

# State Bar of South Dakota NEWSLETTER

Intentional Organization  
for the Law Office

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Presenter:  
Mrg Simon

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February Law for Lunch  
February 20, 2024

FEBRUARY 2024

# FINALLY, LEGAL MALPRACTICE INSURANCE MADE EASY.

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*Pennington County Bar Association*

*Presents:*

**CORPORATE  
TRANSPARENCY  
ACT**

*Luncheon  
\$22 /Plate*

Please RSVP to Ty Daly by Monday, February 5th  
[tdaly@lynnjackson.com](mailto:tdaly@lynnjackson.com)

February 7, 2024 | 12:00 PM - 1:00 PM (MT)

The Rushmore Hotel | Second Floor  
445 Mt. Rushmore Road | Rapid City, SD

**Paul Freidel** will present on the Corporate Transparency Act and the practical issues it presents for law firms and attorneys at our February luncheon. Paul is an experienced compliance and accounting professional, with over 20 years of experience assisting organizations of all sizes with tax compliance and planning needs. He has now partnered with his brother, Tim Freidel, who specializes in IT, to form Secure Compliance, LLC. Secure Compliance assists business entities with understanding Corporate Transparency Act reporting requirements and simplifying the reporting process. Paul and Tim have immersed themselves in the Corporate Transparency Act while starting their business and can't wait to share what they know. With the Corporate Transparency Act now in effect and reporting deadlines nearing, this discussion could not be more timely.

# State Bar of South Dakota

February 2024

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## PRESIDENT'S CORNER



Heather Lammers Bogard

As I stated in my first President's Corner, minorities, women and young lawyers reported more than others in our State Bar survey that they had experienced incivility in our profession. To continue to appreciate our differences, I am celebrating and observing National Black History Month. This annual observance provides us with a valuable opportunity to honor the legacy of African Americans who have played pivotal roles in shaping our legal system and society as a whole.

Examples of those enriching the legal profession with remarkable contributions:

- Thurgood Marshall was the first African American United States Supreme Court Justice.
- Jane Bolin became the first African American female judge in the United States when she was sworn in as a family judge in New York City. She was also the first African American woman to graduate from Yale Law School and the first to pass the New York State bar exam.
- Constance Baker Motley was the first African American woman to be appointed as a federal judge.
- Dennis Archer was the first African American president of the American Bar Association.

I ask you, as members of our great Bar, to recognize and celebrate the remarkable achievements and contributions of African American legal professionals, past and present. I encourage all members to take the time to learn more about these achievements and to reflect on the challenges that still lie ahead in the quest for equality and justice.

This month further reminds us of opportunities to

promote diversity, equity, and inclusion within our profession and our communities. To that end, I ask that you get involved. Join committees, such as the Bar's Diversity and Inclusion Committee. Attend events. Engage in meaningful discussions about the role of the legal profession in advancing social justice and equality. Above all, be civil.

As to civility, I'm elated to advise that the Board of Bar Commissioners adopted the Creed of Civility and Guidelines for Professionalism on January 10, 2024. The Creed is printed in this month's newsletter. I ask that you take time to read, consider, and adhere to the Creed. It is meant to emphasize our commitment to treating our colleagues, clients and the judiciary with civility and respect. The Creed not only enhances the reputation of our legal community, but also contributes to a more fulfilling and rewarding professional experience for all of us.



**CREED OF CIVILITY AND GUIDELINES FOR PROFESSIONALISM**  
*Adopted January 10, 2024 by the South Dakota Board of Bar Commissioners*

**Preamble**

A lawyer should demonstrate civility, personal courtesy, dignity, respect and professional integrity when interacting with the public and participating in the legal system. As we vigorously represent our clients, we must honor our obligations to the administration of justice, resolving disputes in a rational, diplomatic, and efficient manner. We must remain committed to the rule of law as the foundation for a fair and peaceful society.

While our State's Rules of Professional Conduct are instructive, they cannot address all of the various circumstances and conflicts that arise. The following standards are designed as a guide for lawyers and judges when interacting with each other, with litigants and with the public. Lawyers are expected to adhere to these standards as a commitment to justice and the rule of law.

**Creed**

As lawyers licensed to practice in South Dakota, admitted to the State Bar of South Dakota and/or admitted pro hac vice to appear in a matter before any Court in South Dakota, we will at all times adhere to the following:

1. We will treat participants of the legal system with civility, dignity and courtesy in court, as well as in all communication.
2. We will refrain from using hostile, demeaning or humiliating words in written and oral communications with adversaries.
3. We will continue prioritize the inclusion and active participation of lawyers (and law students) from all backgrounds, identities and circumstances.
4. We will avoid impermissible *ex parte* communications with the court.
5. We will not intentionally mislead the court in oral or written communications.
6. In court, we will be punctual and prepared. We will not engage in conduct that is disorderly or disruptive and will instruct our clients and witnesses to act accordingly.
7. We will consult with other counsel concerning scheduling and deadlines prior to bringing such issues to the court. We will not unilaterally schedule hearings, depositions or similar matters.
8. We will not assert improper conduct on the part of other counsel without good cause and an adequate factual basis.
9. When agreements are reached, we will adhere to the agreement and accurately and in good faith memorialize the agreement in writing.
10. We will draft orders that accurately and completely reflect the court's ruling.
11. We will not time the filing or service of motions or pleadings with an attempt to unfairly limit another party's ability to respond.
12. We will explain to our clients that cooperation, civility and fair dealing are expected in the legal system.
13. We will advise our clients that we reserve the right to grant accommodations to other counsel in matters not directly affecting the merits of the case or prejudicing their rights.
14. Discovery requests will be drafted without harassment or placing undue burden on the other party. Further, we will instruct our clients that they must fully and honestly respond to discovery requests.
15. When there is a potential for settlement, we will timely confer with our client and other counsel and not purposefully delay negotiations.
16. We will in good faith stipulate to undisputed matters.
17. We will strive to abide by previously scheduled dates for trials, hearings, depositions, meetings and conferences.

# State Bar of South Dakota

YOUNG LAWYERS SECTION



*Chelsea Wenzel  
President Elect*

Avid readers of the State Bar Newsletter may notice that our Young Lawyers Section President, Kelsey Blair, is not the drafter of this month's article. Kelsey and her husband, Steve, welcomed a new baby in January and I am standing in for Kelsey in the interim. As president-elect of the YLS Board, I am excited to fill in and get a taste of what next year will bring.

Spring is right around the corner and that means big things for the Young Lawyers Section.

## **YLS Bootcamp**

This year's YLS Bootcamp will take place in Deadwood, South Dakota on March 15. We have an excellent lineup and attorneys of all backgrounds and experience levels are welcome. Check out page 7 for more information and we will see you there!

## **ABA Young Lawyers Division (YLD) Spring Conference**

Our very own Tamara Nash will be hosting the ABA YLD Spring Conference in Omaha, Nebraska, as part of her term as ABA YLD President. The conference runs from May 15-19 and we hope to send several YLS members down to support Tamara and take advantage of the opportunities offered at the conference.

## **Young Lawyer of the Year**

If you know a stellar young lawyer who deserves to recognition, please consider nominating them for the YLS Young Lawyer of the Year Award. I am constantly impressed with the nominations we receive for this award. We are fortunate to be part of a State Bar that has so many hard-working and brilliant young attorneys and attorneys who are willing to take the time to recommend the deserving candidates.

Nominees should exemplify the following characteristics:

- Professional excellence
- Dedication to serving the legal profession and the Bar
- Service to their community
- A reputation that advances legal ethics and professional responsibility

Nominating attorneys should submit a brief letter in support of their nominee to Kelsey at [Kelsey.Blair@pennco.org](mailto:Kelsey.Blair@pennco.org) or to me at [Chelsea.Wenzel@state.sd.us](mailto:Chelsea.Wenzel@state.sd.us) no later than Friday, March 15, 2024. The nominating attorney should detail how the nominee meets the above-referenced characteristics.

Check back for updates and more spring happenings next month!



# 2024 YLS "BOOTCAMP"

Friday | March 15, 2024  
Cadillac Jack's Gaming Resort | Deadwood, SD

## SLOT

## LINEUP

8:00 AM - 8:30 AM	Registration and Welcome
8:30 AM - 10:00 AM	"Advanced Legal Research" - Professor Richard Leiter
10:00 AM - 10:10 AM	Break
10:10 AM - 11:40 AM	"Discovery Practices and Pitfalls" - John Burke
11:40 AM - 12:00 PM	Break
12:00 PM - 1:30 PM	"Trial Tips from the Bench" - Judge Eric Strawn
1:30 PM - 1:40 PM	Break
1:40 PM - 3:10 PM	"Preserving Your Appellate Record" - Justice Janine Kern
3:10 PM - 3:20 PM	Break
3:20 PM - 4:40 PM	"Crash Course in Employment Law" - Jennifer Frank
4:40 PM - 4:45 PM	Closing

**Circuit Mixer to follow CLE - All attorneys are invited!**

We've secured a block of rooms for our attendees. It's St. Patrick's Day Celebration that weekend, so we recommend booking your room at your earliest convenience to ensure availability.

RSVP to attend Bootcamp:  
Lora Waeckerle, [lora@wlawsd.com](mailto:lora@wlawsd.com)  
Virtual attendance is available.  
Please note this preference in your RSVP.

# Fellows of the South Dakota Bar Foundation

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

Fred & Luella Cozad

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

Frank L. Farrar

Gregory A. Yates

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

Thomas C. Barnett, Jr.

Robert E. Hayes

Scott N. Heidepriem

David L. Knudson

Kimberley A. Mortenson

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

Hon. Richard H. Battey

Melissa Nicholson Breit

P. Daniel Donohue

Chet Groseclose

Hon. John B. Jones

David L. Knudson

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

Robert A. Martin

Kimberley A. Mortenson

Timothy J. Rensch

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

Neil Fulton

Hon. Bobbi J. Rank

Timothy J. Rensch

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

John P. Blackburn

Richard D. Casey

Hon. Michael Day

Robert B. Frieberg

Thomas H. Frieberg

William C. Garry

David A. Gerdes

Hon. David R. Gienapp

Patrick G. Goetzinger

G. Verne Goodsell

Robert E. Hayes

Terry L. Hofer

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

Hon. John L. Brown

Mary Jane Cleary

Paul L. Cremer

Andrew L. Fergel

Michael S. Fischer

Tom E. Geu

Craig A. Kennedy

Denise Langley

Hon. Judith K. Meierhenry

Hon. Robert A. Miller

Robert C. Riter, Jr.

Jason R.F. Sutton

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



# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

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

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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

This column was not written by Chat-GPT or other generative artificial intelligence platform. It could have been, however. In what seems like no time at all, the availability and impact of generative AI have gone from theories among computing experts to realities that most of us have discussed over coffee. Neither law schools nor legal practice are immune from this discussion. As a result, I wanted to devote this month's column to some of the questions and concerns that the advent of generative AI poses for law schools and legal practice.

Like many of you, there are many things about generative AI that I do not know. Not only do I lack all the answers, but I am also far from certain that I know the most important questions. I do know that we must collectively be looking for them before they are imposed upon us.

I am confident that law schools and legal practitioners cannot simply pretend that generative AI does not exist. Simply typing "generative AI" into your app store generates more than a dozen free or inexpensive apps that provide generative AI for both text and photos. At a conference this fall, in just minutes, I downloaded such an app, asked it a short answer question about statutory interpretation that I use in my Legislation class, and got a solid answer. The effective power of generative AI is just a few clicks away for most of us. As a result, most of us would benefit from being aware of it.

We are certainly wrestling with the issue at the Law School. There is a temptation to simply call the use of generative AI "cheating" and try and ban it. That is an

unrealistic response for a couple of reasons. First, we do not yet have confidence in our ability to consistently identify the use of generative AI. It is hard to ban something we are not fairly certain we can consistently catch. Second, there are exciting potential uses for generative AI. For example, Lexis has incorporated generative AI into its research platform. Library staff put a torts problem into the platform and got back a draft brief. Only about half the cases it cited were accurate, but it provided a workable foundation to develop into a polished brief. This presents an interesting scenario of introducing students to a tool that can jump start their research but requires careful editing to avoid filing a brief with significant inaccuracies. One of the most important things we are trying to get our minds around at the Law School is how to get students to have both things effectively in their minds: the power of generative AI platforms and the necessity for human judgment to channel it.

We are also wrestling with how we account for generative AI in the administration of exams. Whether in take home projects, in person exams (many of which we now administer via computer), or papers, generative AI is potentially available for part or all the work. Multiple choice and fully closed book exams are much more immune from the influence of generative AI. Unfortunately, those exam formats are not the direction we want to move in, either for alignment with the impending NextGen Bar Exam or actual practice expectations for our graduates. We must find ways to avoid regression in our exam formats while innovating on ways to prevent impermissible uses of Generative AI.

It is obviously not an easy balance; it is only beginning, and it will necessarily evolve with time—the effort is imperative, however.

