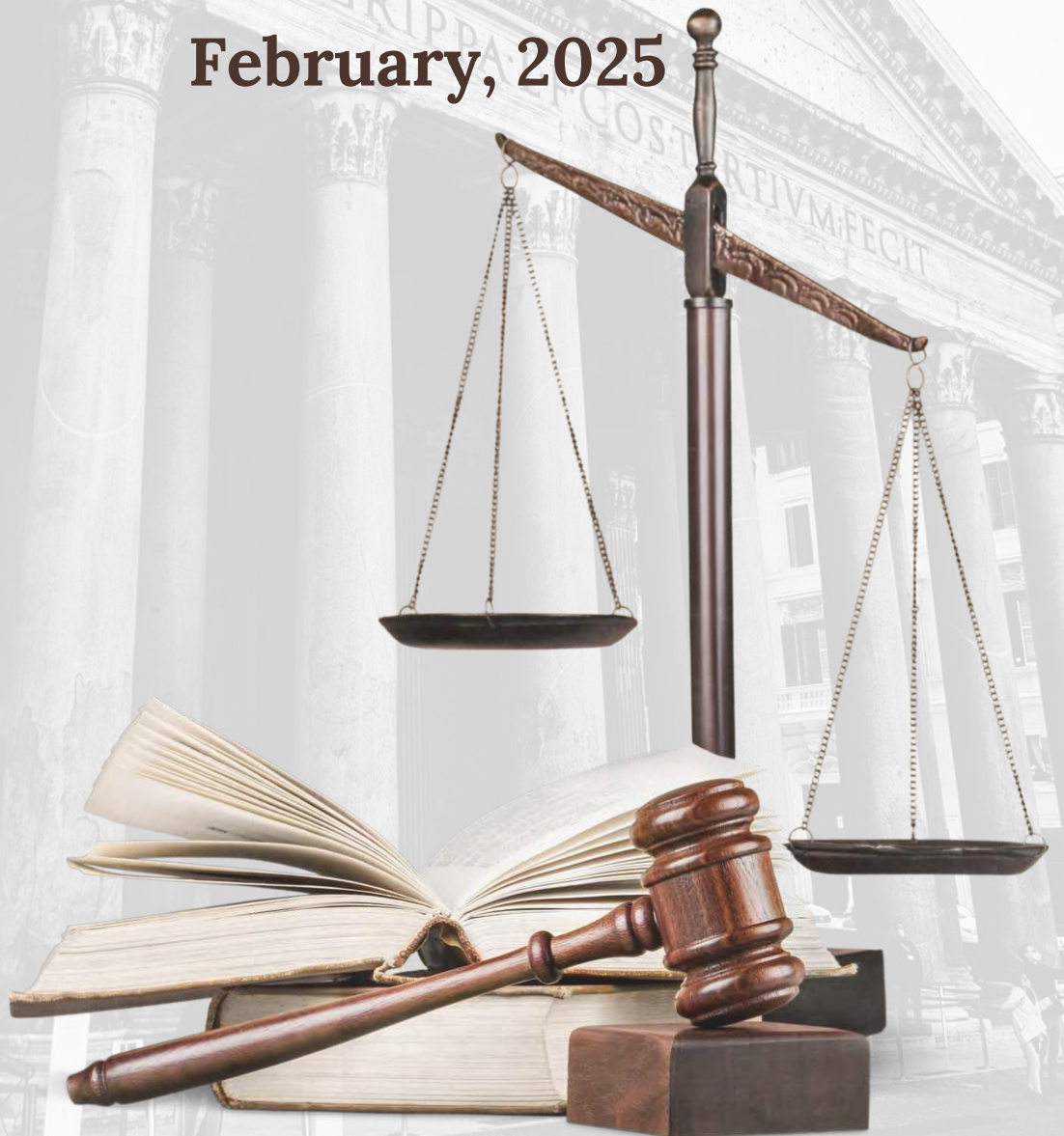


# STATE BAR OF SOUTH DAKOTA

**Newsletter**  
**February, 2025**



# YOUR SUPERPOWER IS HELPING PEOPLE.

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▶ Proudly endorsed by the **State Bar of SD**



# ATTENTION!

## 2025 MEMBERSHIP FEES

were due by December 31, 2024

Please Include a 10% late fee in your dues amount. Payments can be made online by logging in to your member hub or mailed in for your convenience.

# State Bar of South Dakota

February 2025

*Newsletter*

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# PRESIDENT'S CORNER

Sarah Sharp Theophilus



Regardless of your political affiliation, January was a historical month in politics for South Dakotans. Our former Governor Kristi Noem was confirmed as the head of the Department of Homeland Security. Senator John Thune was elected as the Senate Majority Leader and Senator Mike Rounds is Chairing the Armed Services Cybersecurity Subcommittee. Representative Dusty Johnson continues to Chair the panel overseeing rural broadband.

On behalf of the State Bar, I want to thank our colleagues who are serving in the state Legislature and encourage more lawyers to consider helping with legislative activities. Lawyers bring legal experience, knowledge, and problem-solving skills to the Legislature. Our training and background helps us to evaluate the impact of proposed legislation on individuals, businesses, and communities. We are able to advocate for sound, fair, and balanced laws, and to ensure that policies are both effective and just.

Attorneys who are not members of the Legislature can also provide assistance as well, in areas such as drafting bills, providing expert testimony, or advising lawmakers. I would like to thank our Executive Director, Paul Cremer, Strategic Plan Coordinator, Carrie Gonsor Sanderson, and numerous State Bar members for their legislative efforts on behalf of the State Bar.

We are fortunate to have several law-trained colleagues serving in our Legislature, including Sen. Amber Hulse, and Sen. David Wheeler. House members include Jon Hansen (Speaker), John Hughes, Will Mortenson, Scott Odenbach, Matt Roby, Bethany Soye, Mike Stevens, and

Tony Venhuizen. Tony is now serving as Lieutenant Governor with our new Governor Larry Rhoden. Congratulations to both!

As the President of the State Bar, I respectfully request my colleagues to consider providing some of your time for this meaningful form of public service.

Please reach out to me or State Bar staff if you have any questions about how to get involved.

To that end, I will be volunteering for the 2025 State Bar “Ask-A-Lawyer” program this month being put on by the South Dakota Public Information Committee. This year’s program will be held at the Minnehaha County Courthouse in Sioux Falls on February 12 & 13 from 7-10 p.m. While this program is a great public relations tool for the State Bar of South Dakota, it provides a valuable legal service to the people of South Dakota. Lawyers at calling centers in Sioux Falls and Rapid City answer toll-free phone calls from people across the State. Typically, 1,000 calls are received. General legal information and referral services are given. Both the attorneys and the callers remain anonymous. Prior to and during the event, toll-free numbers are advertised throughout the State.

I hope you will continue to support this program and volunteer to staff the telephone lines. Your participation is important and greatly appreciated. You can reach out to myself or Brooke Schmidt at [bschmidt@dehs.com](mailto:bschmidt@dehs.com) if you are interested in volunteering. We look forward to working with you to make the 2025 “Ask-a-Lawyer” program a success.

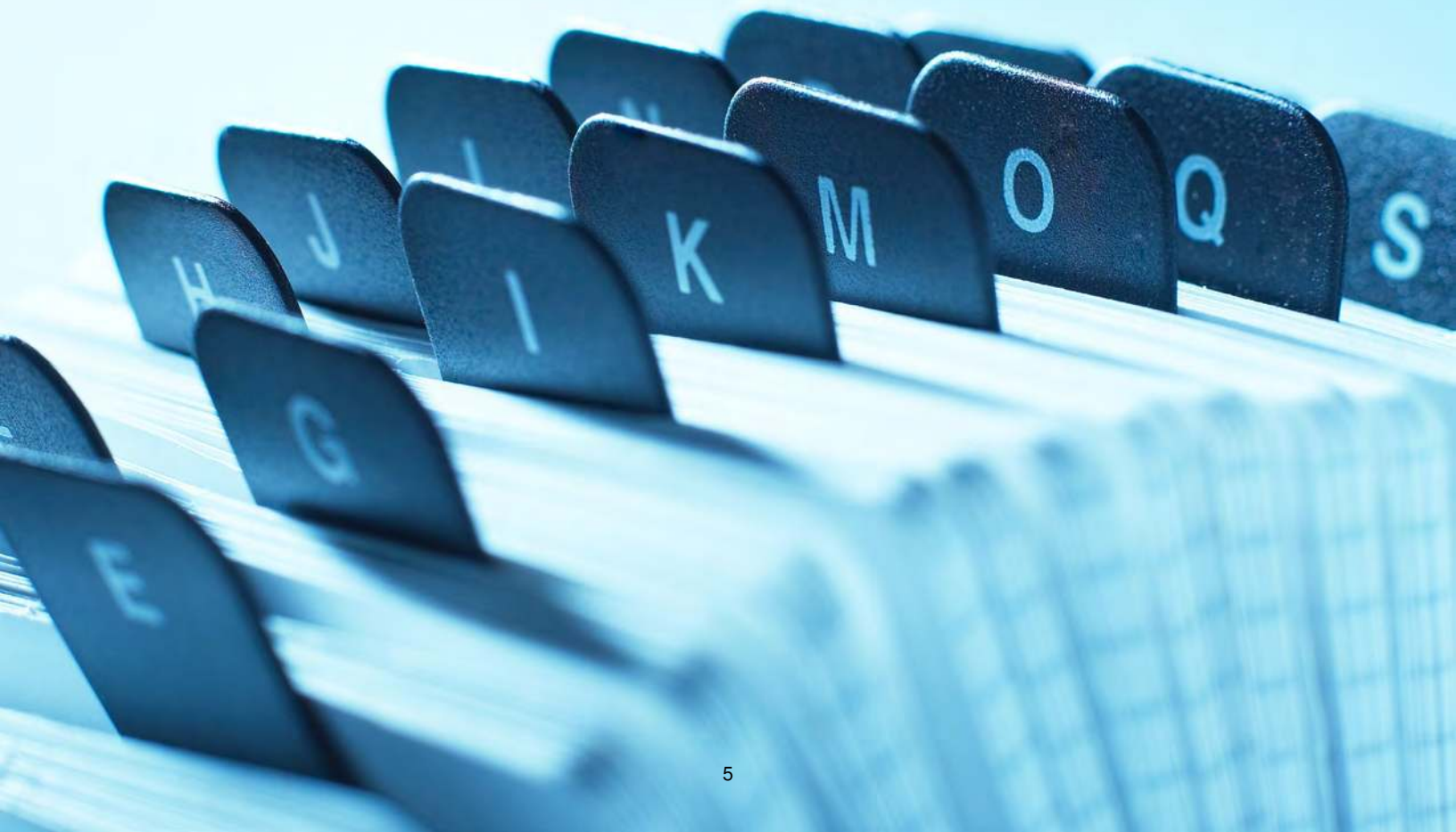
**MEMBERSHIP DIRECTORY UPDATES ARE DUE BY**

**MARCH 7, 2025**

**PLEASE EMAIL YOUR UPDATES TO  
TAILYNN.BRADFORD@SDBAR.NET  
WITH "DIRECTORY UPDATES" AS YOUR  
SUBJECT**

**INCLUDE:**

- FIRM NAME
- ADDRESS
- CITY
- STATE
- ZIP CODE
- PHONE
- FAX
- PUBLIC EMAIL



# State Bar of South Dakota

YOUNG LAWYERS SECTION



*Chelsea Wenzel*  
President

The YLS Board is getting ramped up for exciting things in the beginning of 2025.

As this article comes out, our at-large YLS Board Representative, Cole Romey, will be traveling to Phoenix, Arizona, for the ABA Young Lawyer Division's Midyear Assembly Meeting. The YLS Board members appointed Cole to be the ABA Young Lawyer Division representative for a two-year term. As part of his duties, Cole will represent South Dakota and North Dakota's interests during the YLD House of Delegates meetings where the group formulates the policies of the ABA and elects ABA officers and the Board of Governors for the YLD. We are very excited for Cole and know he will represent our Board, bar association, and state well. Watch for updates next month about the YLD Delegate Meeting and other notable things from the YLD Midyear Assembly!

Spring will also bring the annual YLS Bootcamp. The Bootcamp will be held in April in Sioux Falls this year with a mixer to follow. There will also be a watch party in Rapid City with a mixer to follow as well. The Bootcamp committee has been working hard to secure a variety of speakers and topics that will be applicable to young and experienced attorneys across the state. Stay tuned for more information!

As always, if anyone has questions, concerns, or ideas for the YLS Board, please feel free to reach out to me at [Chelsea.Wenzel@state.sd.us](mailto:Chelsea.Wenzel@state.sd.us) or any of the YLS Board Members (contact information available on the State Bar website).

President: Chelsea Wenzel

President-Elect: Mae Pochop

Secretary/Treasurer: Lora Waeckerle

First Circuit Rep: Derrick Johnson

Second Circuit Rep: Tyler Bradley

Third Circuit Rep: Stacia Jackson

Fourth Circuit Rep: Ryan Walno

Fifth Circuit Rep: Rebecca Ronayne

Sixth Circuit Rep: Stephen Gemar

Seventh Circuit Rep: Olivia Edoff

At-Large Rep: Cole Romey

## Meet your

YOUNG LAWYERS SECTION

## Board Members



*Rebecca Ronayne*  
5th Circuit  
Representative

YLS Board Spotlight: Rebecca Ronayne, Fifth Circuit Representative

1. **Where you grew up:** Aberdeen, SD.
2. **Where you work:** Ronayne Law Office, P.C. in Aberdeen, SD
3. **Practice area:** Real estate, estate planning, probates, personal injury.
4. **Pump up song:** Make Me Proud by Drake
5. **Tell us about your family.** Proud childless cat lady here – I have two cats, Lola and Zara.
6. **If you could have any superpower, what would it be?** I would love to be able to travel by floo powder like in Harry Potter. I'd be able to fit in so many more vacations!
7. **How did you start getting involved with YLS?** I was approached by then Second Circuit Representative for YLS, Brooke Schmidt. Brooke and I grew up together in Aberdeen and there was a vacancy on the board for the Fifth circuit.
8. **What is some advice you wish you had 5 years ago?** The first few years of practicing might be rough, but keep your head up and keep trudging along. I promise it gets better!
9. **Do you have any advice for experienced attorneys?** Apply to be a mentor! The transition from law school to practicing is difficult and, as a young lawyer, even just knowing you have someone you can reach out to provides some reassurance. Not only will mentoring be beneficial to the young lawyer, but also to the practice of law and the state bar.
10. **Advice for newer attorneys?** Get involved in the state bar. It was intimidating not being a USD law graduate, but it is one of the best decisions I have made in my career. You will make a lot of friends going through similar experiences and you will gain many connections around the state!
11. **Who has been your most influential mentor so far?** It is hard to pick just one. Obviously, I wouldn't be where I am without my dad – he has gotten really good at reassuring me things aren't as big of a deal as I often think they are! Rory King and Matt Tysdal have also been great resources for me outside of my office. They have both been incredibly supportive and happy to answer any questions I may have.
12. **What is your dream vacation?** After living there for two years and countless trips, Spain will always be my dream vacation.



Meet your  
YOUNG LAWYERS SECTION  
Board Members  
*Ryan Walno*  
*4th Circuit Representative*

YLS Board Spotlight: Ryan Walno, Fourth Circuit Representative

1. **Where you grew up:** On a cattle ranch outside Cheyenne, Wyoming
2. **Where you work:** Kinney Law Firm in Spearfish, South Dakota
3. **Practice area:** Criminal Defense
4. **Pump up song:** Bulls on Parade by Rage Against the Machine
5. **Tell us about your family.** My father is retired Airforce who runs a drug testing company in the Black Hills, my mother is a pharmacist, and my brother is a police officer.
6. **If you could have any superpower, what would it be?** The ability to teleport would make getting to court far easier.
7. **How did you start getting involved with YLS?** The Waeckerles forced me into it against my will. (Joking, but they introduced me to the Young Lawyer Section).
8. **What is advice you wish you had 5 years ago?** Go to medical school and invest in bitcoin.
9. **Do you have any advice for experienced attorneys?** Never underestimate the importance of mentorship. It makes a big difference.
10. **Advice for newer attorneys?** You are going to make mistakes; that's how you become better.
11. **Who has been your most influential mentor so far?** My mentor in law school taught me that the key to survival in this profession is understanding it's inevitable that you are going to upset judges and other attorneys in your career, but NEVER upset your paralegal or the clerks.
12. **Interests/hobbies outside the law.** I enjoy Four Wheeling, The Colorado Avalanche, and Golf



## PLEASE NOTE:

The State Bar is providing expanded wellness member benefits through our EAP provider, Sand Creek.

These benefits are available to ALL State Bar members and their household family members, and to USD Law students and their household family members.

Please take advantage of these expanded wellness benefits.



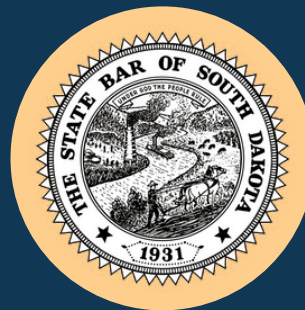
# LAW FOR LUNCH REGISTER HERE!

 **March 18, 2025**

 **12:30 - 1:30 CST**

Topic:

**How To Get Involved With  
The State Bar**



**Chair:**

*Tamara Nash*



# 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 INVIOLEATE 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.**

# Fellows of the South Dakota Bar Foundation

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

Fred & Luella Cozad

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

Thomas C. Barnett, Jr.  
Robert E. Hayes  
Scott N. Heidepriem  
Andrew J. Knutson  
David L. Knudson  
Robert A. Martin  
Kimberley A. Mortenson

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

Hon. Richard H. Battey  
Melissa Nicholson Breit  
P. Daniel Donohue  
Chet Groseclose  
Hon. John B. Jones  
Jerome B. Lammers  
Scott C. Moses  
Charles L. Riter  
William Spiry  
Hon. Jack R. Von Wald

## *Gold Fellows - \$5,000*

Renee H. Christensen  
Richard A. Cutler  
William F. Day, Jr.  
Dana J. Frohling  
David J. King  
Richard L. Kolker  
Kimberley A. Mortenson  
Timothy J. Rensch  
Michael Sharp

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

Neil Fulton  
Hon. Bobbi J. Rank  
Timothy J. Rensch  
Lori D. Skibbie

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

Frank L. Farrar  
Gregory A. Yates

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

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

## *Fellows - \$500 (per year)*

Hon. John Bastian	Craig A. Kennedy
Hon. John L. Brown	Denise Langley
Mary Jane Cleary	Hon. Judith K. Meierhenry
Paul L. Cremer	Hon. Robert A. Miller
Andrew L. Fergel	Robert C. Riter, Jr.
Michael S. Fischer	Jason R.F. Sutton
Tom E. Geu	Lea Wroblewski

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

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

---

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

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.*

*Raising the Bar*

Our Profession. Our Responsibility.



UNIVERSITY OF  
SOUTH DAKOTA  
KNUDSON SCHOOL OF LAW



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



**Neil Fulton**  
Dean, School of Law

Two recent announcements by the South Dakota Supreme Court offer exciting avenues of change in South Dakota's bar admission process. I want to talk a bit about both in this month's column and encourage everyone to read more about these opportunities and provide your input about them. It is critical that our bar admissions process is rigorous and reliable to protect the public while aligning that assessment as best we can with the realities of substantive and procedural skill that lawyers use in practice. We certainly will never develop a perfect system of bar admission, but it is important to perpetually re-evaluate and refine our approach. These proposals are key steps in doing just that.

The first announcement is a set of proposed rules to implement a public service pathway pilot program. These will be considered at a hearing on February 18th in Pierre. I encourage everyone to look at the rules and supporting documentation on the Supreme Court's website: <https://ujs.sd.gov/Information/pressreleasesitem>. These proposed rules are the product of two years of study and discussion by a bar admission task force that recommended the development of a pilot program to encourage public service and an implementation committee that worked from that report to develop these rules.

The proposed rules would create a five-year pilot program for up to ten USD Law students per year who are committed to public service or rural practice. These students would spend their fifth semester of law school in an approved, full-time, public service placement.

Initially those placements will be in state's attorney and public defender offices in larger counties. This will allow the Law School to build from existing clinical programs in those offices and learn from those experiences. Students will be required to document at least 500 hours of work and produce a portfolio of written work and oral advocacy that will be evaluated by the South Dakota Board of Bar Examiners for demonstration of minimum competence. The law school will simultaneously assess this and other work on a pass/fail basis to award academic credit for the semester. This is like the system that the University of New Hampshire and its Board has used for more than a decade in their successful Daniel Webster Scholars program. The program will only be available to current and future Law students, not those who have already graduated or attempted the bar exam.

Once participating students successfully complete their full semester placement, they will complete their last semester of law school. Pending successful passage of the MPRE and character and fitness review by the Board of Bar examiners, they will be eligible for admission to the South Dakota bar upon graduation. They will be required to complete a public service commitment of two or three years, however. This provides a return on the investment of the Board, the host entity, the Law School, and many others and will hopefully incentivize the students to make public service their permanent career. If the applicant does not complete the public service commitment, the Board can waive that requirement if the applicant demonstrates hardship or that the placement ended for circumstances not within

their control like a loss of funding. If an applicant simply does not complete their obligation, the board can claw back their admission and require that applicant to sit for the bar exam.

South Dakota is not the only jurisdiction considering a path alternative to the traditional bar examination. New Hampshire has successfully utilized the Daniel Webster Scholars program for almost fifteen years. Oregon has adopted rules and is using a portfolio review program for applicants. Other jurisdictions are in various stages of evaluating or implementing similar programs. South Dakota is the only jurisdiction that expressly ties their alternative admission pathway to public service. This can make the path to a public service career more inviting and accessible, while still ensuring that those lawyers are admitted in this way demonstrate competence.

The second exciting announcement by the South Dakota Supreme Court is that South Dakota will adopt the NextGen Bar Exam for the July 2027 examination. Thirty jurisdictions have announced adoption of NextGen at various administrations between 2026 and 2028. All the states adjacent to South Dakota except Montana have announced their adoption of NextGen.

NextGen was the product of a multiyear study by the National Conference of Bar Examiners to identify the knowledge of substance and skill the new lawyers most use and need and how to align testing more effectively with practice realities. It moves away from the 200 question MBE towards questions that use libraries of fact and law and ask applicants to work through a series of legal questions based on that library. NextGen deemphasizes memorization and arcane exceptions to rules to focus on core doctrine and the ability of applicants to use legal skills like research and writing. I believe that the current bar examination is fair and effective, but that NextGen can be even better.

South Dakota has participated in two rounds of pilot testing of this exam with recent graduates who could compare NextGen and the current bar examination. A consistent theme of the comments from these students has been that NextGen has more similarity to their experience in internships, externships, or post-graduation placement. In other words, it delivers on the promise of exam that is better aligned with practice. They also reported that the exam aligned better with their general law school instruction and relied less on

specialized instruction on test taking strategies. I believe that better alignment with practical legal instruction and the reality of legal practice is a good thing. There are significant technical issues in the computer-based testing platform that NCBE must resolve between now and going live. I am hopeful of their ability to do so and extremely helpful about the examination itself.

Bar admission is a complicated and sometimes controversial topic. I deeply appreciate everyone who takes time to look at these and other issues around bar admission, to ask questions, and provide their input. Wholesale rejection of the bar exam as unnecessary or insuperably unfair is not the answer. Likewise, rejecting any change because “we have always done it this way,” or because any change carries uncertainty is not the answer either. The answer for us as a profession is to commit to the fundamental premise that admission to the bar is a privilege, not a right. Accordingly, it requires a rigorous assessment program. We must commit to the ongoing process of reevaluating and refining our professional admission processes to make them more reliable, more efficient, and more effective. I believe that both recent announcements by the South Dakota Supreme Court are important steps in doing just that. I hope that all of you take time to look at these developments and share your thoughts and questions.



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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 2025.

I understand that if approved, rather than pay regular dues for the year 2025, 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 2025.

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 \_\_\_\_\_



# 2025 SBSD Committee Selection

Attention, legal masterminds!

We're seeking volunteers for our committees. If you're ready to bring your skills and insights to the table, we need you! Please fill out the 2025 SBSD Committee Selection survey to sign up for bar committees. All are welcome to join a committee.

<https://www.surveymonkey.com/r/2025SBSDCommittees>



## SAVE THE DATE

### Spring On-Campus Interviews Dates:

- Feb 6-7 On-Campus Interviews Round I. [Register Here.](#)
- Feb 24 Spring Career Fair
- March 20-21 On-Campus Interviews Round II

Accessible and affordable housing is a common barrier to student placements. If you are a bar member willing to host an intern, please fill out [this form](#).





# JUSTICE SQUAD

THANK YOU TO THE FOLLOWING ATTORNEYS THAT ACCEPTED A PRO BONO OR REDUCED RATE CASE IN AUGUST AND SEPTEMBER FROM ACCESS TO JUSTICE, INC.! YOU ARE NOW A MEMBER OF 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.

## ATTENTION SOUTH DAKOTA ATTORNEYS: How to sign up as an attorney volunteer through the [sd.freelegalanswers.org](http://sd.freelegalanswers.org) website



1. Click on the ATTORNEY REGISTRATION tab.
2. Answer the questions to register and create your account.
3. Once the SDFLA administrator has approved your registration, you may log on to the website and choose the questions you would like to answer.

THANK YOU TO ALL OF THE ATTORNEYS THAT VOLUNTEERED THROUGH ACCESS TO JUSTICE AND SOUTH DAKOTA FREE LEGAL ANSWERS IN DECEMBER AND JANUARY!

# VOLUNTEER

ARE YOU INTERESTED IN BECOMING A LEGAL SUPERHERO AND MEMBER OF THE A2J JUSTICE SQUAD?

PLEASE SEND A MESSAGE TO [ACCESS.TO.JUSICE@SDBAR.NET](mailto:ACCESS.TO.JUSICE@SDBAR.NET)


GEORGE JOHNSON  
 ROB MEADORS  
 NICOLE GRIESE  
 JELENA DJORDJEVIIC  
 GEORGE BOOS  
 JOEL ARENDS  
 JEFF BREKKE  
 ERIKA OLSON  
 REECE ALMOND  
 EDWARD HRUSKA

**Special Thanks to:**

KYLE KRAUSE  
 JAMES TAYLOR  
 MARWIN SMITH  
 STEVE HUFF  
 ALISON RAMSDELL  
 DYLAN MILLER  
 DENISE LANGLEY


For Your Help on SDFLA!





