forms to assist participants in filing their initial forms. In addition to substantive training, we also received extensive training on the ethical obligations of working with sensitive communities of Sioux Falls.

In a typical WORKS CLINIC session, law students educate the participants about the content of the forms and the decisions they need to make to complete them. Law students help participants complete their Initial Case Filing Statement, the Summons, the Complaint form, the Financial Affidavit, and any fee waiver forms required. In subsequent sessions, we help them



with the other forms needed to complete their divorce. As a law student with no previous legal experience, receiving this training and assisting participants with these forms was a huge accomplishment for me. I did not realize it then, but my involvement in the WORKS CLINIC would continue long passed just the Fall Semester of 2020! Not only did I satisfy the 85-hour requirement for the course credit, but I was so moved by the work the WORKS CLINIC was doing, I completed 50+ hours of pro-bono work through the Clinic in Spring and Summer 2021.

I am currently a 3L student intern for Marilyn Trefz. In this role, I have the pleasure of watching the WORKS CLINIC grow. Through our collaboration with Linda Lea Viken in the 7th Circuit, the WORKS CLINIC has reached more participants throughout the state.

It has been a pleasure to extend my involvement with the WORKS CLINIC. I have seen the positive impacts mediation can play in a divorce. When completing the Stipulation and Settlement forms required to be granted a divorce, participants and their spouses must discuss and agree on property distributions and child custody arrangements. In this Clinic, I learned that this is often easier said than done. Offering participants mediation services through the WORKS CLINIC allows them the opportunity to discuss potential outcomes in an informal setting. Students learn to facilitate conversation toward a civil resolution and help families to create solutions that meet their specific needs.

In addition to helping participants complete their Stipulation and Settlement forms, the WORKS CLINIC can also provide mediation services for court-ordered mediations when both parties are self-represented. Agreements that allow for creative solutions through the divorce process are unlike anything I have seen in law school thus far.

As a 3L, the WORKS CLINIC has changed me as a prospective young attorney. I have gained valuable insights into court administration and filing requirements. I have also been touched by circumstances of the many participants I have worked with. I am proud of my involvement in the WORKS CLINIC and how I have helped to assure that more people have equal access to legal services and feel empowered through their divorce.

To learn more about WORKS CLINIC, go to [www.WORKSCLINIC.com](http://www.WORKSCLINIC.com).

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

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

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

Address \_\_\_\_\_

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

*I would like to contribute:*

in Lump Sum    Annually    Semi-Annually    Quarterly    Monthly

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

### In Memoriam

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

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

Mail payment to:  
State Bar of South Dakota  
111 W Capitol Ave. #1  
Pierre, SD 57501

Or you can email this form to:  
[tracie.bradford@sdbar.net](mailto: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.*

# 2021 John R. Justice Student Loan Repayment Program 2021

<https://atg.sd.gov/OurOffice/JohnJusticeProgram.aspx>

The John R. Justice (JRJ) Grant Program provides student loan repayment assistance for local, state and federal public defenders and local and state prosecutors who commit to extended service in those roles. All Applications and a Service Agreement along with a recent loan statement must be received or postmarked on or before January 31, 2022. A recent monthly statement from the borrowing agency is preferred over the generic "Loan Details" print out option as the monthly statement contains the pertinent information needed.

[2021 John R. Justice \(JRJ\) Grant Application](#)

[2021 JRJ Grant Service Agreements: Please select one of the 3 agreements that best fits your situation.](#)

**Eligibility:** For the purposes of the JRJ Program, the following beneficiaries shall be considered eligible:

**Prosecutor:** full-time employee of a state or unit of local government (including tribal government) who is continually licensed to practice law and prosecutes criminal or juvenile delinquency cases at the state or local government level (including supervision, education, or training of other persons prosecuting such cases); prosecutors who are employees of the federal government are not eligible.

**Public defender:** an attorney who is continually licensed to practice law and is a full-time employee of a state or unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education, or training of other persons providing such representation.

**A full-time employee of a nonprofit organization** operating under a contract with a state or unit of local government who devotes substantially all of the employee's full-time employment to provide legal representation to indigent persons in criminal or juvenile delinquency cases including supervision, education, or training of other personnel providing such representations.

**A full-time federal defender attorney in a defender organization** pursuant to subsection (g) of section 3006A of Title 18, United States Code, that provides legal representation to indigent persons in criminal or juvenile delinquency cases.

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

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

# CERTIFICATE OF COMPLIANCE

## INSTRUCTIONS

The certificate of compliance for the year 2021 must be submitted to the State Bar of South Dakota by **January 31, 2022**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All attorneys who were **ACTIVE members of the State Bar of South Dakota in 2021 must file the compliance form** with the State Bar no later than January 31, 2022. **This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc.** This reporting requirement does NOT include those who were inactive lawyers in 2021, nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients.

Andrew L. Fergel  
Secretary-Treasurer

## TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

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

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

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

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

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

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

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

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

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

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

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

8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain the same. I remind you that the effective date of this rule was July 1, 1991. It is not too late to perform the monthly reconciliations from and after July 1, 1991, through the date of completion of this form; however, monthly reconciliations must be performed prospectively.

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

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

The rule does not require, nor do we want the amounts held in trust, the identities of clients, or any other confidential information. If all partners in a law firm use a common trust account, one form may be submitted provided all partners sign the form. Please type your name under your signature. This will avoid nuisance phone calls or letters trying to ascertain who signed the forms.