Students are likewise not immune from the need to wrestle with identifying and limiting the use of generative AI. As they enter practice and must identify the photos, writings, and other documents that are authentic, they will need to understand how to spot the work of generative AI and distinguish it from original human works. News articles about “deepfakes” in politics and business, defamation of public figures through explicit photos and videos that are ostensibly real but actually the product of AI, and other manipulations of reality will require creative thinking about the rules of evidence, contracts, and torts, and ongoing understanding of technology that, frankly, prior generations of lawyers have not been faced with. It is not an overstatement that one of the most important disciplines to introduce to the next generation of lawyers will be epistemology. In an unprecedented way, new lawyers need to understand how to search for and identify reality and truth.

These are sobering and challenging issues. They elude easy understanding or resolution. I encourage all of you to read and think about them. As a profession, we will need to develop responses quickly but thoughtfully

in coming years. Career services and McKusick Law Library staff are developing a survey on how generative AI is impacting practice. We hope to send that to the Bar in the coming weeks and will appreciate all the insights you can share with us.

The complexity and challenge of this issue can be a bit daunting. Let me end with a final and more positive thought.

Legal education and the legal profession are built for moments like this. Law is rooted in human understanding and seeks and develops effective means to regulate human behavior. Even human behavior through developing technology; quite often in that setting. Our commitment to neutral processes to assess claims of truth gives us an excellent platform to help educate other citizens to do so themselves. Finally, our understanding that the exercise of human judgment in the resolution of disputes is central to the rule of law within a democratic society provides us with a compelling rebuttal to those who argue that the rise of machines will be the fall of humanity. It is a hyperbolic claim, but one that gets made. I think it is wrong, however; I think we as lawyers will be crucial to proving that to be so and finding a better, more human way forward.

# SAVE THE DATE

## SPRING OCI DATES:

- Jan 17      Black Hills Virtual Networking Event
- Feb 8-9     OCI Round I
- March 21-22   OCI Round II

Register [HERE](#) for the Black Hills Virtual Networking Event.

Register [HERE](#) for Spring OCI events.

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 JUNE OR JULY 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.

HENRY EVANS  
 COLLIN FISCHER  
 LON GELLHAUS  
 RACHEL MAIROSE  
 ERIKA OLSON  
 JOAN POWELL  
 COLE ROMEY  
 MALLORY SCHULTE

**Special Thanks to:**

PAUL CREMER  
 STEVE HUFF  
 DENISE LANGLEY  
 ALISON RAMSDELL  
 MARWIN SMITH  
 JAMES TAYLOR

**For Your Help on SDFLA!**

**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)**



# A2J

## HERO



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

# ANNOUNCEMENTS

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

*Andrew T. Fick*

has become a Partner in the firm.

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

Telephone: (605) 333-0003  
Facsimile: (605) 333-0007

Email: [afick@fullerandwilliamson.com](mailto:afick@fullerandwilliamson.com)

Nooney & Solay, LLP  
announces

*Jared D. Nooney*

has become a Partner with the firm  
effective January 1, 2024.

Nooney & Solay, LLP  
326 Founders Park Drive  
PO Box 8030  
Rapid City, SD 57709-8030

Telephone: (605) 721-5846

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

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.  
is pleased to announce that

*Emily M. Smoragiewicz*

became a Partner on January 1, 2024.

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.  
333 West Boulevard, Suite 400  
P.O. Box 2670  
Rapid City, SD 57709

Telephone: (605) 343-0100  
Facsimile: (605) 343-1503

Email: [Emily@bangsmccullen.com](mailto:Emily@bangsmccullen.com)

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

DeMersseman Jensen Tellinghuisen  
& Huffman, LLP  
is pleased to announce that

*Ellie Bastian*

has joined the firm.

DeMersseman Jensen Tellinghuisen  
& Huffman, LLP  
516 Fifth Street  
Rapid City, SD 57701

Telephone: (605) 342-2814

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

## FEBRUARY LAW FOR LUNCH

### INTENTIONAL ORGANIZATION FOR THE LAW OFFICE

February 20, 2024

12:30 CST/11:30 MST

Zoom

Presenter:  
Mrg Simon

REGISTER  
HERE

Gain skills to intentionally eliminate clutter and organize law offices for tidiness based on principles of mindfulness and best practices for record keeping

### *Office Sharing Invitation*

Rapid City attorneys Mitch Johnson, Brad Gordon and Margo Julius are searching for an attorney to share their office suite located at:  
2902 West Main Street, Suite #1  
Rapid City, South Dakota.

We have a very nice office available, large conference room, 1 legal assistant stations, sophisticated scanning and copy machine, extensive library, Westlaw, telephone system, postage meter machine and room for storage of files.

If interested, please call either:  
Mitch Johnson (605) 381-6464  
Brad Gordon (605) 716-3040  
Margo Julius (605) 721-7337

Effective February 1, 2024,  
the Sioux Falls office of

*De Castro Law Office, PLLC*  
will be moving to a new location.

De Castro Law Office, PLLC  
224 N. Phillips Avenue, Suite 207  
Sioux Falls, SD 57104

Telephone: (605) 251-6787

De Castro Law Office, PLLC  
118 W. Center Street, Suite 2  
Madison, SD 57042

Telephone: (605) 427-0817

## Jim McMahon Named Of Counsel at Redstone Law Firm

Redstone Law Firm is excited to announce former partner James E. McMahon's return to Redstone Law Firm LLP. Jim will be working on litigation matters, as he has his entire career, in an Of Counsel role with Redstone Law Firm.

Jim earned his bachelor's degree from Morningside College in Sioux City, Iowa, and a law degree from the University of South Dakota. Throughout his legal career, Jim has represented plaintiffs and defendants with distinction. He served as an Assistant Attorney General from 1978-1981 and then joined the Sioux Falls-based law firm of Boyce, Murphy, McDowell and Greenfield, where he practiced as a trial lawyer. In 2002, he was honored with the appointment for confirmation as U.S. Attorney for South Dakota by President George W. Bush. After serving as U.S. Attorney, Jim returned to private practice at Murphy, Goldammer and Prendergast LLP, which later changed its name to Redstone Law Firm. Jim retired from the full-time practice of law in 2019 to spend time with his wife Kathy, their children and grandchildren, but missed his legal career.

During his career as a trial attorney, Jim has received a number of honors for his work as a trial lawyer, including being named South Dakota Trial Lawyer of



the Year, and he received the Richard S. Arnold Award for Distinguished Service and Lifetime Achievement from the Eight Circuit Court of Appeals Bar Association. Jim has been a member of the American College of Trial Lawyers and the American Board of Trial Advocates for many years.

Redstone's experience and vision uniquely position us to meet the challenges of a changing world, and Jim embodies these values. We remain committed to our core values, and our five practice areas: business law, estate planning, trust and estate administration, government relations, and litigation.

Visit [www.redstonelawfirm.com](http://www.redstonelawfirm.com) for more information and to contact Jim.

An advertisement for SandCreek EAP webinars. The background is light grey with blue and green circular accents. On the left, a green circle contains the word "More" in a script font, above the text "UPCOMING LIVE WEBINARS". Below this, a blue circle contains the text "Free to all Bar Members!". At the bottom left is the SandCreek EAP logo, which includes the text "SANDCREEK EAP" and "An AllOne Health Company". On the right, there are two webinar cards. The first card features a photo of hands holding a wooden cane, with a blue circle containing "14 FEB". Below the photo is the title "The Sandwich Generation: The Ultimate Balancing Act", the date "February 14, 2024", the time "1:30 pm EST - 2:30 pm EST", and a blue link "Register for this Webinar". The second card features a photo of a man and a woman looking at a document, with a blue circle containing "28 FEB". Below the photo is the title "The Art of Creating Healthy Relationships", the date "February 28, 2024", the time "12:00 pm EST - 12:45 pm EST", and a blue link "Register for this Webinar". At the top right of the advertisement, the text "Discover a whole new approach to well-being." is displayed.





# State Bar of South Dakota

President  
Heather Lammers Bogard  
704 St. Joseph St.  
Rapid City, SD 57701  
(605) 343-2410  
[hbogard@costelloporter.com](mailto:hbogard@costelloporter.com)

Executive Director & Sec/Treas  
Paul L. Cremer  
111 W. Capitol Ave. #1  
Pierre, SD 57501  
(605) 224-7554  
[paul.cremer@sdbar.net](mailto:paul.cremer@sdbar.net)

Board of Bar Commissioners  
Justin Lee Bell      Nicholas G. Moser  
Steven Blair      Amber L. Mulder  
Hon. Francie E. Foral      Erika S. Olson  
Rory King      John T. Richter  
Kimberly R. Kinney      Caroline A. Srstka  
Tyler Paul Matson      David R. Strait  
Gerald M. McCabe

Dear State Bar of South Dakota Members:

Thank you for your service as a member of the State Bar of South Dakota. Our President Elect will fill vacancies on State Bar Standing and Special Committees for the 2023-2024 Association year. To assist our Appointments Committee with this important process, please complete the following survey to indicate your desire to *join or retain* your appointment to our State Bar Committees.

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

Requests for appointment should be made electronically, beginning on **February 1<sup>st</sup>** at:

<https://www.surveymonkey.com/r/XXYFTD9>

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

Thank you in advance for your assistance. Although there are a limited number of vacancies to fill, we will give each application thorough consideration. If you would like to discuss the application process, please feel free to contact Paul Cremer at (605) 224-7554, or [paul.cremer@sdbar.net](mailto:paul.cremer@sdbar.net).

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

Sincerely,

State Bar of South Dakota

# 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 2024 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 [taylor.bushelle@coyotes.usd.edu](mailto:taylor.bushelle@coyotes.usd.edu), or addressed to Taylor Bushelle 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, 2024.

Respectfully,

Taylor Bushelle  
*SBA President 2023-2024*  
*USD Knudson School of Law*

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<b>Taylor Bushelle</b> President	<b>Michelle Perrett</b> Vice President	<b>Garrett Adams</b> Secretary	<b>Vincent Tarallo</b> Treasurer	<b>Brock Brown</b> ABA Rep.	<b>Kelsey Milford</b> SGA Rep.
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# South Dakota Law Review Wine Review

Friday, February 23, 2024

Holiday Inn City Centre- Falls West

Social hour begins at 6:00 p.m.

Program begins at 6:30 p.m.

Tickets \$50

RSVP by sending an email to  
[marcus.hluchy@coyotes.usd.edu](mailto:marcus.hluchy@coyotes.usd.edu)  
by February 11th, 2024

If you are a person with a disability and need a special accommodation to fully participate, please contact Disability Services 48 hours prior to the event at 605-658-3745 or by email at [disabilityservices@usd.edu](mailto:disabilityservices@usd.edu).



UNIVERSITY OF  
SOUTH DAKOTA  
KNUDSON SCHOOL OF LAW

## **4<sup>th</sup> Annual Diversity and Inclusion Award**

***Sponsored by: The Lawyers Committee on Diversity and Inclusion***

On behalf of the State Bar of South Dakota's Lawyer's Committee on Diversity and Inclusion (LCDI), nominations are being sought for the 4<sup>th</sup> annual Diversity and Inclusion Award.

### **Purpose**

The Diversity and Inclusion Award serves to recognize members of the State Bar of South Dakota who actively promote diversity and inclusion in the legal profession. Recipients of the award contribute to and enhance the environment of inclusion in the legal profession, particularly in South Dakota.

### **Eligibility Criteria**

To be eligible to receive the Diversity and Inclusion Award, an individual must be a member in good standing of the State Bar of South Dakota and must demonstrate an exceptional understanding of diversity and inclusion beyond the call of duty as represented by the following criteria:

- Enhances inclusion through positive communication between persons of different backgrounds.
- Demonstrates a commitment to the values of diversity and inclusion through documented efforts that are above and beyond routine expectations.
- Develops innovative methods for increasing and valuing diversity through wide-ranging activities.
- Demonstrates outstanding efforts to promote an environment free from bias and discrimination.
- Organizes, creates, and facilitates various professional or community events promoting diversity, respect, and inclusion.
- Shows efforts to recruit and retain individuals who increase the diversity of the State Bar of South Dakota
- Promotes the sponsorship of, or active participation in, programs, initiatives, or projects in the area of diversity and inclusion.
- *ELIGIBILITY RESTRICTION:* The individual being nominated cannot be a current member of the State Bar of South Dakota's Lawyer's Committee on Diversity and Inclusion.

### **Nomination Criteria**

Individuals may nominate a member of the State Bar of South Dakota by submitting a Nomination Form. Completed Nomination Forms, and attachments thereto, may be emailed to [access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net) or mailed to:

**Diversity & Inclusion Award Committee**  
**C/O Access to Justice, Inc.**  
**111 W. Capitol Ave. #1**  
**Pierre, SD 57501**

**Deadline:** Nominations must be received by **Friday, March 31, 2024.**

*For further information, please contact Denise Langley, Access to Justice, Inc., at [access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net) or by phone at 855-287-3510.*

### **Nomination Process and Presentation of Award**

Every year in the spring, the Lawyers Committee on Diversity and Inclusion (LCDI) will publish an invitation in the South Dakota State Bar Newsletter soliciting nominations for the Award. To be considered, nominations must be received by LCDI no later than March 31<sup>st</sup>. Each nomination should include a brief synopsis of the nominee's commitment to diversity, inclusion, and equal participation in the legal profession. Each nominee's materials will then be reviewed by a subcommittee of the LCDI. The LCDI will then, by a majority vote, select one or more recipients who best exemplify the eligibility criteria. All recipients of the Award will be notified no later than May. The Award will be presented during the annual State Bar convention in June.