# A2J

## HERO



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



# ANNOUNCEMENTS

Cutler Law Firm, LLP  
is pleased to announce

*Tanner J. Fitz*  
has become a partner in the firm.

Cutler Law Firm, LLP  
140 N. Phillips Ave., 4th Floor  
Sioux Falls, SD 57104

Telephone: (605) 271-4949

Email: [TannerF@cutlerlawfirm.com](mailto:TannerF@cutlerlawfirm.com)

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

Boyce Law Firm, L.L.P.  
is pleased to announce

*David J. Hieb*  
has become a partner in the firm.

Boyce Law Firm, L.L.P.  
300 S. Main Avenue  
P.O. Box 5015  
Sioux Falls, SD 57117-5015

Telephone: (605) 336-2424

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

Mark O'Leary is pleased to  
announce that his daughter

*Katie O'Leary*  
has joined him in the practice of law.

O'Leary Law Firm  
3500 S. Phillips Ave., Ste 118  
Sioux Falls, SD 57105

Telephone: 605-334-4506

Email: [katie@olearylawoffice.com](mailto:katie@olearylawoffice.com)

Myers Billion, LLP  
is pleased to announce

*Aaron Gehrke*  
as an associate attorney.

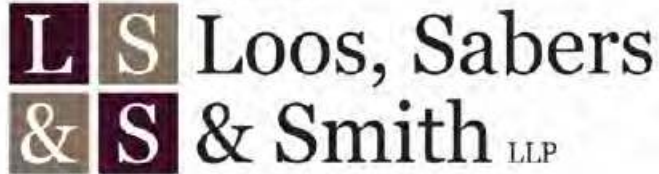
Myers Billion, LLP  
230 S Phillips Ave, Suite 300  
Sioux Falls, SD 57104

Telephone: (605) 336-3700

Email: [agehrke@myersbillion.com](mailto:agehrke@myersbillion.com)

[myersbillion.com](http://myersbillion.com)

The Law Offices of



The Law Office of Clayborne, Loos and Sabers, LLP announces the following changes to its name and firm membership.

We are pleased to welcome **Hollie L. Smith** as a partner. Effective January 1, 2025, the firm will be known as **Loos, Sabers & Smith, LLP**.

**Courtney R. Clayborne** will serve as Of Counsel in the firm.

2834 Jackson Blvd, Suite 201  
Rapid City, SD 57702  
(605) 721-1517  
[www.clslawyers.net](http://www.clslawyers.net)

Thompson Law, PLLC  
is pleased to announce

*Clint Fischer*  
has joined the firm.

Thompson Law, PLLC  
5027 South Western Avenue  
Sioux Falls, SD 57108

Telephone: (605) 362-9100

Email: [clint@cathompsonlaw.com](mailto:clint@cathompsonlaw.com)

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

Beardsley Jensen & Lee  
is pleased to announce

*Conor P. Casey*  
has become a partner in the firm.

4200 Beach Drive, Suite #3  
PO Box 9579  
Rapid City, SD 57702

Email: [ccasey@blackhillslaw.com](mailto:ccasey@blackhillslaw.com)

Meierhenry Sargent LLP  
is pleased to announce

*Erin E. Willadsen*

has become a partner in the firm.

Meierhenry Sargent LLP  
315 S. Phillips Avenue  
Sioux Falls, SD 57104

Telephone: (605) 336-3075

Email: [Erin@meierhenrylaw.com](mailto:Erin@meierhenrylaw.com)

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

Burd, Landeen, & Carper, Attorneys at Law  
is pleased to announce

*Tiffani K. Landeen*

as partner in the firm.

Burd, Landeen, & Carper, Attorneys at Law  
4900 East 57th Street, Suite A  
Sioux Falls, SD 57108

Telephone: (605) 332-4351

Fax: (605) 334-6844

Email: [tiffani@burdandlandeen.com](mailto:tiffani@burdandlandeen.com)

Burd, Landeen, & Carper, Attorneys at Law  
is pleased to announce

*Mary H. Burd*

as partner in the firm.

Burd, Landeen, & Carper, Attorneys at Law  
4900 East 57th Street, Suite A  
Sioux Falls, SD 57108

Telephone: (605) 332-4351

Fax: (605) 334-6844

Email: [mary@burdandlandeen.com](mailto:mary@burdandlandeen.com)

Burd, Landeen, & Carper, Attorneys at Law  
is pleased to announce

*Nichole A. Carper*

as partner in the firm.

Burd, Landeen, & Carper, Attorneys at Law  
4900 East 57th Street, Suite A  
Sioux Falls, SD 57108

Telephone: (605) 332-4351

Fax: (605) 334-6844

Email: [nichole@burdandlandeen.com](mailto:nichole@burdandlandeen.com)

## THE HAGEMANN-MORRIS YOUNG LAWYER MENTORSHIP COIN PROGRAM THE STATE BAR OF SOUTH DAKOTA YOUNG LAWYERS SECTION

### I. PROGRAM OBJECTIVE

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The Hagemann-Morris Young Lawyer Mentorship Coin Program strives to foster mentorship within the State Bar by pairing members of the Young Lawyers Section with Mentors who can provide candid and insightful guidance to Young Lawyers as they navigate the beginning stages of their legal career. The Program hopes to:

- Foster the development of the Young Lawyers practical skills and their knowledge of legal customs;
- Create a sense of pride and integrity in the legal profession;
- Promote collegial relationships among legal professionals;
- Improve legal ability and professional judgment; and
- Encourage the use of best practices and highest ideals in the practice of law.

*State Bar members are members of the Young Lawyers Section until they reach age 40 or have practiced law for ten years, whichever occurs later.*

### II. HOW IT WORKS

---

1. Young Lawyers and Mentors sign up with the State Bar by completing the online forms linked below.
2. The YLS Board establishes a compatible mentorship pair.
  - The YLS Board creates mentorship pairs using the information provided in the applications and reaching out to attorneys believed to be a good fit for the Young Lawyer.
  - Young Lawyers may also request specific mentors or request Mentor Coins for an already-established mentorship.
3. The YLS Board will send the Young Lawyer and Mentor an informational packet with suggested conversations and activities. The Young Lawyer will also receive Mentor Coins.
4. The Young Lawyer may present a Mentor Coin to their Mentor as an invitation for mentorship and acknowledge their trust in such Mentor.

JOIN THE PROGRAM



<https://statebar.typeform.com/mentorship>

# STUDENT BAR ASSOCIATION

University of South Dakota Knudson School of Law  
414 East Clark Street  
Vermillion, SD 57069



Members of the State Bar of South Dakota,

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

Each year, in honor and celebration of Marshall McKusick's dedication and service to the legal community in South Dakota, the Student Bar Association recognizes an outstanding member of the South Dakota Bar for their contribution to the legal profession and the University of South Dakota Knudson School of Law.

The 2025 McKusick Award nominations are now open. Please consider submitting a nomination. The award will be presented at the State Bar Convention this June.

Nominations can be submitted via e-mail to [Brock.Brown@coyotes.usd.edu](mailto:Brock.Brown@coyotes.usd.edu), or addressed to Brock Brown c/o Student Bar Association, University of South Dakota Knudson School of Law, 414 East Clark Street, Vermillion, South Dakota 57069.

We look forward to receiving your nominations prior to the due date of March 1, 2025.

Sincerely,

Brock A. Brown  
*SBA President 2024-25*  
*USD Knudson School of Law*

---

<b>Brock Brown</b> President	<b>Garrett Adams</b> Vice President	<b>Kelsey Milford</b> Secretary	<b>Isabelle Kremeier</b> Treasurer	<b>Tia Vlasman</b> ABA Rep.	<b>Eric Gednalske</b> SGA Rep.
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# Wine Review

## South Dakota Law Review

invites you to join us for an evening of dinner and wine to celebrate Volume 16's Editor-in-Chief and distinguished alumnus,

Jack Theeler



Friday, February 7, 2025

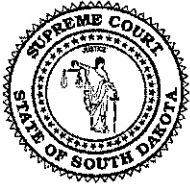
The Depot, Mitchell  
210 S. Main St.

Doors open at 6:00 p.m. Dinner begins at 7:00 p.m.

RSVP by sending an email to  
[benjamin.titus@coyotes.usd.edu](mailto:benjamin.titus@coyotes.usd.edu) by January 25th, 2025

RSVP Tickets \$55. Tickets at door \$65.





# 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

Amy Hudson  
Deputy Clerk

Sarah L. Gallagher  
Deputy Clerk

December 2, 2024

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

Re: February 2025 Rules Hearing

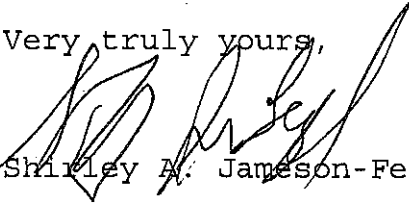
Dear Mr. Cremer:

A Supreme Court Rules Hearing will be held Tuesday, February 18, 2025, at 11:00 a.m., CT in the Courtroom of the Supreme Court, Capitol Building, Pierre, South Dakota.

An original and one copy of proposals for amendment or adoption of rules should be filed with the Clerk of the Court no later than December 30, 2024. Please comply with SDCL 16-3-5.1 when submitting proposals.

Please post this letter in the December 2024 edition of the State Bar Newsletter. Thank you.

Very truly yours,

  
Shirley A. Jameson-Fergel



# PRACTITIONERS AND LAW STUDENTS



## *Save the Date*

### PLEASE JOIN US FOR BANKRUPTCY ROUNDTABLE DISCUSSIONS

#### *Speakers*

Clair R. Gerry, Gerry Law Firm, Prof. LLC

Robert L. Meadors, Brende & Meadors, LLP

Thomas A. Blake, Thomas Blake Law Office

Anthony M. Hohn, Davenport, Evans, Hurwitz & Smith, LLP

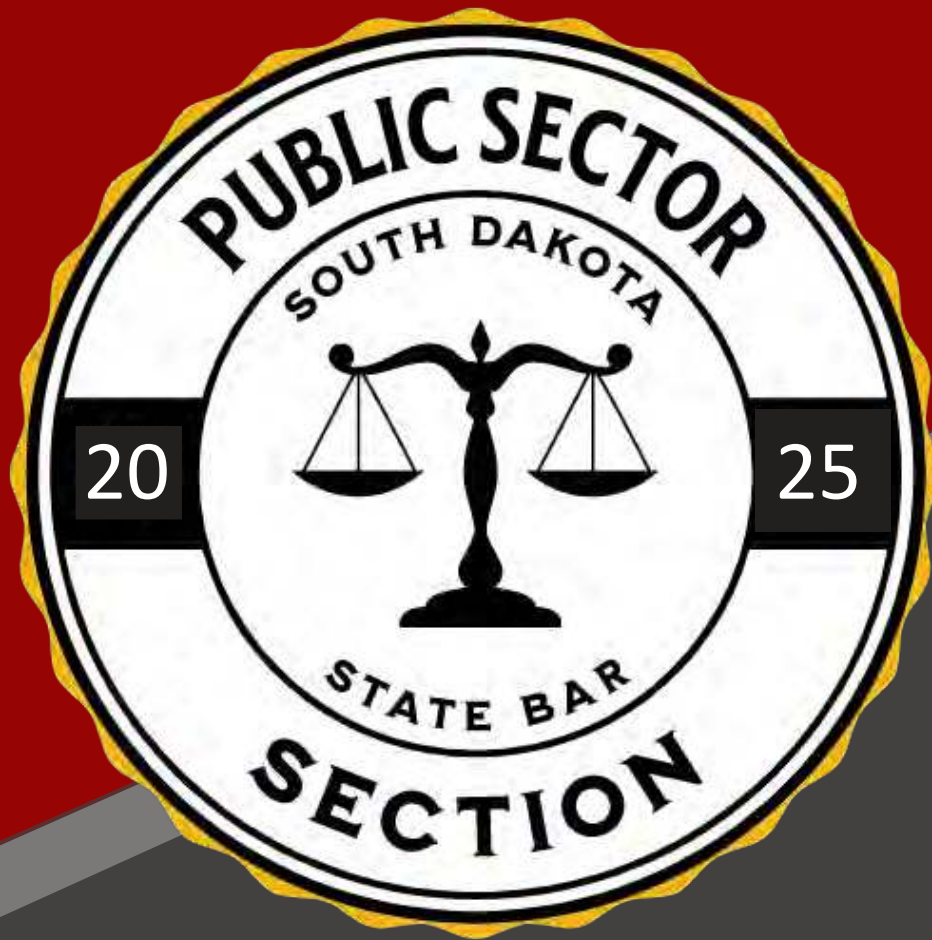
Jordan J. Feist, Woods, Fuller, Shultz & Smith P.C.

Each speaker will host five brief rotations of small groups for seven minutes to discuss entry-level intricacies of bankruptcy practice. A formal itinerary will follow.

FRIDAY, MARCH 21, 2025  
3:30-4:30 P.M.

UNITED STATES COURTHOUSE  
GRAND JURY ROOM  
400 S. PHILLIPS AVENUE  
SIOUX FALLS, SD

IF YOU ARE A PERSON WITH A DISABILITY AND REQUIRE SPECIAL ACCOMMODATION TO PARTICIPATE,  
PLEASE CONTACT THE BANKRUPTCY CLERK'S OFFICE AT: 605-357-2400.



# ATTORNEY OF THE YEAR

## PURPOSE

- The Public Sector Attorney of the Year Award recognizes the public servants of the State Bar of South Dakota who have had a distinct impact on the law, governmental entities, or the legal profession in South Dakota in the past year.

## ELIGIBILITY

- An individual must be a member in good standing of the State Bar of South Dakota.

## NOMINATIONS

- Nominations and any supporting materials (i.e., letters) should be submitted to Public Sector President John Richter ([John.Richter@state.sd.us](mailto:John.Richter@state.sd.us)) no later than April 25, 2025. At a minimum, each nomination should include a brief synopsis of the impact made by the nominee on the law, governmental entities, or the legal profession in South Dakota during the past year. The criteria for this award are intentionally broad. The attorney's credentials aren't the focus here; we're most interested in what they did in the past year to leave a mark. Materials received on behalf of a nominee will be reviewed by a subcommittee of the Public Sector Section, and an award recipient will be chosen.
- The award recipient will be announced at the June 2025 Bar Convention and State Bar Newsletter.

A very Special

thank  
you

to **Boyce Law Firm, LLP, &  
May Adam Gerdes & Thompson, LLP,**  
for sponsoring Coffee and Donuts  
with the Legislature.



The burial of Don Shultz, December 5, 2024, Emmanuel Episcopal Church, Rapid City, South Dakota

“You always left Don Shultz with the feeling, not that you had been with someone important, but that you were important...”!

Father David, Jan, and Joni, grandkids, great grandkids, loved ones and friends of Don Shultz.

We gather here today to honor someone who meant so much to so many of us!

Don was a husband, a father, a grandfather, a great grandfather, a partner (for me he was my partner for over 50 years at Lynn, Jackson, Shultz and Lebrun), a friend, a client, and many of you are here today.

He lived his life with purpose, integrity, love, and a deep sense of duty to his family and community, and while we come together in sadness today, it is important to remember that we also come together in celebration of a life well lived!

For purposes of this eulogy, I have divided it up into three categories, which all bracket Don’s life.

I.

The Law – His remarkable legal career

I have asked other lawyers to describe Don Shultz to me. They have used words such as meticulous, scholarly; he never quit; he never would say die, he had notebooks, endless notebooks. He was always prepared.

He had a remarkable legal career. It spanned decades and touched many lives. He made a difference in the law and in the lives of others. For which Don was rewarded. He was elected by his peers to the International Academy of Trial Lawyers, the American College of Trial Lawyers, the International Society of Barristers, and, of course, his beloved ABOTA, which stands for American Board of Trial Advocates. Don served as national president. This is a society of lawyers dedicated to the preservation of the jury trial, a cause Don valued the most.

Don took on hard cases, and he did not shy away if they were difficult. I’m going to tell you about one example. This is the kind of lawyer Don Shultz was. It was a medical malpractice case, which in themselves are not easy. In Don Shultz fashion, it was prepared and over prepared. However, the first trial resulted in a defense verdict, meaning the jury ruled in favor of the doctor and against Don’s client. Don thought that the legal instructions which were given to the jury were wrong, and so he appealed the case. The Supreme Court of South

Dakota agreed with Don. It overturned the defense verdict and sent the case back for retrial. When the case was retried with the proper instructions, Don and his client won a handsome verdict.

In the posttrial celebration, Don was visited by one of the jurors. This individual was a convicted felon. He did not disclose it to the Court in the examination of the jury before the trial. When he met with Don, he was willing to make a deal with Don Shultz, that he wouldn't tell the Court as long as Don shared part of the verdict with him. Of course Don would have no part of it, but he played this juror along and told him that he would have to discuss it with his client. He would get back to the juror in a week. As soon as the juror left his office, Don communicated with co-counsel Bill Porter and the Court, as well as the police and the sheriff's office.

Under Court direction, a sting operation was set up. In fact it was set up in my office where the police had a reel-to-reel taping device. Don was outfitted with a microphone and an envelope containing thousands of dollars. Don would technically offer a settlement to this convicted felon, and if he accepted the same, an arrest would be made in our office.

The fellow accepted the money and told Don he would return in a week for the remainder of the payoff. As they shook hands and the felon got up to leave, he stepped outside into the hall in front of my office, and the sheriff was there to greet him and arrest him. This felon went to jail.

The jury verdict, of course, was again overturned as a result of juror impropriety. The South Dakota Supreme Court in its second opinion said this about Don, "Don Shultz, acting with ethical and responsible behavior reported the incident immediately."

I can assure you that not many of us get to have the Supreme Court of South Dakota note your ethical and responsible behavior in the very favorable decision.

Don did not advocate just for this client in the medical malpractice case, he advocated for integrity, the integrity of the jury system and our system of justice. The system had to work in Don's eyes and it would only work if everyone was honest and above board. Don Shultz protected our system of justice.

## II. Friendship

To say that Don Shultz was a good friend would be an understatement. He remembered birthdays, anniversaries, and monumental occasions in an individual's life . He and Frankie celebrated every promotion you could have. His friendship was built on trust, mutual respect,

and a genuine interest in the well-being of others. He had a way of making everyone feel like they mattered.

His friends were like family – and he treated them like such, and if you were lucky enough to be one of his friends, you knew the meaning of family. Regularly my family would celebrate my sons’ birthdays and Don and Frankie Shultz were always invited. They came to every birthday party and brought gifts that they had picked up during the year while shopping. I can’t tell you how many baseball caps, football jerseys, and cowboy hats adorn my storage room at present that were gifts from Don and Frankie Shultz at my children’s birthdays and at Christmastime.

### III.

#### Husband | Father | Family

Don and Frankie Shultz – what a pair! They loved their family and they loved your family.

Frankie would sign invitations and Christmas cards as “Donald R., Frankie and the three J’s.” I always thought that sounded like a 1960s rock band but it aptly described the Shultz family.

Someone on our staff at Lynn Jackson wrote to me: “He had a way of making everyone feel special. I loved the way he would introduce Frankie, his wife of almost 70 years, as his first wife.”

As a father, he was everything a kid could hope for – a teacher, a protector, and a parent offering wisdom and guidance, but also showing compassion and the importance of hard work. He always stood up for what is right. Don loved his children and grandchildren more than anything in the world. He was present in their lives, teaching them lessons and showing them what it meant to be a good person.

I asked the kids and the grandkids to tell me what they remember about Grandpa. Loren said every Christmas that she came home her granddad would ask her “What do you need?” “Can I get you something?”

As a father and grandfather, he empowered his kids and grandkids to think for themselves, to be independent, and to follow their dreams. He was always optimistic.

I got a kick out of the fact that he would always say “Why wouldn’t you?” If you asked whether or not we should get some ice cream or do something in life, his reply would be “Why wouldn’t you?”

He also instilled in them the values that he held dear – values of fairness and the importance of family.

I couldn't close this eulogy if I did not point out what a beautiful and graceful skier Don was. I should also mention the contributions that he made to Terry Peak in the Black Hills of South Dakota.

He and Frankie loved snow and skiing. I can still see him at Terry Peak and at Sun Valley, Idaho, where Pam and I shared many ski vacations with the Shultzes. Many of his contemporaries would travel to Florida or Arizona at this time of year, but not Don. He wanted to be outdoors, in the snow, at Sun Valley.

You did not visit the restaurants at these ski resorts and eat their cheeseburgers at noon time. Usually Don had nuts, cider, fruit – all tucked into his ski jacket. The end of the day was celebrated in the hot tub at the Sun Valley lodge, snow skiing!

Jan was telling me that when she heard the news of her father's passing, she immediately experienced a "snowburst" – which is while the sun was shining, a burst of snow with large flakes began to fall from the sky. It was beautiful to her, and she was sure it was her mother telling her that Don and Jay were now together, that she was with them and everything was okay and they were on the slopes in heaven. What a beautiful thought!

Don was also a proud democrat, frequently a lonely democrat! He believed in the little guy, and he believed that the political system should be for the benefit of the little guy.

He was a personal friend and advisor to George McGovern, Tom Daschle, Dick Kniep and Senator Jim Abourezk. I can still remember officing next to Don for many years and being able to hear him on the phone every other week on Friday afternoon with Senator Jim Abourezk going over in great detail the developments of the week, status of politics and the world of law.

As we remember Don today, it is impossible not to be struck by the legacy he leaves. Each of us carries a part of him with us.

While we mourn his passing, we also find comfort knowing his impact is far from over.

As his partner for over 50 years, I say farewell and Godspeed Don Shultz. This is a phrase that the Irish use. I learned it when I had my first sabbatical. I had a sabbatical! This was sort of unheard of in the legal practice and it was certainly unheard of in the state of South Dakota. I would never have had a sabbatical if it had not been for the likes of Don Shultz. He was open to the suggestion and did everything he could to make it work. I took my sabbatical in Ireland. My family and I spent six months there. It was a life changing experience.

The Irish do a nice job with death, and whenever they said goodbye to one of their family or friends, they would always say “farewell and Godspeed.”

Well, as we say goodbye and farewell to our dear friend, let’s remember him not with sadness, but with gratitude and a smile – for his life and the love which he so abundantly gave us.

Salute! Don, rest in peace, Shultzie.

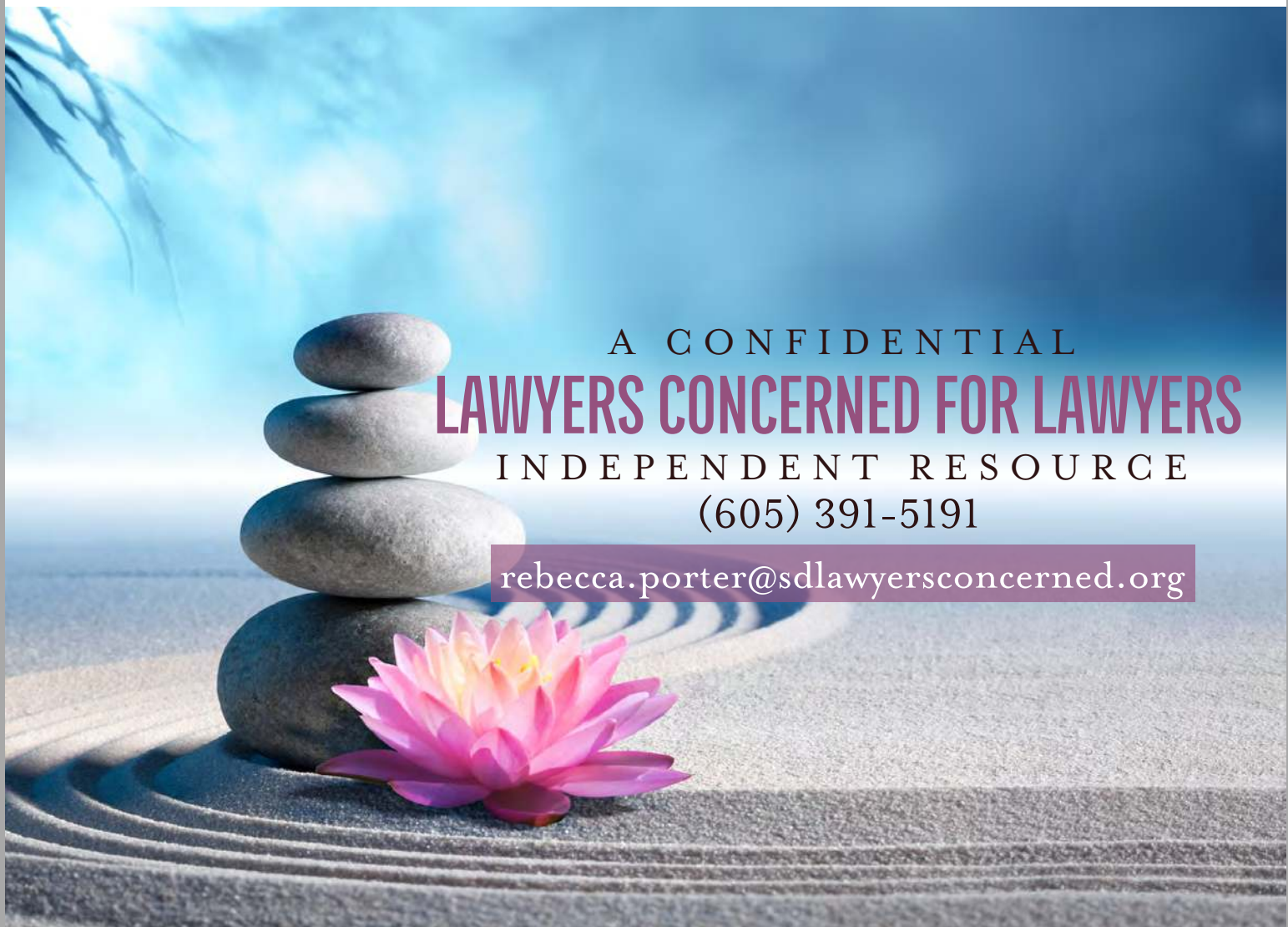
You will never be forgotten.