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

## 2021 CERTIFICATE OF COMPLIANCE

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

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

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

1. I (we) have engaged in the private practice of law in South Dakota as:
- \_\_\_\_ (a) a sole practitioner;
  - \_\_\_\_ (b) a partner or shareholder of a firm practicing under the name of; \_\_\_\_\_;
  - \_\_\_\_ (c) an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_
- and I maintain separate books, records and accounts showing all legal business performed by me.
- \_\_\_\_ 2. I have not engaged in the practice of law in South Dakota, and I have neither handled nor been responsible for either clients' trust funds or clients' trust property in South Dakota.
- \_\_\_\_ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) \_\_\_\_\_ and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).
- \_\_\_\_ a. I have served as a trustee in one or more cases under Title 11 of the United States Code, and I am accountable for all funds I handled in connection therewith to the Office of the United States Trustee, which office is statutorily charged with the responsibility for reviewing and supervising my trust operations; therefore, my handling of such funds is not separately accounted for herein in connection with my private practice of law, and I further certify that I am in compliance with all such accounting requirements of said Office.
- \_\_\_\_ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_ and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

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

(Signature)	Full Name (Print or Type)
Business Address	City, State, Zip

Date \_\_\_\_\_, 2022

**Please state the total number of hours of pro bono service, as defined by the South Dakota Rules of Professional Conduct 6.1, that you (or the whole firm) provided in 2021. Enter 0 if none. Total Hours: \_\_\_\_\_.**

Rule 6.1. Voluntary Pro Bono Public Service

A lawyer should render public interest legal service.

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

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

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

\_\_\_\_\_ (and bears the following name(s) and number(s))  
\_\_\_\_\_  
\_\_\_\_\_

6. During the fiscal period ended December 31, 2021, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

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

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

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

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

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

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

10. If you are a solo practitioner, have you made arrangements with another lawyer to secure your files and trust account and protect your clients in the event of your death or disability? Yes \_\_\_\_\_ No \_\_\_\_\_

*(This is not currently a requirement, but very much encouraged. Please check out the state bar website for checklists and forms for solo practitioners planning for unexpected death or disability.)*

I am a member of the State Bar of South Dakota filing this report, and to the best of my knowledge and belief the facts as reported herein are accurate, and I certify that I have at all material times been in compliance with Rule 1.15 of the Rules of Professional Conduct entitled Safekeeping Property and SDCL 16-18-20.1 and 16-18-20.2.

(All partners, shareholders, or associates checking categories 1a, 1b, or 1c must sign here. Attach additional signature pages if necessary.)

(Signatures)

(Printed Name)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_, 2022  
Date

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

All Responding Lawyer Signatures:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_, 2022  
Date

# SOUTH DAKOTA BAR FOUNDATION

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

## DIRECTORS:

Stephanie E. Pochop, Gregory, President  
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Eric C. Schulte, Sioux Falls  
Caroline A. Srstka, Sioux Falls  
Andrew L. Fergel, Secretary -Treasurer

Members of the State Bar of South Dakota:

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

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

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

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

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

Best regards,

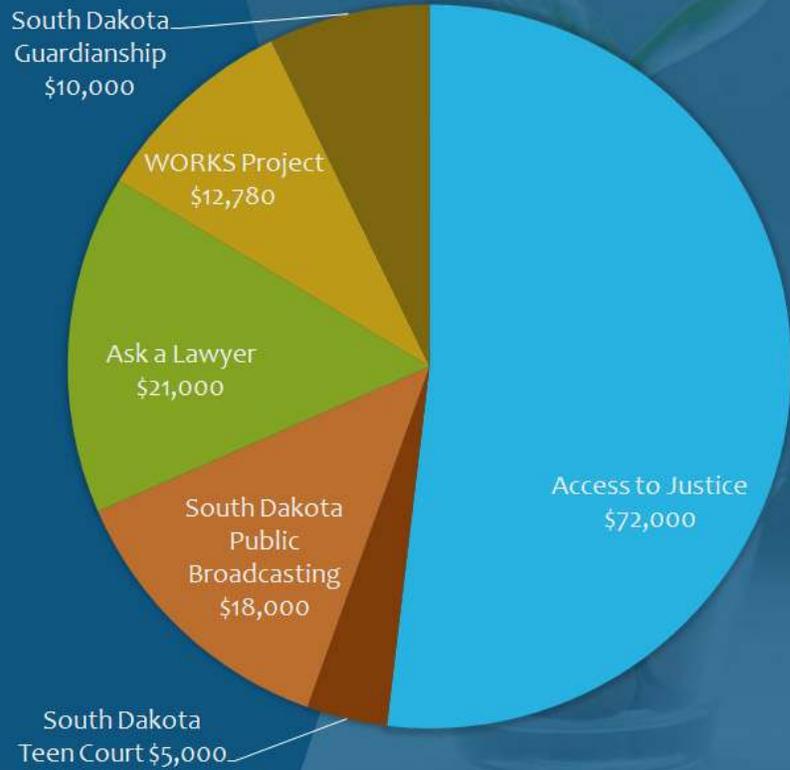


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THE CENTER FOR THE PREVENTION OF CHILD MALTREATMENT AND THE SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM ARE HOSTING MONTHLY COURT IMPROVEMENT PROGRAM (CIP) TRAININGS FOR ATTORNEYS, JUDGES, AND OTHER MULTIDISCIPLINARY PROFESSIONALS WORKING WITH FAMILIES INVOLVED IN ABUSE AND NEGLECT CASES.

THE GOAL OF THESE TRAININGS IS TO PROVIDE RELEVANT AND UP-TO-DATE INFORMATION ON THE SOUTH DAKOTA CHILD WELFARE SYSTEM, WHILE OFFERING UNIQUE APPROACHES AND STANDARDS FOR BEST PRACTICES WHEN WORKING WITH CHILDREN THROUGHOUT THE COURT PROCESS.