**2024 Diversity and Inclusion Award  
Nomination Form**

**1. Nominee Information**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**2. Nominator's Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

*How do you know the Nominee:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Synopsis**

***A one-page synopsis must be attached to this nomination form. The synopsis should clearly identify the qualifications & attributes of the nominee.***

Completed nomination forms, and attachments thereto, are to be emailed to:

[access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net)

Or mailed to:

**Diversity & Inclusion Award Committee  
C/O Access to Justice, Inc.  
111 W. Capitol Ave. #1  
Pierre, SD 57501**

**Deadline: Nominations must be received by Friday, March 31, 2024.**



# State Bar of South Dakota

President  
Heather Lammers Bogard  
704 St. Joseph St.  
Rapid City, SD 57701  
(605) 343-2410  
hbogard@costelloporter.com

Executive Director & Sec/Treas  
Paul L. Cremer  
111 W. Capitol Ave. #1  
Pierre, SD 57501  
(605) 224-7554  
paul.cremer@sdbar.net

## Board of Bar Commissioners

Justin Lee Bell	Nicholas G. Moser
Steven Blair	Amber L. Mulder
Hon. Francy E. Foral	Erika S. Olson
Rory King	John T. Richter
Kimberly R. Kinney	Caroline A. Srstka
Tyler Paul Matson	David R. Strait
Gerald M. McCabe	

January 16, 2024

Fellow State Bar Members:

As you may know, I was recently appointed as a Circuit Court Judge in the Fifth Judicial Circuit. While there is nothing that prohibits a judge from serving as President of the South Dakota State Bar,<sup>1</sup> any new position requires extra time to do the job well. That extra time, combined with the time and dedication that members of the State Bar deserve from their President, could result in the Court or the State Bar not getting the time, attention, and dedication they deserve. As a result, I am stepping down from my position as President-Elect of the South Dakota State Bar Association.

I have truly enjoyed the time I have spent with our State Bar, whether it was the CLE Committee, the Strategic Planning Committee, the Bar Commission, or the Disciplinary Board. I want to thank all of those who served alongside me in those roles. Your mentorship and friendship enriched my professional life. I encourage you all to find your own way to be involved.

I appreciate the confidence that you placed in me to vote for me as President-Elect. I am confident that the new President-Elect, who will be chosen by the Bar Commission, will do an excellent job.

Sincerely,

Julie Dvorak

---

<sup>1</sup> See generally Code of Judicial Conduct, Canon 4, and its commentary, the example in North Dakota set by Judge Gail Hagerty, Guide to Judiciary Policy, Volume 2B, Chapter 2, Number 34 [https://www.uscourts.gov/sites/default/files/guide-vol02b-ch02-2019\\_final.pdf](https://www.uscourts.gov/sites/default/files/guide-vol02b-ch02-2019_final.pdf); and NY Advisory Comm. on Judicial Ethics Op. 2018-168 <https://www.nycourts.gov/ipjudicialethicsopinions/18-168.htm>

# Notice of State Bar President Elect Vacancy

Thank you, Judge Dvorak, for your service to the State Bar, and we look forward to working with you in your new role.

Given Judge Dvorak's decision to step down as President Elect of the State Bar of South Dakota, the President Elect position is vacant, and will need to be filled as per State Bar Bylaw Section 5.4:

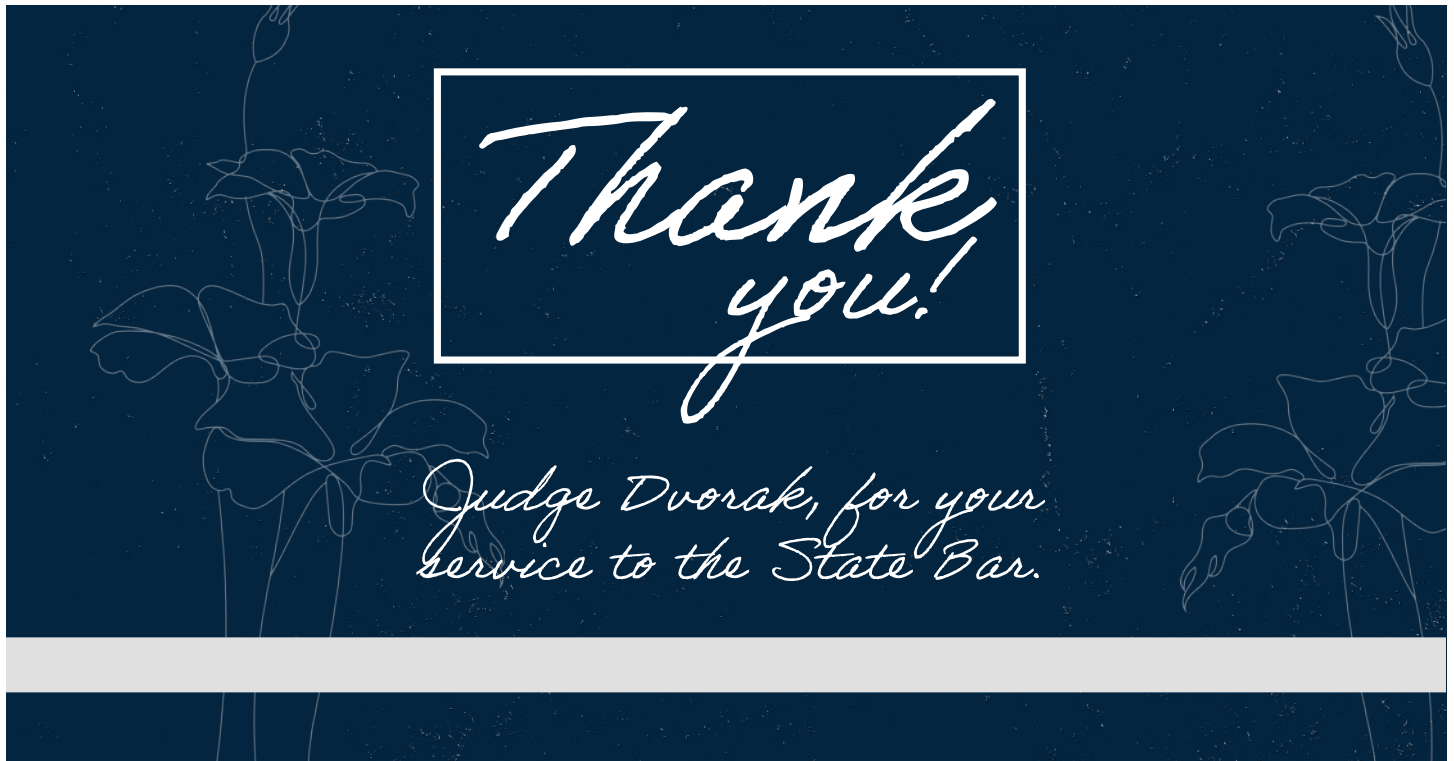
5.4. **Vacancy.** If the office of President becomes vacant for any reason, the President Elect will complete the remainder of the President's term. After completing the President's unfulfilled term, the President Elect will serve his or her full term as President. If the office of President Elect becomes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

If any Bar Members have an interest in being appointed as President Elect, please notify me in writing by February 7, 2024, explaining your interest and qualifications. The Bar Commission will then fill the position from the pool of interested persons. My email address is [hbogard@costelloporter.com](mailto:hbogard@costelloporter.com); my US mail address is PO Box 290 Rapid City, SD 57709. Thank you.

Sincerely,

Heather Lammers Bogard  
State Bar President

\*Please note: The State Bar previously sent this vacancy notice via email to members on January 19, 2024, with a deadline of January 31, 2024, to apply for the President Elect position. We are extending the deadline to allow us to place this notice in the Newsletter. Thank you.



# EVIDENCE-BASED SENTENCING

May 2, 2024 | 1:30PM - 3:00PM (CDT)

Ramkota Hotel | Sioux Falls, SD

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HERE

PRESENTER:

*Douglas Marlowe, JD, PhD*

This presentation will review a typology of risk-and-needs profiles of criminal defendants and describe clinical and supervisory adaptations that are required to treat and manage various sub-types of these individuals effectively.

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## *Supreme Court*

STATE OF SOUTH DAKOTA

*Steven R. Jensen*  
CHIEF JUSTICE

January 25, 2024

Dear Members of the South Dakota Bar:

Last month the Bar Admission Study Steering Committee presented its final report and recommendations to the Supreme Court after completing its study of the bar admission process in South Dakota. The recommendations to the Court include the continued use of the bar examination for determining minimum competence to practice law. Beginning in 2026, the National Conference of Bar Examiners will begin to offer the NextGen examination. The NextGen bar examination has yet to be fully developed, but is expected to focus more on the practical application of legal knowledge when assessing competence to practice law. The current bar examination will be phased out by 2028, which will likely necessitate the Court moving to the NextGen bar exam before that time.

In addition to recommending continuation of the bar examination, the Steering Committee also recommended a continued showing of minimum competence in Indian Law. This could be demonstrated either through (1) passage of the Indian Law question on the bar examination, or (2) passage of an Indian Law class at an ABA approved law school.

The other recommendations made by the Steering Committee include an alternative public service pathway for bar admission. The primary recommendation is for a five-year pilot program that would allow a small cohort of students at the University of South Dakota Knudson School of Law, interested in public service, to participate in a more experiential-based program during the last two years of law school. The program would include classroom instruction and an externship with a trained supervisor. In addition to the traditional law school grading of their course work, the Board of Bar Examiners would independently review the portfolio of work from the students during the program to assess minimum competence to practice law. Students would also be required to pass the Multistate Professional Responsibility Exam and stand for a character and fitness review by the Board of Bar Examiners before admission to the Bar. Students who fulfill these requirements and pass the competency assessment by the

Page Two  
January 25, 2024

Board of Bar Examiners would be licensed to practice law upon graduation from the Law School. Students in the program must also practice in a public service field for a minimum of two years upon licensure.

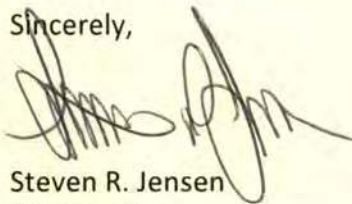
The Court has appointed a committee to develop the specific requirements of both the law school program and the competency assessment by the Board of Bar Examiners. The Committee includes: Justice Scott Myren, Judge Jane Wipf Pfeifle, Dean Neil Fulton, Josey Blare, Daniel Haggar, Ann Mines Bailey, Rachelle Norberg, J. Crisman Palmer, John Richter, and Eric Whitcher. The Committee will also draft proposed rules for the Court's consideration later in the year. The Committee will begin this work shortly, continue its work for the next several months, and will also provide an opportunity for input from Bar members.

We have also planned opportunities for the Bar to learn more about the recommendations of the Steering Committee and the public service pathway to admission. On February 2, Dean Neil Fulton, Jack Hieb, and Greg Sattizahn will present a webinar outlining more details about the program. During the June Bar Convention, they will again present information on the public service pathway to admission and give an update on the work of the implementation committee. This latter format will also provide further opportunity for questions from Bar members.

The public service pathway to admission has the potential to create law students who are more practice-ready upon graduation and committed to work in a public service field, while also ensuring those lawyers meet the standards for minimum competence to practice.

The Court encourages Bar members to learn about the potential public service pathway to admission and provide feedback to the Committee and the Court as this process moves forward.

Sincerely,



Steven R. Jensen  
Chief Justice

SRJ:lg

# I WANT TO BE A CONTRACT ATTORNEY. DO I NEED TO PURCHASE MY OWN MALPRACTICE INSURANCE POLICY?



*Authored by: Mark Bassingthwaight  
Risk Manager*

**G**et ready for a typical lawyer response, because the answer is maybe. It all depends upon the specifics of the situation. Let's take a look at three common variations of relationships that firms will create with contract attorneys.

You will be engaged full-time by one firm and held out to the general public as being associated exclusively with that firm.

Given that the definition of insured under many malpractice policies includes contract attorneys, you will usually have coverage under the malpractice policy the firm has in place as long as the firm provides notice to their carrier, and any called for premium is paid. Just be aware that if the firm refuses to or is unable to add you to their policy and then expects you to purchase your own policy, any policy you purchase will likely not provide any coverage for the work you do as a contract attorney for this firm. The reason is malpractice policies

provide coverage for professional services performed for and on behalf of clients of the named insured, which is almost always a firm. This is why you really do need to be added to the firm's policy. One final thought here. While trust is a good thing, when it comes to coverage, it might be worth having the firm provide documentation that you have been added to their policy.

You will be temporarily engaged by one or more firms but never held out to the general public as being associated with any firm.

As stated above, coverage may be available under the malpractice policy the firm or firms have in place if the firm or firms provide notice to their carriers and take care of any premium due. If any firm is unable or unwilling to add you to their policy, you could look at purchasing your own policy. If this firm ends up suing you for malpractice, coverage should be in play under your policy because this firm would be a client of yours.