Tom



# Attorney Health & Wellness Resources

It's okay to ask for help



A CONFIDENTIAL  
**LAWYERS CONCERNED FOR LAWYERS**

INDEPENDENT RESOURCE  
(605) 391-5191

[rebecca.porter@sdlawyersconcerned.org](mailto:rebecca.porter@sdlawyersconcerned.org)

## FREE & CONFIDENTIAL

- *SD Bar Members & household family members*
- *USD Law Students & their household family members*



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AVAILABLE 24 / 7

## **PUBLIC NOTICE**

### **REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE**

The current appointment of Magistrate Judge Cullen McNeece is due to expire on June 21, 2025. Magistrate Judge Cullen McNeece serves in the Fifth Judicial Circuit.

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

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

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

**Comments must be received by March 18, 2025.**

# PUBLIC NOTICE

## REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE

The current appointment of Magistrate Judge Chad Callahan is due to expire on July 9, 2025. Magistrate Judge Callahan serves in the Fourth Judicial Circuit.

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

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

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

**Comments must be received by April 10, 2025.**



# State Bar of South Dakota Association

## Avera Healthcare Plans

The following agents or agencies that are authorized to sell the State Bar Association Health Plan.

### EASTERN SOUTH DAKOTA

#### Office Location

Mitchell & Yankton Area  
Aberdeen Area  
Sioux Falls Area  
Sioux Falls & Brookings Area  
Pierre, Mitchell & Sioux Falls Area  
Watertown Area

#### Agency

Dice Financial  
Mark Mehlhoff  
Midwest Employee Benefits  
McGreevy & Associates  
Fisher Rounds & Associates  
Freimark & Associates

#### Contact

Jacquelyn Johnson  
Mark Mehlhoff  
Dawn Knutson  
John Lawler  
Josh Gilkerson  
Todd Freimark

### WESTERN SOUTH DAKOTA

#### Office Location

West River

#### Agency

Black Hills Insurance Agency  
Black Hills Insurance Agency  
Carver Insurance

#### Contact

Dan Maguire  
Everett Strong  
Lisa Knutson

### *Questions on Eligibility, Rates, and Services?*

Please contact the agency listed above based on your office location within the state for questions related to the Association Healthcare Plan.

# Life comes with challenges. Your Assistance Program is here to help.

Your Assistance Program can help you reduce stress, improve mental health, and make life easier by connecting you to the right information, resources, and referrals.

All services are free, confidential, and available to you and your family members. This includes access to short-term counseling and the wide range of services listed below:

## Mental Health Sessions

Manage stress, anxiety, and depression, resolve conflict, improve relationships, and address any personal issues. Choose from in-person sessions, video counseling, or telephonic counseling.

## Life Coaching

Reach personal and professional goals, manage life transitions, overcome obstacles, strengthen relationships, and achieve greater balance.

## Financial Consultation

Build financial wellness related to budgeting, buying a home, paying off debt, resolving general tax questions, preventing identity theft, and saving for retirement or tuition.

## Legal Referrals

Receive referrals for personal legal matters including estate planning, wills, real estate, bankruptcy, divorce, custody, and more.

## Work-Life Resources and Referrals

Obtain information and referrals when seeking childcare, adoption, special needs support, eldercare, housing, transportation, education, and pet care.

## Personal Assistant

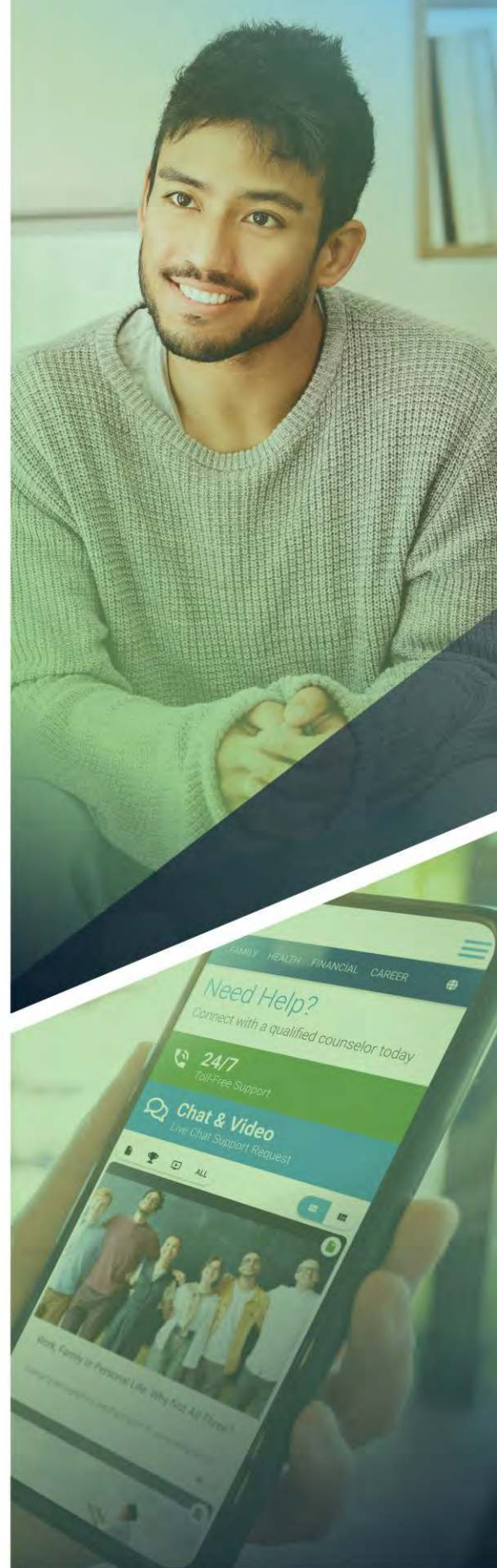
Save time with referrals for travel and entertainment, seeking professional services, cleaning services, home food delivery, and managing everyday tasks.

## Medical Advocacy

Get help navigating insurance, obtaining doctor referrals, securing medical equipment, and planning for transitional care and discharge.

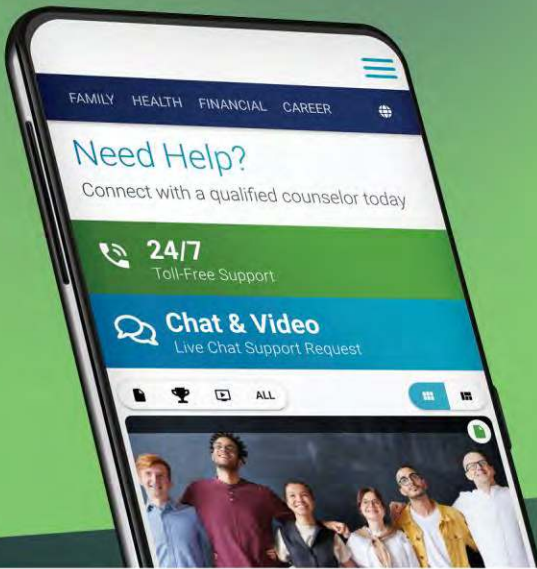
## Member Portal

Access your benefits 24/7/365 through your member portal with online requests and chat options. Explore thousands of self-help tools and resources including articles, assessments, podcasts, and resource locators.



Contact AllOne Health  
Call: 888-243-5744  
Visit: [www.sandcreekeap.com](http://www.sandcreekeap.com)  
Code: sdhelp

**ALLONE**  
HEALTH



# Introducing Your Member Portal

Browse benefits. Request services. Enjoy 24/7/365 access.

Your Assistance Program offers a wide range of benefits to help improve mental health, reduce stress and make life easier—all easily accessible through your member portal.

### Request a Mental Health Session

Request counseling by submitting an online form or live chat. Choose from in-person or virtual counseling options to meet your needs.

### Request Referrals & Resources

Submit a request for family care and lifestyle support including childcare and eldercare referrals, legal referrals and financial consultation, personal assistant referrals and medical advocacy consultation.

### Explore Thousands of Self-Care Articles & Resources

Health and lifestyle assessments, interactive checklists, soft skills courses, podcasts, resource locators, exclusive discounts, and expansive articles on whole health and well-being.

### Visit Your Online Financial Center

Featuring worksheets, calculators, and a wide range of financial resources and tools to help reach personal goals and build financial wellness.

## Getting Started Is Easy

1. Visit [www.sandcreekeap.com](http://www.sandcreekeap.com) and click on “Sign Up” below the login form
2. To create an account and sign in, enter your email address and company code: sdhelp
3. For login assistance, select “Email Support”

\* You can always call to access services, without needing to create an account or log in to the portal.



Contact AllOne Health  
**Call: 888-243-5744**  
 Visit: [www.sandcreekeap.com](http://www.sandcreekeap.com)  
 Code: sdhelp

THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE PROPOSED ) NOTICE OF RULES HEARING  
ADOPTION OS NEW RULES RELATING TO )  
PUBLIC SERVICE PATHWAY PROGRAM FOR ) No. 156  
BAR ADMISSION TO BE DESIGNATED AS A )  
NEW CHAPTER )  
)  
)  
)

-----

The Implementation Committee has proposed the adoption of the following rules for the implementation of a public service pathway program for bar admission. Additionally, the Board of Bar Examiners has proposed the adoption of regulations pertaining to the public service pathway program for bar admission should the Court adopt the Implementation Committee's proposed rules. The Court having determined that the proposed rules and regulations should be noticed for hearing, now therefore

NOTICE IS HEREBY GIVEN THAT ON FEBRUARY 18, 2025, at 10:00, C.T., at the Courtroom of the Supreme Court in the Capitol Building, Pierre, South Dakota, the Court will consider the following:

-----

**1. Proposed Rules to be Adopted as a New Chapter, ch. 16-16A -  
Public Service Pathway Program**

16-16A-1. Definitions

Terms used in this chapter mean:

1. Board - the South Dakota Board of Bar Examiners;
2. Law school - the University of South Dakota Knudson School of Law;
3. NCBE - the National Conference of Bar Examiners;
4. Public Service - full-time employment within South Dakota with any federal, state, local, or tribal government, Dakota Plains Legal Services, or East River Legal Services;  
and

5. Supervising attorney - an attorney who meets the requirements of § 16-18-2.9 and agrees to undertake the supervision of a participant in accordance with the provisions of §§ 16-18-2.1 to 16-18-2.10, inclusive.

16-16A-2.

An individual may be admitted to the public service pathway program if the student:

1. Is currently enrolled at the law school;
2. Completes an application for participation and is approved by the dean of the law school and the hiring authority of the host public service entity with whom the participant will be placed;
3. Satisfactorily completed all required 1L curriculum;
4. Satisfactorily completed all required 2L curriculum;
5. Satisfactorily completed the Professional Responsibility class;
6. Successfully completed 60 or more credits towards the individual's degree with the law school;
7. Is registered to take or has taken the Multistate Professional Responsibility Exam by November of the participant's 3L year;
8. Has never taken a bar examination or been admitted to the practice of law in another jurisdiction; and
9. Agrees to work full time with a host public service entity approved by the dean of the law school and the board as outlined in § 16-16A-3.

An individual is not required to meet these requirements at the time of application but must satisfy the eligibility requirements by the commencement of the program. The student must complete the application on a form provided by the dean of the law school. Notice of the application period shall be given in the same way internships and externships are noticed within the law school. The dean of the law school shall review applications and select program



participants. No more than ten students may be admitted to the program from one law school class.

16-16A-3.

A participant in the public service pathway program shall complete a minimum of 500 hours of work experience as a legal extern with a host public service entity approved by the dean of the law school. The host public service entity shall offer a variety of experiences and opportunities for each participant to demonstrate competence in the law and shall provide enough supervising attorneys necessary to effectively mentor and assist each participant. The law school shall provide training to each supervising attorney regarding relevant rules, regulations, and policies.

16-16A-4.

Notwithstanding § 16-16-6, an applicant may obtain admission to practice as an attorney in this state through the public service pathway program if the applicant:

1. Meets the requirements set forth in § 16-16-2;
2. Complies with the criminal background investigation as required by § 16-16-2.6;
3. Provides evidence of graduation from the law school;
4. Provides evidence of successful completion of the public service pathway bar admission program through the law school;
5. Provides a portfolio of work demonstrating minimum competence to the satisfaction of the board;
6. Demonstrates competence in Indian law either through successful completion of a board-approved Indian law course at the law school with the testing option or successful completion of a one-question examination on Indian law offered by the board following an applicant's successful completion of the program;
7. Achieves a score of 85 or higher on the Multistate Professional Responsibility Exam; and
8. Commits to providing at least two years of public service.

16-16A-5.

On or before October 1 during the semester of placement with a host public service entity, participants seeking admission to practice as an attorney in this state through the public service pathway program shall submit to the board:

1. An application on the form provided by the Board;
2. An application fee prescribed by the Supreme Court;
3. A photograph taken within six months of the date of application;
4. A current law school transcript;
5. Completed South Dakota Division of Criminal Investigation and United States Federal Bureau of Investigation fingerprint cards;
6. The required fingerprinting fee; and
7. A copy of the request for preparation of a character report and accompanying submissions to the NCBE with proof of payment of the fee prescribed by the NCBE.

An application is not complete until each of these items is received.

16-16A-6

Upon completion of the public service pathway program and the board's character and fitness investigation, the board shall make a recommendation regarding the participant's admission to practice as an attorney in this state to the Supreme Court for its consideration and order.

16-16A-7.

Upon admission to the practice of law through the public service pathway program, a participant shall complete two years of public service. The two-year commitment must be completed within three years of the date of admission to practice as an attorney in this state. The three-year period to complete the public service requirement is tolled during service in a state or federal judicial clerkship.

16-16A-8.

A participant seeking a waiver or extension of time to complete the public service requirement must submit a written

request for waiver or extension to the secretary of the board as soon as practicable. Upon receiving a waiver or extension of time to complete the public service requirement, the board shall conduct a hearing. The board may also initiate an investigation and hearing upon belief that a participant has not, or will not, complete the two-year public service commitment. To qualify for a waiver or extension, the participant must demonstrate, by a preponderance of the evidence, extraordinary circumstances, personal hardship, or that the public service employment was terminated for reasons beyond the control of the participant and the participant is unable to secure new employment in public service.

The board may take testimony and compel, by subpoena, the attendance of witnesses and the production of documents. Any member of the board may administer an oath or issue a subpoena. Upon conclusion of its investigation and hearing, the board shall issue a recommendation to the Supreme Court for its consideration and order. The board may recommend to extend the deadline to complete the public service, to waive the remainder of the term of public service, or to deny the request and revoke the participant's license to practice law in this state.

16-16A-9.

Each participant shall report to the secretary of the board the participant's place of employment until completion of the public service requirement. The participant shall file with the secretary of the board an affidavit upon a form provided by the board attesting to the completion of the public service requirement.

16-16A-10.

The Supreme Court shall appoint an oversight committee to monitor the public service pathway program and suggest changes. The committee must include one member from the law school, one from the board, and one from the Supreme Court.

16-16A-11.

Each participant shall comply with the South Dakota Rules of Professional Responsibility. Failure to do so may result in denial of admission to practice law as an attorney in this state and referral to the Disciplinary Board. The board may refer a participant to the Disciplinary Board for any violation of the Rules of Professional Responsibility. Failure to furnish information or answer truthfully the inquiries of the board pertinent to the participant's application may also result in denial of admission to practice law.

In any application for waiver or extension pursuant to § 16-16A-8, a participant shall disclose to the board any allegation of misconduct involving the participant.

16-16A-12.

The provisions of this chapter are effective for five years from the date of the order adopting these rules. The oversight committee shall make a recommendation to the Supreme Court whether the program should continue or be amended.

16-16A-13.

The board is authorized to promulgate policies and regulations necessary to implement this program.

16-16A-14.

The application for admission to practice law as an attorney in this state and all accompanying materials, including investigative reports and transcripts but not including portfolio submissions, are confidential and for the use of the board, the Supreme Court, and its staff in determining admission to the practice of law in the state. This rule does not prohibit the board from furnishing relevant information to the Disciplinary Board when the Disciplinary Board is conducting an investigation. The information and records may be released to the applicant or, with the applicant's consent, to another jurisdiction for purposes of admission to the practice of law.

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**2. Proposed Amendment to SDCL 16-16-6. Examination required of applicants to practice law--Educational requirements.**

All applicants for admission, except those applying pursuant to § 16-16-7.6, 16-16-12.1, or §§ 16-16-12.3, and 16-16-12.4, or chapter 16-16A shall be required to pass satisfactorily an examination conducted by the Board of Bar Examiners. An applicant for permission to take an examination, in addition to the general qualifications prescribed in § 16-16-2, must furnish satisfactory evidence that he graduated from a law school accredited by the American Bar Association with a J.D. or LL.B. degree or that he will so graduate prior to the examination, or that he has successfully completed all of the requirements for graduation prior to the examination.

An applicant for admission who is a graduate of a foreign law school, not accredited by the American Bar Association, may apply for permission to take the South Dakota bar examination upon good cause shown if the graduate has passed the bar examination in another state and is a member in good standing of the bar of that state.

**Explanation for Proposals 1 and 2.**

The Steering Committee proposed that the Court consider an alternative pathway for bar admission that would encourage service in the public sector. The Steering Committee further suggested a program developed in collaboration with the University of South Dakota Knudson School of Law that would provide a supervised practice program administered by the law school with students being evaluated by the South Dakota Board of Bar Examiners to determine minimum competence for admission to the practice of law. The Court appointed an implementation committee to examine and propose rules for such a program. Proposal 1 consists of proposed rules which provide a framework for that program, including the qualifications of the participants in the program, how the program would be administered, as well as the details of the public service requirements and how that requirement would also be overseen. Proposal 2 modifies the existing rule to provide for admission to the practice of law through this alternative pathway.

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**3. Proposed Amendments to SDCL 16-18-2.1 and 2.9.**

16-18-2.1. Legal assistance by law students--Purpose of provisions.

The bench and the bar are primarily responsible for providing competent legal services for all persons including those unable to pay for these services. As one means of providing assistance to lawyers and to encourage law schools to provide field placement instruction in legal work of varying kinds, §§ 16-18-2.2 to 16-18-2.10, inclusive, are adopted. For the purposes of §§ 16-18-2.1 to 16-18-2.10, "extern" means a student in a field placement program for academic credit offered by a school of law in accordance with the American Bar Association Standards for Approval of Law Schools, including a participant in the public service pathway program pursuant to chapter 16-16A, and "intern" means any other student providing legal assistance under the supervising lawyer.

16-18-2.9. Qualifications of supervising lawyer--Professional responsibility.

A supervising lawyer under whose supervision a legal intern or extern does any of the things permitted by §§ 16-18-2.4 to 16-18-2.7, inclusive, shall be a lawyer authorized to practice law in this state, and:

- (1) ~~Shall be approved by the dean of the school of law of the University of South Dakota or by the director of the externship program of the school of law; and such approval by the dean or the director may be general, may have time, scope, or case limitations, or may be on an ad hoc case by case basis; all~~

~~such as the dean or the director shall from time to time determine. The approval may be modified or withdrawn by the dean or the director at any time without notice or hearing and without any showing of cause. Such approval shall be in writing except that at the option of the dean or the director the approval may be oral for all matters relating to the externship program.~~

Shall be a member of the South Dakota bar, in good standing, and shall certify such in writing, and

- (2) Shall assume personal professional responsibility for the conduct of the legal intern or extern.

### Explanation for Proposal 3.

Proposal 3 clarifies that participants in the public service pathway program must be certified pursuant to the provisions of SDCL ch. 16-18 to practice under the supervision of a licensed attorney. Furthermore, the proposal streamlines the process for certification for student practice. Currently, the rule requires the dean of the law school to approve both the student seeking the ability to practice as well as the student's supervising attorney. The proposal shifts the burden of ensuring that a supervising attorney is a licensed attorney in the state of South Dakota in good standing from the dean of the law school to the supervising attorney. Under the proposed amendment, the dean will still be required to certify a student but the supervising attorney will be required to attest that the supervising attorney is a member in good standing of the South Dakota bar and will assume responsibility for the conduct of the law student being supervised.

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#### 4. Proposed Regulations to Comprise the Appendix to SDCL Chapter 16-16A.

##### Regulation 1.

Each participant must prepare and submit a portfolio of work product. By May 31 of the year of placement, the board shall publish the requirements of the portfolio.

##### Regulation 2.

After each court appearance, each participant shall complete a form provided by the board detailing the case name and number, the subject matter of the litigation, the purpose of the appearance, and the feedback received from the supervising attorney, and, if any, the feedback received from the court or adjudicator. If the

court appearance is for a block of cases, the participant shall so indicate on the form and, in lieu of providing details on each case, the participant shall report only the most significant case. The participant shall provide this form to the secretary of the board each week, or as otherwise ordered by the board, and provide a copy to the supervising attorney. The supervising attorney shall review the form and complete a section pertaining to the accuracy of the form and submit the form via email to the secretary of the board.

Regulation 3.

Each participant shall complete the daily time and activity form provided by the board, which must detail the title of the legal matter, the date, the scope of the activity, the time spent in 15-minute increments, and what was observed. Additionally, in a separate word document attached to the form, the participant shall also provide a short synopsis of what the participant learned if the activity involved observation or, if the activity required participation, what the participant did correctly and what the participant could have done differently and why. The participant shall submit the daily time and activity form and attachment to the secretary every week or as otherwise ordered by the board.

Regulation 4.

A participant shall inform the secretary of the board of any hearings or trials which would provide an opportunity for observation of the participant actively engaging before the court or adjudicator. It is preferable that notice of three days or more be given of such events.

Regulation 5.

The board will regularly assess each participant. The board shall apprise each participant of the participant's progress by November 15 of the year of placement. The board's assessment pursuant to this regulation is preliminary and non-binding. The assessment does not constitute a waiver of the consideration of facts or conduct that are either later discovered or occur after the board's assessment under this regulation.

**Explanation for Proposal 4.**

Proposal 4 is comprised of the regulations proposed by Board of Bar Examiners for adoption by the Court if the Court chooses to adopt and implement the public service pathway program. The proposed regulations set forth deadlines for the Board's publication of

portfolio requirements and preliminary assessments. The regulations also set forth certain documentation requirements for participants in the public service pathway program.

The proposed rules, regulations, and amendments are not based upon a Federal Rule of Civil Procedure and should not affect other existing rules or statutes.

Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and filed with the Clerk of the Supreme Court no later than February 7, 2025. Subsequent to the hearing, the Court may reject or adopt the proposed amendments of any rule germane to the subject thereof.

Notice of this hearing shall be made to the members of the State Bar by electronic mail notification, by posting notice at the Unified Judicial System's website at <https://uj.s.sd.gov/Supreme Court/Hearings.aspx> or the State Bar of South Dakota's website <https://www.statebarofsouthdakota.com>.

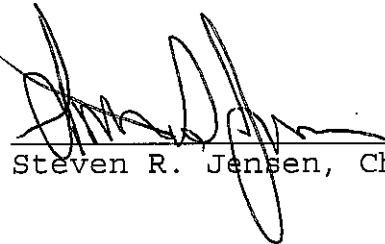
DATED at Pierre, South Dakota this 10th day of January,

2025.

BY THE COURT:

ATTEST:

Clerk of the Supreme Court  
(SEAL)

  
\_\_\_\_\_  
Steven R. Jensen, Chief Justice

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN 10 2025

  
Clerk



SOUTH DAKOTA BAR LICENSURE  
IMPLEMENTATION COMMITTEE

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# Public Service Pathway to Bar Admission Proposal



December 2024

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# Introduction

In 2023, the South Dakota Supreme Court appointed a steering committee to examine the needs of legal providers, including the bar admissions process. In its final report issued in December of 2023, the Steering Committee recommended a streamlined pathway to bar admission for public interest. The Steering Committee suggested a program be developed in collaboration with the University of South Dakota Knudson School of Law (hereinafter “Law School”) during which law students would engage in a supervised practice during law school which would be evaluated by the South Dakota Board of Bar Examiners (hereinafter “Board”) to determine minimum competence. These participants would then be admitted to the bar without examination with a two or three-year commitment to public service.

## The Committee and Its Work

The Implementation Committee was subsequently appointed in January of 2024 by the South Dakota Supreme Court to propose a plan to implement a public service pathway to admission. The Committee is comprised of a variety of stakeholders including members of the judiciary, long-time members of the bar, new attorneys, a member of the Board, and individuals currently engaged in the public service sector. Committee members were:

- **Justice Scott Myren**, South Dakota Supreme Court
- **Hon. Jane Wipf Pfeifle**, Retired Circuit Judge, Seventh Circuit
- **Neil Fulton**, Dean, University of South Dakota Knudson School of Law
- **J. Crissman Palmer**, Gunderson, Palmer, Nelson & Ashmore, LLP
- **Daniel K. Haggart**, Minnehaha County State’s Attorney
- **Eric D. Whitcher**, Director, Pennington County Public Defender’s Office
- **Josey Blare**, Lynn, Jackson, Shultz & Lebrun, P.C.
- **Rachelle M. Norberg**, Gunvordahl, Gunvordahl, & Norberg Prof. L.L.C.
- **John T. Richter**, General Counsel, South Dakota Retirement System
- **Ann F. Mines Bailey**, Chief of Bar Exam/Secretary, Board of Bar Examiners

The Committee met seven times throughout the course of 2024. (Meeting minutes are attached hereto as Appendix A.) In drafting the proposed program, the Committee focused on how best to determine minimum competence and provide public service. The following will provide the Committee’s proposed plan and its

analysis of the most essential topics in designing the Public Service Pathway Program.

## Overview of Proposed Plan

Like the Steering Committee, the Implementation Committee proposes the authorization of a five-year pilot program for a public service pathway to bar admission. The purpose of the Program is to provide alternative admission to the bar while encouraging public service practice. The Program will be comprised of an extensive law school program to assess academic achievement and its practical application; a review of the competence of the participants by the Board; and a character and fitness review of each participant by the Board. Upon completion of the Law School Program, satisfactory reviews by the Board, and a finding by the Board that the participant meets the character and fitness requirements, an applicant will be granted admission. This admission carries a requirement that the participant completes two or three years of public service.