### FUTURE CIP TRAINING SESSIONS:

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USE THE LINKED SESSION TITLES BELOW TO REGISTER.

WED DEC 29 – CODINGTON COUNTY FAMILY COURT PILOT PROJECT

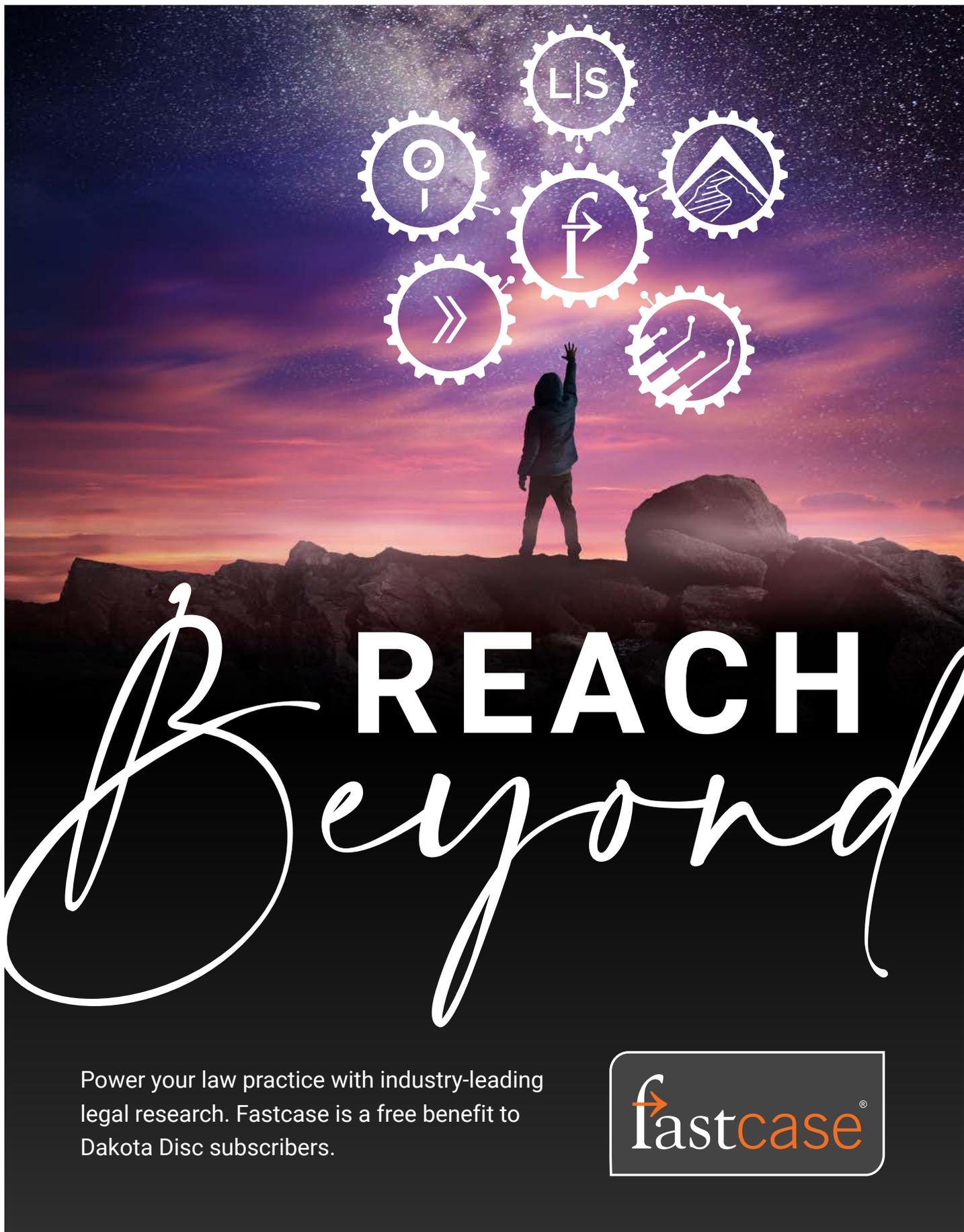
WED JAN 26 – IMPLICIT BIAS

WED FEB 23 – FAMILY TIME AND SIBLING/RELATIVE PLACEMENT PREFERENCES

WED MAR 30 – CONVERSATION WITH A FOSTER FAMILY

WED APR 27 – BEST PRACTICES ON ABUSE/NEGLECT CASES IN CONJUNCTION WITH STATE BAR

COURT IMPROVEMENT PROGRAM SESSIONS SPONSORED BY UJS AND CPCMC



# REACH *Beyond*

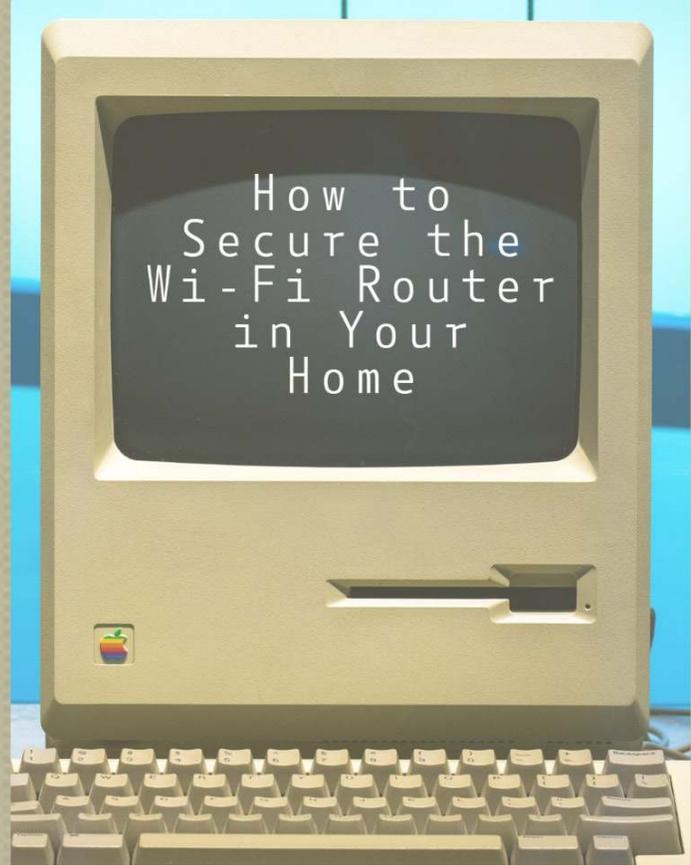
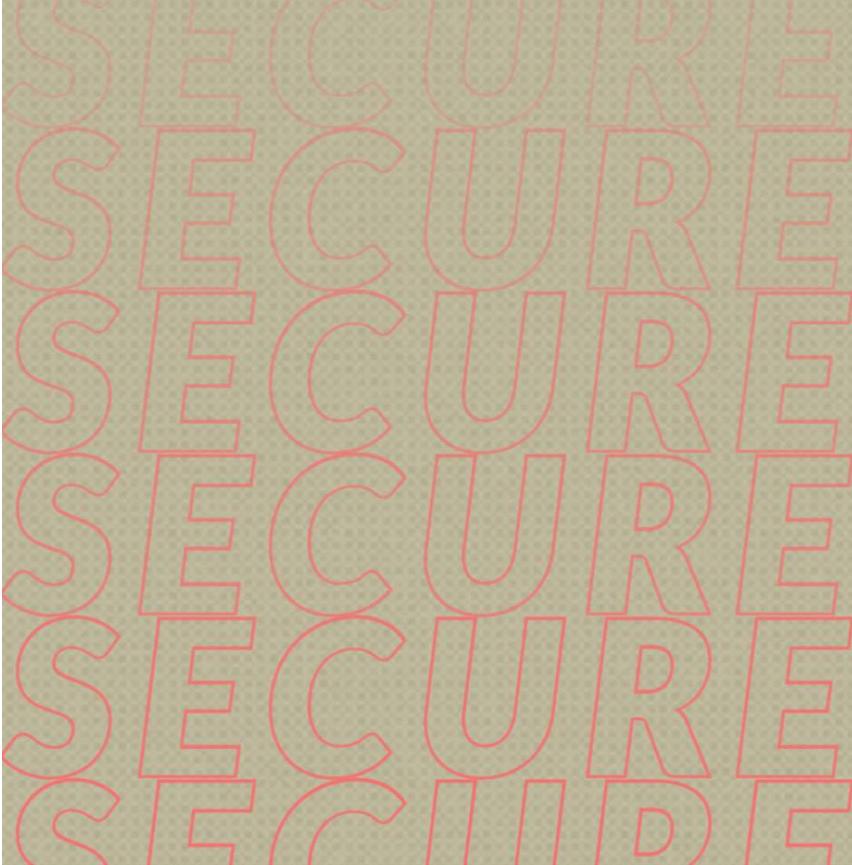
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These days, most lawyers are taking appropriate steps to see that all work-related servers, computers, mobile devices, and cloud-based apps are properly secured. Unfortunately, the same can't be said about all their personal devices and accounts. Admittedly, while more than a few give it the old college try, one personal device that is often overlooked is the wireless router in their homes.

Even if the amount of time spent working from home is minimal, all lawyers and staff need to make sure this device is properly secured. Not only is such a step now ethically mandated in a number of jurisdictions; but as their lawyer, your clients also expect you to take whatever reasonable steps are necessary to keep their personal information and your communications with them secure. Given that much of the work force shifted to working from home in 2020, securing home routers has become particularly important because cyber criminals have shifted their focus to home devices. Heaven forbid your home router, or the home router of a staff person, ends up being the weak link that enables a successful breach into your office network.

The good news is that you don't need to be an IT security expert to take care of most of the basics. Start by pulling out your instruction manual. If that's no longer available, instruction manuals are often available

