



STATE BAR OF SOUTH DAKOTA

NEWSLETTER



JANUARY 2024

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State Bar of South Dakota

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PRESIDENT'S CORNER



Heather Lammers Bogard

I trust you and your families had a wonderful holiday season. As we embark upon a new year, I ask that you recognize the invaluable impact of mentors for National Mentor Month. Every January, we have the opportunity to highlight the importance of mentoring and acknowledge the individuals who selflessly dedicate their time and expertise to guide and inspire the next generation.

Our involvement in mentorship is critical in the legal profession. The demanding nature of legal practice, the complexities of the law, and the ethical obligations of a lawyer make the guidance of experienced professionals indispensable. Seasoned lawyers have a wealth of knowledge and practical insights that can only be acquired through years of experience. By sharing their expertise and knowledge, mentors provide insight to mentees that critically assist them with navigating their legal careers.

It is important to note that mentors not only offer legal guidance, but they also offer ethical advice. Mentors have the ability to instill in our mentees the importance of integrity, diligence, and empathy in the legal world. They remind mentees the values that are fundamental to the legal profession.

This month is a time to acknowledge and celebrate those who have made a difference in the professional lives of others. To that end, I want to thank Bob Morris and Sarah Sharp Theophilus for creating the State Bar of South Dakota Young Lawyer Mentor Coin Project in 2009. Later, in 2010, the project was officially named the “Hagemann – Morris Young Lawyer Mentorship Coin Program” in honor of the relationship between

Bob Morris and his mentor, the late University of South Dakota School of Law Professor John F. Hagemann. Since its inception, this program has been a tremendous success, placing mentors with mentees throughout the State. If you are a “seasoned” lawyer, please consider volunteering as a mentor.

Although not part of the Mentor Coin Project, I want to thank the Honorable Justice Robert Amundson for being my mentor while I clerked for him at the South Dakota Supreme Court. I benefitted greatly from his insight, breadth of legal knowledge, and humor. I also want to thank Ed Carpenter for being my mentor at Costello Porter for over 26 years. Without likely realizing it, he taught me the great respect that one achieves from peers as a result of the ethical practice of law. Last but certainly not least, I am forever grateful for my late father, Jerry Lammers, for mentoring me in life and in law.





State Bar of South Dakota

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Heather Lammers Bogard
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paul.cremer@sdbar.net

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Nicholas G. Moser
Amber L. Mulder
Erika S. Olson
John T. Richter
Caroline A. Srstka
David R. Strait

Dear State Bar of South Dakota Members:

Thank you for your service as a member of the State Bar of South Dakota. As President-Elect, it is my privilege to fill vacancies on State Bar Standing and Special Committees for the 2024-2025 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 1st** at:

<https://www.surveymonkey.com/r/BGZZ88R>

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

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

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

Sincerely,

Julie Dvorak
President-Elect
State Bar of South Dakota



STATE BAR OF SOUTH DAKOTA
Young Lawyers Section

Kelsey Blair
YLS President



Happy New Year! January is often an invigorating and exciting time as we take stock of all the possibilities and opportunities ahead of us in the new year. For the Young Lawyer Section, that is no different. We are moving full steam ahead into the new year and our spring programming. I want to highlight some of what we have on the horizon.

We will be hosting the annual Young Lawyer Section Bootcamp in March. While we're not quite ready to announce the lineup, our Bootcamp Committee, led by Spencer Prosen and Lora Waeckerle, is working hard to secure relevant and interesting topics and speakers for the CLE lineup. Look for the agenda and RSVP information in next month's newsletter!

The Annual Meeting seems like a long way off, but it will be June before we know it (as I write this while it's snowing and blowing outside – I'm ready for June already). The Young Lawyer Section is looking forward to co-hosting the Speed Networking Event and Legalpalooza again this year. With the Annual Meeting on the horizon, we are also looking for nominations for this year's Young Lawyer of the Year. Any member of the State Bar is welcome to submit a nomination for the 2024 South Dakota Young Lawyer of the Year. To be considered, the nominee must be a member of the State Bar of South Dakota, in good standing, and must not have reached the age of 36 years by June 14, 2024, or been admitted to practice in South Dakota or any other state for more than ten years. Lawyers are only eligible to receive the award once, and lawyers serving on the Young Lawyers Board are not eligible for consideration. Nominees should exemplify the following characteristics: professional excellence, dedication to serving the legal profession and the Bar, service to their community, and a reputation that advances legal ethics

and professional responsibility. Nominating attorneys should submit a brief letter in support of their nominee to me at Kelsey.Blair@pennco.org and to Young Lawyer President-Elect Chelsea Wenzel at 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.

As we move forward into this new year, if you have any thoughts, ideas, or questions for the Young Lawyer Section, please reach out to any of our board members.