### Application

Students enrolled at the Law School may apply to participate in the Public Service Pathway Program if the student:

1. Is currently enrolled at the Law School;
2. Completes an application for participation and is approved by the dean of the Law School and the hiring authority of the entity with which they will be placed;
3. Has satisfactorily completed all required 1L curriculum, all required 2L curriculum, and the Professional Responsibility class;
4. Has successfully completed 60 or more credits towards their degree with the Law School;
5. Has taken, or is registered to take, the Multistate Professional Responsibility Examination (MPRE) by November of 3L year; and
6. Agrees to work full time with a host public service entity approved by the dean of the Law School and the Board.

Not more than ten students may be admitted from one law school class. The application form will be determined by the dean. Notice of the application period will be given in the same manner that the dean notices internships/externships. The dean will be responsible for reviewing the applications and selecting the participants. It is anticipated that, at least initially, the dean will be recruiting applicants.

The Program will be offered the fall semester of the participant's third year of law school and will require a minimum of 500 hours of work experience. Participants may, with the approval of the dean, be allowed to take outside classes of up to three credit hours.

## **Externship**

Upon entry into the Program, the Law School shall place the participant in an externship with a public service entity which has been approved by the Law School. The placement entity shall provide sufficient supervising attorneys who will mentor and assist the participants in obtaining a variety of experiences which will satisfy the requirements of the Program as determined by the dean of the Law School, as well as the requirements set forth by the Board. The Law School, in collaboration with the Board, will provide training to the supervising attorneys to apprise them of the requirements and expectations.

During the placement, participants will develop a portfolio of written and oral work which will be reviewed by the Board. The portfolio will be comprised of documents and oral or video submissions as determined by the Board. The Board shall make the requirements of the portfolio public and shall provide written notice of those requirements to the dean of the Law School no later than two months before the commencement of the fall semester.

## **Bar Admission**

A participant may obtain admission to the South Dakota bar through the Public Service Pathway Program if the participant:

1. Meets the requirements set forth in SDCL 16-16-2;
2. Complies with the criminal background investigation as required by SDCL 16-16-2.6;
3. Achieves a score of 85 or higher on the Multistate Professional Responsibility Exam;
4. Provides evidence of successful completion of the Public Service Pathway Program through the Law School and graduation from the Law School;
5. Provides a portfolio of work demonstrating minimum competence to the satisfaction of the Board; and
6. Demonstrates competence in Indian law either through completion of an approved Indian Law course completed at the Law School (with the testing option) or passage of a one-question examination on Indian law which the

Board will offer following completion of the Law School Public Service Pathway Program.

Like all applicants for admission to the bar, participants must apply for admission. To afford sufficient time for the character and fitness report to be generated and to place the Board on notice as of the need to review an individual's work product, it is recommended that the deadline for application for these participants be on or before October 1 of the semester of their placement.

The application should include:

1. A South Dakota bar application;
2. The fee prescribed by the Court;
3. A recent photograph (taken within six months of the date of application);
4. A law school transcript;
5. Completed DCI and FBI fingerprint cards; and
6. The required fingerprinting fee.

Each participant will also submit by October 1 during the semester of placement, a request for preparation of a character report and accompanying application to the National Conference of Bar Examiners (NCBE) with the accompanying fee prescribed by the NCBE.

## **Public Service**

Upon admission to the practice of law through this Public Service Pathway Program, participants shall complete two or three years of public service within South Dakota. This commitment must be completed within three years of the date of admission to the bar if a two-year commitment is required or within four years if a three-year commitment is required. If a participant chooses to serve a state or federal clerkship, the time for completing the public service commitment will be tolled and not begin to run until completion of the clerkship. Failure to complete the commitment within the allotted time, except when a waiver or extension has issued, may result in the revocation of the participant's license by the Court.

A participant may seek a waiver of a portion of the public service requirement, or an extension of time to complete the requirement. The waiver or extension may be requested by filing a petition with the secretary of the Board as soon as practicable. To qualify for a waiver or extension, the participant must demonstrate extraordinary circumstances, personal hardship, or that the public service employment is terminated for reasons beyond the control of the participant and the participant is

unable to secure new employment in public service. The Board is empowered to make inquiries and investigate the appropriateness of issuing a waiver. The Board may take and hear testimony and compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents. Any member of the Board may administer oaths and issue subpoenas. Upon conclusion of its investigation, if any, the Board shall issue a recommendation to the Court for its consideration and order. Additionally, while failure to complete the public service requirement alone is not a violation of the Rules of Professional Responsibility, the Board is authorized to make referrals to the Disciplinary Board of the South Dakota Bar when appropriate.

Participants who have received their license through this Program shall report to the secretary of the Board their place of employment until such time as they have satisfied the two-year commitment. At the conclusion of the commitment, the participant shall file with the secretary of the Board an affidavit upon a form provided by the secretary of the Board, and approved by the Board, attesting to the completion of the public service commitment.

If the Board becomes aware of a participant who has not completed the public service commitment, or will not be able to complete the requirement within the deadline, the Board may inquire or investigate and make recommendations to the Court.

## **Oversight Committee**

Finally, the Committee recommends the formation of an oversight committee. The oversight committee should be comprised of three individuals appointed by the Court—one individual from the Law School, one from the Board, and one from the Court. The purpose of the oversight committee would be to monitor the Program, propose changes to the process, and to make a final recommendation at the conclusion of the five-year pilot.

# Discussion of Essential Issues

## Assessment of Minimum Competence

In reviewing the issue of minimum competence, the Committee looked at the current methods of assessment, the most recent and extensive studies regarding the assessment of minimum competence, and the requirements set forth by the South Dakota Supreme Court.

Currently, South Dakota requires that all attorneys<sup>1</sup> take and pass what is commonly referred to as “the bar examination<sup>2</sup>.” The bar examination is comprised of the Multistate Performance Test (MPT), the Multistate Essay Exam (MEE), and the Multistate Bar Examination (MBE).

The **MPT** is comprised of two questions for which examinees are provided a “file” (documents providing the facts of the case) and a “library” (documents providing the specific law such as cases or statutes). Examinees are given 90 minutes for each question. During those 90 minutes, examinees are required to review the file and library and answer the pertinent questions thus demonstrating the ability to identify legal principles and apply those principles to the facts at hand.

The **MEE** is a three-hour exam comprised of six essay questions which provide a fact pattern and require the examinee to provide analysis based upon the law which they have previously studied. In South Dakota, one of the six questions is an Indian law question which is drafted by one of the sitting members of the Board. The remaining five questions will involve one of the following areas: business associations (agency and partnership; corporations and limited liability companies), civil procedure, conflict of laws, constitutional law, contracts (including Article 2 [sales] of the Uniform Commercial Code), criminal law and procedure, evidence, family law, real property, torts, trusts and estates (decedents’ estates; trusts and future interests), and Article 9 (secured transactions) of the Uniform Commercial Code. A question may include issues involving more than one area of law.

The **MBE** is comprised of 200 multiple choice questions administered over two, three-hour testing periods. The MBE covers the following legal topics: civil procedure, constitutional law, contracts, criminal law and procedure, evidence, real property, and torts.

Thus, upon successful completion of the bar examination, an examinee **will have been** tested on:

- Civil Procedure



- Constitutional Law
- Contracts
- Criminal Law and Procedure
- Evidence
- Real Property
- Torts

and **may have been** tested on:

- Business Associations
- Conflict of Laws
- Family Law
- Trusts and Estates
- Secured Transactions

This version of the bar examination, however, is currently undergoing a major overhaul. Beginning in July of 2026, NCBE will be offering the NextGen bar examination, and the current version will be phased out with its final test date February of 2028.

The **NextGen** bar exam will test the following foundational concepts and principles: business associations, civil procedure, constitutional law, contract law, criminal law, evidence, real property, torts, family law<sup>3</sup>, trust and wills<sup>4</sup>, legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management.

The catalyst for the NCBE's change in the format and testing areas of the bar examination was its own task force which reviewed the current assessment and made recommendations that the bar examination "should test fewer subjects and should test less broadly and deeply within the subjects covered, that greater emphasis should be placed on assessment of lawyering skills to better reflect real-world practices [.]"<sup>5</sup> Thus, there is a fundamental shift from the focus on areas of knowledge to using those foundational areas of knowledge to test foundational skills.

The Institute for the Advancement of the American Legal System (IAALS) also conducted a study to develop a definition of minimum competence and to review methods of assessment. The IAALS came up with twelve building blocks of competence and made ten recommendations<sup>6</sup> regarding assessment. The essence of the study is that jurisdictions need to focus on more than rote memorization of topics and should be looking at practical skills that attorney's use daily.

In addition to these two studies, the Committee looked to SDCL 16-16-1.1<sup>7</sup> and SDCL 16-16-10<sup>8</sup> for guidance in determining what should be assessed during a minimum competence assessment. The Committee then examined how the Public Service Pathway Program would compare to the benchmarks set by the NCBE report, the IAALS study, and SDCL 16-16-1.1. The following charts best demonstrate that comparison.

### Comparison of Areas of Foundational Knowledge

*\*Indicates that the subject may be tested but is not required to be tested.*

Current Bar Exam	NextGen	Public Service Pathway Program	Required by Rule <sup>9</sup>
*Business Associations	X		
*Conflict of Laws			
*Family Law	Tested in performance tasks for 2026-2028.  Tested with foundational concepts beginning in July 2028.	Participants may have to demonstrate knowledge during Pathway Program.	
*Trusts and Estates	In performance tasks in 2026-2028		
*Secured Transactions			
Torts	X	Coursework  Participants may have to demonstrate knowledge during Pathway Program.	
Real Property	X	Coursework  Participants may have to demonstrate knowledge during Pathway Program.	
Evidence	X	Coursework  Minimum 500 hours in Pathway Program	
Criminal Law and Procedure	X	Coursework  Minimum 500 hours in Pathway Program	
Contracts	X	Coursework  Participants may have to demonstrate knowledge during Pathway Program.	
Constitutional Law	X	Coursework	

		Minimum 500 hours in Pathway Program	
Civil Procedure	X	Coursework Participants may have to demonstrate knowledge during Pathway Program.	
No corresponding requirement		One Question Exam or Approved Indian Law course at Law School Participants may have to demonstrate knowledge during Pathway Program.	Indian Law (SDCL 16-16-10 and Regulation 3)

### Comparison of Areas of Foundational Skills

NCBE's Areas of Competence (NextGen)	IAALS Building Blocks Provisions	SDCL 16-16-1.1	How Demonstrated by Pathway Program?
Legal Research	2. Understanding of legal processes and sources of law 3. Understanding of threshold concepts in many subjects 6. Ability to identify legal issues 7. Ability to conduct research 9. Ability to see the "big picture" of client matters 12. Ability to pursue self-directed learning	SDCL 16-16-1.1(2), (3), (4), and (8).	<ul style="list-style-type: none"> <li>• Coursework</li> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents including pleadings, motions, findings of fact</li> </ul>
Legal Writing	2. Understanding of legal processes and sources of law 4. Ability to interpret legal materials 6. Ability to identify legal issues 7. Ability to conduct research 8. Ability to communicate as a lawyer 9. Ability to see the "big picture" of client matters	SDCL 16-16-1.1(2), (3), (8), and (10).	<ul style="list-style-type: none"> <li>• Coursework – Law School requires a writing course each year.</li> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> <li>• Potentially sitting for the Indian law question in lieu of the Indian Law class</li> </ul>

Issue Spotting and Analysis	2. Understanding of legal processes and sources of law 4. Ability to interpret legal materials 6. Ability to identify legal issues 7. Ability to conduct research 9. Ability to see the “big picture” of client matters 12. Ability to pursue self-directed learning	SDCL 16-16-1.1(2), (4), (8), (9), and (10).	<ul style="list-style-type: none"> <li>• Coursework – Law School requires a writing course each year.</li> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> <li>• Potentially sitting for the Indian law question in lieu of the Indian Law class.</li> </ul>
Investigation and Evaluation	5. Ability to interact effectively with clients 6. Ability to identify legal issues 7. Ability to conduct research 9. Ability to see the “big picture” of client matters 12. Ability to pursue self-directed learning	SDCL 16-16-1.1(2), (3), (4), (7), (8), (9), and (10).	<ul style="list-style-type: none"> <li>• Coursework – Law School requires a writing course each year.</li> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> <li>• Potentially sitting for the Indian law question in lieu of the Indian Law class.</li> </ul>
Client Counseling and Advising	5. Ability to interact effectively with clients 7. Ability to conduct research 8. Ability to communicate as a lawyer	SDCL 16-16-1.1(1) through (10).	<ul style="list-style-type: none"> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> </ul>
Negotiation and Dispute Resolution	1. Ability to act professionally and in accordance with the rules of professional conduct 7. Ability to conduct research 8. Ability to communicate as a lawyer	SDCL 16-16-1.1(1) through (10).	<ul style="list-style-type: none"> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> </ul>
Client Relationship and Management	5. Ability to interact effectively with clients 8. Ability to communicate as a lawyer	SDCL 16-16-1.1(1), (3), (6), (7), (8), (9), and (10).	<ul style="list-style-type: none"> <li>• Minimum 500 hours in Pathway Program</li> <li>• Portfolio documents</li> </ul>
No corresponding requirement	1. Ability to act professionally and in accordance with the rules of professional conduct	SDCL 16-16-1.1(1) through (10).	<ul style="list-style-type: none"> <li>• Coursework</li> <li>• Exam – a score of 85 or higher on the Multistate Professional Responsibility Exam</li> <li>• Minimum 500 hours within the Pathway Program</li> </ul>

			<ul style="list-style-type: none"> <li>• Character and Fitness Review</li> </ul>
No corresponding requirement	10. Ability to manage a law-related workload responsibly	SDCL 16-16-1.1(3), (4), (7), (8), (9), and (10).	<ul style="list-style-type: none"> <li>• Minimum 500 hours in the Pathway Program</li> <li>• Submission of the portfolio</li> </ul>
No corresponding requirement	11. Ability to cope with the stresses of legal practice	SDCL 16-16-1.1(1) through (10)	<ul style="list-style-type: none"> <li>• Minimum 500 hours in the Pathway Program</li> <li>• Submission of the portfolio</li> <li>• Character and Fitness Review</li> </ul>

- Based upon these comparisons, as set forth in the charts above, the Public Service Pathway Program will assess many of the areas of foundational knowledge that are routinely tested in the current iteration of the bar examination and the NextGen exam.
- The Public Service Pathway Program will assess all the foundational skills that have been found to be essential in the practice of law.
- Finally, the Public Service Pathway Program will satisfy the requirements of SDCL 16-16-1.1 and 16-16-10.
- The Committee is confident that the Public Service Pathway Program will provide a holistic assessment of the minimum competence of the participants.

## Indian Law

South Dakota requires that its attorneys demonstrate competence in Indian law.<sup>10</sup> The Committee has reviewed this requirement and recommends that it also be applied to applicants admitted through the Public Service Pathway Program. The Committee further recommends that applicants seeking admission through the Public Service Pathway Program may satisfy this requirement by either successfully passing a one-question Indian law exam offered by the Board or by successfully completing the Indian Law course with the testing option offered by the Law School.

Both the Steering Committee and this Committee received public comment regarding this issue. The Committee took all comments into consideration in making this recommendation. While the comments suggested that the Indian law requirement should not be satisfied by taking an Indian Law class, the Committee finds that some flexibility is necessary in this alternative pathway program. The

most important purpose of the Indian law requirement is to ensure that the attorneys practicing in this state are able to recognize potential Indian law issues and act accordingly. This assurance can be achieved through the completion of a well-rounded Indian Law class which comports with the definition of “Indian Law” as set forth in Regulation 3. See SDCL Ch. 16-16, § 3. “Indian Law”, as defined by the Board, includes the “basic principles of federal Indian law, including but not limited to civil and criminal jurisdiction, the Indian Civil Rights Act, the Indian Child Welfare Act, and the Indian Gaming Regulatory Act.” Referring to this definition should alleviate some of the concerns that the requirement could be satisfied by taking a class focusing on the law of only one particular Tribe or a class that focused only on jurisdiction.

Additionally, the Committee understands that the Indian Law course as currently offered at the Law School may be taken with a writing option or a testing option. Thus, to ensure that the applicant has a wide range of knowledge, the Committee recommends that the Indian law requirement can only be satisfied by the Indian Law course with the testing option.

## **Character and Fitness**

The Committee recommends that applicants seeking admission through the Public Service Pathway Program undergo the same rigorous character and fitness review utilized for applicants who are admitted by examination or those admitted without examination because of years of lawful practice in another jurisdiction. Accordingly, the Committee recommends that these applicants complete all the same character and fitness application requirements, including fingerprinting, completion of a character and fitness report request, and submission of all the applicable fees.

## **Length of Public Service Commitment**

In its report, the Steering Committee suggested the admission through this Program be conditioned on a two or three-year public service commitment. Discussion was held as to whether two years was a sufficient commitment to recoup the time and resources expended by the Law School, the Board, and the Court in the implementation of this Program. Several of the Committee members who currently engage in public service practice noted that, in their experience, an individual generally knows if he/she is suited to public service within eighteen months of practice. Moreover, it takes approximately one year for a new attorney to confidently practice. As a result, the Committee does not recommend less than two years.

The Committee also considered whether the public service commitment should be longer than two years. The Committee is split on whether the public service commitment should be two years or three years. A lengthier period of service would provide a greater return on the investment made in providing this Program. Additionally, it could encourage participants to remain in public service as they work toward loan forgiveness.<sup>11</sup> Moreover, the Committee recognizes that it could be more difficult to increase the length of the public service commitment later should the Program be permanently adopted. The Committee also agrees, however, that recruiting participants will be more challenging if a three-year commitment is expected. Also, based upon the experience of the Committee members, an individual will conclude sometime within the first one to one-and-one-half years whether public service is the right career path for him/her. Compelling an individual to stay in public service once he/she has determined that public service is not the right path for him/her provides no benefit to the participant, the employer, or the public. Furthermore, a shorter public service requirement may entice individuals not currently contemplating public service to try public service and find it to be the right fit. As a result, there is a split among the Committee as to whether the appropriate public service requirement is two years or three years.<sup>12</sup>

## **What Qualifies as Public Service**

The Committee also engaged in extensive discussion regarding what types of employment could satisfy the public service requirement. The Committee concluded that work for any federal, state, local, or tribal government should qualify. The Committee also concluded that work for Dakota Plains Legal Services and East River Legal Services should also fulfill the requirement. The Committee further recommends that only full-time employment with these entities should discharge the obligation.

The Committee also contemplated whether clerkships should satisfy the public service commitment. While clerkships are a vital service to the public, such positions are generally temporary. Moreover, while a clerkship provides invaluable experience in the practice of law, it does not necessarily lead to a career in the public service sector. Accordingly, the Committee recommends that clerkships not qualify for satisfaction of the requirement. However, not wanting to deter participation in the Program, the Committee recommends a compromise—that the time for completion of public service requirement would be tolled during the term of the clerkship. Thus, those individuals who have the opportunity to serve as

clerks will not have to choose between the Public Service Pathway Program and the immeasurable opportunity of a clerkship.

## **Failure to Complete Public Service Commitment**

Finally, the Committee considered the possibility of a participant failing to discharge the public service requirement. The Committee recognizes that one is unable to anticipate the twists and turns of life and the need for some flexibility to adapt to those unforeseeable issues. Accordingly, the Committee recommends the Program include a “safety valve” by providing authority to the Board and the Court to review issues on a case-by-case basis. First, the Committee recommends that a waiver be allowed in extraordinary circumstances, in cases of personal hardship (such as need to relocate due to a spouse’s employment or the need to provide care for a parent), or in those instances when the public service employment was terminated for reasons beyond the control of the participant and the participant is unable to secure new employment in public service. The burden should always be on the participant to demonstrate that he/she qualifies for the waiver. The Committee recommends the adoption of a process similar to the procedures utilized for bar admission wherein the Board can receive the request for waiver, conduct an investigation/hearing, and make a recommendation to the Court. In this instance, upon completion of the investigation and hearing, the Board could make a recommendation of extending the deadline to complete the public service, waiving the remainder of the public service requirement, or denial of the request for waiver. The Board could also recommend revocation of the license. The Court would then be able to make a decision based on the record before it.

## **Conclusion**

There is no question that it is essential that each attorney be assessed for minimum competence and character and fitness before admission to the South Dakota Bar. There is also no question that the methodology of assessing candidates to ensure that they possess the minimum competence is changing. Assessments are expanding to focus on foundational skills rather than rote knowledge. This trend is evident in the imminent changes in the bar examination itself. The proposed Public Service Pathway Program offers an opportunity to explore a more holistic methodology of the assessment of minimum competence while maintaining a thorough review of an applicant’s character and fitness. The Committee believes this Program, as administered by the Law School and critically reviewed by the Board, will ensure that these participants will meet the standard of minimum



competence and will encourage new lawyers to enter into practice in the public sector.

For the Court's consideration, the Committee has proposed a series of rules regarding the Program. These proposed rules also include some modifications to the student practice rules found in SDCL Ch. 16-18. Additionally, for the consideration of the Board, a series of regulations outlining potential requirements and processes are also offered.

# Endnotes

1. An exception to this requirement is that those attorneys who are licensed in another jurisdiction and have been engaged in the active and continuous practice of law for three of the last five years are not required to test.
2. Attorneys are also required to take the Multistate Professional Responsibility Examination (MPRE). The focus of the MPRE is on the professional rules of responsibility. This exam is not taken at the same time as the bar examination. Rather, it is offered three times a year (March, August, and November).
3. “From July 2026 through February 2028, family law concepts will appear on every NextGen exam in a performance task and may also be included in integrated question sets. During this period, family law concepts will be tested with the provision of legal resources. Starting in July 2028, family law will be included in the foundational concepts and principles tested on the NextGen bar exam and will be tested in the same manner as the other foundational concepts and principles.” NCBE, *About the NextGen Bar Exam*, <https://www.ncbex.org/exams/nextgen> (last visited November 26, 2024).
4. “From July 2026 through at least February 2028, trusts and estates concepts will appear on every NextGen exam in a performance task and may also be included in integrated question sets. During this period, trusts and estates concepts will be tested with the provision of legal resources.” NCBE, *About the NextGen Bar Exam*, <https://www.ncbex.org/exams/nextgen> (last visited November 26, 2024).
5. NCBE Testing Task Force, *Overview of Recommendations for the Next Generation of the Bar Examination*, <https://nextgenbarexam.ncbex.org/themencode-pdf-viewer/?file=https://nextgenbarexam.ncbex.org/wp-content/uploads/TTF-Next-Gen-Bar-Exam-Recommendations.pdf#zoom=auto&pagemode=thumbs> (last visited November 26, 2024).

The Committee recognizes that not every area of law can be assessed for minimum competence through the Public Service Pathway Program. However, the Committee notes that not every area of law is currently assessed by the bar examination nor will be by the NextGen bar examination.

6. The recommendations include a finding that “written exams are not well suited to assessing all aspects of minimum competence.” Deborah Jones Merrit and Logan Cornett, IAALS study, *Building a Better Bar: The Twelve Building Blocks of Minimum Competence*, [https://iaals.du.edu/sites/default/files/documents/publications/building\\_a\\_better\\_bar\\_pre\\_print.pdf](https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar_pre_print.pdf) (last visited November 26, 2024).
7. SDCL 16-16-1.1 provides as follows:
- [a]pplicants must be able to demonstrate the following essential eligibility requirements for the practice of law:
- 1) The ability to be honest and candid with clients, lawyers, courts, the board, and others;
  - 2) The ability to reason, recall complex factual information, and integrate that information with complex legal theories;
  - 3) The ability to communicate with clients, lawyers, courts, and others with a high degree of organization and clarity;
  - 4) The ability to use good judgment on behalf of clients and in conducting one's professional business;
  - 5) The ability to conduct oneself with respect for and in accordance with the law;
  - 6) The ability to avoid acts that exhibit disregard for the rights or welfare of others;
  - 7) The ability to comply with the requirements of the Rules of Professional Conduct, applicable state, local, tribal, and federal laws, regulations, statutes, and any applicable order of a court or tribunal;
  - 8) The ability to act diligently and reliably in fulfilling one's obligations to clients, lawyers, courts, and others;
  - 9) The ability to use honesty and good judgment in financial dealings on behalf of oneself, clients, and others; and
  - 10) The ability to comply with deadlines and time constraints.
8. SDCL 16-16-10 provides:
- [t]he subjects upon which applicants shall be examined shall be such as the Board of Bar Examiners deems necessary to prepare properly for the practice of law in this state, including the subjects of legal ethics and Indian Law. The board shall make public such subjects, giving full and ample public notice of any change or addition thereto and written notice to the dean of the Law School, University of South Dakota.”

9. SDCL 16-16-10 requires the examination of legal ethics. This requirement is satisfied through the MPRE which is taken separately from the bar examination.
10. Attorneys who are admitted without examination pursuant to SDCL 16-16-12.1 and 12.2 are not required to demonstrate competence in the area of Indian law.
11. Individuals who are employed by a government or not-for-profit organization may be eligible for the Public Service Loan Forgiveness (PSLF) Program. The PSLF Program provides an opportunity for eligible borrowers to have qualifying student loans forgiven after they have served full time at a public service organization for at least ten years and have made 120 qualifying payments. (Details regarding the PSLF Program can be found at <https://studentaid.gov/manage-loans/forgiveness-cancellation/public-service>.)

Requiring three years of public service may provide an incentive for those working towards student loan forgiveness as they would have completed three of the ten years required for loan forgiveness completed versus two years. Likewise, although clerkships do not satisfy the public service requirement for the Public Service Pathway Program, clerkships do qualify as public service for PSLF Program. Thus, if an individual has a two-year clerkship and three years through the Public Service Pathway Program, they would be halfway toward loan forgiveness which may entice them to stay in public service.

12. The proposed rules contemplate a two-year public service commitment. Should a three-year commitment be determined to be appropriate, the Committee would recommend that the rules be altered to give participants four years to complete the commitment.

# Appendix A

## Implementation Committee Meeting Minutes: March 4, 2024

**Attendance:** Justice Myren, Daniel Haggar, Hon. Jane Wipf Pfeifle, Neil Fulton, Cris Palmer, Josey Blare, Rachelle Norberg, John Richter, and Ann Mines Bailey

The meeting began with introductions of committee members.