online. Just do a search for it using your router make and model number. With that in hand, make sure to address the following recommendations if they have not already been taken care of.

- 1) Because the default administrative username and password are easy to guess, you should change both. Best practices now call for a complex password of at least 20 characters comprised of uppercase and lowercase characters, numbers, and symbols. And since many router manufacturers all set the default username as Admin on all their devices, pick a username that's unique to you.
- 2) Change the network SSID (the name of your network) defaults. Every router comes with a default network name. Change it to something unique to you but don't have be something that might identify you. As with the router's administrative password, also create a similarly strong network access password.
- 3) Setup a guest network with its own unique SSID and password because all guests, to include friends of any kids, should never have access to your home network.
- 4) Make sure the firmware version of your router is current. Update to the most current version if it isn't because version updates are how security patches are

delivered to your router. If your router has an auto update option, make sure that is enabled. If no firmware updates have been released in the last 12 to 18 months, replace your router with a newer model.

5) Confirm that the network authentication method is set to WPA2-personal, or even better, WPA3-personal if that option is available. WPA3 is the more secure encryption language of the two. If neither of these options are available on your router, replace your router with a newer model.

6) Turn off UPnP (Universal Plug and Play). Yes, I know this can make connecting new devices to the network less convenient; but leaving it on provides hackers an

access point that can be used to insert malware on to your network, to include things like programs that seek to capture login credentials to your bank accounts.