Of course, this outcome depends upon your ability to provide adequate documentation that this firm was an actual client of your own practice. Think formal engagement agreement that documents you are in the role of an attorney providing legal services to another firm.

That said, the interesting question becomes is coverage really necessary in this situation. While the decision is one only you can make, consider this. Assuming you have no client contact of any kind with any client of the firm or firms, all clients of the firm or firms are never made aware of your involvement on any matter, and the firm or firms accept full accountability and responsibly for your work product (all of which are commonplace in this type of business relationship), the risk of having to deal with a malpractice claim is going to be extremely low.

You will be engaged part-time by one firm and held out to the general public as being associated with that firm while also establishing or running your own practice.

In this situation, you will be working for two firms, the firm you contract with and your own solo practice. Again, remember that malpractice policies only provide coverage for work you do for and on behalf of clients of the named insured, which is almost always a firm. This means if you wish to be covered for all of the work you will be doing, you will need to be on two separate policies. One will be the policy of the firm you are contracting with and the other will be the policy you purchase to cover you for the work you will do for and on behalf of clients of your own practice.

However, problems can arise should the firm you wish to contract with refuse to or is unable to add you to their policy. Fortunately, there is a work-around. Instead of

working under contract with the firm, explore the possibility of working with this firm as co-counsel on matters the firm wishes to have you involved with. Of course, in accordance with the Rules of Professional Conduct, all common clients would need to be made aware in writing the terms of the fee split and that they will be retaining two discrete firms. I would encourage you to also go one step further and document the roles and responsibilities of the involved attorneys. One side note here. Do not consider exploring this work-around option if either you or the firm is uninsured or under insured. When you create co-counsel relationships, you are in essence creating a partnership for every joint matter you work on, which means liability for each other's missteps can all too quickly come into play.

In sum, contract attorneys are often added to the policies of the firms they are contracting with. It's only when you have clients of your own that you need to look into obtaining your own coverage. And while I haven't explored every possible spin on contract attorney relationships with this post, remembering that malpractice policies provide coverage for work done for and on behalf of clients of the named insured will help you work the question of do you need your own policy.



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.

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# \*IMPORTANT COMPLIANCE INFORMATION\*

## IT'S OFFICIAL: THE CORPORATE TRANSPARENCY ACT

The day is finally here! The Corporate Transparency Act (“CTA”) officially went into effect as of January 1, 2024. After much anticipation and some skepticism, the CTA is effective. To some degree, corporate and business attorneys are still evaluating what this means for themselves and their clients, but there is some key information of which all practicing attorneys should be aware.

The CTA was enacted in 2021 as part of the Anti-Money Laundering (“AML”) Act of 2020 and it requires certain entities to file a Beneficial Ownership Information (“BOI”) report with the U.S. Treasury’s Financial Crimes Enforcement Network (“FinCEN”). The goal of the new law is to create a database of companies and their beneficial owners that will aid in preventing money laundering and other financial crimes in the United States. Both domestic and foreign corporations, LLCs, LPs, LLPs, and other entities formed by filing either a document with a secretary of state or Indian Tribe, or formed under foreign law and registered to do business in the United States, must report unless the entity is subject to an exemption. There are 23 applicable exemptions under the CTA that exempt certain entities from reporting. Entities formed before January 1, 2024 must report by January 1, 2025, entities formed after January 1, 2024 must file within 90 days, and entities formed after January 1, 2025 will have 30 days to file. Failure to comply may result in both civil and criminal penalties including a \$500 per day penalty.

As with most new regulations, there are two questions that attorneys must wrestle with (1) what is the regulation, and (2) what does it mean in practice? Information on the former can be found in numerous locations including on the State Bar website as well as the FinCEN website <https://www.fincen.gov/boi>. The Small Entity Compliance Guide published by FinCEN is also a helpful resource regarding interpretive guidance and can be found at [https://www.fincen.gov/sites/default/files/shared/BOI\\_Small\\_Compliance\\_Guide\\_v1.1-FINAL.pdf](https://www.fincen.gov/sites/default/files/shared/BOI_Small_Compliance_Guide_v1.1-FINAL.pdf).

The answer to the latter, what does it mean in practice, is more nuanced but will likely mean that attorneys

will need to re-calibrate expectations with clients and evaluate what responsibilities they, as the attorney, are willing to shoulder. Attorneys may need to manage client expectations around the timing of entity formation and clients may need to give more forethought to the structure of an entity before making an initial filing to form a business entity. In addition, attorneys may need to decide what follow-up compliance they are willing to take on after formation and fully inform clients of the client’s responsibilities as the owners of the entities. Attorneys will also need to evaluate how to identify and contact owners of previously formed entities regarding their new duties under the CTA. Some initial practical guidance includes framing engagement letters to set clear expectations regarding compliance with CTA, requiring clients to get their own FinCEN number to aid in filing the BOI compliance forms, providing clients with a list of the exemptions from registration and helping clients develop internal CTA compliance policies.

Attorneys and clients should also be aware that FinCEN has been notified of an uptick in recent fraudulent attempts to solicit information from individuals and entities who may be subject to the reporting requirements of the CTA. As always, be suspicious of any e-mail or letter asking you to click on a link or scan a QR code. FinCEN will not send unsolicited e-mail or mail requests.

In conclusion, the CTA will have a substantial impact on the day-to-day operations of business and corporate attorneys and how they approach one of the most common services provided to clients. Our firm, Ballard Spahr, LLP, has published additional resources on the CTA at this link: <https://www.ballardspahr.com/services/initiatives/corporate-transparency-act-resource-center>. Please contact us if you have additional questions and you would like additional information.

Written by: Kelly Herrmann & Brooke Harms  
Ballard Spahr, LLP  
Sioux Falls, SD

# In Memoriam



James "Jim"  
Wells Olson  
1943 - 2024

James "Jim" Wells Olson passed away Tuesday, January 16, 2024, at home.

His beloved wife of nearly 60 years, Karen Gundersen Olson, was holding his hand as he passed.

Born in 1943 in Volga, SD, to John E. Olson and Helen (Wood) Olson, Jim grew up in Brookings and Sioux Falls, South Dakota. Jim graduated from Sioux Falls Washington High School in 1961 and attended the University of South Dakota, Vermillion, earning his bachelor's degree and then J.D. in 1967.

He met the love of his life, Karen Gundersen, ice skating at USD. Their love blossomed in the freezing Vermillion winter and they married on September 4, 1965 in Rapid City. After graduating from USD Law School, Jim and Karen moved to Rapid City, where Jim clerked for Federal District Judge Andrew Bogue. Jim then worked as Assistant City Attorney before joining his father-in-law, Ernest Gundersen's law firm. Eventually, Jim became partners with Ernest Gundersen, Robert Frankenfeld, James Wilson, and Robert Nash. Their law practice, which would eventually be known as Wilson, Olson, & Nash, served clients in western South Dakota for over 50 years. Jim retired from the practice of law in 2017.

Known for his character, kindness, and wise counsel as well as his extensive collection of bow ties, Jim developed a reputation as an excellent attorney and a devoted family man. He and Karen raised three daughters – Erika, Marta and Kirsten. He spent many Saturday mornings making his trademark pancakes and downhill skiing with Karen and the girls. Later, he enjoyed spending time with his grandsons – Evan Geiger, Noah W. Geiger, and Fritz Rangitsch - skiing, building pinewood derby cars, and swimming in the family pool.

Always a servant leader, Jim served on many non-profit

boards and was elected and served on the Rapid City Board of Education for two terms. Jim was also an active member of the First Church of Christ, Scientist in Rapid City, serving as a reader, Sunday school teacher, and Board member. He sang joyfully in the Shrine of Democracy Chorus, performing in Barbershop quartets and concerts, delivering many "Singing Valentines" to sweethearts all over the Black Hills, and serving as the board president.

An avid hunter, Jim grew up bird hunting with his dad, uncles, sister, brother, and cousins. Later, brother's-in-law, nephews, nieces, and grandsons joined the hunting expeditions, and Jim welcomed them all with humor, warmth, and care, instilling in younger family members a healthy respect for firearms, wildlife and the land. Jim became a passionate bicyclist in later life. He regularly commuted to work by bicycle and enjoyed cycling vacations with Karen and other biking enthusiasts.

Jim is survived by his wife, Karen; daughters, Kirsten Hollenbeck, Marta Olson-Rangitsch and Erika Olson; sons-in-law, Kevin Hollenbeck, Tim Rangitsch and Patrick Fleming; and grandsons, Evan and Noah Geiger and Fritz Rangitsch. He is also survived by his two sisters, Mary Boyer and Dr. Susan Jones, and his brother, Dr. Thomas Olson, and many nieces, nephews, grand-nieces, grand-nephews and cousins.

A memorial service will be held on Monday, February 5, 2024 at the Dahl Arts Center at 10:30 AM, with a light luncheon to follow. The family suggests that in lieu of flowers you make gifts in Jim's name to the following: the Shrine of Democracy Chorus; the Rapid City Area School Foundation; or the Rapid City Public Library Foundation.



Todd Cannon Lockwood  
July 13, 1963 -  
December 26, 2023

Todd Cannon Lockwood, age 60, of Phoenix, AZ, passed away on December 26, 2023. He was born on July 13, 1963, in Oklahoma City, Oklahoma. Todd was a dedicated husband, father, and friend, known for his love of endurance sports and world travel.



Todd was a tax and business attorney, utilizing his knowledge and expertise to assist his clients. He had a strong educational background, having obtained degrees in Accounting and Law from the University of South Dakota and an Masters in Tax Law from New York University.

Outside of his professional life, Todd had a wide range of hobbies and interests. He was an avid runner, biker, and swimmer, having completed numerous marathons and triathlons. In addition, he enjoyed golfing, skiing, and even served as a high school football referee. Todd was also a certified pet therapy team member alongside his beloved dog, Buddy.

Todd is survived by his loving wife, Barbara Lockwood, his son, Davis Riedel, and his brother, Scott Lockwood. He was preceded in death by his mother, Sandy Lockwood, and his father, Dean Lockwood.

A family memorial event will be held in January to celebrate Todd's life. In lieu of flowers, contributions can be made to the University of South Dakota Law School.

love for them knew no bounds.

Beyond his family, Thomas had a passion for cheering on the Wolverines, the Packers and the Twins. He also found solace and adventure in flying his plane through the open skies and enjoyed many rounds of golf.

Tom leaves behind a legacy of dedication, love, and faith. He is survived by his wife, Carolyn, his sisters Cheryl, Patricia, and Kathleen, his three sons Patrick (Kady), Paul (Laura), and Timothy (Katrina), and eight grandchildren.

Funeral mass will be 10:30am, Monday, February 19, 2024 at Holy Name of Jesus Church in Watertown.

Please note location:

Visitation will be 2:00-5:00pm, with a Scripture Service and Time of Sharing starting at 5:00pm, Sunday, February 18, 2024 at Holy Name of Jesus Church.

Interment will be at St. Mary's Cemetery in Watertown.



Thomas F. "Tom" Burns  
August 14, 1955 -  
November 18, 2023

Thomas Francis Burns, born on August 14th, 1955, unexpectedly passed away on November 18th, 2023. Thomas was born in Watertown to Francis and Jerry Burns and was a lifelong member of Holy Name Parish. Upon graduating from Watertown High School, Tom went on to earn a bachelor's degree and Juris Doctorate from The University of Michigan. While there he met his beloved wife, Carolyn Litteral Burns, and they shared a life full of love and commitment.

As a well-respected attorney, Tom was a fixture of the legal community in Watertown for many years and his absence will be felt by his colleagues.

Together, Thomas and Carolyn raised three wonderful sons and also found immense joy in his role as a grandfather, cherishing his eight grandchildren. His



Gerald "Jerry" C. Rachetto  
July 31, 1945-  
January 14, 2024

Gerald "Jerry" C. Rachetto, 78, passed away on January 14, 2024 at Avantara St. Cloud Nursing Home in Rapid City, SD after battling Alzheimer's Disease for several years. He was born July 31, 1945, in Detroit, Michigan, the son of Frank and Ruth Rachetto.

Jerry graduated from Deadwood High School in 1963. He attended Western State University in Gunnison, Colorado, graduating with a degree in accounting while competing in ski jumping. This is where he met his wife of 54 years. He attended law school at the University of Denver and graduated in 1970.

He started his law practice in Deadwood and was privileged to practice in the community for 45 years. He was also involved in helping start the Lead Deadwood High School Golf Team with his wife, and coached golf

for over 20 years, including his own children. He started the Junior Recreation Ski Program at Deer Mountain Ski Resort. He loved spending time golfing at Boulder Canyon Country Club with his family and friends. In 2020-2022, despite Jerry's illness, he became a member at Arrowhead Country Club and played many rounds of golf with his son Tyler and grandson Keegan. He also watched his grandson Keegan win numerous SDGA junior golf tournaments. He loved spending time with his children and grandchildren. He was a man strong in his Catholic faith and enjoyed cheering on his favorite NFL football team, the Denver Broncos.