The discussion then began with what the Committee expects from a recent law school graduate.

Dean Fulton discussed the law school curriculum and what classes are required for graduation.

The question was then posed if this public pathway should test the competencies covered by the bar exam.

Discussion was then had regarding whether this pathway should include rural practice at this time.

Discussion was had regarding the need to demonstrate an ability to analyze and write/draft but that a basic understanding of both civil and criminal subjects is required for success.

Discussion was also had regarding the reliance of new attorneys on more experienced attorneys and how essential that is in a rural practice setting.

Concern was also expressed regarding how to get buy-in from the local political forces (county commissions, etc.).

### ***Apparent Consensus Items:***

- This Program should evaluate the same skills and knowledge as the NextGen exam (Foundational concepts: civil procedure, contract law, evidence, torts, business associations, constitutional law, criminal law, real property and Foundation lawyering skills: legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management).
- The Program will not be able to assess every area.
- The nature of the placement will control the areas that will be evaluated; and
- We will begin with Dean Fulton's proposed Program elements.

## Implementation Committee Meeting Minutes: April 19, 2024

**Attendance:** Justice Myren, Hon. Jane Wipf Pfeifle, Neil Fulton, Cris Palmer, Josey Blare, Rachelle Norberg, John Richter, and Ann Mines Bailey

The meeting began with a review of the minutes from the 3/4/24 meeting.

The Committee then discussed character and fitness reviews. After the process was described for the current process, the consensus was that NCBE should do the background investigations if possible and the process should be timed so that they could be sworn in after graduation.

The Committee then discussed supervisor training. Dean Fulton described the training provided for supervisors for externships and elaborated that this training should include evaluation of participants, supervision of a young lawyer, and perhaps, some areas of substance such as professional responsibility and engagement. The members of the Committee believed that training is critical especially to bring consistency to evaluations.

The Committee also discussed whether the participants would be required to take the bar prep class as that is a current requirement of the law school.

The Committee then turned to the length of the Program. Dean Fulton suggests 600 hours. Hon. Wipf-Pfeifle agreed that it should be a minimum of 500 hours. Ms. Blare and Ms. Norberg agreed that it should be a semester-long program.

The Committee then discussed whether participants should be allowed to work. The consensus was that it was unrealistic to ask participants to refrain from working but that the Program should be their focus and main concern. The Committee was in favor of not prohibiting work. The Committee overall desires that the participants not be allowed to take other classes during the Program but recognizes that there may be some instances where it should be permissible and that the Dean would be in the best position to authorize.

The Committee further discussed what can be done to ensure that the participants maintain full-time student status. The Dean relayed that once the Program is created and rules promulgated, the Law School will have to essentially “reverse engineer” but would structure the academic credit to keep participants on track for graduation.

The Committee then discussed what would satisfy the public service requirements. Dean Fulton encouraged the Committee to cast the broadest net possible for post-graduation possibilities.

The dates and times for the next meetings were set with the Committee agreeing to May 29 from 1pm-3pm CT and June 21 from 9am-11am CT.

### ***Apparent Consensus Items:***

- Pathway candidates should undergo the same character and fitness process as those sitting for the bar exam – which includes a character and fitness review report from NCBE paid for by the applicant.

- Supervisor training is an essential part of the Program. The training will be handled by the Law School and the Board of Bar Examiners will be involved to share their expectations.
- The Public Service Pathway Program will be a one semester program with a minimum of 500 -600 hours. Participants will not be prohibited from working. The committee recommends not taking classes during the Program; however, the Dean should be vested with the authority to approve taking classes under extraordinary circumstances.

### ***Follow-Up Items***

- What employment that satisfies public service requirement and whether it must be full-time.
- Grading of the portfolio by the supervisors and the Board – including various levels rather than just a pass/fail type of grading.
- What happens if a participant is unable to complete the Program?

## Implementation Committee Meeting Minutes: May 29, 2024

**Attendance:** Justice Myren, Hon. Jane Wipf Pfeifle, Daniel Haggar, Neil Fulton, Cris Palmer, Eric Whitcher, Josey Blare, Rachelle Norberg, John Richter, and Ann Mines Bailey

The meeting began with a review of the minutes from the 4/19/24 meeting.

The Committee then turned to the public service requirement. Discussion was had as to whether the requirement could be fulfilled with part-time service or if full-time employment was required. Acknowledgement was made that there are many part-time state's attorney offices. The overall feeling was that it takes 18 months to two years to learn the job.

Discussion was then had as to the purpose of a public service requirement. Dean Fulton expressed that it is the pilot program is an investment in the participants with a return investment made by the participants in the State. Dan Haggar expressed that the public service requirement will help encourage county commissions to invest in the Program.

Some discussion was had as to whether the public service requirement should be two years or three years in length. The committee agreed that the requirement should be two years of full-time employment in public service.

The discussion then turned to the types of employment that would satisfy the public service requirement. Dean Fulton suggested placement with any entity with any federal, state, local, or tribal government. Whether clerkships should qualify was then discussed. The Committee discussed the benefits of clerkships and agreed to include clerks. Discussion was then had regarding whether legal aid work would qualify. The Committee determined to specifically include DPLS and ERLS.

Justice Myren suggested that an oversight committee be recommended for the pilot program to come back to the Court with suggestions.

Next, the Committee discussed what happens if a participant cannot complete the public service requirement. It was suggested that the requirement could be waived by the Court or the authority could be delegated to the Board of Bar Examiners upon a showing of exceptional circumstances, personal hardships, or the placement is terminated for reasons beyond the control of the participant. Potential repercussions were discussed if the requirement could not be fulfilled including a disclaimer on letterhead and revocation.

There was discussion as to how to track whether a participant was meeting the obligation. The Committee agreed the onus should be on the participant. Failure to comply with two-year public service requirement should result in the revocation of the license. The participant should be required to file an affidavit attesting to completion of the obligation.

The discussion then shifted to how it was envisioned that the Program would work. Hon. Wipf-Pfeifle discussed the importance of feedback to the participants and the need to see that they are being exposed to a variety of things and that the work is getting done. Dean Fulton explained how the Law School currently oversees externships and indicated that he believes this will be a version of what is already done.



The Committee then discussed whether the Program will sufficiently demonstrate competence in the same manner the bar exam does. Hon. Wipf Pfeifle noted that what the bar examiners get from the bar exam is essentially a snapshot of the candidate of one day in their lives. The bar exam potentially tests on many subjects but, in the end, not all subjects are tested and an examinee need not demonstrate competence in all the areas actually tested in order to pass. Dean Fulton pointed out that even though many of these placements will be in the criminal arena, participants will be demonstrating competence in many areas. For instance, a motion to suppress will demonstrate competence in criminal law, research, writing, procedure, constitutional law, ethics, etc. Other members noted that there has to be some reliance on the Law School.

The Board then turned to the current Indian law requirement. There was some confusion as to the scope of the Committee's authority as to the Indian law requirement. Due that that question and the shortage of time, the Committee agreed to take up the issue at the next meeting.

***Apparent Consensus Items:***

- The public service requirement is two years, full-time but this requirement could be reevaluated as the Program progresses.
- Public service commitment could be satisfied by DPLS and ERLS, as well as federal and state clerkships.
- Should recommend an oversight committee for the pilot program.
- A waiver of the public service requirement could be made upon a showing to the Board of Bar Examiners of exceptional circumstances, personal hardships, or the placement is terminated for reasons beyond the control of the participant.
- Failure to comply with public service requirement or a failure to self-report non-compliance will result in revocation.
- At the conclusion of the two years of public service, participants should file an affidavit of completion.
- The Program should be offered in the fall semester to afford time for the Board of Bar Examiners to review and if admission is not recommended, for the applicant to apply for the July bar examination.

***Past Consensus Items:***

- Pathway candidates should undergo the same character and fitness process as those sitting for the bar exam – which includes a character and fitness review report from NCBE paid for by the applicant.
- Supervisor training is an essential part of the Program. The training will be handled by the Law School and the Board of Bar Examiners will be involved to share their expectations.

- The Public Service Pathway Program will be a one semester program with a minimum of 500 -600 hours. Participants will not be prohibited from working. The committee recommends not taking classes during the Program; however, the Dean should be vested with the authority to approve taking classes under extraordinary circumstances.
- This Program should evaluate the same skills and knowledge as the NextGen exam (Foundational concepts: civil procedure, contract law, evidence, torts, business associations, constitutional law, criminal law, real property and Foundation lawyering skills: legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management).
- The Program will not be able to assess every area.
- The nature of the placement will control the areas that will be evaluated; and
- We will begin with Dean Fulton’s proposed Program elements.

***Follow-Up Items***

- How to satisfy the Indian law requirement

## Implementation Committee Meeting Minutes: June 24, 2024

**Attendance:** Justice Myren, Hon. Jane Wipf Pfeifle, Neil Fulton, Cris Palmer, Josey Blare, Rachelle Norberg, and John Richter.

The meeting began with a review of the minutes from the 5/29/24 meeting.

The Committee first discussed the Indian law requirement as it pertains to both admission by examination and admission through the Public Service Pathway Program. The Committee agreed that Indian law should continue to be required for admission to the bar whether it be through examination or through the public service pathway. The Committee further agreed that for admission by examination it would be best to leave the Indian Law question as part of the bar exam.

Dean Fulton explained that currently, Indian Law is offered in the fall semester which would conflict with the Public Service Pathway Program. Dean Fulton described the different considerations that go into the timing of courses in the curriculum offered, including faculty workload and preference, other courses offered that might hinder student scheduling, sufficient classrooms, etc.

Discussion was also had as to whether the class could be taken as a 2L. While it is possible, it appears that the majority of students in the class are 3Ls.

The Committee members were not in favor of participants being interrupted during work hours to attend a class as it could limit participation in trials, etc. The potential of whether the participants could take the class via zoom or watch a recording after work hours was discussed. It would, in large part, be at the discretion of the professor.

The letters of Professor Pommersheim and Professors Tweedy, Simmons, and Brazeal were also discussed. The letters generally express concern regarding a change of the Indian law requirement which would allow the requirement to be satisfied by passage of an Indian Law class. The professors are concerned that there would be no uniformity in what would be taught or that that it would somehow diminish the importance of Indian Law and it would become the only bar exam topic with a “work around.”

In response to the letters and with a commitment to the Indian Law requirement, the Committee agreed that for the Public Service Pathway Program, it would be acceptable for a participant to pass the Indian Law course offered by the Knudson School of Law in lieu of taking an exam question. However, given the fact that participants may not be able to take the Indian Law course, the Committee also recommends offering a single Indian Law question to the participants on a pass/fail basis.

Discussions were had as to whether the Indian Law question could be offered during at the same time as the MPRE. It would require coordination with NCBE and could pose some logistical issues.

Dean Fulton also explained grading at the Law School. The Law School does not use letter grades. The numeric grades used do not correspond to letter grades. Rather, if a student is below 60, the student has failed. There is no curve but a cap on the cumulative average of

the class which cannot exceed 86 (if 15 or fewer students, the cap is 85 and if 5 or less students, there is no cap). The first-year cumulative cap is 84.

Additionally, it was noted that Indian Law is offered at the Law School with a testing option or a writing option.

The consensus of the Committee is that the Indian Law class must be taken with the testing option and that the participant must score 60 or higher.

The next topic for discussion was if anything should be handled differently should a participant of the Program come before the Disciplinary Board after licensure. The consensus was no.

Next, the Committee discussed the waiver of the public service requirement and whether it should be confidential. It was pointed out that waiver could be granted for hardship such as a spouse's health or harassment and that the participant may wish to keep such topics confidential. It was also noted that there is merit to transparency. The Committee agreed that the waiver would be public but the reason for the waiver would remain confidential.

The Committee also discussed a scenario where a participant is admitted through the Public Service Pathway Program but then fails the bar examination. The Committee determined that it would not affect the licensure through the Public Service Pathway Program.

Also discussed was whether the oversight committee should be responsible for following participants after completion of the Program. Judge Wipf Pfeifle pointed out that the Bar Examiners do occasionally reach out to examinees to follow up. Dean Fulton liked the idea of a survey. Questions that could be asked should include: did you stay in public service (full-time or part-time) and did you end up taking a bar examination.

Whether the oversight committee should track complaints to the Disciplinary Board of those who successfully completed the Public Service Pathway Program was also considered. The Committee felt there was not any reason for the oversight committee to know of unfounded complaints but it could be good for the Court to have anonymized reports for assessment at the end.

The Committee then turned its focus to how a claw back provision would work and the potential interaction between the Board of Bar Examiners and the Disciplinary Board. While it is generally that the Board of Bar Examiners is pre-licensure and the Disciplinary Board is post-licensure, the failure to complete the public service requirement is an admission issue not a disciplinary issue. However, the failure to complete the public service requirement could rise to a disciplinary issue as well. A two-track approach was proposed wherein the Board of Bar Examiners could hear a request for waiver should a participant be unable to satisfy the public service requirement. The Board would then make a recommendation to the Court. The Board could also file a complaint with the Disciplinary Board if the participant fails to make a request for waiver or is denied a waiver and fails to complete the public service requirement. It was also suggested that the participant be required to report to the Board of Bar Examiners employment and completion of public service requirement. The Board of Bar Examiners should also be given the authority to extend the time to satisfy the public service requirement.

Discussion was also had to the timing of the character and fitness review. A suggestion was made that the C&F review should occur before admission to the Program. It was shared that the Dean signs off on C&F for placements. The bar admission C&F is much more extensive. Timing would be off as the participants would have to request the NCBE C&F review report at the same time as July bar examinees. Additionally, the review would be complete as of that time and there would be approximately an entire year that would not be reviewed unless we required a subsequent report – which would cost additional money.

***Apparent Consensus Items:***

- The Indian Law requirement for admission by bar examination should remain as it currently is. Satisfaction of the Indian Law requirement for the public service pathway could be made by completion of the Indian Law course (with the testing option) as offered by the USD Knudson School of Law or passing a single question examination of Indian Law offered by the Board of Bar Examiners.
- No additional action or alternate action should be taken should a participant who has obtained licensure be brought before the Disciplinary Board.
- Waiver of a portion of the public service requirement should be public as to the name of the participant but the reasons for the waiver should remain confidential.
- A participant's subsequent failure of a bar examination would have no effect on his/her licensure through the Public Service Pathway Program.
- The oversight committee should follow participants after completion of the Program and public service requirement to determine how many participants stay in public service and if any take the bar examination.
- The oversight committee should not track complaints to the Disciplinary Board filed about participants who have received licensure. However, it could be helpful for the Court to receive anonymized reports at the end to consider when assessing the Program.
- The Board would also have the authority to grant an extension to complete the public service requirement.
- The Board would also have the authority to file a complaint with the Disciplinary Board.
- Requests for waivers and failure to complete the required public service term would be handled by the Board of Bar Examiners. The Board would have authority to conduct hearings and gather information. The Board would then make a recommendation to the Court.

***Past Consensus Items:***

- The public service requirement is two years, full-time but this requirement could be reevaluated as the Program progresses.

- Public service commitment could be satisfied by DPLS and ERLS, as well as federal and state clerkships.
- Should recommend an oversight committee for the pilot program.
- A waiver of the public service requirement could be made upon a showing to the Board of Bar Examiners of exceptional circumstances, personal hardships, or the placement is terminated for reasons beyond the control of the participant.
- Failure to comply with public service requirement or a failure to self-report non-compliance will result in revocation.
- At the conclusion of the two years of public service, participants should file an affidavit of completion.
- The Program should be offered in the fall semester to afford time for the Board of Bar Examiners to review and if admission is not recommended, for the applicant to apply for the July bar examination.
- Pathway candidates should undergo the same character and fitness process as those sitting for the bar exam – which includes a character and fitness review report from NCBE paid for by the applicant.
- Supervisor training is an essential part of the Program. The training will be handled by the Law School and the Board of Bar Examiners will be involved to share their expectations.
- The Public Service Pathway Program will be a one semester program with a minimum of 500 -600 hours. Participants will not be prohibited from working. The committee recommends not taking classes during the Program; however, the Dean should be vested with the authority to approve taking classes under extraordinary circumstances.
- This Program should evaluate the same skills and knowledge as the NextGen exam (Foundational concepts: civil procedure, contract law, evidence, torts, business associations, constitutional law, criminal law, real property and Foundation lawyering skills: legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management);
- The Program will not be able to assess every area.
- The nature of the placement will control the areas that will be evaluated.
- We will begin with Dean Fulton’s proposed Program elements.

## Implementation Committee Meeting Minutes: July 19, 2024

**Attendance:** Justice Scott Myren, Hon. Jane Wipf Pfeifle, Neil Fulton, Josey Blare, John Richter, Eric Witcher, Cris Palmer, and Ann Mines Bailey

The Committee reviewed the minutes from the July 9, 2024 meeting.

The next order of business was to revisit the issue of whether clerkships should satisfy the public service requirement. Members of the Committee had been receiving feedback that clerkships, particularly federal clerkships, should not count. The Committee also discussed the possibility of tolling the time to complete the two-year public service commitment during the participant's clerkship. It was determined that the Committee would revisit the issue at the next meeting.

The Committee then turned to discussing minimum competence. Prior to the meeting the Committee had reviewed the IAALS's building blocks and the NCBE's paper identifying minimum competencies.

Hon. Wipf Pfeifle noted the difficulties in assessing every area.

Dean Fulton shared that the purpose of the assessments is to determine that there is possession of some substantive legal knowledge and that there is a certain degree of professional skills. Assessments for many years have focused on substantive legal knowledge because it is somewhat less complicated to measure. IAALS and the NCBE reviews have recognized a need to move more towards a skills assessment. Dean Fulton proposed that we start with the NCBE skills identified and incorporated into the NextGen exam and use the IAALS building blocks and SDCL 16-16-1.1 to inform.

Mr. Palmer agreed with both Hon. Wipf Pfeifle and Dean Fulton that cannot assess every skill and substantive area but focus on the concepts.

Ms. Blare agreed that the Program should be more skills based than a substantive based assessment.

It was then discussed what foundational classes that are tested on the bar exam are required at USD KSOL– civil procedure, constitutional law, contracts (but not expressly sales), criminal law, criminal procedure, evidence, real property (but not mortgages), torts, and professional responsibility.

The Committee concluded that the Program should lean heavily on foundational skills and concepts.

The Committee then discussed how to assess the client counseling, negotiation, and management skills.

Mr. Witcher discussed how his office performs a six-month assessment reviewing whether an attorney is performing the fundamental procedures in the office. He was asked to share those forms with the Committee.

The Committee contemplated a checklist that could be completed with the client counseling skills for a prosecutor's office being viewed more as stakeholder advising.

Ms. Mines Bailey will ask Mr. Haggar if his office has forms similar to Mr. Witcher's. Ms. Mines Bailey will also attempt to match the proposed portfolio requirements with the NextGen skills and perhaps identify the alignment with SDCL 16-16-1.1 and the IAALS building blocks.

Arizona's new admission program was also briefly discussed. Arizona is allowing those who receive a score of 260-269 on the UBE an opportunity to be admitted through a two-year supervised practice program. Members were asked to review the materials before the next meeting.

The Committee then took up the issue of whether there should be an appeal process for participants. Dean Fulton indicated that there is an academic appeals process in place that is set by the Board of Regents. It was pointed out that bar examinees are not allowed to appeal their bar scores. The Committee agreed that there should be a recommendation of the Board to the Court regarding admission with the court making the final decision as to admission, extension, or waiver. Additionally, the Committee agrees that there should not be an appeal right from the dean's decision regarding entry to the Program.

The next topic was whether the Board should be involved in the application process to enter the Program. Hon. Wipf Pfeifle felt the Board should not be involved. Dean Fulton agreed. Discussion of the application process then ensued. Dean Fulton shared that incoming students are surveyed regarding interests at orientation. He will be watching performance and begin searching for participants about approximately one year prior to the Program. Discussion was held as to whether the application process should be formalized. Concerns were raised that all students should be aware of the Program. Dean Fulton indicated that the Program could be advertised with the experiential program announcements. In order to avoid issues, the Committee agrees that the Program should be announced to all students and recommend that there be some initial paperwork such as a letter of interest for documentation purposes.

***Apparent Consensus Items:***

- The Committee agrees that competencies identified by the NCBE and tested in the NextGen examination should be those used in this Program with reference to the IAALS building blocks and SDCL 16-16-1.1. The Committee, however, recognizes that not every competency – whether it be substantive or skill-based – can be assessed.
- The Committee agrees that the Board should make recommendations to the Court regarding admissions, waivers, and extensions and that the Court should make the final decision.
- The Committee agrees that there should not be an appeal right from the dean's decision regarding entry to the Program.



## Implementation Committee Meeting Minutes: August 12, 2024

**Attendance:** Justice Scott Myren, Hon. Jane Wipf Pfeifle, Neil Fulton, Cris Palmer, John Richter, Eric Witcher, Josey Blare, Rachelle Norberg, Dan Haggar, and Ann Mines Bailey

The Committee reviewed the minutes of the last meeting.

The Committee then began the discussion with the topic of clerkships and whether they should count as public service for the purposes of this Program. The Committee agreed that federal and state clerkships should be treated similarly. Several members voiced that have a clerkship satisfy no more than one year of the requirement would be acceptable. Concerns were expressed that it might be an impediment to recruiting participants if clerkships do not count towards the public service requirement. It was also noted that it would be difficult to gain the support of the bar if clerkships counted. In the end, the Committee agreed that allowing the public service requirement to toll the two-year public service commitment would be appropriate.

The Committee then discussed the Arizona program which provides a supervised practice pathway to bar admission for those individuals who did not pass the bar exam but were within a certain range.

The Committee then discussed the charts comparing what is currently tested, what NextGen will test, what is required by statute, and what would be assessed by the Public Service Pathway Program.

Next, the Committee turned to the requirements for bar admission. The initial draft required a report after each court appearance. Mr. Haggar and Mr. Witcher noted that in their offices, an individual could have five or more court appearances in one day or could appear in a block hearing handling multiple cases. The Committee agreed that it would be best to have the participants report on substantive hearings rather than every court appearance. The Committee then agreed that the language should be altered to reflect that for multiple hearings in one block, the participant must report on the most significant hearing.

The Committee concluded by discussing the timeline and when the Program could possibly be implemented.

### ***Apparent Consensus Items:***

- Clerkships should not satisfy the public service requirement but the deadline to complete the requirement should be toll during the term of the clerkship.
- If a participant enters an appearance for multiple hearings in one block, the participant must report on the most significant hearing.

## Implementation Committee Meeting Minutes: November 12, 2024

**Attendance:** Justice Scott Myren, Hon. Jane Wipf Pfeifle, Neil Fulton, John Richter, Eric Witcher, and Ann Mines Bailey

The Committee began by reviewing the proposed draft report, rules, and regulations.

The Committee discussed what burden of proof should be met for a waiver or extension to complete the public service requirement to issue. The Committee agreed that the burden should be on the applicant to demonstrate the need for waiver/extension. The Committee further agreed that a preponderance burden would be appropriate.

The Committee then discussed the deadlines set forth in proposed Regulations 2 and 3. The Committee agreed that Regulation 2 should be changed to a weekly deadline.

Next, the Committee revisited the length of the public service requirement. Mr. Richter proposed that a 3-year commitment should be imposed as it is more difficult to scale up to three years if we start with two years. Mr. Richter went on to provide that the first year of a new attorney's career at a public service entity is usually spent training. The second year those individuals are able to function on their own but still need a fair amount of supervision. By the third year, the individual is able to function independently.

Mr. Witcher appreciated that it could be difficult to increase the requirement to three years if you begin with two years, unless the Program was very popular; however, he was concerned with recruitment being more difficult with a three-year commitment.

Mr. Haggar indicated that a three-year commitment would aid in convincing his commission to participate as there could be a greater return on the investment.

Judge Wipf Pfeifle commented that if the individual is in public service to receive forgiveness of student loans, the length of the public service requirement will not make a difference. The goal would be to entice those individuals who may have not considered public service to try it.

Ms. Norberg indicated that an additional year of mentorship is beneficial. She voiced that two and one-half would be the best option in her opinion. She did not believe that two was too short but that three would probably be better.

Dean Fulton indicated that shortening it makes the Program more enticing to the student but lengthening it makes it more enticing to the host. He felt a two-year commitment makes it easier to recruit those who don't know that they will love public service.

Mr. Witcher also voiced that when his office hires individuals who want to try public service they usually leave within 1-2 years if public service is not a good fit. He did not care to be in a position where someone had decided it wasn't the right path for them but had to stay.

Mr. Haggar agreed with Mr. Witcher but felt that the decision to leave public service was after the third or fourth year.

Accordingly, the Committee decided that it would be best to alter the report to note the split amongst the members regarding the length of the public service commitment.

***Apparent Consensus Items:***

- An applicant must demonstrate by a preponderance of the evidence that a waiver or extension should issue.
- Regulation 2 should be altered to apply a weekly deadline.
- The Committee report should be revised to recognize a split among the Committee members regarding the length of the public service requirement.

THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE PROPOSED ) NOTICE OF RULES HEARING  
AMENDMENTS TO THE RULES OF )  
PROFESSIONAL CONDUCT RULE 1.8. ) NO. 157  
Conflict of Interest: Current )  
Clients, Specific Rules. Re:1.8(e); )  
ADOPTION OF A NEW RULE TO BE PART OF )  
SDCL 15-6-58; and )  
REPEAL OF SDCL 16-3-5.1 and ADOPTION )  
OF NEW RULES AT SDCL CHAPTER 16-3 )

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Petitions for the amendment of existing sections of the South Dakota Codified Laws and proposals for the adoption of new rules having been filed with the Court, and the Court having determined that the proposed amendments should be noticed for hearing, now therefore,

NOTICE IS HEREBY GIVEN THAT ON February 18, 2025, at 11:00 A.M., C.T., at the Courtroom of the Supreme Court in the Capitol Building, Pierre, South Dakota, the Court will consider the following:

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**1. Proposed Amendment to Rule 1.8(e) of The South Dakota Rules Of Professional Conduct**

**Rule 1.8. Conflict of Interest: Current Clients, Specific Rules**

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client; and
- (3) a lawyer representing an indigent client pro bono, a lawyer representing an indigent client pro bono through a nonprofit

legal services or public interest organization, and a lawyer representing an indigent client pro bono through a law school clinical or pro bono program may provide modest gifts to the client for food, lodging, transportation, and other expenses incidental to the representation. The lawyer:

- (i) may not promise, assure or imply the availability of such gifts prior to retention or as an inducement to continue the client-lawyer relationship after retention;
- (ii) may not seek or accept reimbursement from the client, a relative of the client or anyone affiliated with the client; and
- (iii) may not publicize or advertise a willingness to provide such gifts to prospective clients.