There are additional steps one can take to further secure a home router but a follow-through with these most basic steps will go a long way toward seeing that your home router is properly secured. That said, one final note. I know that keeping track of long complex passwords can be a stumbling block for some. That problem can be easily solved with a password manager. Given all the login credentials we're all trying to manage nowadays, the use of a password manager has quickly become a true necessity.



Authored by: Mark Bassingthwaighte, Risk Manager

Since 1998, Mark Bassingthwaighte, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighte has conducted over 1200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics, and technology. Mr. Bassingthwaighte is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School.

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# *In Memoriam*



George H. Danforth

George H. Danforth, 79, of Minden, Nevada, formerly a long time resident of Huron, passed away surrounded by family on Wednesday, October 20 following a long battle with ALS.

A memorial service will be held in Huron at a later date in the spring.



Frank Farrar

Frank passed away early Sunday morning, October 31, 2021, at the Mayo Clinic Hospital, Rochester, Minnesota, surrounded by his family. He was ninety-two years old. It was six years ago to the day, on October 31, 2015, that

his wife of sixty-two years, former First Lady Patricia Farrar, passed away.

Frank LeRoy Farrar was born April 2, 1929, in Britton, South Dakota, the youngest child of Virgil W. Farrar and Venetia (Taylor) Farrar. Frank grew up in Britton, where he became an Eagle Scout and was elected student body president of Britton High School. He graduated in 1947.

He attended the University of South Dakota, where he was also elected student body president, and graduated in 1951 with a B.S. in Business. He received his law degree from the USD School of Law in 1953.

Frank married Patricia Jean "Pat" Henley of Claremont, South Dakota, June 5, 1953, at Fort Benning, Georgia, where he was serving as a Lieutenant in the U.S. Army during the Korean War. The couple moved to Seattle, Washington, in 1955, where Frank worked as an Internal Revenue Service estate and gift tax examiner, then returned to Britton, where he established a law

practice and served as a County Judge in 1957 and State's Attorney in 1958.

At the age of 33, Frank was elected the South Dakota's 22nd Attorney General, the youngest in the state's history, and served three two-year terms, from 1963 to 1968, during which he focused on the enforcement of insurance, banking, and securities laws and on reducing drug-related crime.

At the age of 39, he was elected South Dakota's 24th Governor and served one two-year term, from 1968 to 1971. Among other initiatives, he worked to improve consumer protection, modernize the state's banking and insurance laws, increase state aid for education, and promote economic development.

After leaving office, he returned to his law practice and became a successful businessman in banking, finance, insurance, and farming. But he remained interested in politics and public service, over the years becoming a senior statesman in the state Republican party and a philanthropist, whose work included serving as the State Chairman of the March of Dimes, serving as director of the South Dakota Foundation, co-founding the Britton Area Foundation, and continuing to attract new businesses to South Dakota.

He also doubled down on his life-long commitment to exercise – this despite two significant health challenges: One was the devastating knee injury he'd suffered at the age of 15 while playing high school football. Doctors at the Mayo Clinic saved his leg from amputation in what he was told would be a "temporary repair." Over the next seven decades, Frank logged thousands of running miles on that "temporary" repair until his long overdue knee replacement at the age of 87.

The other challenge came when he was 62 years old and diagnosed with advanced non-Hodgkin lymphoma. During what proved to be his successful cancer treatment, he continued to do short-course triathlons and went on to do his first full Ironman Triathlon at the age of 65, a race he continued to qualify for and participate in until he was 79 years old. Both he and Pat were regular participants in the South Dakota and National Senior Games, also known as the Senior Olympics. In the 2016 National Senior Games, Frank set a world record for his age group in the 100-meter backstroke. He remained cancer-free until his death.

In more than just exercise, Frank Farrar was an iron man. His was, as he once said, a spectacular life.

Frank was preceded in death by his parents; his sisters, Venetia "Bonnie" Soule (Farrar) Tomlin and Irma Jean (Farrar) Blean, and his brother, Virgil Max Farrar; and his beloved wife of sixty-two years, Pat.

Frank is survived by his sister, Lois Joyce (Farrar) Smail; his five children, Jeanne Farrar of Minneapolis, Sally Farrar of Arkansas, Wisconsin, Robert Farrar of Golden Valley, Minnesota, Mary Turner (Randall Turner) of Pierre, South Dakota, and Anne Farrar (John Ingwalson) of St. Paul, Minnesota; his eight grandchildren, Samuel Farrar Orfield, William Farrar Orfield, Arthur Turner, Reid Turner, Frank Turner (Jasmine Fosheim), Emma Ingwalson, Alexander Ingwalson, and Paige Ingwalson; and his two great-grandchildren, Garrett Turner and Josie Turner.

In lieu of flowers, the family suggests that memorials in honor of Frank be sent to: The Britton Area Foundation, P.O. Box 415, Britton SD 57430; The South Dakota Community Foundation, P.O. 296, Pierre SD 57501; Mayo Clinic - Department of Development, 208 First St. SW, Rochester, MN 55905; The American Cancer Society; or The Salvation Army.

Condolences may be directed to the Farrar Family, in care of the Office of Frank Farrar, Box 1029, Britton, SD 57430.



William Jason Groves

William Jason Groves of Rapid City, South Dakota, died on Monday, October 18, 2021 following a brief battle with cancer. Jason passed away peacefully, surrounded

by his wife and three daughters, in his Fountain Hills, Arizona home.

Born on August 2, 1946 in Webster City, Iowa, Jason grew up in Eagle Grove, Iowa. As a child, he loved camping with his Boy Scout troop, swimming at the

city pool and waterskiing on Clear Lake, where his family had a cabin. He was a member of the track and basketball teams.