He is survived by his wife, Joan. His children, Trent; Aprille Ostert (Blake); Tyler (Jessica) and his grandkids, Presley and Easton Ostert; Keegan, and Nolan Rachtetto, Tyler (Allison) Percevich and great grandson, John.

Services will be held at Saint Patrick's Catholic Church in Lead on Friday, January 19, 2024 with visitation at 9:00 and funeral services at 10:00 with burial services following at Oakridge Cemetery in Deadwood.

A memorial was established for First Tee of South Dakota with the South Dakota Golf Association Junior Golf Foundation.



S. Erin Leah Colgan  
July 10, 1965 -  
January 20, 2024

S. Erin Leah Colgan, OSB, 58, died on January 20, 2024. A wake service will be held at 7:00 PM on Thursday, January 25, 2024 and the Funeral Mass will be celebrated at 10:00 AM,

on Friday, January 26, both in Bishop Marty Memorial Chapel in Yankton, South Dakota. Burial will be in the monastery cemetery. Arrangements are under the direction of the Wintz & Ray Funeral Home and Cremation Service in Yankton. A livestream of the wake and funeral can be found at <https://www.youtube.com/@shmpublicrelations5390/streams>

Erin was born July 10, 1965, to James and Alice (Scott) Colgan in Fremont, Nebraska, and was the second of four children. She was raised on an acreage two miles north of North Bend, Nebraska, and attended

Cotterel Elementary School and North Bend Public School, graduating in 1983. She attended Wayne State College in Wayne, Nebraska earning a Bachelor of Arts Degree in Business and Education, with a Computer Science Endorsement in 1987. After graduation, Erin worked with the University of Nebraska Foundation in Lincoln, Nebraska as an annual giving and information specialist. It was during her time in Lincoln that she met the Benedictine Sisters of Yankton and included the Benedictines in her search for her life vocation.

Erin entered Sacred Heart Monastery on August 23, 1992. She became a novice on August 5, 1993, made her first profession on August 7, 1994, and her final profession on August 2, 1997. S. Erin began her community ministry in 1994 as Assistant Registrar at Mount Marty College. She then worked as the Registrar from 1996 to 2004. S. Erin attended the University of St. Thomas School of Law in Minneapolis, Minnesota, receiving her Juris Doctor of Law degree in 1997. She practiced law at East River Legal Services in Sioux Falls, South Dakota from 2008 to 2012, and enjoyed serving those in need. Returning to Yankton and Mount Marty in 2013, she was the Compliance Officer until 2015. Most recently, S. Erin's ministry was at Sacred Heart Monastery in the Business Office and managing the Monastery Gift Shop.

S. Erin was a quiet, steady presence who lived the scripture adage, "For everything there is a season..." as she searched for truth in her daily life. She was devoted to her family and treasured family time. In her leisure time, she worked on crossword puzzles and enjoyed a good card game. She also knitted useful things to give away to others.

S. Erin is survived by her Benedictine Sisters; her father, James Colgan of Fremont, NE; brother, Derick (Jill) Colgan of Nebraska City, NE; sisters, Anne (Dave) Webb of Ventura, CA and Heather (Philip) Mead of Sioux Falls, SD. She is preceded in death by her mother, Alice Colgan and nephew, Holden Mead.

# Attorney Health & Wellness Resources

It's okay to ask for help



A CONFIDENTIAL  
**LAWYERS CONCERNED FOR LAWYERS**

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(605) 391-5191

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

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

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### Weather-related cases for litigation

I have been a part-time consulting weather expert for the past 7 years and so I thought it was time to take a look at the various cases and associated weather. The northern plains have a good mix of summer and winter weather, so these should be at the top of the list. Although most of my cases have been from across the northern plains, I have also worked on cases from Texas. Thus, the breakdown of my cases leans toward the hail, wind, and tornado side of things (41%), with slip-and-fall and winter-weather cases being second (26%; refer to Table 1). Heavy rainfall and flooding cases rank third on the list (14%), which likely would be much higher for weather experts who work on cases in the southeastern United States where hurricanes are very impactful.

**Table 1.** Breakdown of my weather consulting cases from 2017 to 2023.

Type of weather consulting case	Percentage of the total cases
Hail, wind, and tornadoes	41%
Slip-and-falls and winter weather	26%
Rainfall and flooding	14%
Climate studies	9%
Fire weather	5%
Fog and visibility	3%
Clouds and moonlight	2%
Air pollution	2%

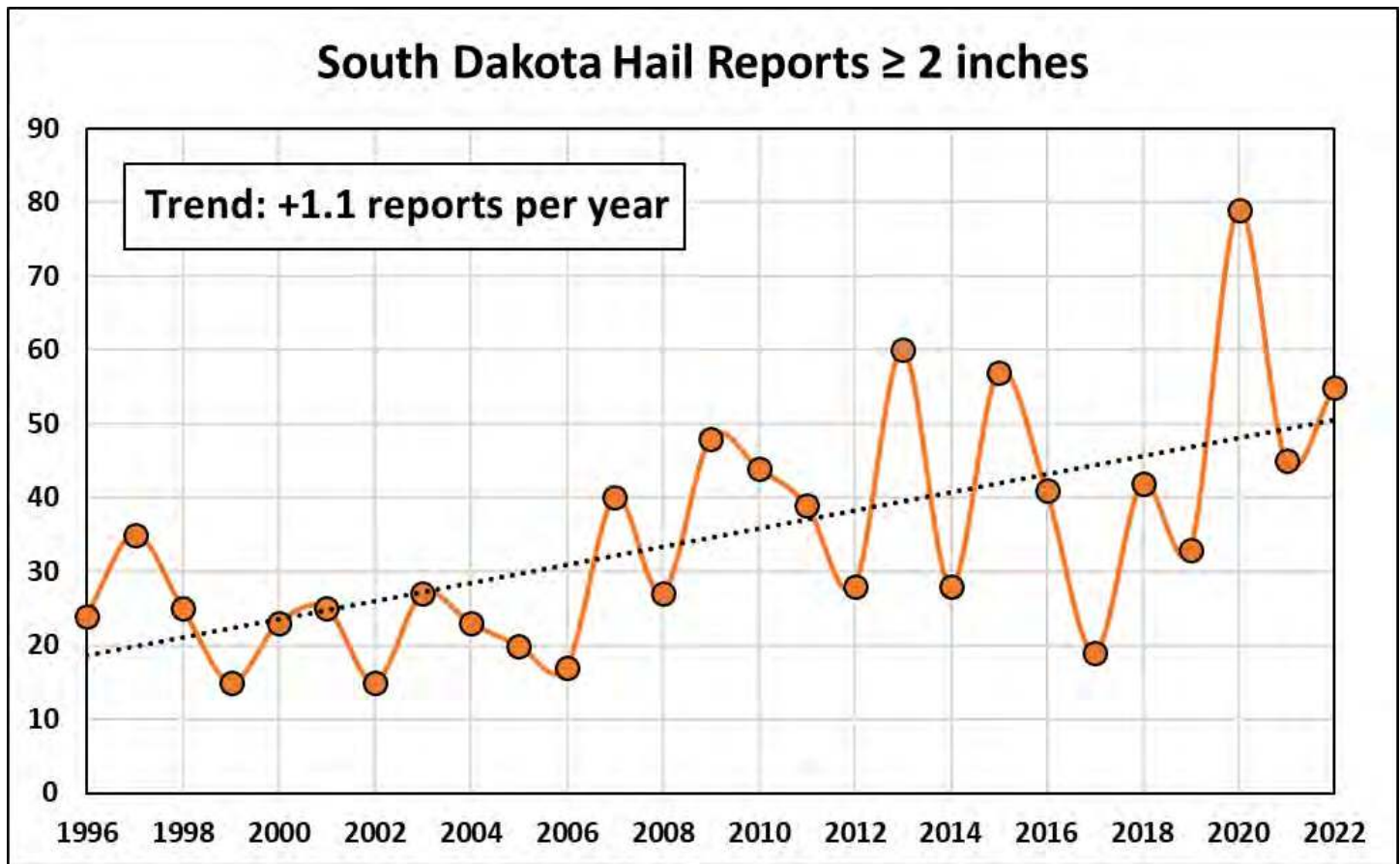
Unfortunately, I cannot answer the question that the title above poses. Table 1 only addresses cases that I have worked on, so these data (Table 1) do not directly tell us the most commonly litigated weather. Based on my experience, it is very likely that many other litigated weather cases have not included a weather expert (for a variety of reasons). Therefore, I do not know the answer to the title's question. At the same time, the correlation should be reasonably high between the cases I have worked on and the most commonly litigated weather across South Dakota and surrounding areas.

### Trends in large hail, heavy snowfall, and heavy rainfall

With this background information in mind, along with our ever-changing climate, you might wonder how things could change in the future. To address this topic, let us take a look at how large hail, heavy snowfall, and heavy rainfall have changed across South Dakota over the past several decades.

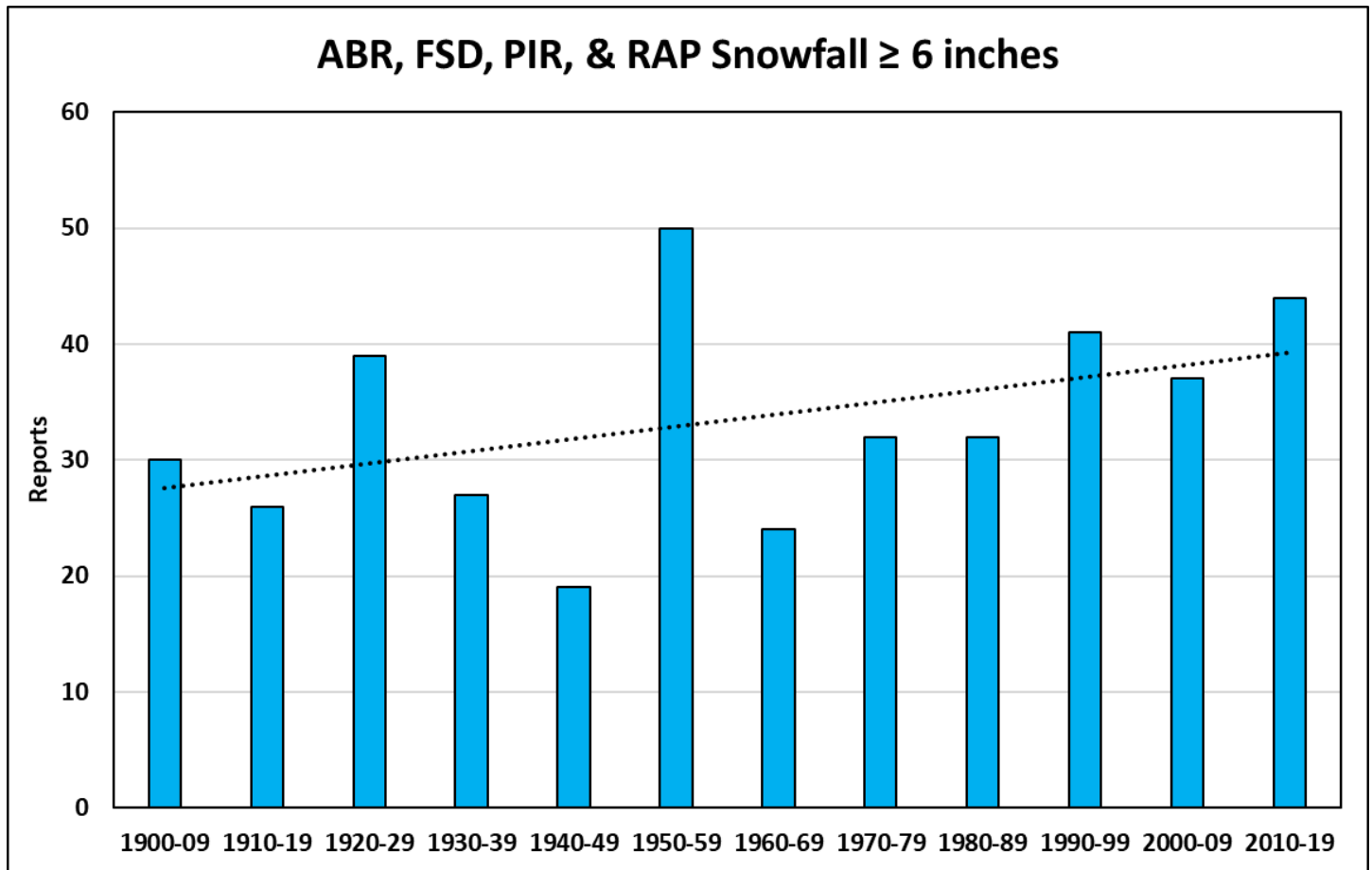
Large hail, defined herein as hail with a maximum diameter of at least 2 inches, has increased across South Dakota since 1996 by an average of 1.1 reports per year (Fig. 1). This is an average increase of 31 reports between 1996 and 2022. The starting year of 1996 was chosen because that is when all of the NWS offices in South Dakota had installed their Doppler radars, thus facilitating better identification of hail. A positive trend also is evident for  $\geq 3$ -inch diameter hail (an increase of 4.75 reports between 1996 and 2022).