Financial assistance under this rule may be provided even if the representation is eligible for fees under a fee-shifting statute.

#### **Explanation for Proposal 1.**

The State Bar of South Dakota filed the proposed amendment via a recommendation from the State Bar of South Dakota Ethics Committee, and via a vote by State Bar members at the June 14, 2024, business meeting.

The ABA modified Rule 1.8(e) of the ABA Model Rules of Professional Conduct to add a third exception to the general rule that a lawyer shall not provide financial assistance to a client. The State Bar of South Dakota Ethics Committee agrees with the ABA modifications, and the Ethics Committee also recommends some additional variations from the ABA modification. The modifications clarify that the permitted financial assistance should be limited to only that which facilitates the representation to avoid ongoing financial or personal entanglement between the lawyer and the client.

Rule 1.8(e) of the South Dakota Rules of Professional Conduct contains limitations on the provision of financial assistance by lawyers. The current version of Rule 1.8(e) contains two exceptions. The proposed amendment would add a third exception to the current version of the rule. The proposed third exception would allow lawyers representing an indigent client pro bono to provide modest gifts and other expenses incidental to the representation with limitations upon those gifts or expenses. The proposed amendment is similar to the amendments made by the ABA, with minor variations.

The proposed amendment will add a third exception to the two existing exceptions found in Rule 1.8(e). The Comments to the proposed amendment describe the amendment and the Comments provide guidance for interpretation of the amendment. As previously stated, this proposed amendment is based upon the ABA Model Rules of Professional Conduct, and the proposed amendment should not directly affect any other current rules or statutes.

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**2. Proposed Adoption of a New Rule to Be Part of SDCL 15-6-58.**

A party directed by the court to prepare an order or judgment shall prepare a proposed order or judgment and provide it to all parties within five days of being directed.

Thereafter, the parties shall have five days in which to confer in an effort to agree upon the form of the proposed order or judgment. If all parties agree as to the form of the proposed order or judgment, or if no objection to the form of the order or judgment is timely received from any opposing party, then the party preparing the proposed order or judgment shall insert "NO OBJECTION AS TO FORM BY COUNSEL" in the lower left-hand corner of the final page of the proposed order or judgment. If any party timely objects to the form of the order or judgment and the parties are unable to reach an agreement as to form during such five-day period, then each party shall submit a proposed order or judgment to the court within two days after the expiration of the five-day confer period.

Any objections as to form are waived by a party's failure to timely submit a proposed order or judgment to the court as provided in this rule, unless the party's failure is excused by the court for good cause shown.

This procedure may be modified by the court.

**Explanation for Proposal 2.**

The proposed rule originated from the Practice Rules Revision Committee of the South Dakota State Bar. On June 14, 2024, the Bar membership voted during its Business Meeting to submit the proposed rule to the South Dakota Supreme Court for consideration.

Generally, the proposed rule provides a process and timeline by which orders and judgments are to be prepared by counsel for the prevailing party, considered by opposing counsel, and submitted to the court. The reasons for and benefits of the proposed rule include the following.

Currently, after a court instructs counsel for the prevailing party to prepare an order or judgment and to submit it to opposing counsel for approval as to form, various approaches are employed to secure the timely approval or objection of opposing counsel. If opposing counsel fails to timely respond, there is uncertainty as to how to proceed. The proposed rule will bring consistency and reliability to the process and thereby benefit practitioners and the court. By providing time periods for action, the proposed rule will likewise facilitate the efficient administration of justice by ensuring that orders and judgments are entered timely. The proposed rule will separately benefit the court. Presently, when a court receives a proposed order or judgment, it may not be clear whether it has been agreed upon as to form by counsel or whether the court should refrain from promptly signing the order or judgment because an objection may be forthcoming at some undetermined date. Under the proposed rule, if the proposed order or judgment includes the phrase "NO OBJECTION AS TO FORM BY COUNSEL," the court can have confidence in signing the order or judgment. Finally, if the contemplated order or judgment is complex or otherwise justifies lengthening the applicable time periods, the rule makes clear that the court may modify the procedure.

The proposed rule is not based upon a particular federal rule or statute. However, it is worth noting that the process contemplated by the proposed rule is generally in the nature of the procedure governing the submission of findings of fact and conclusions of law and objections thereto found in SDCL 15-6-52(a)—i.e., ten days in which to submit proposed findings of fact and conclusions of law and five days thereafter for opposing counsel to submit any objections or additional proposals.

Because there is not a federal rule or local federal rule which governs this process, it is not feasible to perform a comparison. However, certain other jurisdictions have adopted rules governing this process. Cf. *Ca St Civil Rules 3.1312(a)* ("*Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion must, within five days of the ruling, serve by any means authorized by law and reasonably calculated to ensure delivery to the other party or parties no later than the close of the next business day a proposed order for approval as conforming to the court's order. Within five days after service, the other party or*

*parties must notify the prevailing party as to whether or not the proposed order is so approved. \* \* \*).*

With the exception of a minor numbering change, the proposed rule should not directly affect any other existing rules or statutes. However, because it is suggested that the proposed rule be made part of SDCL 15-6-58, it is recommended that the existing rule found at SDCL 15-6-58<sup>1</sup> be renumbered SDCL 15-6-58(a) and the proposed rule numbered SDCL 15-6-58(b).

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**3. Proposed Repeal of SDCL 16-3-5.1 and Adoption of New Rules at SDCL chapter 16-3 as follows:**

1. **Proposed Repeal of SDCL 16-3-5.1.** Court rules--Filing of notice of rule changes proposed by Supreme Court--Publication hearing--Combined notices--Rules governing internal operation effective on filing.

~~Any new rule, amendment, or repeal of existing rules or statutes relating to the administration of the courts, the number and composition of circuits and judges assigned to the circuits, to pleading, practice, or procedure, or to the admission, disbarment, discipline, and reinstatement of attorneys to practice the profession of law may be adopted by the Supreme Court.~~

~~A proposed new rule, amendment, or repeal shall be filed in the office of the clerk of the Supreme Court with deletions shown by strike-throughs and additions shown by underscore. The proposed new rule, amendment, or repeal shall include a discussion of the proposed change and:~~

~~(1) The identity of the proponent or proponents of the change;~~

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<sup>1</sup> SDCL 15-6-58 provides as follows:

Subject to the provisions of § 15-6-54(b), judgment upon the jury verdict or upon the decision of the court, shall be promptly rendered. Every judgment shall be set forth on a separate document. A judgment or an order becomes complete and effective when reduced to writing, signed by the court or judge, attested by the clerk and filed in the clerk's office. The clerk, immediately after the filing of any judgment, shall docket the same as provided by law. Judgments of divorce pursuant to chapter 25-4 and judgments of foreclosure pursuant to chapter 21-47 or chapter 21-48 shall be docketed by the notation "see file." Entry of the judgment shall not be delayed for the taxing of costs.



- ~~(2) A detailed explanation of the change and the reasons for the change;~~
- ~~(3) An analysis of the state or federal rule or statute that the change is based upon, if any;~~
- ~~(4) A comparison of the change with federal rules or local federal rules on the same subject, if any, and an explanation of any differences, if any, and;~~
- ~~(5) An analysis of how the change affects existing rules or statutes.~~

~~The clerk of the Supreme Court shall give thirty days' notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System's website at <http://www.ujis.sd.gov/> or at the State Bar of South Dakota's website at <http://www.sdbar.org/>, or such other notice as the Court may order. Notice shall include a copy of the proposed rule and the explanation of proposal described above in (1) (5). Any member of the State Bar of South Dakota may request notification of an intention to adopt, amend, or repeal rules through first class mail by contacting the clerk of the Supreme Court. The notice shall fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules.~~

~~Notice of adoption of several rules, amendments, or repeals of rules may be given at one time and in one notice.~~

~~All other rules adopted by the Supreme Court concerning its internal operations under its constitutional or statutory rule-making power shall be filed with the clerk of the Supreme Court and unless otherwise ordered shall become effective when so filed without further notice.~~

2. Proposed Adoption of a New Rule at SDCL 16-3-5.2. Notice request for Supreme Court rule proposal—Court discretion to decline to consider proposal.

At the direction of the Supreme Court, the clerk of the Supreme Court shall issue a notice requesting any proposal for a new rule, amendment, or repeal of an existing rule relating to the administration of the courts, the number and composition of circuits and judges assigned to the circuits, to pleading, practice, or procedure, or to the admission, disbarment, discipline, and reinstatement of attorneys to the practice of law. The clerk shall post the notice at the Unified Judicial System's website at [ujis.sd.gov](http://ujis.sd.gov) or at the State Bar of South Dakota's website at [statebarofsouthdakota.com](http://statebarofsouthdakota.com), or such other posting as the Court may direct.

The notice must fix a time by which such proposal must be received in the office of the clerk to be considered by the Court.

The Court may, in its discretion, decline to consider any rule received pursuant to this section.

3. Proposed Adoption of a New Rule at SDCL 16-3-5.3. Rule proposal requirements.

Any proposal for a new rule, amendment, or repeal of an existing Supreme Court rule must show deletions by strikethroughs and additions shown by underscore. The proposal must include a discussion of the proposed change and:

- (1) The identity of the proponent or proponents of the change;
- (2) A detailed explanation of the change and the reasons for the change;
- (3) An analysis of the state or federal rule or statute that the change is based upon, if any;
- (4) A comparison of the change with federal rules or local federal rules on the same subject, if any, and an explanation of any differences, if any; and
- (5) An analysis of how the change affects existing rules or statutes.

4. Proposed Adoption of a New Rule at SDCL 16-3-5.4. Review of rule proposal for form, style, and clarity.

Upon receipt of a proposal submitted pursuant to § 16-3-5.2, the clerk of the Supreme Court shall immediately forward the proposal to the chief of legal research. The chief shall review each proposal for form, style, and clarity in compliance with the rule drafting standards established by the Court and posted at the Unified Judicial System's website at ujs.sd.gov. Within twenty days of receipt of the proposal in the office of the clerk, the clerk shall return the chief's form, style, and clarity suggestions to the proponent.

For purposes of this section and §§ 16-3-5.5, 16-3-5.7, and 16-3-5.9, the term, chief of legal research, means an officer of the court designated to manage the work of staff attorneys employed by the Supreme Court.

5. Proposed Adoption of a New Rule at SDCL 16-3-5.5. Proponent response to suggestions—Proponent fails to timely respond to suggestions —No suggestions.

The proponent may accept or reject the chief of legal research's suggestions provided pursuant to § 16-3-5.4. Within ten workdays of service of the suggestions, the proponent shall submit a final proposal to the clerk of the Supreme Court meeting

the requirements of § 16-3-5.3. If the proponent fails to submit a final proposal within ten workdays of service of the chief's suggestions, the clerk shall provide notice to the proponent that a final draft was not timely submitted, and that the proposal received pursuant to § 16-3-5.2 is considered final.

If the chief does not recommend any form, style, or clarity suggestions, the clerk shall provide notice to the proponent that no changes were recommended, and that the proposal as submitted pursuant to § 16-3-5.2 is considered final.

6. Proposed Adoption of a New Rule at SDCL 16-3-5.6. Notice and hearing of final rule proposals.

Following the procedure established in §§ 16-3-5.2 to 16-3-5.5, inclusive, the clerk of the Supreme Court shall give thirty days' notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System's website at ujs.sd.gov or at the State Bar of South Dakota's website at statebarofsouthdakota.com, or such other posting as the Court may direct.

The notice must include a copy of the final proposal pursuant to § 16-3-5.5. The notice must fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules. Notice of adoption of several rules, amendments, or repeals may be given at one time and in one notice.

7. Proposed Adoption of a New Rule at SDCL 16-3-5.7. Court to receive copies of initial proposal, chief's suggestions, and final proposals prior to hearing.

Prior to the hearing set by § 16-3-5.6, the clerk of the Supreme Court shall provide the Supreme Court a copy of each proposal submitted pursuant to § 16-3-5.2, the chief of legal research's suggestions for each proposal pursuant to § 16-3-5.4, and each final proposal as established by § 16-3-5.5.

8. Proposed Adoption of a New Rule at SDCL 16-3-5.8. Rules governing internal operation effective on filing.

All rules adopted by the Supreme Court concerning its internal operations under its constitutional or statutory rule-making power must be filed with the clerk of the Supreme Court and become effective when filed without further notice, unless otherwise ordered.

9. Proposed Adoption of a New Rule at SDCL 16-3-5.9. Court may issue notice of hearing on proposed rules changes without issuing notice requesting rules proposal.

The Supreme Court may, in its discretion, direct the clerk of the Supreme Court to give thirty days' notice of an intention to adopt, amend, or repeal rules by electronic mail notification to members of the State Bar of South Dakota, by posting notice at the Unified Judicial System's website at ujs.sd.gov or at the State Bar of South Dakota's website at statebarofsouthdakota.com, or such other posting as the Court may direct without issuing the notice requesting proposal provided by § 16-3-5.2.

The notice must include a copy of the proposal in the form required by § 16-3-5.3. The notice must fix a time and place when any person interested may appear and be heard with reference to the adoption, amendment, or repeal of rules. Notice of adoption of several rules, amendments, or repeals may be given at one time and in one notice. Prior to issuing notice pursuant to this section, the proposal may be reviewed for form, style, and clarity by the chief of legal research within a time directed by the Court.

**Explanation for Proposal 3.**

Proposal 3 is proposed by the State Court Administrator's Office. The proposal would repeal SDCL 16-3-5.1, the current rule on the filing, notice, and hearing of proposed rule changes. New rules would institute a revised process for the filing, notice, and hearing of rules to accommodate review of proposed rules for style, form, and clarity prior to hearing. Many of the requirements of SDCL 16-3-5.1 are retained in this revised process, including the discussion of proposed changes. The intent is to put rule proponents and the Court on notice of potential style and form concerns, create a formalized process for review, and make the style and form of Court rules more consistent. The change is not based on any state or federal rules or statutes, and it should not affect any existing rules or statutes.

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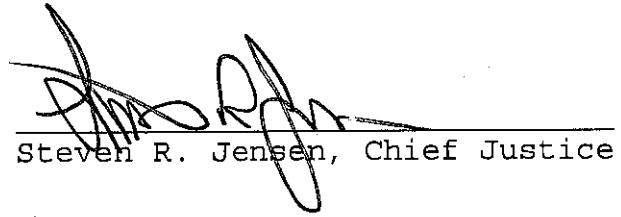
Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and filed with the Clerk of the Supreme Court no later than February 7, 2025. Subsequent to the hearing, the Court may reject or adopt the proposed amendments of any rule germane to the subject thereof.

Notice of Rules Hearing No. 157 - February 18, 2025

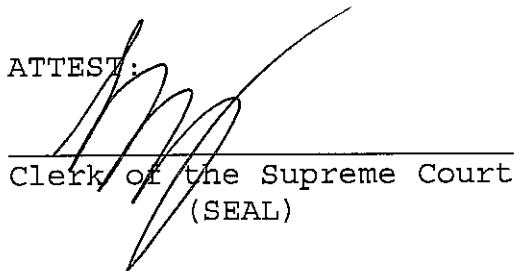
Notice of this hearing shall be made to the members of the State Bar by electronic mail notification, by posting notice at the Unified Judicial System's website at <https://uj.s.sd.gov/Supreme Court/Hearings.aspx> or the State Bar of South Dakota's website <https://www.statebarofsouthdakota.com>.

DATED at Pierre, South Dakota this 10th day of January, 2025.

BY THE COURT:

  
\_\_\_\_\_  
Steven R. Jensen, Chief Justice

ATTEST:

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

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN 10 2025

  
Clerk

# *In Memoriam*



John J Simpson  
September 2, 1931 –  
December 27, 2024

John Jerome Simpson, 93, Hot Springs, passed away on Dec. 27, 2024, at the South Dakota State Veterans Home, surrounded by members of his loving family.

John was born on Sept. 2, 1931, in Madison, S.D. to George and Kathryn Simpson, the youngest of six brothers. From early on, family members noted his quick mind and a contrarian nature. He learned to how argue from his parents and older brothers, who valued this skill. When just a little boy, he received a master class in storytelling at the knee of his grandfather, Casper Fergen, who homesteaded in South Dakota. He attended St. Thomas Catholic School and Madison High School, where he was a member of the 1949 Madison debate team, which won the state high school debate championship.

After high school, John studied history at St. John's University in Collegeville, Minn., and the University of South Dakota, graduating in 1953. That same year, he followed in the footsteps of four of his brothers who served in WWII by enlisting in the Army, serving as a telegraph operator for the 370th Armored Infantry Battalion in Germany. His experiences overseas affected him deeply and inspired his daughter to also serve in the military. After his service, John used the GI Bill to attend law school at the University of South Dakota, graduating in 1958.

In 1958, John began work as an Assistant Attorney General in Pierre. In 1960, he moved to Gregory, to work with Dudley Herman in his private practice and live in prime hunting territory. In 1962, he opened his own practice in Winner, with the help of attorney Roscoe Knodell, who also helped him get elected Tripp County States Attorney in 1965 and 1967. John practiced law in Winner for over 50 years. He especially enjoyed representing juveniles and criminal defendants as a court-appointed lawyer. He had a soft spot for underdogs and often worked pro bono. He also taught

gifted education at St. Francis Indian School and served as a Tribal Judge for the Lower Brule Tribe. In his later years he researched and wrote three books on the history of Western South Dakota.

He loved reading (mostly history), watching sports, hunting pheasants with his labrador retrievers, planting huge gardens (especially tomatoes) and spending time with (and playing practical jokes on) friends such as "Pizza Tom" Falencik, Mike Winckler and Leo English. He enjoyed debating the merits of his cases and politics with colleagues like Stan Whiting and Mick Grossenburg at Sargent's Cafe.

In 1967, John married Freya Meseck, and together they raised Mike, Kristina and Bob. He was a fantastic father. He never missed a game or school event. He coached sports teams. He used family dinners to teach his kids how to debate current events. He took his kids fishing and hunting and camping. His home was filled with hundreds of books, which he encouraged his kids to read and then discuss with him. When the kids left home, he kept in touch with regular phone calls, letters, and visits, always encouraging his kids to "keep going" through adversity. He inspired his kids by his constant efforts to improve himself and the world around him. He often told his kids to enjoy the little things in life and "make the journey something to enjoy in itself."

Despite his many activities and interests, he was the world's greatest dad to us.

When grandchildren entered the picture, John gave them the same love and attention he had given his kids. He was now "Grampy J"-outspoken, entertaining and a lot of fun. He beat them at cribbage, attended their plays, games and concerts, learned about iPhones and algorithms, and continued to "enjoy the journey." He had a special relationship with each of them. He kept up to date on their latest accomplishments and whereabouts. Just like his grandpa, he made the past come alive through stories. As the grandkids said, "Grampy J is iconic."

In 2014, at the age of 83, John's health declined, and he moved to the State Veterans Home in Hot Springs. At that time, he could barely walk and there was serious concern whether he would make it much longer. In true Grampy J fashion, he vowed to "walk out of here," which seemed very unlikely at the time. A year later, after

much hard work, he accomplished his goal. In 2015, he moved to Holiday Hills Estates in Rapid City, where he made many new friends (and listeners) and grew crops of tomatoes at the Canyon Lake Senior Center garden plot. In 2021, after a fall, his health declined, and he returned to the Veterans Home. At the age of 92 and in even worse health, he lobbied the Veterans Home to let him put raised beds in his room. In a few months, his east-facing window was filled with tomato vines, and soon he was sharing cherry tomatoes with his caregivers. Even as the end of his life drew near and his health worsened, he enjoyed the little things: the yellow blooms on a tomato plant, the sound of geese flying south, or the taste of some special cheese ordered off the internet. His last years at the Veterans Home were filled with many acts of kindness and love. The care he received at the Veterans Home was truly remarkable.

He is survived by his three children and their spouses, Mike (Marinell) Simpson of Rapid City, Kristina (Ken) Spearman of Avila Beach, Calif., and Bob (Johanna) Simpson of Sioux Falls. He also is survived by nine grandchildren: Scott (Joy) Thornburg, Rapid City, Jake Simpson, Washington, DC, Danny Thornburg, Rapid City, Shila Simpson, Flagstaff, Ariz., Halley Thornburg, Forest Lake, Minn., Jessa Simpson, Missoula, Mont., Jack Simpson, Los Angeles, Calif., and Alana and Zara Spearman, Avila Beach, Calif. He was preceded in death by his parents, his five brothers (Elwood, Jim, Gene, Vincent, and Father Maurus), his daughter-in-law Lori Simpson and granddaughter Macy Simpson.

John's legacy will live on through his children, grandchildren, friends and all who crossed his path. He truly "made the journey something to enjoy in itself." His death leaves a void that can never be filled, but his love, intelligence and sense of humor will continue to inspire all who knew him.

Funeral services are pending and will be announced.



Lance Elton  
Shurtleff

Lance Elton Shurtleff passed away on December 31, 2024, at the age of 47. Born in Buffalo, Wyoming,

Lance was the beloved son of Kent Shurtleff and the late Minnie (née Roundtree). He carried the values of kindness, determination, and a deep sense of family that were instilled in him during his upbringing.

Lance graduated with his Bachelor of Arts degree from the University of Wyoming in 1999. He went on to attend the University of Wyoming College of Law, where he earned his Juris Doctor in 2002. Lance built a distinguished legal career and became licensed to practice in Colorado, Wyoming, North Dakota and South Dakota. He was a partner at the national law firm of Dinsmore & Shohl LLP, where he was known not only for his expertise and professionalism but also for the warmth and humor he brought to his work and colleagues.

Lance is survived by his devoted wife of 21 years, Kerri, and their cherished daughters, Lillian and Mila. He was an incredible father who brought light and love into their lives every day. Lance was steadfastly present for every milestone, from birthdays to school events, always making his daughters feel seen and celebrated. He shared a special bond with each of them, from skiing the snowy slopes of Winter Park with Lilly every winter to spending countless hours building intricate Lego creations with Mila during weekends.

To say Lance enjoyed music would be an understatement. Music was a cornerstone of his life, filling their home with joy and connection. His vast collection of albums reflected his diverse tastes and passion, and he had a knack for sharing his favorite songs with those he loved. Live music brought him even greater happiness, and he often attended concerts with family and friends. He never missed a Denver show of his favorite artists, including the Black Crowes, Jason Isbell, and the Drive-By Truckers. These moments created unforgettable memories of shared laughter and joy.

Lance is also survived by his father, Kent; his brother, Gavin (Anna); and his nephews, Clancy Lane and Gunner Wade. He had a special relationship with his extended family, including his many aunts, uncles, and cousins, who enriched his life with love and connection. He is preceded in death by his mother, Minnie, and his uncles, Clayton Roundtree and Mike McGrath.

A reception to celebrate Lance's life will be held in the spring. Family and friends will gather to honor his legacy, share stories, and remember the remarkable man he was.

Anyone who wishes to honor Lance's name is requested to make a contribution to his children's college funds. All contributions will be transferred into their 529 College Savings Plan. Contributions can be made in the name of either child, in care of their mom, Kerri Anderson, P.O Box 2373, Littleton, CO 80161.

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# How to Overcome the Winter Blues and Find Wellness

By:  
**Mark Bassingthwaighte, Risk  
Manager**



Being an attorney is hard enough; but for some, it's even harder during the winter months. In part this can be due to the reduced daylight, colder temps, and the stress that the holiday season can bring. So, let me be the first to acknowledge that when I was living in Montana it was always harder for me to eat right, keep up with my exercise regimen, and get enough sunshine during the cold and dark winter months. The good news is that it needn't be this way.

Truth be told, years ago one of my responses to the darkness of winter was to take on a low mood that brought about a drop in my energy level. Over time I learned that the absence of sunlight was part of the reason this would happen. If your experience with winter is similar, recognize the situation for what it is and do something about it. You could invest in light therapy lamps that mimic natural sunlight, start to take short breaks during your workday to get outside to take in a little sun, or make sure your workspace is near a window in order to maximize your exposure to natural light.

For me things got really hard once the COVID lockdowns became part of our day-to-day lives because the lockdowns further exacerbated the "keeping up with my exercise regimen" problem. This situation was what got me to the point where I could finally say to myself

enough is enough, no more excuses.

If you find yourself making excuses regarding exercise, work to change that. The more active you become, the easier it will be to beat the winter blues. I started with cycling and have since added in tennis. What could it be for you? I know that making a change like this can be hard. Realize that it doesn't need to be an all or nothing proposition, however. Just start. You might turn one of those short outside breaks mentioned above into a longer and longer walk or team up with one of your support systems and do something together. For example, play pickle ball with your spouse or go to the gym once a week with a friend. And always keep in mind Newton's first law of motion. A body at rest tends to stay at rest, and a body in motion tends to stay in motion, unless acted on by a net external force. So, once you start, do all you can to make sure your mind doesn't become an external force that prevents your body from staying in motion!

Now, it's time for a confession. I don't think I'll ever understand the mindfulness movement. Perhaps it's because I apparently lack the cognitive skill of being able to create and sustain a state of meta-awareness on the contents of my own mind in the present moment without conceptual reification. Man is that a mouth full!

Regardless, I have come to believe in the importance of

mindful eating. Trust me, I know what mindless eating is like and what it can do to one's body. Comfort food is called comfort food for a reason, and it is so easy to embrace all that goodness, particularly when one is under stress or feeling down – a common response to the cold months of winter, the stress of the holiday season, the pressure of the end of the year workloads, and the list goes on.