Jason attended the University of Iowa and the University of South Dakota. At USD, he was a member of Lambda Chi Alpha fraternity and majored in History. A favorite hobby was creating pen and ink drawings of nature. While at USD he met the love of his life, Betsy Lamont. The two married in July 1969 and moved to Rapid City in 1976.

In 1968, on the first day of a summer job laying rebar for the highway near Kadoka, S.D., there was an accident and Jason and several other workers were electrocuted. As a result, Jason lost his right hand and spent three months recovering at the Mayo Clinic in Rochester, Minn. This experience gave him empathy for the injured workers he helped throughout his life.

Jason earned his B.A. at the University of South Dakota in 1969 and his J.D. from the University of Tulsa in 1973. He was first admitted to the State Bar of South Dakota in 1973; the U.S. District Court, District of South Dakota in 1975; and the U.S. Court of Appeals, Eight Circuit in 1980.

For more than 41 years, Jason was a leading advocate for injured workers in South Dakota. He had more than 24 appeals to the South Dakota Supreme Court. Jason successfully challenged how insurance companies misapplied workers' compensation law to the harm of injured workers. Through his tireless efforts, hundreds of injured workers received the relief they were entitled as prescribed by the South Dakota Legislature. Jason was the voice who demanded accountability from workers' compensation carriers. He often stood alone, but was repeatedly vindicated by decisions in favor of his clients. Early in his career, he served as a South Dakota Assistant Attorney General.

Jason had great integrity and believed in fairness and equity. A frequent writer of Letters to the Editor, he always considered how decisions would impact others. Health and fitness were important to Jason. He loved to ski and was an avid cyclist. He logged thousands of miles cycling in South Dakota and Colorado. He rode Ride the Rockies multiple times and summited many of Colorado's highest mountain passes.

Jason served on several nonprofit boards including for

South Dakota Public Broadcasting and most recently, the National Music Museum at the University of South Dakota. He was active in the Allied Arts Fund in Rapid City. He served on many professional committees and was an invited speaker by the South Dakota Trial Lawyers Association and the Association of Trial Lawyers of America.

Jason was inquisitive, a voracious reader and a life long learner. He and Betsy were world travelers, visiting destinations both on and off the beaten path including Alaska, India, France, Greece, Burma, Vietnam, the Galapagos Islands, Italy, Chile, Indonesia, Fiji and Turkey. He loved to take photographs and recently took photos in Cuba as part of an educational tour.

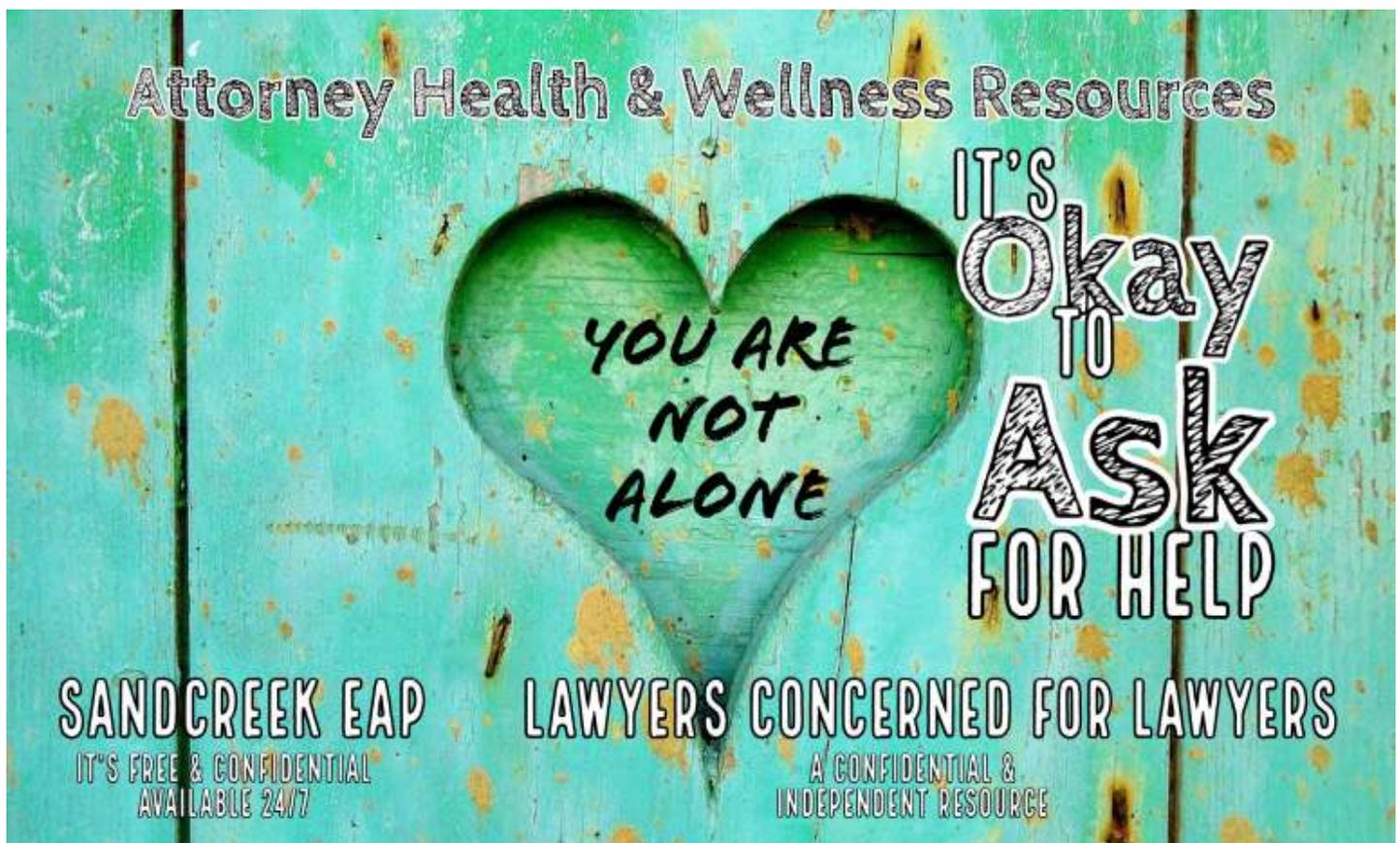
Above all, the joy of Jason's life was the family that he and Betsy built. His daughters remember fondly his booming laugh, kindness, wise advice, and music playing on the record player. They remember hours long "photo safaris" around the Black Hills for the perfect shot, hikes on Iron Mountain, and meeting up with him for picnics in the Hills, where he would cycle to the picnic spot and back, often more than one hundred miles round trip. His grandchildren will miss their Papa's shoulder rides,