**Figure 1.** Counts of hail reports of at least 2 inches in diameter across South Dakota from 1996 to 2022. The black dotted line is the linear trend. Data are from the National Weather Service (NWS) Storm Prediction Center.



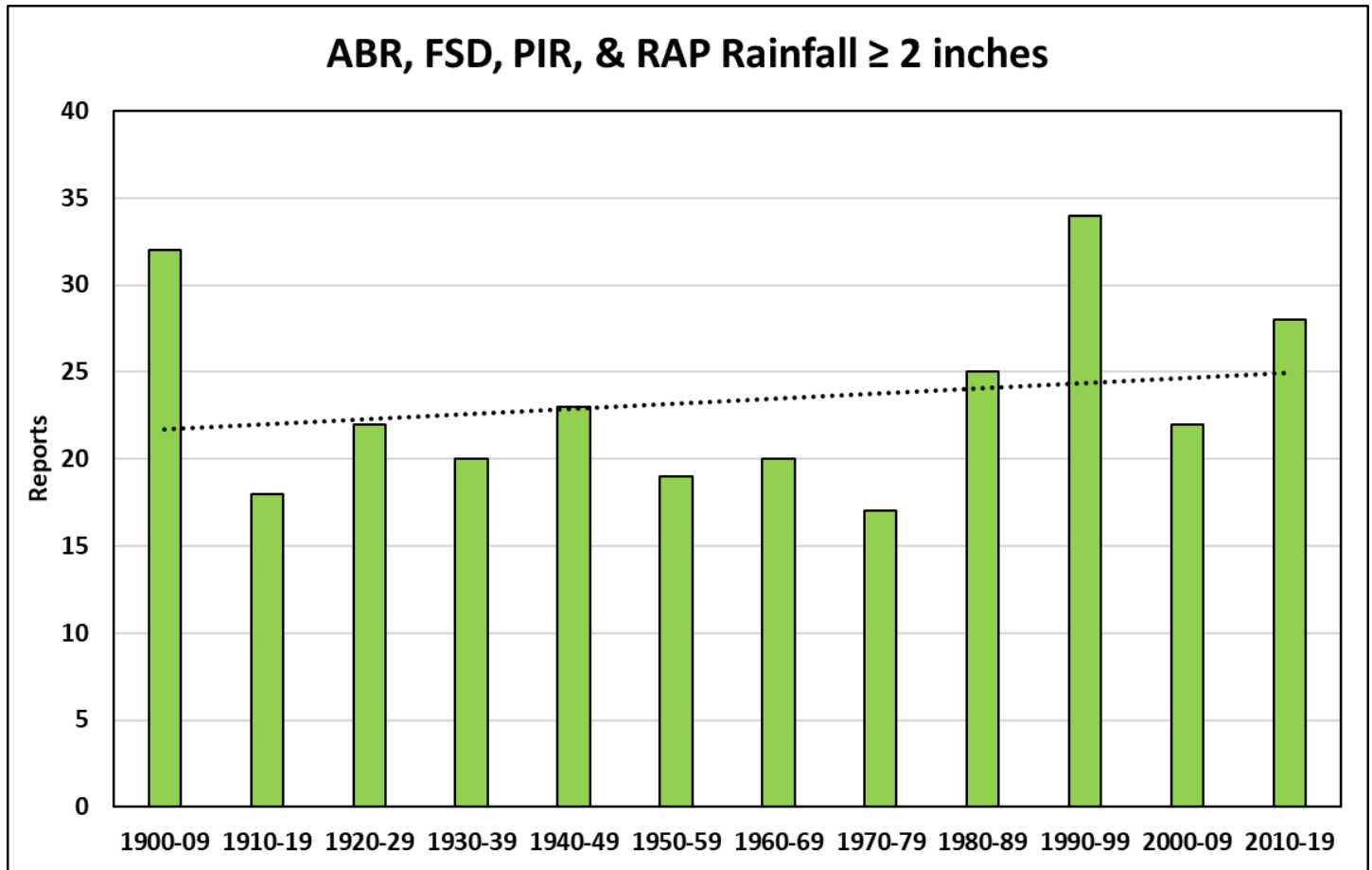
Heavy snow was defined as a day with at least 6 inches of snowfall. Four representative stations across South Dakota (Aberdeen, Pierre, Rapid City, and Sioux Falls) were used for this analysis. Daily snowfall of  $\geq 6$  inches at each station per decade was summed up and the trend is shown from 1900 to 2019. Perhaps surprisingly, there has been a slight increase in heavy snowfall events across the state since 1900 (Fig. 2), with an average increase from 28 reports per decade in 1900–09 to 40 reports per decade in 2010–19 (refer to the trend line in Fig. 2). Spread across the four stations, this is an average increase of 3 heavy snowfall reports per ten years at each station (i.e., an extra heavy snowfall event per station about every third year).

**Figure 2.** Count of daily snowfall reports of at least 6 inches at four stations across South Dakota (Aberdeen, Pierre, Rapid City, and Sioux Falls) per decade from 1900 to 2019. The black dotted line is the linear trend. Data are from the NWS.

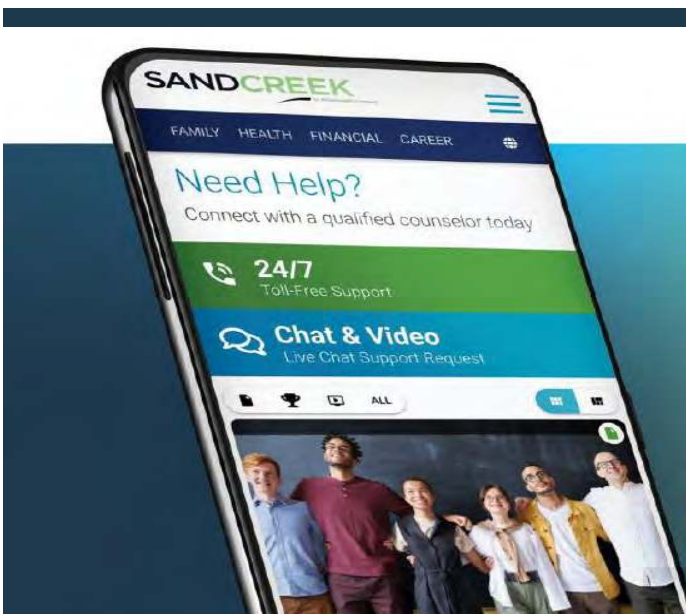


Heavy rain was defined similarly to snow, except as a day with at least 2 inches of rainfall. There has been a subtle increase in heavy rainfall events across the state since 1900 (Fig. 3), with an average increase from 22 reports per decade in 1900–09 to 25 reports per decade in 2010–19 (refer to the trend line in Fig. 3). Spread across the four stations, this is an average increase of  $< 1$  heavy rainfall report per ten years at each station, which is insignificant. Nevertheless, there is some evidence based on recent research that the heaviest rainfall events (top 1%) are getting more extreme, especially over the eastern part of South Dakota (vs. western SD).

**Figure 3.** Count of daily rainfall reports of at least 2 inches at four stations across South Dakota (Aberdeen, Pierre, Rapid City, and Sioux Falls) per decade from 1900 to 2019. The black dotted line is the linear trend. Data are from the NWS.



In summary, there has been an upward trend in large hail, heavy snowfall, and heavy rainfall across South Dakota. The most noteworthy is the increase in large hail (i.e., hail diameter of at least 2 inches). This has implications for the insurance industry given the damage that hail can cause.



## 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.

**HIGHLIGHTS****FEBRUARY 2024**2023-2024 OfficersJohn Richter  
*President*Nolan Welker  
*Vice President*Kinsley Groote  
*Secretary/Treasurer*Megan Borchert  
*Board*Carla Cushman  
*Board*Lisa Marso  
*Board*Dave Pfeifle  
*Board***Leadership, Leadership, Leadership!!**

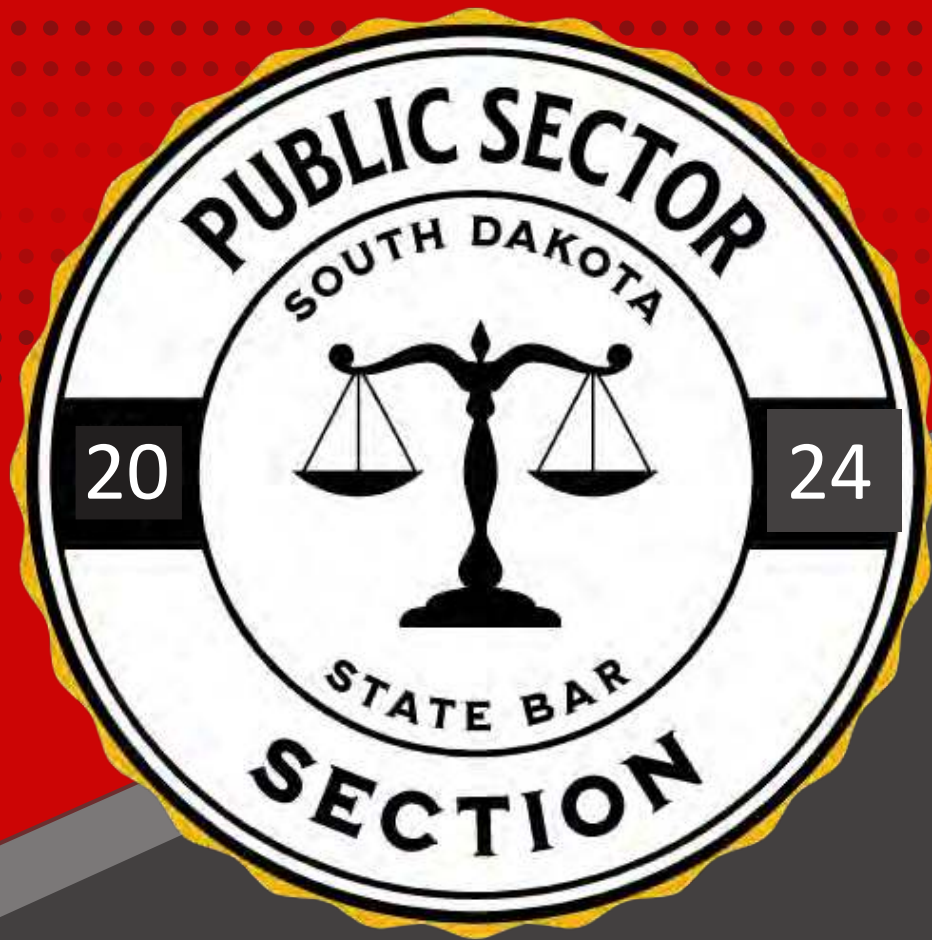
To have the opportunity to see firsthand this Section develop and become more active within the Bar has been very rewarding! There is a crop of outstanding attorneys within this Section that are seeking out leadership roles and I can't wait to see what steps they take to further add value to the Bar and its membership!

Over the past couple years, the Bar has done a great job of extolling the importance/benefits of the Bar Commissioner positions and encouraging members to step up (through the Bar Newsletter, personal testimonials, and other forums). This year, there will be vacancies in the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Circuits. Incredibly, two attorneys have already stepped up to run for At-Large positions and I'm sure they would appreciate your votes – **Teramie Hill for the 1<sup>st</sup> Circuit and Sarah Covington for the 4<sup>th</sup> Circuit.** Both have been active and done so much for the Public Sector Section that I have no doubt that they will both make fantastic Commissioners and be great representatives for the Bar!

Stay tuned for more leadership announcements!

**Active! Engaged! Leaders!**





# 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 26, 2024. 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 2024 Bar Convention and in the State Bar Newsletter.

# ***PUBLIC SERVANT SPOTLIGHT***

The Public Sector Section and Administrative Law Committee invite you to join us for a conversation featuring USD's Neil Fulton and Teramie Hill on February 14, 2023 at 3:00 p.m., CT, via Zoom:

<https://us02web.zoom.us/j/87441372271?pwd=ZTBkUnZxM3k3bHdjbn0N1cTc4cHVXZz09>

***USD KNUDSON SCHOOL  
OF LAW EDITION!!***



***Neil Fulton & Teramie Hill***

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE PROPOSED	)	RULES HEARING NOTICE
AMENDMENT TO ARTICLE V OF THE STATE	)	
BAR OF SOUTH DAKOTA BYLAWS (APPENDIX	)	NO. 153
SDCL CHAPTER 16-17) IN RE: STATE BAR	)	
ELECTED OFFICERS	)	
	)	
IN THE MATTER OF THE PROPOSED	)	
AMENDMENT OF SDCL 23A-48-19	)	
	)	
PROPOSED ADOPTION OF A NEW RULE TO	)	
CREATE A COMMISSION ON ACCESS TO THE	)	
COURTS	)	

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A petition for the amendment of existing sections of the South Dakota Codified Laws and adoption of new rule 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 14, 2024, at 11:15 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 AMENDMENTS TO "ARTICLE V - STATE BAR ELECTED OFFICERS" OF THE STATE BAR OF SOUTH DAKOTA BYLAWS**

5.1. **Officers.** The State Bar elected officers are President and President Elect (individually "State Bar Officer" and collectively "State Bar Officers"). Only Active Members may be elected to either of these offices.