What got me there was coming across a book a few years ago called “Wheat Belly.” Suffice it to say, that title described me to a T! Here again, I finally was able to realize that I needed to make a change and for whatever reason reading that book created my opportunity. Now, don't get me wrong, I didn't wake up the next morning forever more swearing off everything that had gluten in it. I simply decided to start to be mindful (think intentional) about my eating going forward. Protein became more of a go-to choice and portions became more reasonable. I slowly learned to replace bad carbs with good carbs and bad fats with good fats. Yes, I still enjoy the comfort foods now and again. I just don't graze anymore, because I finally woke up to the reality that my body isn't a garbage can. All this happened because I was open to finding my opportunity and I have felt better ever since. If unhealthy mindless eating happens to be a struggle for you as well, particularly doing the winter months, be open to finding your opportunity. It's out there. All you need to do is look for it.

I could continue to share stories, stories that underscore the importance of social connections, getting a good

night's rest, setting personal boundaries, nurturing support systems, and again, the list goes on; but my hope is these few have been enough to hit the mark. The point I am really trying to make is this. Each of us is on our own journey, a journey that will have all kinds of unique twists and turns. During my own journey, one of the things I learned was the importance of recognizing and taking advantage of the opportunities each twist and turn represented. The challenge was in daring to take advantage of the change opportunities life set before me. That was the hard part.

Now, hear me clearly. I'm not saying that I did all the work alone, never needing any help. I can assure you at times I most certainly did. What I am saying is that every decision to change had to start with me. I had to decide to take that first small step each and every time. What I found was that once I started to move, keeping the momentum up wasn't as hard as I thought it would be. The same can be true for you. Will the path of change always be smooth and problem free? Nope. I have and will continue to stumble from time to time. All I can say is that's life. When it happens, see it for what it is and just keep moving forward because finding wellness happens one step at a time.



Authored by: Mark Bassingthwaighte, ALPS 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.

# Career Center

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## The South Dakota Supreme Court and seven Circuit Courts

The South Dakota Supreme Court and seven Circuit Courts are recruiting for 2026-2027 Law Clerk applicants. If you are aware of any law students, either in-state or out-of-state, who may be interested in a one-year law clerk opening, please have them view the law clerk announcements online at <https://uj.s.sd.gov/Careers/WorkForUs.aspx>. There are currently law clerk openings in various locations, such as Pierre, Sioux Falls, Mitchell, Aberdeen, Brookings, Deadwood, and Rapid City.

- Supreme Court Law Clerk application deadline: May 30, 2025
- Circuit Court Law Clerk application deadline: May 30, 2025

This is a great opportunity to work for the South Dakota Supreme Court or South Dakota Circuit Courts. If you have any questions, please contact the Unified Judicial System Human Resources Office at 605-773-4884.

## Managing Attorney

East River Legal Services (ERLS) is hiring a Managing Attorney for our Sioux Falls office, with experience supervising attorneys and support staff and building a cohesive team. Additionally, prior experience in one or more areas (Family, Housing, Consumer, Public Benefits) in which ERLS provides representation is highly sought after. ERLS is a non-profit law firm serving low-income individuals in the 33 eastern South Dakota counties.

East River Legal Services exists to better the lives of the over 52,000 people living in poverty in eastern South Dakota. We prioritize services to our most vulnerable citizens, including our community's Veterans, older Americans (60+), people with disabilities, victims of crime, and all those facing financial insecurity.

Under the supervision of the Executive Director, the Managing Attorney provides high quality legal services to low-income individuals. The Managing Attorney will supervise, evaluate, and handle personnel-related matters for staff in the legal department. They also manage and monitor progress on implementing the program's mission, priorities, principles of advocacy, and various work plans. The Managing Attorney also maintains an active caseload and/or other advocacy.

Duties and Responsibilities:

### Client Representation and Advocacy:

- Provide and ensure high quality legal representation to individuals and groups in accordance with East River Legal Services (ERLS) standards of practice and supervision and the Rules of Professional Conduct. This includes interviewing clients, conducting research, performing factual investigation, preparing pleadings, negotiating case resolutions, executing discovery and motion practice, and representing clients in court and administrative hearings;
- Provide counseling, advice, and other brief services and referrals, as appropriate;
- Co-counsel with other Attorneys and work with Paralegals;
- Represent clients and client groups in litigation,

administrative advocacy, and other advocacy forums;

- Engage in appellate work, complex and major litigation, and other special projects;
- Develop and implement litigation and/or advocacy strategies to address systemic legal problems;
- Analyze and comment on pending legislation and regulations consistent with the requirements of all funding sources.

#### **Leadership:**

- Manage legal work in the office, including monitoring and regulating workloads;
- Supervise employees with ongoing feedback and performance reviews;
- Manage office systems such as conflict checks, filing, and workflow;
- Foster positive work relationships and promote cooperation within the program;
- Monitor case work of Attorneys to ensure that staff are operating efficiently and producing quality legal work;
- Monitor the balance of time spent by Attorneys on cases involving direct services to individual clients and to cases involving law reform, policy advocacy, or other legal work benefiting the larger population of low-income clients;
- Participate in management and administrative decision-making at ERLS involving personnel issues and program policy and help to implement such decisions;
- Provide supervision and evaluation of support staff assigned to the legal department, in coordination with the Executive Director;
- Supervise and enforce ERLS policies and procedures;
- Convey staff concerns about relevant office issues to management staff;
- Keep program staff apprised of important issues and new developments in the community;
- Keep program staff apprised of new developments within the substantive legal areas in which the Attorney practices (updates via written communication and/or training);
- Engage in local, state, regional and/or national legal services and the advocacy community.

#### **Community Work:**

- Participate in other activities related to poverty law including community education, outreach, writing of publishable materials, and permissible legislative

and administrative advocacy, in accordance with Legal Aid policy and applicable laws and regulations;

- Participate in Legal Aid and state-wide task forces and work groups;
- Participate in bar activities and establish effective working relationships with the bar;
- Ensure Legal Aid develops and maintains relationships with partner organizations, including the private bar and judiciary, other non-profits, grass roots organizations, government agencies and elected officials.

#### **Other:**

- Compliance with LSC, VOCA, and other funding agencies' rules and regulations;
- Participate in training activities as trainee or trainer for professional growth;
- Report to Legal Aid management any bar association grievances, disciplinary proceedings, or malpractice claims involving their practice and cooperation with Legal Aid's liability insurers;
- Attend program meetings and ensure office meetings are efficient and productive.

#### **Knowledge, Skills, & Abilities:**

- Juris Doctor (JD);
- License to practice law in South Dakota;
- Experience in a legal services/non-profit environment is preferred, but not required;
- Working knowledge of recent developments in state and federal cases, statutory, and regulatory law related to the interests of Legal Aid's clients;
- Excellent organizational, cross-cultural communication skills;
- Proficient at the use of technology including, but not limited to: word processing, spreadsheets, internet-based programs, and computer-based legal research;
- Excellent written and communication skills;
- Ability to work constructively with others;
- Excellent management and leadership skills;
- Ability to work effectively as part of a team and independently;
- Able to establish effective working relationships with a variety of individuals;
- Organized, able to prioritize work, plan and problem-solve, meet deadlines, and work well under pressure;
- Skills and experience in interacting with persons of various social, racial, cultural, economic, and

educational backgrounds;

- The ability to speak more than one language is a plus, but not required.

**Classification:**

Classified as an exempt employee.

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Benefits include 14 paid holidays plus a birthday holiday, vacation leave, sick leave, health insurance, dental insurance, vision insurance, life Insurance, AD&D Insurance, IRA, and travel reimbursement.

ERLS' Sioux Falls office is open Monday-Friday from 8am-5pm. We close from 12:00pm-1:00pm for lunch.

**To Apply:**

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

Melissa Frericks  
Director of Operations  
East River Legal Services  
335 North Main Avenue, Suite #200  
Sioux Falls, SD 57104  
[Melissa@erlservices.org](mailto:Melissa@erlservices.org)

**Submission Deadline:**

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South Dakota offers reciprocity for the following surrounding states: Minnesota, Iowa, Nebraska, North Dakota, Missouri, Kansas, Wisconsin, and Colorado. Want to relocate to South Dakota for this position? We would love to have you! Check to see if South Dakota offers reciprocity for your state at: <https://barreciprocity.com/south-dakota-bar-reciprocity/>

**East River Legal Services is an Equal Opportunity Employer. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.**

## Loos, Sabers & Smith LLP

Loos, Sabers & Smith LLP, is seeking to hire an associate attorney. The practice area is litigation, with particular needs in the area of domestic relations. Two-plus years of experience is preferred, but not required. Strong writing and advocacy skills are a must. Confidential inquiries can be sent to Sara Owens at the address below or via email to [Sara@clslawyers.net](mailto:Sara@clslawyers.net).

2834 Jackson Blvd, Ste 201  
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## Legal Director

The ACLU's National Chapter of North Dakota, South Dakota, and Wyoming seeks applicants for the full-time position of **Legal Director** in Sioux Falls, SD or Fargo, ND. This is a hybrid role that has in-office requirements of two (2) days per week or eight (8) days per month.

Apply here: <https://www.aclu.org/careers/apply/?job=7770646002&type=national>

## WHAT YOU'LL DO

Reporting to the Executive Director of the Dakotas/Wyoming Chapter, the Legal Director will lead and expand the ACLU legal program across South Dakota, North Dakota, and Wyoming, including developing and litigating high-impact cases and managing the legal department. At the direction of the Executive Director, the Legal Director will be responsible for crafting and executing legal strategy that advances the ACLU of SD/ND/WY mission, as well as handling the day-to-day management of legal staff and cooperating attorneys. As a critical member of the office's senior leadership team, the Legal Director will provide strategic leadership on both litigation and non-litigation legal advocacy in priority areas of criminal justice, immigrants' rights, Indigenous justice, LGBTQ and Two Spirit equality, reproductive rights, and voting rights, as well as other areas including First Amendment rights.

## YOUR DAY TO DAY

We are seeking a dynamic and strategic Legal Director who will lead all aspects of litigation and serve as a key senior leader within our Chapter. The ideal candidate will demonstrate a strong commitment to legal advocacy and strategic leadership, contributing significantly to the



Chapter's culture, management, and overall direction. Key responsibilities and qualifications include:

**Strategic Leadership:** Provide leadership in both litigation and non-litigation legal advocacy, playing a crucial role in shaping the Chapter's legal strategies and broader organizational goals

**Team Management and Collaboration:** Proven ability to manage and inspire high-performing legal staff and teams. Coordinate effectively with advocacy, communications, and development teams to ensure cohesive, cross-functional success

- Manage, supervise, and direct a staff attorney and occasionally law student and undergraduate interns; handle recruiting and hiring of additional legal staff (budget permitting); and foster an organizational culture within the legal program that encourages staff development through internal and external resources.
- Coordinate and collaborate with other ACLU SD/ND/WY departments on cross-departmental projects, ensuring integrated – and maximally effective – outcomes. Serve as a resource on legal matters for staff, partners, and other ACLU of SD/ND/WY constituents.
- Direct Litigation Expertise: Engage in direct litigation efforts and manage cases demonstrating self-sufficiency and expertise in legal proceedings.
- Maintain and continue to develop our impact litigation and advocacy docket, which advances the ACLU of SD/ND/WY strategic priorities and responds to civil rights and civil liberties threats.
- Manage all aspects of the litigation program, including coordinating the selection of cases, overseeing the investigation and development of cases before commencing litigation; building litigation teams with in-house lawyers, private lawyers, and nonprofit partners; directly engaging in litigation in federal and state court; and overseeing ongoing litigation.
- Maintain an individual caseload of developing and active litigation and amicus briefs, including overseeing and directing pre-litigation investigations, discovery, motion practice, brief writing, hearings and trials, and appellate work.
- Work with staff attorneys, cooperating attorneys, and co-counsel (including but not limited to attorneys from the ACLU's National Legal Department) on all work within the ACLU SD/ND/WY legal program.

**Community Engagement:** Develop and nurture strong relationships with community leaders, members, and organizations, both within legal circles and the broader community

- Broaden and deepen relationships with volunteer attorneys and other lawyers in the community to ensure the visibility of the ACLU SD/ND/WY in the legal community (and beyond) and to help build our legal docket, including by engaging lawyers in pre-litigation investigations, amicus briefs, litigation, and other ACLU SD/ND/WY activities.
- Develop relationships with stakeholders such as community members, allied organizations, coalitions, and community leaders in SD/ND/WY who may be impacted by current and future litigation.

**Public Representation:** Act as a prominent spokesperson for the Chapter, representing the organization in media appearances, strategic public forums, community events, donor briefings, and other public engagements

#### **FUTURE ACLU'ERS WILL**

- Be committed to advancing the mission of the ACLU
- Center and embed the principles of equity, inclusion and belonging in their work by demonstrating commitment to diversity with an approach that respects and values multiple perspectives
- Be committed to work collaboratively and respectfully toward resolving obstacles and conflicts

#### **WHAT YOU'LL BRING**

- Significant years of trial and appellate litigation experience in state and federal courts, including class actions, with a strong interest and experience in constitutional law and civil rights
- Proven ability to effectively manage legal staff, run diverse and high-performing teams, and savviness in both direct and indirect people leadership with the ability to work effectively in coordination with non-legal teams engaged in advocacy, communications, and development
- Admitted to the South Dakota, North Dakota, or Wyoming Bar or eligible for admission on motion
- Excellent organizational skills and a creative and strategic approach to problem-solving and litigation
- Creative, persuasive, results-oriented, self-starting, persevering, and willing to learn

- Ability to engage in litigation with minimal support staff
- High ethical standards and genuine interest in developing authentic relationships
- Team player who inspires collaboration, lifts the work of others, and maintains balance and perspective with patience

## COMPENSATION

The ACLU is committed to equity, transparency, and clarity in pay. Consistent with our compensation philosophy, there is a set salary for each role based on geographic work location. The annual salary for this position is \$116,756 (Level E), reflecting the salary of a position based in Sioux Falls, SD. Salaries are subject to a regional pay adjustment if authorization is granted to work outside of the location listed in this posting.

For details on our pay structure, please visit: [https://www.aclu.org/careers/ACLU\\_Geographic\\_Pay\\_Structure-July\\_2024.pdf](https://www.aclu.org/careers/ACLU_Geographic_Pay_Structure-July_2024.pdf)

## WHY THE ACLU

For over 100 years, the ACLU has worked to defend and preserve the individual rights and liberties guaranteed by the Constitution and laws of the United States. Whether it's ending mass incarceration, achieving full equality for the LGBTQ+ community, establishing new privacy protections for our digital age, or preserving the right to vote or the right to have an abortion, the ACLU takes up the toughest civil liberties cases and issues to defend all people.

We know that great people make a great organization. We value our people and know that what we offer is essential not just their work, but to their overall well-being.

At the ACLU, we offer a broad range of benefits, which include:

- Time away to focus on the things that matter with a generous paid time-off policy
- Focus on your well-being with comprehensive healthcare benefits (including medical, dental and vision coverage, parental leave, gender affirming care & fertility treatment)
- Plan for your retirement with 401k plan and employer match
- We support employee growth and development through annual professional development funds, internal professional development programs and workshops

## OUR COMMITMENT TO ACCESSIBILITY, EQUITY, DIVERSITY & INCLUSION

Accessibility, equity, diversity and inclusion are core values of the ACLU and central to our work to advance liberty, equality, and justice for all. For us diversity, equity, accessibility, and inclusion are not just check-the-box activities, but a chance for us to make long-term meaningful change. We are a community committed to learning and growth, humility and grace, transparency and accountability. We believe in a collective responsibility to create a culture of belonging for all people within our organization – one that respects and embraces difference; treats everyone equitably; and empowers our colleagues to do the best work possible. We are as committed to anti-oppression, anti-ableism, and anti-racism internally as we are externally. Because whether we're in the courts or in the office, we believe 'We the People' means all of us.

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***The ACLU is committed to providing reasonable accommodation to individuals with disabilities. If you are a qualified individual with a disability and need assistance applying online, please email benefits.hrdept@aclu.org. If you are selected for an interview, you will receive additional information regarding how to request an accommodation for the interview process.***

## Request for Proposals: City Attorney Services

The City of Brookings, a Home Rule Municipality, submits this Request for Proposals (RFP) to qualified law firms or individual attorneys to provide legal services, including acting as City Attorney, on a contracted basis. Proposals must address the qualifications, experience, and approach to fulfilling the City's legal needs. To be considered, proposals must address each of the points requested in the supporting document (located at: <https://www.cityofbrookings-sd.gov/Bids.aspx>), including rates and fees. Rates and fees will be considered based on qualifications after initial consideration.

The person serving as City Attorney must be a licensed, practicing attorney in good standing of the State Bar of South Dakota and a member of the South Dakota Municipal Attorneys Association. The City Attorney may be associated with a firm. However, one individual will be identified for this position or to oversee this position and will be accountable for the scope of services, notwithstanding the delegation of responsibilities within a firm.

Questions regarding this RFP should be directed to Paul Briseno, City Manager or Steve Britzman, City Attorney, at 605-692-6281 or [pbriseno@cityofbrookings-sd.gov](mailto:pbriseno@cityofbrookings-sd.gov) and [britzmanlaw@brookings.net](mailto:britzmanlaw@brookings.net).

Submit proposals electronically or by hard copy by 4:00 p.m. on February 13, 2025, to: City Manager Paul Briseno  
City of Brookings  
520 3rd Street, Suite 230  
Brookings, SD 57006  
Email: [pbriseno@cityofbrookings-sd.gov](mailto:pbriseno@cityofbrookings-sd.gov)

## Major Crimes Deputy State's Attorney, Pennington County

X Full-Time X Exempt

### POSITION OBJECTIVE:

The Major Crimes Prosecutor assumes a pivotal role in addressing and prosecuting the most severe offenses within Pennington County. This role is focused on managing complex felony cases, such as homicides, child abuse, sex crimes, and assaults, to guarantee an unwavering commitment to justice in the most crucial issues affecting our community.

### ESSENTIAL FUNCTIONS:

- Represent the State throughout the entire criminal justice process, covering initial appearances, arraignments, motions hearings, and trials.
- Handle and oversee complex felony cases, with a primary focus on homicides, child abuse, sex crimes, and assaults.
- Coordinate and function as a lead attorney or counsel in highly complex cases, demonstrating the ability to navigate intricate legal matters.
- Demonstrate superior courtroom and advocacy

skills.

- Foster a collaborative and professional environment with support staff and investigative agencies.

### EDUCATION AND/OR EXPERIENCE REQUIRED:

- Professional degree (Juris Doctor) Graduation from a college of law and attainment of JD or LLB.
- Be admitted to the South Dakota Bar Association or be eligible to waive into the South Dakota State Bar.
- Bring a minimum of seven years of experience in criminal law, substantial felony jury trial experience, and a proven track record of handling high-level criminal cases independently with minimal supervision.

### WORKING ENVIRONMENT:

- Most work is performed indoors in an office where noise and interruptions often occur.
- Overtime hours may be required to meet project deadlines

### PHYSICAL REQUIREMENTS:

- Ability to safely and successfully perform the essential job functions consistent with the ADA, FMLA, and other federal, state and local standards, including meeting qualitative and quantitative productivity standards
- Ability to maintain regular, punctual attendance consistent with the ADA, FMLA, and other federal, state and local standards
- This position frequently remains stationary for long periods of time and needs to occasionally move about inside the office to access file cabinets, office machinery, etc.
- Constantly operates a computer and other office productivity machinery such as a calculator, copy machine and printer.
- Must be able to move up to 20 pounds unassisted, and move 40 pounds with assistance.
- Must be able to communicate clearly and effectively on telephone, in-person and in writing.

## Deputy State's Attorney, Pennington County

### Position Objective:

The role of a Deputy State's Attorney is to work collaboratively with law enforcement in enforcing the laws in the jurisdiction of Pennington County. They represent the State of South Dakota in all stages of court proceedings.

**Essential Functions:**

- Reviewing law enforcement reports.
- Making criminal charging decisions.
- Presenting evidence at probable cause hearings, whether before the Court or Grand Jury.
- Representing the State of South Dakota at Initial Appearances and Arraignments.
- Representing the State of South Dakota at Status and Motion Hearings.
- Representing the State of South Dakota at Evidentiary Hearings.
- Making bond arguments at hearings before the Court.
- Conducting legal research and writing, and motion preparation.
- Abiding by all victims' rights and assisting victims through the criminal justice system. Meeting with victims and other witnesses throughout the prosecution of cases.
- Preparing law enforcement officers, witnesses and victims for courtroom testimony.
- Preparation for and presentation of evidence at court and jury trials.
- Deputy State's Attorneys routinely field phone calls from citizens and interested parties about criminal prosecutions.
- They are also responsible for updating and training law enforcement on relevant areas of the law.
- Deputy State's Attorneys also represent the State of South Dakota at involuntary mental commitments, involuntary drug and alcohol commitments and fugitive proceedings.
- Deputy State's Attorneys handle appeals from magistrate to circuit court, and initial habeas filings at the State level.
- The Deputy State's Attorney assigned as the juvenile prosecutor acts as a liaison to the Juvenile Detention Alternative Initiative Committee (JDAI), and meets daily with this group to discuss alternatives to detention placements. This attorney works collaboratively with the Juvenile Services Center, the Department of Corrections and Court Services and prosecutes all stages of litigation for juvenile offenders.
- The Deputy State's Attorney assigned to abuse and neglect prosecution represents the Department of Social Services (DSS) in all stages of litigation in civil proceedings against parents and guardians accused of abusing or neglecting their children. Works cooperatively with DSS, tribal representatives,

children's counsel, Department of Corrections, law enforcement and Court Services.

- The Deputy State's Attorney assigned to the Civil Division handles planning and zoning cases and assists the Civil Chief Deputy as the legal representative for all County Department Heads and the County Commission.
- The Deputy State's Attorney assigned to Magistrate Court represents the State of South Dakota in misdemeanor cases (those punishable by up to one year in county jail.)
- The Deputy State's Attorney and Senior Deputy State's Attorney assigned to Circuit Court represent the State of South Dakota in the same manner as those assigned to Magistrate Court. In addition, these attorneys will represent the State in felony matters (ranging in punishment from two years in the State Penitentiary to life imprisonment.) These attorneys will also be assigned with one or more specialty courts. These attorneys may also be called upon to assist with law enforcement investigation, search warrants and visit crime scenes. These attorneys are also responsible for the presentation of evidence and cases to the Pennington County Grand Jury.

**Experience and/or Education Required:**

- Bachelor's Degree from an accredited University.
- Juris Doctorate Degree from an accredited University.
- Membership in the State Bar of South Dakota.

**Working Environment:**

- Most work is performed indoors in an office where noise and interruptions often occur.
- Must walk to the Pennington County Courthouse for multiple daily court appearances in all weather, carrying multiple files.
- Overtime hours may be required to adequately prepare for jury trials and complicated hearings.
- Some travel may be required for training, meetings, mental commitment hearings and appearances as needed in other jurisdictions.

**Physical Requirements:**

- Must be able to frequently sit, walk, stand, bend, kneel, stoop, reach and lift, push or pull and manual dexterity is needed to type, write, use a calculator, and answer telephone.
- Must be able to walk two blocks multiple times a

day to court in all weather.

- Upper body strength is a requisite to lift/move a maximum of 20 lbs. unassisted to carry files to court.
- Ability to communicate effectively orally and in writing.
- The ability to talk and communicate both electronically and face to face.

## **US Probation & Pretrial Services Officer District of South Dakota**

**Vacancy No.:** 01-25

**Number of Vacancies:** 1

**Location:** Cheyenne River Reservation, Standing Rock Reservation, Aberdeen, or Pierre

**Salary:** CL 25-28 \$48,890-\$115,213  
commensurate with qualifications

**Employment:** Permanent, Full-time

**Closing Date:** Open until filled, priority given to applications received by 01/24/2025

### **ABOUT THE POSITION**

The U.S. District Court for the District of South Dakota is seeking a full-time Probation & Pretrial Services Officer on the Cheyenne River Reservation or Standing Rock Reservation, or in Aberdeen or Pierre. U.S. Probation and Pretrial Services Officers play an integral role in the administration of justice, community safety, conduct objective investigations, supervise defendants and persons under supervision, interact with collateral agencies, prepare reports, maintain a detailed written record of case activity, and present recommendations to the Court. Officers investigate and prepare bail and presentence reports for the Court and/or supervise defendants and persons under supervision to reduce risk to the community and foster lawful self-management.

### **POSITION DUTIES AND RESPONSIBILITIES**

- Establishes a working alliance with persons under supervision by developing a genuine helping relationship and providing unconditional positive regard, empathy, and a shared agreement on goals.
- Conducts investigations and prepares reports for

the Court to assist with detention and sentencing decisions.

- Provides accurate, thorough, and objective information along with best judgment to the Court for the issuance of individualized, fair, and equitable court orders.
- Implements and uses behavioral-based change work methods to achieve the goals of the case plan.
- Interacts with defendants and people under supervision using values such as affirmation, non-judgment, openness, care, and respect.
- Assesses and identifies general risk, risk to do harm, needs, strengths, level of motivation, and imminence for defendants and people under supervision.
- Collaborates with community resources utilizing referrals when necessary.
- Monitors a person's compliance with the conditions of release and/or supervision and reports to the Court any allegations of non-compliance.
- Develops collaborative strategies and/or interventions to promote lawful self-management.
- Communicates clearly and effectively, both orally and in writing.
- Documents and maintains detailed written records of meetings and case activity.
- Participates in annual safety training and adheres to the district's safety policy.
- Embraces diversity among colleagues and communities served.
- At times, extensive travel to other locations within the district may be required.
- May be requested to perform additional duties and/or projects as assigned

### **PERSONAL CHARACTERISTIC REQUIREMENTS**

- Exercise sound judgment, maintain confidentiality, adhere to high ethical standards, and demonstrate integrity in fulfilling the district's vision, mission, values, and strategic plan.
- Prioritize competing demands while maintaining a positive and professional demeanor.
- Exercise impartiality and discretion with defendants, persons under supervision, courts, justice partners, and communities.
- Ability to work a flexible schedule if needed, including nights, weekends, or holidays.
- Promote and maintain a positive work environment which encourages integrity, respect, individual and organizational growth, and a fulfilling work life.

## KNOWLEDGE, SKILLS, AND EDUCATION REQUIREMENTS

### Minimum Education Requirement

Applicants must possess a completed bachelor's degree from an accredited college or university. The degree must be from a field of academic study related to human relations and where knowledge was gained in understanding the legal requirements necessary to succeed as a probation officer.