tickles, and rides on Sheridan Lake in his sailboat, Argo. He never missed a grandchild's birthday party.

Jason's family will always remember "Captain Papa" on Argo. Arm on the tiller, hand on the line, hat perched on his head, he would laugh loudly as the wind would pick up, tilt the boat and spray water on everyone aboard.

Jason was preceded in death by his mother, Marjorie Lela Rompf Groves of Eagle Grove, Iowa; father, Harlan Max Groves of Eagle Grove, Iowa; four beloved cats and two dogs.

Grateful for having shared his life are his wife of 52 years, Elizabeth "Betsy" (Lamont) Groves; three daughters: Ethnie (Kyle) Treick of Fort Collins, Colo.; Davina (Matthew) Lockhart of Laramie, Wyo.; and Brie Groves of Rapid City, S.D.; five grandchildren: Luke and William Treick of Fort Collins, Colo., Dorian Lockhart of Conroe, Tex., and Stella and Harriet Lockhart of Laramie, Wyo.; one brother, Richard Groves of Sun City, Ariz.; and one sister, Barbara Groves of DeKalb, Ill. In lieu of flowers, contributions in Jason's honor to the National Music Museum ([www.nmmusd.org](http://www.nmmusd.org)) are appreciated.



Our confidential resource and referrals are available at no cost to you. Services with referral sources are optional and fees may exist.



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## Attorney - Lawrence County

The Lawrence County Public Defender's Office is seeking applications for a full-time Deputy Public Defender position. Duties of the position are as follows: Representation of indigent clients through all stages of the state court system in criminal and some civil matters. This includes pre-trial proceedings, motions, various court hearings and jury trials in criminal matters, appeals, habeas corpus proceedings, abuse and neglect actions, and juvenile proceedings.

The successful applicant must possess a J.D. degree and be a current member in good standing or eligible for admission to the South Dakota Bar. Criminal trial experience or clinical program experience in criminal law are preferred. Applicant must be a resident of Lawrence County or willing to become a resident within eleven months of start date. Applications will be reviewed until position is filled with a start date dependent upon availability. Salary will be a range of \$66,394.64 - \$79,0540.82 annually (DOE). Lawrence County offers health, dental and life insurance, paid vacation and sick leave and retirement benefits and is an equal opportunity employer. Please contact the the Lawrence County Public Defender's Office for more information at (605) 578-3000.

A resume with references and writing sample should be submitted to: Amber L. Richey, Director, Lawrence County Public Defender Office, 90 Sherman Street, Deadwood, SD 57732 or [arichey@lawrence.sd.us](mailto:arichey@lawrence.sd.us).

## Attorney - Pierre

Gunderson, Palmer, Nelson & Ashmore, LLP, an AV-Rated 20+ lawyer firm located in Rapid City and Pierre, South Dakota, has an attorney opening in the firm's Pierre office. The ideal candidate will have a minimum of 5 years of experience and must be in good standing with the South Dakota State Bar.

The firm offers a comprehensive benefit plan, a competitive salary structure and the opportunity for professional development. You can learn more about our firm by visiting our website at [gpna.com](http://gpna.com).

All inquiries will be kept confidential. Please send your cover letter, resume, unofficial transcript and references to [solsen@gpna.com](mailto:solsen@gpna.com) or 506 6th Street, Rapid City, SD 57701. Position open until filled.

## Deputy State's Attorney - Yankton

Department: Yankton County State's Attorney  
Reports to: Yankton County State's Attorney  
FLSA Status: Exempt  
Grade: 13  
Probationary Period: 180 days

### Position Description

- The Deputy State's Attorney performs routine legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Yankton County as well as representing the State in mental illness proceedings.

Key Responsibilities (may not include all of the functions performed)

- Reviewing offenses and evidence to make determination on charges and prosecuting violations of state law.
- Reviewing requests for subpoenas, petitions and other legal documents.
- Advising county offices and commissions on legal issues.
- Attending legal proceedings.

#### Supervisory Responsibilities

- ☒ Supervise support staff and interns.
- ☒ Represent the State's Attorney Office at public, private, and inter-governmental programs and events.
- ☒ Train and educate volunteers, law enforcement, and social workers on their roles and duties on legal issues and the court process duties.

#### Qualifications

##### Required Knowledge, Skills and Abilities

- ☒ Working knowledge of civil and criminal law and methods and practices of pleadings, court procedures, and rules of evidence.
- ☒ Working knowledge of principles, methods, materials, and practices utilized in legal research.
- ☒ Working knowledge of general law and established precedents.
- ☒ Ability to prosecute cases.
- ☒ Ability to speak and write effectively in the preparation and presentation of legal matters.
- ☒ Ability to establish and maintain effective working relationships with coworkers, other agencies, and the public.
- ☒ Ability to maintain professional appearance and demeanor.