President – Kelsey Blair
kelsey.blair@pennco.org
President-Elect – Chelsea Wenzel
chelsea.wenzel@state.sd.us
Secretary/Treasurer – Anthony Teesdale
tony@teesdalelaw.com
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2nd Circuit – Brooke Schmidt
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5th Circuit – Rebecca Ronayne
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6th Circuit – Rachelle Norberg
rachelle@ggnlawfirm.com
7th Circuit – Lora Waeckerle
lwaeckerle@tb3law.com
At-Large – Mae Pochop
mae@meierhenrylaw.com
SBA President – Taylor Bushelle
taylor.bushelle@coyotes.usd.edu

I wish you all a wonderful new year filled with abundance of joy, growth, and new opportunities!

NOTICE

Review of SD version of the Uniform Arbitration Act

An ad hoc State Bar committee is being formed to review SDCL Ch. 21-25A and to compare SD statutes to the current Uniform Arbitration Act.

The committee will consider potential changes to update current SD arbitration statutes.

Please email info@sdbar.net if you would like to be considered for the committee or if you have objections or concerns about efforts to update current SD arbitration statutes. Thank you.

JANUARY LAW FOR LUNCH

REGISTER
HERE

NEW NOTIFICATION

TAX UPDATE

January 16, 2024
12:30 PM - 1:30 PM CST
zoom

1

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

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Robert E. Hayes

Scott N. Heidepriem

Andrew J. Knutson

David L. Knudson

Kimberley A. Mortenson

Platinum Fellows - \$10,000

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Melissa Nicholson Breit

Chet Groseclose

Hon. John B. Jones

David L. Knudson

Jerome B. Lammers

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Charles L. Riter

William Spiry

Hon. Jack R. Von Wald

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Richard A. Cutler

William F. Day, Jr.

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Neil Fulton

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G. Verne Goodsell

Robert E. Hayes

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Hon. Charles B. Kornmann

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Pamela R. Reiter

Robert C. Riter, Jr.

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Richard L. Travis

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Fellows - \$500 (per year)

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Hon. John L. Brown

Mary Jane Cleary

Paul L. Cremer

Andrew L. Fergel

Michael S. Fischer

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- ☐ Diamond Fellow – over \$10,000, cumulative.
- ☐ Platinum Fellow – \$10,000, cumulative.
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- ☐ 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

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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
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UNIVERSITY OF
SOUTH DAKOTA
KNUDSON SCHOOL OF LAW



DEAN'S LIST: NEWS FROM THE LAW SCHOOL



Neil Fulton
Dean, School of Law

As an old year turns into a new one, many of us take time to contemplate significant aspects of our lives. We make resolutions to abandon bad habits and adopt good ones, take on projects we have ignored, and otherwise restructure our lives in ways we think are important. Although I have never spent much time on New Year's resolutions, I am a huge fan of to do lists and programs for personal development. I want to focus this month's column on how each of us might reassess how we live our lives as lawyers. This is a conversation I have regularly with law students, so at a minimum, it is informative about another aspect of what happens here at the Law School. But at least as importantly, I think it is a vital question for all of us, and hopefully, these thoughts of mine on the topic help get you thinking about it in your own way.

Few topics get more discussion than how lawyers can achieve "work/life balance." Lawyers are certainly not alone in getting advice on that goal, but there are seemingly endless streams of discussion, articles, and programs on the topic aimed specifically at lawyers. Consistently, "balance" in this context is presented as some steady state of equal treatment. The focus consistently seems to be how to structure our lives so that no part of our lives gets "shorted." Another way to put it is that they try to teach us how to "have it all," and all the time at that.

Let me start the new year out with a bold statement: this is nonsense. I think that a relentless quest for a mythical "balance" can actually be destructive and ignore a much

better way of thinking about how to have a healthy life.

I tend to find the notion of "balance" less than helpful and even detrimental because it simply adds to our existing pressure. It suggests that if one aspect of our lives is getting more attention than others, we are "failing." Miss a child's concert or sporting event because you worked late? Out of balance. Miss a client call because you took a vacation? Out of balance. It's at least improbable, I think more likely impossible, that any of us can keep work and personal commitments consistently equal. But focusing on the goal of "balance" tends to suggest that we can and should. In a profession where the most successful tend to have a lot of failure on the way to success, I do not think that the pressure of one more goal, which we will all inevitably fall short of, is useful.

Let me suggest the idea of harmony, rather than balance, as a goal. I must acknowledge that I first heard this analogy from a friend. I have thought and talked about it a lot since then, so I'd like to think that I'm more "refining" than "stealing" the idea, however.

I prefer the notion of harmony to balance because harmony suggests that even as the various aspects of our lives are not equal in the moment, they are working together. I find it helpful to envision an orchestra when thinking about this idea. At various times during any orchestral performance, the strings will be louder than the brass, the percussion will swell overall at some critical moment, and some instruments seem to vanish

entirely at times, but all the instruments always work together to complement each other as a beautiful whole.