For more information about this position, click the link. <https://www.sdd.uscourts.gov/sites/sdd/files/01-25%20Vacancy%20Announcement%20US%20Probation%20%20Pretrial%20Services%20Officer%20CL%2025-28.pdf>

## Associate Judge

EQUAL EMPLOYMENT OPPORTUNITY  
EMPLOYER

**POSITION:** Associate Judge

**FLSA STATUS:** FT-Regular

**DEPARTMENT:** Ft Berthold District Court.

**SALARY:** DOQ

**CLASSIFICATION:** Non-Exempt

**LOCATION:** New Town, ND

**OPENING DATE:** October 2024

**CLOSING DATE:** Open until filled

**POSITION SUMMARY:** The Associate Judge conducts proceedings as assigned and shall preside over all civil, criminal and juvenile cases; and arraignments as needed.

### ESSENTIAL DUTIES AND RESPONSIBILITIES:

- 1. The Associate Judge conducts proceedings as assigned and shall preside over all civil and criminal, and juvenile cases and arraignments as needed.**
- 2. The Associate judge is a full-time position.**

The terms of employment will be set forth in the contract between the Associate Judge and the Justice Commission.

**3. The Associate Judge must be of high moral character and integrity; must have never been convicted of a criminal offense for which punishment of imprisonment was imposed; must not have been dishonorably discharged from any Branch of Armed Services/; and, must be a member in good standing of the bar of any State or Federal Court.**

**4. And other duties assigned.**

*NOTE: The duties listed are not intended to be all-inclusive. Duties assigned any individual employee are at the discretion of the appointing authority.*

### SUPERVISORY REQUIREMENTS:

- The requirement for managing others does not exist.

## KNOWLEDGE, EXPERIENCE, SKILLS, AND ABILITIES REQUIRED BY POSITION:

### Knowledge

- Federal Indian Law
- Extensive knowledge of the laws, rules, policies and procedures that pertain to the applicable Tribal, State and Federal laws as applicable to the MHA Nation District Court
- Knowledge of the equipment and use of computers, office software and application, and general office equipment.

### Skills

- Be able to research case law pertaining to decision making on a case.
- Skilled in interpreting judicial policies, rules, guidelines, procedures and must perform legal research.
- Effective oral, written, and interpersonal communication skills.

### Abilities

- Analytical and decision-making ability.

## MINIMUM QUALIFICATIONS AND EDUCATION:

- Juris Doctorate Degree from an accredited law school.

- Licensure as an attorney eligible to practice law in any State. Will consider applications from person eligible for licensure, but not currently licensed in ND.
- Experience in the practice of law which includes court experience.
- Job requirements include a license to practice law in any State and experience in Federal Indian law is preferable.

**WORKING CONDITIONS AND PHYSICAL EFFORT:**

- Work may require irregular hours i.e., working after normal scheduled working hours, weekends and at night.
- Work is performed in a courtroom and an office setting. The work area is adequately lighted, heated and ventilated.
- Smoke free working environment.
- The ability to deal with demands of a stressful environment is recommended due to the nature of the subject matter.
- May be subject to confrontations in the process of assisting in resolving differing opinions.
- The necessary body functions typically require; sitting, standing, stooping, and walking, talking, hearing, seeing, feeling, reaching and fingering requirements of other reasonable methods that accommodate an individual in completing necessary functions of the job.

*Note: The statements herein are intended to describe the general nature and level of work being performed by employees, and are not to be construed as an exhaustive list of responsibilities, duties, and skills required of personnel so classified. Furthermore, they do not establish a contract for employment and are subject to change at the discretion of the employer.*

*Preference will be given to bona fide American Indian applicants in accordance with TAT policies and Federal Indian regulations for such preference.*

**THEMANDAN, HIDATSA, ARIKARA TRIBES DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, RELIGIOUS PREFERENCE, AGE, HANDICAP, MARITAL STATUS, POLITICAL PREFERENCE, GENETICS OR MEMBERSHIP OR NON-MEMBERSHIP IN AN EMPLOYEE ORGANIZATION, EXCEPT**

**AS ALLOWED BY THE INDIAN PREFERENCE PROVISION OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED AND NORTH DAKOTA HUMAN RIGHTS ACT.**

**PERSONS OF INDIAN ANCESTRY WHO ARE AT LEAST 1/4 DEGREE AND WISH TO CLAIM INDIAN PREFERENCE SHOULD SUBMIT A COPY OF THEIR TRIBAL ENROLLMENT CERTIFICATE INDICATING THEIR DEGREE OF INDIAN BLOOD AND AGENCY ENROLLED.**

All interested persons must submit the following information:

- \* TAT Application
- \* Copies of
  - Diplomas/Certificates and Transcripts
  - Driver's License & Social Security Card
  - Indian or Veteran Preference documents (If applicable)

Submit all necessary information to one of the following addresses:

Three Affiliated Tribes/MHA Nation  
 Human Resource Department  
 404 Frontage Road  
 New Town, ND 58763  
 Phone# 701-627-4781  
 Fax# 701-627-2960

Job Services of North Dakota  
 P.O. Box 477  
 New Town, ND 58763  
 Phone# 701-627-4390

**Staff Attorney - Pierre/Eagle Butte**

*Are you passionate about racial justice and holistic legal advocacy? Join our team, and make a long-term impact!*

**DAKOTA PLAINS LEGAL SERVICES (DPLS)**, a non-profit legal services program, has an opening for a Staff Attorney position in our Eagle Butte, South Dakota office. The Eagle Butte office serves the counties of Dewey, Haakon, Hughes, Potter, Sully, Stanley and Ziebach along with the Cheyenne River Reservation. This position follows a hybrid schedule, working in

office and remotely.

**SALARY/BENEFITS:** 70,000+ starting salary for attorneys with 2 or more years of experience. DPLS has an excellent fringe benefits package including generous leave benefits of 6 weeks paid leave, and 15 paid holidays. Employer paid employee insurance coverage (medical, dental, life, disability). DPLS observes a 34 hour 4-day work week and offers matching 401(k).

**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. Some same day travel is required.

**APPLICATION INFORMATION:** Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services, PO Box 489, Mission, SD 57555, (605) 856- 4444, tmortland@dpls.org.

**CLOSING DATE:** Open until filled.

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

## Assistant State's Attorney

(\$75,000-\$110,000)

The Peoria County State's Attorney's Office is seeking an energetic attorney for the position of Assistant State's Attorney. This office wants a lawyer with a passion for justice and the desire to make a meaningful difference in the lives of those in their community. This person will gain strong courtroom experience. Duties include meeting with law enforcement, witnesses, negotiating and prosecuting all types of cases from initial filing to bench and jury trials. Salary commensurate with experience; paid 711 license positions while in law

school or studying for the bar. Benefits include Loan Forgiveness Program, health, dental and life insurance, IMRF retirement, Deferred Compensation program, paid holidays, vacation, and sick leave, and paid ARDC dues. Please send cover letter and resume to Linda Hood, Office Administrator, at [lhood@peoriacounty.org](mailto:lhood@peoriacounty.org).

## Collections Litigation Attorney

Reports to: Vice President for Legal and Compliance  
Classification: Full time, Exempt

### Summary/Objective

This position is a mid-level position, responsible for advising and representing Expansion Capital Group, LLC ("ECG") in matters related to the collection of outstanding commercial debts and obligations. The Collections Litigation Attorney ("CLA") will, at the direction of the Vice President for Legal and Compliance ("VPLC"), represent ECG in litigation and arbitration in South Dakota. The CLA will interface with counsel representing ECG in states other than South Dakota. The CLA will assist the VPLC in developing a commercial collections litigation and arbitration strategy and program, conduct legal research, advise, negotiate, and settle commercial debts and obligations.

### Essential Functions

- Assist the Vice President for Legal and Compliance ("VPLC") in developing a commercial collections litigation and arbitration strategy and program.
- Partner with Recovery management team to ensure net liquidation rates are being met for various litigation segmentation.

### Legal Research and Analysis:

- Stay updated on relevant laws, regulations, and precedents governing commercial debt collections practices.
- Conduct legal research in order to counsel ECG on debt collection strategies, compliance with relevant laws, and potential legal actions.

### Compliance:

- Ensure compliance with federal, state, and local laws governing commercial debt collection practices.
- Stay informed about changes in legislation that may impact commercial debt collection procedures.



#### Legal Consultation:

- Assess the merits of pursuing legal action based on the circumstances of each individual account.
- Offer clear and timely information to ECG regarding legal strategies, potential outcomes, and associated costs.

#### Negotiation and Settlement:

- Negotiate with opposing legal counsel to reach settlements, repayment plans, or other agreements to resolve outstanding obligations amicably.
- Utilize effective communication and negotiation skills to maximize recovery while considering the financial circumstances of the customer.

#### Documentation and Record-keeping:

- Maintain accurate, current, and detailed records of all interactions, communications, and legal actions related to each individual account.
- Prepare, review, and organize legal documents to ensure completeness and accuracy.

#### Legal Action Initiation:

- Initiate legal proceedings in South Dakota by filing lawsuits or initiating arbitration when negotiations fail to achieve a satisfactory resolution.
- Cause external counsel representing ECG in states other than South Dakota to file lawsuits or initiate arbitration when negotiations fail to achieve a satisfactory resolution.
- Prepare and file legal documents, such as complaints, motions, and other court filings in South Dakota, ensuring compliance with procedural requirements.

#### Court Representation:

- Represent ECG in court proceedings, trials, arbitration, and other legal proceedings in South Dakota related to commercial debt collection.
- Present compelling legal arguments, introduce evidence, and advocate for the client's position to secure favorable judgments.

Assist with other assigned duties as necessary.

#### Required Education and Experience

- Juris Doctorate (JD) degree from an accredited law school.
- Admission to the bar in South Dakota.
- Prior litigation experience.
- Prior experience in commercial debt collection or

related field is preferred.

- Strong negotiation, communication, and analytical skills.
- Knowledge of commercial debt collection laws and regulations.
- Strong organizational skills and attention to detail.
- Excellent written and verbal communication skills.
- Ability to work independently and as part of a team.

#### Supervisory Responsibility

This position does not have any supervisory responsibility.

#### Work Environment

This job operates in a professional office environment. This role routinely uses standard office equipment such as computers, phones, photocopiers, filing cabinets and fax machines.

#### Physical Demands

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. This is largely a sedentary role; however, some filing is required. This would require the ability to lift files, open filing cabinets and bending or standing on a stool as necessary.

#### Position Type/Expected Hours of Work

This is a full-time position, and hours of work and days are Monday through Friday, 8:00 a.m. to 5:00 p.m. Occasional evening and weekend work may be required as job duties demand.

#### Other Duties

Please note this job description is not designed to cover or contain a comprehensive listing of activities, duties or responsibilities that are required of the employee for this job. Duties, responsibilities and activities may change at any time with or without notice.

### **Minnehaha County Deputy/Senior Deputy State's Attorney**

This position is in **Sioux Falls, South Dakota.**

The Minnehaha County State's Attorney's Office is accepting applications for a **Deputy/Senior Deputy State's Attorney** to join our team of prosecutors. Minnehaha County prosecutors are an integral part of

the criminal justice system closely collaborating with law enforcement, probation, parole, juvenile justice centers, and numerous community agencies.

With a caseload that keeps you constantly engaged, our office provides an intriguing challenge for attorneys who want to make a difference in their community by helping victims of crime and ensuring due process for the accused. Even new attorneys have the opportunity to enjoy the excitement of hands-on courtroom trial work on a regular basis.

The hiring range is \$3,596.80 - \$4,068.00/biweekly DOQ, with full earning potential up to \$4,954.40/biweekly. Minnehaha County offers a competitive benefits package including health, dental, vision, and life insurance, a generous paid time off program, extended sick leave, retirement, and an employee assistance program. For a full list of qualifications and to apply visit: <http://jobs.minnehahacounty.gov>. Review of applications begins on **February 10, 2025**. EO/AA Employer. Contact Human Resources with questions at 605-367-4337.

## Associate Attorney - Business

**Company:** Halbach|Szwarc Law Firm

**Location:** Hybrid Position based in Sioux City, IA

**Position Type:** Full-time

**About Halbach|Szwarc Law Firm:** Halbach|Szwarc Law Firm is South Dakota and Iowa's newest full-service law firm, built on a hybrid platform with physical offices in downtown Sioux Falls, SD, and downtown Sioux City, IA. We are committed to delivering exceptional legal services across the United States and beyond. Guided by our core values of responsiveness, quality, integrity, and professionalism, our experienced team of attorneys and paralegals provides comprehensive legal solutions across various practice areas as a hybrid team.

**Job Overview:** We are seeking a talented and motivated attorney to join our business law team. The ideal candidate will have 3+ years of experience in business and corporate law, including entity formation, contract drafting, mergers and acquisitions, and related areas. This position offers the opportunity to work closely

with a diverse range of clients, from entrepreneurs to established businesses, providing legal guidance to support their growth and success.

Applicants must be licensed in Iowa and able to obtain licensure in South Dakota and Nebraska. Candidates with an existing client base are encouraged to apply, though a willingness to develop business and build client relationships is equally important. Halbach|Szwarc attorneys are licensed across South Dakota, Minnesota, Iowa, Nebraska, and Wyoming and serve clients across the U.S. and internationally.

### Responsibilities:

1. **Entity Selection and Formation.** Provide legal counsel to clients on business formation, including selecting the appropriate legal structure, drafting formation and related governing documents.

2. **Business Document Preparation:** Draft and review various agreements, including purchase agreements, lease agreements, asset and real estate purchase agreements and related agreements.

3. **Mergers and Acquisitions.** Assist clients with structuring, negotiating, and closing mergers, acquisitions, and sales of businesses or assets, with an emphasis on small and closely-held family businesses.

4. **Client Interaction:** Provide exceptional client communication and service and maintain strong client relationships.

5. **Business Development.** Engage in efforts to develop new client relationships, build your network, and contribute to the firm's growth.

6. **Remote Collaboration.** Work remotely and collaboratively using modern technology to meaningfully engage with clients and team members.

7. **Stay Informed:** Stay abreast of changes in relevant laws, regulations, and legal trends affecting business and estate planning law.

### Qualifications:

1. Juris Doctor (JD) degree from an accredited law school.

2. Undergraduate degree in business, economics, finance or accounting preferred, but not required.

3. 3+ years of experience practicing law with an emphasis on business law.
4. Strong understanding of business law and tax.
5. Excellent drafting and negotiation skills.
6. Strong self-starter with an ability to work independently and remotely, managing a caseload effectively and efficiently.
7. Willingness to engage in business development and foster long-term client relationships.

**Benefits:**

- Competitive salary commensurate with experience.
- Unlimited PTO.
- 13 paid holidays.
- 100% firm paid health insurance.
- 100% firm paid vision insurance.
- Monthly technology stipend with firm provided remote technology solutions.
- Bonus eligibility based upon performance.
- Competitive 401(k) and profit sharing.
- Paid continuing education expenses.
- Collaborative and positive work environment.

**How to Apply:** If you are a motivated, detailed oriented, and personable individual with a commitment to excellence and client service, we invite you to apply for the Business Associate Attorney position at Halbach|Szwarc Law Firm. Please submit your resume and a cover letter outlining your relevant experience to Alex Halbach at [alexh@halbachlawfirm.com](mailto:alexh@halbachlawfirm.com) and Stefan Szwarc at [stefans@halbachlawfirm.com](mailto:stefans@halbachlawfirm.com).

Halbach|Szwarc Law Firm is an equal opportunity employer and values diversity in the workplace. We encourage all qualified individuals to apply.

**Associate Attorney - Criminal Defense**

**Company:** Halbach|Szwarc Law Firm

**Location:** Hybrid Position based in Sioux City, IA

**Position Type:** Full-time

**About Halbach|Szwarc Law Firm:** Halbach|Szwarc Law Firm is South Dakota and Iowa’s newest full-service

law firm, built on a hybrid platform with physical offices in downtown Sioux Falls, SD, and downtown Sioux City, IA. We are committed to delivering exceptional legal services across the United States and beyond. Guided by our core values of responsiveness, quality, integrity, and professionalism, our experienced team of attorneys and paralegals provides comprehensive legal solutions across various practice areas as a hybrid team.

**Job Overview:** We are currently seeking a skilled and dedicated criminal defense attorney to join our team that can lead our criminal defense practice group. The ideal candidate will have 3+ years of experience handling criminal cases at the state and federal levels, including misdemeanor and felony cases. This individual will play a key role in advocating for clients’ rights and achieving favorable outcomes, whether through negotiation, litigation, or trial and will play a key role in developing and implementing our criminal defense practice strategy.

Applicants must be licensed in Iowa and able to obtain licensure in South Dakota and Nebraska. While candidates with an established client base are encouraged to apply, a willingness to develop business and foster new client relationships is equally important. Halbach|Szwarc attorneys are licensed across South Dakota, Minnesota, Iowa, Nebraska, and Wyoming and serve clients across the U.S. and internationally.

**Responsibilities:**

**1. Client Representation:** Represent clients in criminal cases, including conducting initial consultations, negotiating plea agreements, preparing for hearings, and providing defense during trials.

**2. Case Management:** Handle all aspects of a criminal case, including pretrial motions, discovery, plea negotiations, and trial strategy.

**3. Court Appearances:** Advocate for clients in state and federal courts during arraignments, hearings, trials, and sentencing.

**4. Legal Research & Writing:** Conduct thorough legal research and draft compelling motions, briefs, and memoranda.

**5. Client Advocacy:** Maintain strong communication with clients, keeping them informed and empowered

throughout their case.

**6. Business Development:** Contribute to the firm's growth through networking, fostering client relationships, and developing new business opportunities.

**7. Collaboration:** Work collaboratively with other attorneys, paralegals, and support staff in a hybrid/remote work environment.

**8. Stay Informed:** Keep current on changes in laws and court rulings that could affect client cases or litigation strategy.

### **Qualifications:**

1. Juris Doctor (JD) degree from an accredited law school.
2. 3+ years of experience in criminal defense, including trial experience.
3. Strong leadership skills and the ability to build and mentor a team effectively
4. Excellent courtroom advocacy, negotiation, and communication skills.
5. Self-starter with the ability to work independently, manage multiple matters, and meet deadlines effectively in a hybrid work environment.
6. Willingness to engage in business development activities and foster client relationships.

### **Benefits:**

- Competitive salary commensurate with experience.
- Unlimited PTO.
- 13 paid holidays.
- 100% firm paid health insurance.
- 100% firm paid vision insurance.
- Monthly technology stipend with firm provided remote technology solutions.
- Bonus eligibility based upon performance.
- Competitive 401(k) and profit sharing.
- Paid continuing education expenses.
- Collaborative and positive work environment.

**How to Apply:** If you are a motivated, detailed oriented, and personable individual with a commitment to

excellence and client service, we invite you to apply for the Business Associate Attorney position at Halbach|Szwarc Law Firm. Please submit your resume and a cover letter outlining your relevant experience to Alex Halbach at [alexh@halbachlawfirm.com](mailto:alexh@halbachlawfirm.com) and Stefan Szwarc at [stefans@halbachlawfirm.com](mailto:stefans@halbachlawfirm.com).

Halbach|Szwarc Law Firm is an equal opportunity employer and values diversity in the workplace. We encourage all qualified individuals to apply.

## **Associate Attorney - Estate Planning**

**Company:** Halbach|Szwarc Law Firm

**Location:** Hybrid Position based in Sioux City, IA

**Position Type:** Full-time

**About Halbach|Szwarc Law Firm:** Halbach|Szwarc Law Firm is South Dakota and Iowa's newest full-service law firm, built on a hybrid platform with physical offices in downtown Sioux Falls, SD, and downtown Sioux City, IA. We are committed to delivering exceptional legal services across the United States and beyond. Guided by our core values of responsiveness, quality, integrity, and professionalism, our experienced team of attorneys and paralegals provides comprehensive legal solutions across various practice areas as a hybrid team.

**Job Overview:** We are currently seeking a talented and experienced estate planning attorney to join our team. The ideal candidate will have 3+ years of experience in estate planning, probate, and trust administration, including drafting wills, trusts, and other estate planning documents. This individual will work closely with clients to develop tailored estate planning strategies, ensure smooth administration of estates, and help clients achieve their financial and personal legacy goals.

Applicants must be licensed in Iowa and able to obtain licensure in South Dakota and Nebraska. While candidates with an established client base are encouraged to apply, a willingness to develop business and foster new client relationships is equally important. Halbach|Szwarc attorneys are licensed across South Dakota, Minnesota, Iowa, Nebraska, and Wyoming and serve clients across the U.S. and internationally.

## Responsibilities:

1. **Estate Planning:** Draft wills, trusts, powers of attorney, and other estate planning documents tailored to meet clients' needs.

2. **Probate & Trust Administration:** Guide clients through the probate process and assist with trust administration, including filings, asset management, and distributions.

3. **Client Counseling:** Meet with clients to discuss their estate planning objectives, explain legal options, and provide clear and responsive communication throughout the process.

4. **Tax & Asset Strategies:** Advise clients on tax planning, charitable giving, business succession planning, and strategies to minimize estate and gift taxes.

5. **Business Development:** Contribute to the firm's growth through networking, fostering client relationships, and developing new business opportunities.

6. **Collaboration:** Work collaboratively with other attorneys, paralegals, and support staff in a hybrid/remote work environment.

7. **Stay Informed:** Keep current on changes in laws and court rulings that could affect client cases or litigation strategy.

## Qualifications:

1. Juris Doctor (JD) degree from an accredited law school.

2. 3+ years of experience in estate planning, probate, and trust administration.

3. Strong drafting skills and attention to detail in preparing estate planning documents.

4. Knowledge of estate and gift tax laws, as well as trust and probate administration procedures.

5. Self-starter with the ability to work independently, manage multiple matters, and meet deadlines effectively in a hybrid work environment.

6. Willingness to engage in business development activities and foster client relationships.

## Benefits:

- Competitive salary commensurate with experience.
- Unlimited PTO.
- 13 paid holidays.
- 100% firm paid health insurance.
- 100% firm paid vision insurance.
- Monthly technology stipend with firm provided remote technology solutions.
- Bonus eligibility based upon performance.
- Competitive 401(k) and profit sharing.
- Paid continuing education expenses.
- Collaborative and positive work environment.

**How to Apply:** If you are a motivated, detailed oriented, and personable individual with a commitment to excellence and client service, we invite you to apply for the Business Associate Attorney position at Halbach|Szwarc Law Firm. Please submit your resume and a cover letter outlining your relevant experience to Alex Halbach at [alexh@halbachlawfirm.com](mailto:alexh@halbachlawfirm.com) and Stefan Szwarc at [stefans@halbachlawfirm.com](mailto:stefans@halbachlawfirm.com).

Halbach|Szwarc Law Firm is an equal opportunity employer and values diversity in the workplace. We encourage all qualified individuals to apply.

## Associate Attorney - Litigation

**Company:** Halbach|Szwarc Law Firm

**Location:** Hybrid Position based in Sioux City, IA

**Position Type:** Full-time

**About Halbach|Szwarc Law Firm:** Halbach|Szwarc Law Firm is South Dakota and Iowa's newest full-service law firm, built on a hybrid platform with physical offices in downtown Sioux Falls, SD, and downtown Sioux City, IA. We are committed to delivering exceptional legal services across the United States and beyond. Guided by our core values of responsiveness, quality, integrity, and professionalism, our experienced team of attorneys and paralegals provides comprehensive legal solutions across various practice areas as a hybrid team.

**Job Overview:** We are currently seeking a talented and experienced civil litigation attorney to join our team. The ideal candidate will have 3+ years of experience handling civil litigation matters, including business

disputes, employment litigation, contract disputes, construction claims, and similar cases. This individual will play a key role in representing clients through all phases of litigation, including pleadings, discovery, motion practice, mediation, trial, and appeal. Applicants must be licensed in Iowa and able to obtain licensure in South Dakota and Nebraska.

While candidates with an established client base are preferred, a willingness to develop business and foster new client relationships is encouraged. Halbach|Szwarc attorneys are licensed across South Dakota, Minnesota, Iowa, Nebraska, and Wyoming and serve clients across the U.S. and internationally.

### **Responsibilities:**

1. **Case Management:** Handle all aspects of civil litigation, including drafting pleadings, conducting discovery, attending court hearings, and representing clients in depositions, mediations, and trials, with an emphasis on creative solutions.
2. **Legal Research & Writing:** Conduct in-depth legal research and prepare persuasive briefs, motions, and legal memoranda.
3. **Client Communication:** Provide responsive, clear, and professional communication with clients to build and maintain strong relationships.
4. **Business Development:** Contribute to the firm's growth through networking, fostering client relationships, and developing new business opportunities.
5. **Collaboration:** Work collaboratively with other attorneys, paralegals, and support staff in a hybrid/remote work environment.
6. **Stay Informed:** Keep current on changes in laws and court rulings that could affect client cases or litigation strategy.

### **Qualifications:**

1. Juris Doctor (JD) degree from an accredited law school.
2. 3+ years of experience in civil litigation.
3. Proven trial and courtroom experience,

including depositions, motion and hearings and trial preparation

4. Exceptional legal writing, analytical, and research skills.
5. Self-starter with the ability to work independently, manage multiple cases, and meet deadlines effectively in a hybrid work environment.
6. Willingness to engage in business development activities and foster client relationships.

### **Benefits:**

- Competitive salary commensurate with experience.
- Unlimited PTO.
- 13 paid holidays.
- 100% firm paid health insurance.
- 100% firm paid vision insurance.
- Monthly technology stipend with firm provided remote technology solutions.
- Bonus eligibility based upon performance.
- Competitive 401(k) and profit sharing.
- Paid continuing education expenses.
- Collaborative and positive work environment.

**How to Apply:** If you are a motivated, detailed oriented, and personable individual with a commitment to excellence and client service, we invite you to apply for the Business Associate Attorney position at Halbach|Szwarc Law Firm. Please submit your resume and a cover letter outlining your relevant experience to Alex Halbach at [alexh@halbachlawfirm.com](mailto:alexh@halbachlawfirm.com) and Stefan Szwarc at [stefans@halbachlawfirm.com](mailto:stefans@halbachlawfirm.com).

Halbach|Szwarc Law Firm is an equal opportunity employer and values diversity in the workplace. We encourage all qualified individuals to apply.

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