#### Education

- ☒ Graduation from a college of law.
- ☒ Attainment of a Juris Doctorate degree from an accredited law school.
- ☒ Admission by the Supreme Court of South Dakota to practice law in the state of South Dakota; or be licensed to practice law in any other state and able to take the next available South Dakota bar examination; or be a recent or imminent law school graduate, eligible to sit for the next available South Dakota bar examination.

#### Experience

- ☒ 0-1 year

#### Other Requirements

- ☒ Ability to draft and use computer programs

Interested applicants can send a cover letter and resume to Rob Klimisch at [rob@co.yankton.sd.us](mailto:rob@co.yankton.sd.us) or Yankton County State's Attorney 410 Walnut #100 Yankton, SD 57078.

### **Corporate Counsel – Sioux Falls or Helena, MT**

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To review a summary of the position, salary range (\$82,000 to \$135,500 based on experience) and to apply, visit <http://www.northwesternenergy.com>. NorthWestern Energy is an equal opportunity employer.

### **Assistant General Counsel - Brookings**

South Dakota State University is seeking applicants for the position of an Assistant General Counsel. Under, and at the direction of, the SDSU Vice President and General Counsel, the SDSU Assistant General Counsel – Litigation and Employment supports the SDSU Vice President and General Counsel by: attending and representing the University in assigned administrative and legal proceedings, serving as lead or supporting litigation counsel as assigned; interfacing with clients and keeping them advised of developments and status of all matters regarding assigned pre-litigation and litigation matters; handling subpoenas, public records, and other document requests; providing guidance to SDSU Human Resources on labor and employment matters, including grievance support on behalf of SDSU as the employer; supporting the SDSU General Counsel interaction with EEOC, DOL, DOJ, including response and defense of inquiries and investigations; developing legal and factual research, analysis, and writing including but not limited to legal and factual

research and analysis; drafting accurate and succinct contracts, legal, and non-legal documents; gathering, organizing, reviewing, and preparing materials related to legal services and proceedings; assisting with and/or performing assigned interviews and investigations; drafting and maintaining policies and procedures; and performing other duties as assigned. For a summary of the minimum and preferred qualifications, the application deadline, contact information for questions on position, and to apply, visit <https://YourFuture.sdbor.edu>, search for the position, and follow the electronic application process. For questions on the electronic employment process, contact SDSU Human Resources at (605) 688-4128.

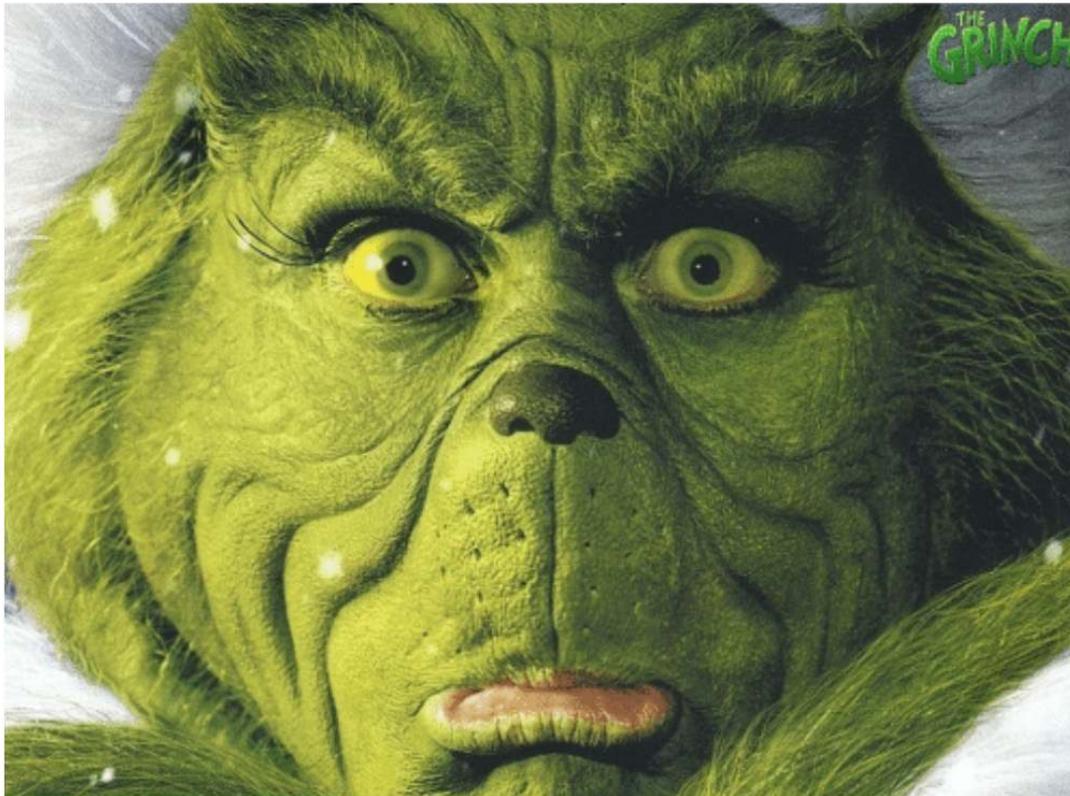
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# Upcoming Events

*December 15 | Bar Commission Meeting | Teleconference*

*January 7 | Bar Commission Meeting | Hotel on Phillips, Sioux Falls*

*January 13-14 | Disciplinary Board Meeting | Sioux Falls*

*February 16 | Bar Commission Meeting | Teleconference*

*March 16 | Bar Commission Meeting | Teleconference*

*[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)  
for more upcoming events*