5.2. **President Elect Nomination.** To qualify as a President Elect candidate, the candidate must be an Active Member and complete a nominating petition containing signatures of at least fifteen

Active Members. Candidates must file completed nominating petitions with the Executive Director at least 10 days before the Annual Meeting.

5.2.5.3. Installation, Election, and Term. The President will install the President Elect as President before the Annual meeting adjourns each year. The Active Members at the Annual Meeting will then, by majority vote, elect the next President Elect. The President will serve a one-year term. The President Elect will serve in that capacity until installed as President the following year.

5.3.5.4. Duties. The State Bar officers' duties are as follows:

- a. **President.** The President may:
  - i. preside at all State Bar and Bar Commission meetings;
  - ii. execute, with the Executive Director, all State Bar contracts and instruments as authorized by the Bar Commission;
  - iii. appoint Members to standing and ad hoc committees;
  - iv. be an ex-officio, non-voting Member of all committees except as specified otherwise herein;
  - v. perform all duties incident to the office of President and such other duties as may be assigned by the Bar Commission; and,
  - vi. perform the duties of the Executive Director in the event the Executive Director is unable to perform. The President may appoint someone to serve as the Executive Director if the President is unwilling or unable to perform those duties. The President or the President's appointee will serve until the Bar Commission hired a new Executive Director or until the current Executive Director is able to return to and perform the duties of that position.
- b. **President Elect.** The President Elect will perform and be vested with all the powers and duties of the President in the event the President is absent or otherwise unwilling or unable to perform. The President Elect may perform such duties as may be assigned by the President and Bar Commission.

5.4.5.5. Vacancy. If the office of President becomes vacant for any reason, the President Elect will complete the remainder of the President's term. After completing the President's unfulfilled term, the President Elect will serve his or her full term as President. If the office of President Elect becomes vacant for any reason, the Bar Commission, by majority vote, will fill that

vacancy. The person appointed to fulfill the President Elect's remaining term will hold office until the next President Elect is elected at the Annual Meeting of the State Bar.

Explanation for Proposal

This amendment is being proposed by the State Bar after State Bar members voted at the June 23, 2023, State Bar Annual business meeting to support the amendment. This proposed amendment adds a new section (5.2) to Article V of the State Bar Bylaws, and it addresses State Bar President Elect candidate requirements. This proposed amendment expands and clarifies qualification requirements for State Bar President Elect candidates, and the proposed requirements are similar to the election requirements for At-Large Bar Commissioners. This proposed amendment would require the President Elect to complete a nominating petition containing signatures of at least 15 active bar members. This proposed amendment is not based upon any state or federal rule or statute, and it should not affect any other current rules or statutes.

-----  
**2. Proposed Amendment of SDCL 23A-48-19. Criteria for awarding earned discharge credits.**

A probationer shall be awarded earned discharge credits while on supervised probation as follows:

- (1) For each full calendar month of compliance with the terms of supervised probation an earned discharge credit of 30 days shall be awarded to a probationer. Each earned discharge credit shall reduce the term of supervised probation by 30 days. No earned discharge credit may be awarded for a partial month or the last two full months of supervised probation. No earned discharge credit may be awarded for any month, or portion of a month, during which the probationer is incarcerated.
- (2) A probationer shall not receive an earned discharge credit for any month(s) during which a probation violation is pending before the court. If the court does not sustain the probation violation, the court may enter a written order awarding earned discharge credits to the probationer for the months the probation violation was pending before the court.

Absent such an order the probationer shall not be entitled to any earned discharge credit for such period of time.

- (3) Earned discharge credits shall not be awarded to a probationer for any month(s) in which a probationer is absconded. Additionally, a probationer shall not be awarded earned discharge credit for any month in which the probationer was sanctioned for conduct that disqualifies the probationer from receiving earned discharge credits as provided by the graduated response grid.
- (4) A South Dakota probationer placed on supervised probation who is supervised in another state under the Interstate Compact for Adult Offender Supervision is eligible for earned discharge credits pursuant to §§ 23A-48-15 to 23A-48-22, inclusive.
- (5) Earned discharge credits shall be applied to the probation term within fifteen days after the end of the month in which any credit was earned. A probationer who is eligible for earned discharge credits shall be notified of their probation discharge date on a semi-annual basis.

#### Explanation for Proposal

This rule revision is being submitted by the State Court Administrator's Office. Currently a probationer is not entitled to earned discharge credit for the final full month of the probation term. Pursuant to SDCL 23A-48-20 Court Services Officers (CSO) are required to notify the supervising CSO, by the tenth of the month, of any probationer that is entitled to earned discharge credit for the preceding month. Pursuant to SDCL 23A-48-19(5) the earned discharge credit shall be applied by the fifteenth of each month. If a probationer received earned discharge credit for the second to last month of the probation term it will not be credited until the fifteenth, but it would be effective back to the first of the month. If there is a violation between the first and fifteenth of the last month of the probation term the CSO's would not know whether the probation term has ended and a CSO could submit a violation report for acts that took place after the probationer was no longer on probation.

The proposal is being offered pursuant to SDCL 16-3-5.1 and is not based on any other state or federal rule or statute.

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**3. Proposed Adoption of a New Rule to Create a Commission on Access to the Courts**

Section 1. That a new rule be adopted to read as follows:

There is hereby created a Commission on Access to the Courts. The commission shall consist of eleven members appointed as follows:

- (1) Seven members appointed by the Chief Justice of the Supreme Court, three initially appointed for a term of two years and four appointed for a term of three years.
- (2) Four members appointed by the President of the State Bar of South Dakota, two initially appointed for a term of two years and two for a term of three years.

Thereafter, each appointment shall be for a term of three years, beginning on the first day of July. No member may serve more than two consecutive terms.

The Chief Justice of the Supreme Court shall appoint a chair of the commission and the President of the State Bar shall appoint a vice-chair of the commission from their appointed members. The commission members shall serve without compensation. The Commission shall be staffed by the Unified Judicial System.

Section 2. That a new rule be adopted to read as follows:

The Commission on Access to the Courts shall work collaboratively across the justice system to advance efforts to promote equal access to the court and inspire a high level of trust and confidence in the South Dakota court system. This may include:

- (1) Recommending improvements in court processes, procedures and policies;
- (2) Addressing access to counsel and collaborative efforts with entities that provide legal representation pro bono or at reduced cost for low-income or disadvantaged individuals;
- (3) Developing models to assist self-represented litigants and addressing barriers to access to the court system;
- (4) Increasing the availability of legal aid services statewide;

- (5) Expanding the availability of effective use of technology; and
- (6) Providing outreach efforts and strategic planning to ensure timely and effective access to the judicial system.

Explanation for Proposal

The proposal by the State Court Administrator's Office is to create a Commission to better coordinate and strategically plan for ways in which the South Dakota justice system can serve individuals of various backgrounds and with varying levels of financial resources.

Representative membership on such a group in other states includes the following:

- Supreme Court Justice
- Circuit Court Judge
- Magistrate Court Judge
- Bar Leadership
- Attorney
- Clerk of Court
- State Court Administration Staff
- Court Interpreter
- Legislative Member
- Circuit Court Administrator
- Legal Services Entity Representative
- Tribal Judge
- Law School Representative

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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 1, 2024. Subsequent to the hearing, the Court may reject or adopt the proposed amendments of any rule germane to the subject thereof.

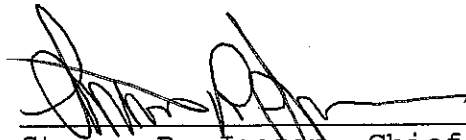


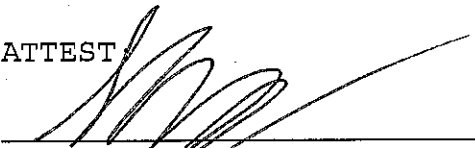
Notice of Rules Hearing No. 153 - February 14, 2024

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 8th day of January, 2024.

BY THE COURT:

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

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

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

JAN -8 2024

  
Clerk

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## **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, elder care, housing, transportation, education, and pet care.

## **Personal Assistant**

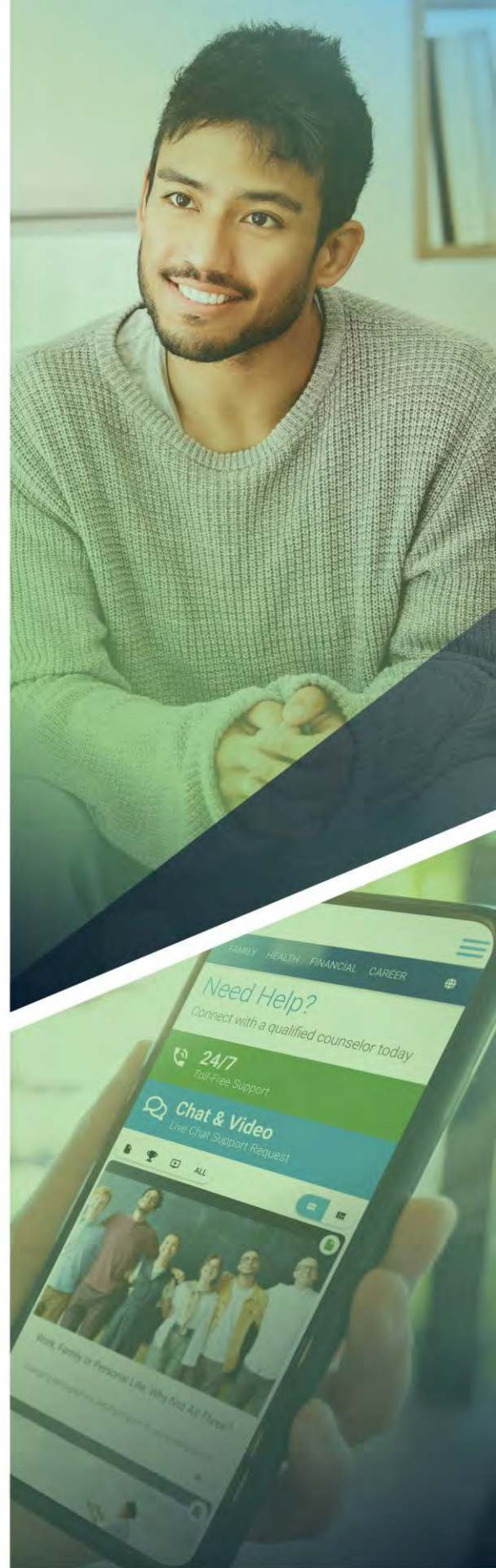
Save time with referrals for travel and entertainment, seeking professional services, cleaning services, home food delivery, and managing everyday tasks.

## **Medical Advocacy**

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

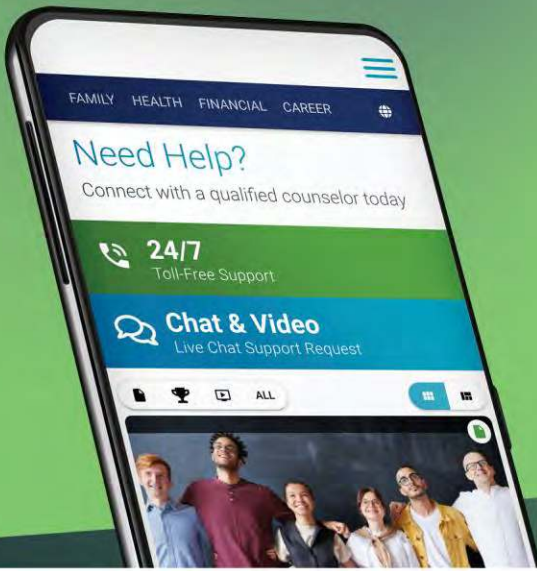
## **Member Portal**

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.



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Visit: [www.sandcreekeap.com](http://www.sandcreekeap.com)  
Code: sdhelp

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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.

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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 child care and elder care referrals, legal referrals and financial consultation, personal assistance 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.

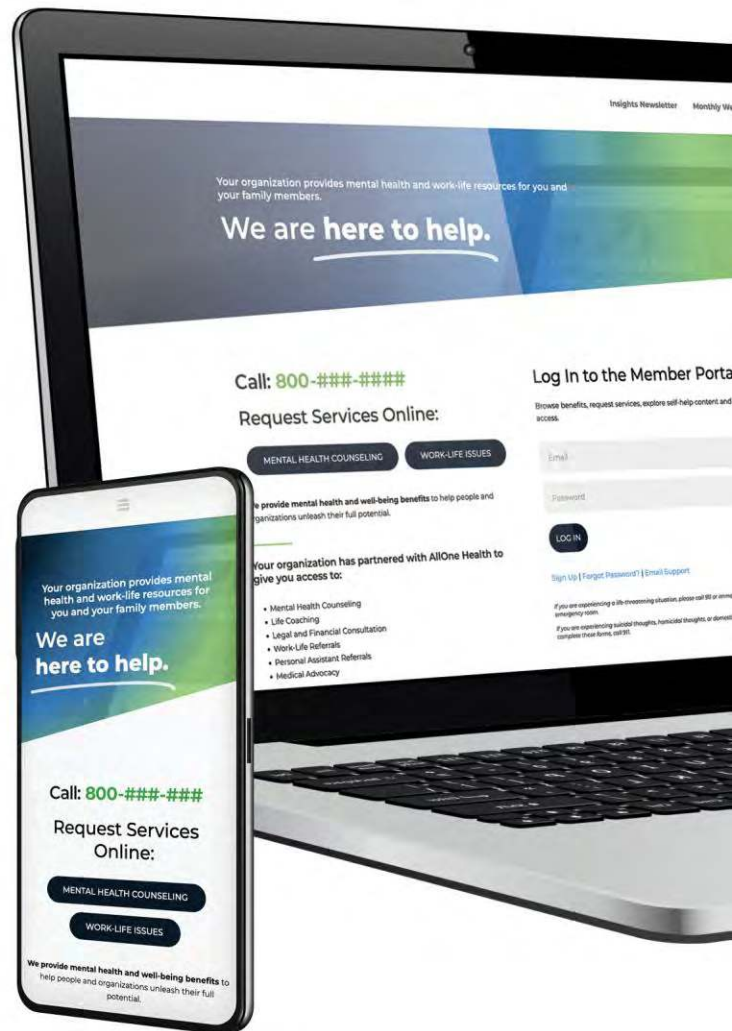
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2. To create an account and sign in, enter your email address and company code: **sdhelp**
3. For login assistance, select “Email Support”

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



Contact Sand Creek EAP  
**Call: 1-888-243-5744**  
 Visit: [www.sandcreekap.com](http://www.sandcreekap.com)  
 Code: **sdhelp**

**SANDCREEK** EAP <sup>SM</sup>  
 An AllOne Health Company



# 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.

# Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

Email your employment announcement to [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) by 26th of each month to have it included in the next newsletter. Please be sure to include a closing date. To see more jobs listings, visit [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)



## Partner – Sioux Falls

Myers Billion, LLP, an AV-Rated firm located in Sioux Falls, SD, is seeking a licensed South Dakota attorney to join its firm as a PARTNER. The successful applicant must be in good standing with the South Dakota State Bar, a self-starter, and have strong communication, research, and writing abilities. The attorneys of Myers Billion, LLP practice across several areas including litigation, family law, criminal law, estate planning, business transactions, and many more. The successful applicant will have the opportunity to craft their own unique practice in consultation with the rest of the partners of Myers Billion, LLP. This opportunity is open to all qualified applicants regardless of their current designation (e.g. partner, associate attorney, or of-counsel).

Please direct a cover letter, resume, and list of references to Joshua D. Zellmer, Myers Billion, LLP, 230 S. Phillips Ave, Suite 300, Sioux Falls, SD 57104 or to [jzellmer@myersbillion.com](mailto:jzellmer@myersbillion.com). All inquiries will be kept strictly confidential.

## Attorney – Rapid City

Goodsell + Oviatt Law Firm is seeking a Litigation Associate, as either lateral or new associate, in Rapid City, SD. Primary work will be personal injury, construction, insurance law, with some business law/commercial matters. This position also requires research, brief writing, trial preparation and complex litigation before state and federal courts in South Dakota and North Dakota. Strong academic credentials and excellent communication skills (both oral and written) are required. The firm offers a comprehensive benefit

plan and an opportunity for professional development and growth. Compensation DOE.

Confidential inquiries, including résumé and cover letter detailing experience, should be directed to:

Nathan Oviatt, Attorney

or Lori Miklos, Business Manager

Goodsell + Oviatt Law Firm

PO Box 9249

Rapid City, SD 57709

or email at [Nate@goodselloviatt.com](mailto:Nate@goodselloviatt.com) or

[Lori@goodselloviatt.com](mailto:Lori@goodselloviatt.com)

## Family Law Attorney – Rapid City

Bangs, McCullen, Butler, Foye & Simmons, LLP, an AV-Rated, 20 lawyer firm located in Rapid City and Sioux Falls, South Dakota, is seeking a lateral attorney with at least 3 years' experience practicing in the area of family law at the Rapid City location to assist in this growing practice area. The ideal candidate will possess strong communication skills, be attentive to detail, and self-motivated. Must be a member of the South Dakota State Bar.

Bangs McCullen Law Firm offers a comprehensive benefits plan, competitive salary structure, and the opportunity for professional development and mentorship. You can learn more about our firm by visiting our website at [bangsmccullen.com](http://bangsmccullen.com). Confidential inquiries, including a cover letter and resume, should be sent to Office Manager Brenda Sehr at [bsehr@bangsmccullen.com](mailto:bsehr@bangsmccullen.com).

### **Legal Assistant/Paralegal – Rapid City**

Goodsell + Oviatt Law Firm in Rapid City has an opening for a full-time legal assistant/paralegal in a busy civil litigation practice, primarily handling plaintiff's work. Client communication, case management, document management, organizing medical records, pleadings, discovery, subrogation, electronic filing and preparation for trial. Trial Director experience a plus. Excellent computer, clerical and multi-tasking experience. Wages DOE, but very competitive.

Please send confidential inquiries, including a resume and cover letter to:

Lori Miklos

Goodsell + Oviatt Law Firm

PO Box 9249

Rapid City SD 57709

or email to [Lori@goodselloviatt.com](mailto:Lori@goodselloviatt.com)

### **Attorney – Sioux Falls**

Ver Beek Law, Prof. L.L.C. is seeking a family law attorney for our Sioux Falls office. We are looking for candidates with experience levels ranging from newly licensed lawyers to those with several years of experience. Only candidates seeking a long-term employment opportunity will be considered. The position offers competitive salary. Interested applicants should send their cover letter and resume to [kelsey@verbeeklaw.com](mailto:kelsey@verbeeklaw.com).

### **Attorney – Sioux Falls**

Lockwood & Zahrbock Kool Law Office is seeking an attorney who shares its client-centered focus to join our family and criminal law practice.

Interested candidates please send your resume to [tressa@lockwoodlaw.com](mailto:tressa@lockwoodlaw.com) or [rhonda@lockwoodlaw.com](mailto:rhonda@lockwoodlaw.com)

### **Attorney – Pierre**

The Office of Attorney General seeks an experienced attorney for an appellate position. An appellate attorney represents the state in criminal and civil appeals and provides legal advice to state agencies, boards, and commissions. This position's primary duties include researching and writing appellate briefs and orally arguing cases. Assistant Attorneys General are required to maintain high moral character; have strong legal advocacy skills; have effective research and writing

capabilities; and be able to communicate with clients and the courts.

The appellate division is headquartered in Pierre. The right applicant may have the possibility to work from a branch office location.

Salary for this position is \$80,000 annually or greater, depending on experience. The State of South Dakota has an excellent benefit package including retirement, employee insurance coverage, and paid leave.

Applicants must have a juris doctorate; must be licensed to practice law in South Dakota; must have excellent writing and research skills; must be self-motivated; and will ideally have 2 or more years of legal experience.

Interested persons should send a resume containing three references, a writing sample, and a letter describing their qualifications by February 19, 2024, to the following:

SARAH THORNE, OFFICE OF ATTORNEY GENERAL, 1302 E. HIGHWAY 14, SUITE 1, PIERRE, SOUTH DAKOTA 57501, or email [Sarah.Thorne@state.sd.us](mailto:Sarah.Thorne@state.sd.us)

### **Deputy/Senior Deputy State's Attorney – Sioux Falls**

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 high-volume caseload, our office provides an intriguing challenge for attorneys who want to make a difference in their community by helping victims of crime and ensuring due process for the accused. Even our new attorneys experience the excitement of a job regularly engaged in hands-on courtroom trial work.

The hiring range is \$3,492.00 - \$3,759.20/biweekly with full earning potential up to \$4,810.40/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](http://jobs.minnehahacounty.gov). Review of applications begins on February 7, 2024. EO/AA Employer. Contact HR with questions at 605-367-4337.

### **Attorney – Sioux Falls & Madison**

DE CASTRO LAW OFFICE, P.L.L.C. is seeking an associate attorney to join the growing law office with offices located in Sioux Falls and Madison. Applicant must be a strong advocate, motivated and organized. Some travel is necessary. Must be currently licensed and admitted to practice with the State Bar of South Dakota or ability to obtain admission within six months of start date.

Position is paid salary commensurate with experience.

To apply email the following in one PDF file to Manny de Castro, [mdecastro1@yahoo.com](mailto:mdecastro1@yahoo.com):

- A one-page cover letter with salary requirements.
- Resume
- 2 references including, Name, Title, phone # and email.

All inquiries will be kept confidential.

### **Managing Attorney – Sioux Falls**

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 counsel, 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 cooperate 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 case, 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.

Salary:

\$75,582.72 to \$111,670.09/year, depending on experience.

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

To Apply:

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

Melissa Frericks

Program Administrator

East River Legal Services

335 North Main Avenue, Suite #200

Sioux Falls, SD 57104

[Melissa@erlservices.org](mailto:Melissa@erlservices.org)

Submission Deadline:

Open until filled

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.

### **Attorney – Rapid City**

Pennington County Deputy Public Defender

Position Objective:

Zealous representation of defense of indigent clients in Magistrate and Circuit Court criminal cases, appeals, and certain civil matters.

Essential Functions:

- Represent clients at all phases of the criminal justice system including initial appearances, arraignments motions hearing and trials.

This job specification should not be construed to imply that these requirements are the exclusive duties of the position. Incumbents may be required to follow any other instructions, and to perform any other related duties, as may be required.

Experience and/or Education Required:

- Professional degree (Juris Doctor) Graduation



from a college of law and attainment of JD or LLB.

- 0 - 5 years of experience
- Admitted or eligible to be admitted to the South Dakota Bar Association

**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:**

- 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.
- Upper body strength is a requisite to lift/move a maximum of 20 lbs. unassisted; and lift/move a maximum of 50 lbs. with assistance.
- The ability to talk and hear via the telephone and through face-to-face communication is needed.

**Attorney – Pierre**

Institution: Board of Regents

Working Title: Assistant General Legal Counsel

Posting Number: NFE02245P

Department: BOR-General Counsel

Physical Location of Position (City): Pierre

The SD Board of Regents, located in Pierre, SD, invites qualified applicants to apply for the role of Assistant General Counsel. The assistant general counsel will be expected to deliver high quality and timely advice in all areas of law relevant to higher education, including personnel and employment issues, tenure and promotion, labor law, Title IX, student affairs, contracts, bonds, risk management, academic freedom, state authorization and distance education, gifts and development, intellectual property, and conflicts of interest. This position offers wide variety of duties and the opportunity to work with higher education leaders across the state of SD.

**Minimum Qualifications Education and Experience**

1. Juris Doctorate degree.
2. At least 3 years' experience practicing law in a related field.
3. Currently licensed to practice law in South Dakota, or ability to obtain licensure to practice in South Dakota within one year of hire.

**Preferred Qualifications**

- Experience working with public entities, boards or commissions;
- The successful candidate will have the ability to provide effective general legal advice to large complex clients, exercise sound judgment; discretion; diplomacy; objectivity; integrity; and ethics.

Working for SDBOR The SD Board of Regents offers a great working environment and a competitive salary and benefits package, including 11 paid holidays, paid sick leave, vacation leave and paid family leave, SD Retirement System, health and flexible benefits, and professional development opportunities.

This position is not eligible for sponsorship.

Posting Date: 01/30/2024

Open Until Filled: Yes

First Consideration Date: 02/14/2024

Advertised Salary: \$100,000 - \$120,000

Duration of the Term: 12 months

Work Hours: M-F 8-5

This position requires: Travel, Overnight stays

Equal Employment Opportunity Statement EEO

**Contact Information:**

Kayla Bastian

Chief HR Officer

[kayla.bastian@sdbor.edu](mailto:kayla.bastian@sdbor.edu)

605-773-3455

EEO Category 40 - Professionals

Documents Needed to Apply:

**Required Documents**

1. Resume
2. Cover Letter
3. Reference List

**Law Clerk – Marshall, MN**

The Honorable Michelle Dietrich, chambered in Marshall, MN, seeks a FT law clerk. Work directly with a Minnesota Judicial District Judge at the Trail Court level with the focus on the administration of justice. Utilize your legal research and writing skills in a multi-faceted caseload drafting legal documents, correspondence and drafting orders.

To view the full job description and to apply online visit [www.governmentjobs.com/careers/mncourts](http://www.governmentjobs.com/careers/mncourts)

# 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.**

**UPCOMING EVENTS**

**FEBRUARY 20, 2024**

**FEBRUARY LAW FOR LUNCH - ORGANIZATION**

Zoom

**MARCH 19, 2024**

**MARCH LAW FOR LUNCH - INDIAN LAW**

Zoom

**APRIL 16, 2024**

**APRIL LAW FOR LUNCH - PARTNERSHIP PROGRAM WITH CPCM**

Zoom

**MAY 2, 2024**

**FAMILY LAW CLE**

The Box Event Center, Box Elder

**MAY 2, 2024**

**CRIMINAL LAW CLE**

The Box Event Center, Box Elder

**MAY 21, 2024**

**MAY LAW FOR LUNCH**

Zoom



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