So, too, in our lives. I often tell students that while balancing borders on the impossible, harmony is achievable. At times, our work will predominate: a major trial is coming, finals are ongoing for students, and the legislative session begins for our lawyer legislators and lobbyists. At these times, work will necessarily predominate. We will then need harmony in the other parts of our lives (family, friends, faith, physical activity) so that their demands can relax a bit to sustain the energy needed by these professional activities. Correspondingly, when our professional obligations allow it, these other aspects should come to the fore with family vacations, sabbaticals or retreats, and time spent in the enjoyment of hobbies and avocations. Structuring our lives so that these parts work

together makes us better humans and better lawyers by extension. It abandons a mythical vision of equipoise in favor of a more realistic and sustainable picture of complementary coexistence. Harmony, not balance.

My property professor told my 1L class that the most important thing we would learn in law school was how to live as lawyers. She meant that we had to learn to find ways for our professional and personal lives to co-exist. It has turned out to be the most important idea I encountered in law school. It is an idea that I discuss with students frequently. I chose it as my topic this month in part to share a bit about conversations that are current in the Law School. But I also hope that it is helpful to you as well. As 2024 begins, we would all do well to give some time over to tune our mental orchestras for better harmony.

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.

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HERO



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

ANNOUNCEMENTS

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

Joshua A. Weinheimer
has joined the firm as an associate attorney.

Gunderson, Palmer, Nelson & Ashmore, LLP
111 W Capitol Ave Ste 230
Pierre, SD 57501

Telephone: (605) 494-0105

jweinheimer@gpna.com

www.gpna.com

The South Dakota Division of Insurance,
Department of Labor & Regulation
is pleased to announce that

Callie Pospishil
has been hired as a staff attorney.

South Dakota Department of Labor & Regulation
at 124 S. Euclid Ave., 2nd Floor
Pierre, SD 57501

Telephone: (605) 773-3563

Callie.Pospishil@state.sd.us

Thompson Law, PLLC
is pleased to announce that

Elizabeth J. Overmoe
has joined the firm.

Thompson Law, PLLC
5027 S. Western Ave.
Sioux Falls, SD 57108

Telephone: (605) 362-9100

beth@cathompsonlaw.com

www.cathompsonlaw.com

Davenport, Evans, Hurwitz & Smith, LLP
is pleased to announce that

Ashley R. Brost
has become a partner in the firm
effective January 1, 2024.

Davenport, Evans, Hurwitz & Smith, LLP
206 West 14th Street
P.O. Box 1030
Sioux Falls, SD 57101-1030

Telephone: (605) 357-1292

abrost@dehs.com

www.dehs.com

Hustead Law Office, P.C.

is excited to announce the opening
of a satellite office in Wall.

Hustead Law Office, P.C.
418 Main Street, Suite 111
Wall, SD 57790

Telephone: (605) 279-2021
Facsimile: (605) 279-1080

Hustead Law Office, P.C.
145 N. Chicago Street
Hot Springs, SD 57747

Telephone: (605) 745-5161
Facsimile: (605) 745-3154

Evans Haigh & Arndt LLP
is pleased to announce tha

Delia M. Druley

has become a partner in the firm
effective January 1, 2024.

Evans Haigh & Arndt, LLP
225 E. 11th Street, Suite 201
Sioux Falls, SD 57104

Telephone: (605) 275-9599
Facsimile: (605) 275-9602

ddruley@ehalawyers.com

www.ehalawyers.com

The attorneys of
Green Roby Oviatt LLP
announce that

effective January 1, 2024,

Nancy L. Oviatt, John D. Knight,
Timothy J. Cummings and Thomas J. Linngren
will practice as

Green Oviatt Law Firm LLP.

Their location and contact information
remain the same.

Green Oviatt Law Firm LLP
816 South Broadway
PO Box 1600
Watertown, SD 57201-6600

Telephone: (605) 886-5812

James C. Roby is establishing the law firm of

James C. Roby, P.C.

James C. Roby, P.C.
PO Box 294
Watertown, SD 57201

Telephone: (605) 881-1672

Lisa Z. Rothschadl
is pleased to announce that

Abigail Monger

has been made partner effective January 1, 2024.

Zieser, Rothschadl & Monger, PLLC
1711 Main Street
Tyndall, SD 57066

Telephone: (605) 589-3333

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, 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

Taylor Bushelle President	Michelle Perrett Vice President	Garrett Adams Secretary	Vincent Tarallo Treasurer	Brock Brown ABA Rep.	Kelsey Milford SGA Rep.
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HIGHLIGHTS

JANUARY 20242023-2024 Officers

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President

Nolan Welker
Vice President

Kinsley Groote
Secretary/Treasurer

Megan Borchert
Board

Carla Cushman
Board

Lisa Marso
Board

Dave Pfeifle
Board

Public Service

In September 2022, the Public Sector Section hosted its Epic Leadership Summit. Over the lunch hour, the Public Sector Section arranged for a surprise guest – South Dakota Supreme Court Justice Mark Salter. In the course of ten minutes, Justice Salter described the importance of public service and its impact on his career path. Ultimately, he concluded with, “Public service may not be for everyone, but everyone should consider it.”

With the changing of the calendar, many people take some time reflecting on what is important to them, both personally and professionally. If you find yourself thinking about work life balance, job satisfaction, or career trajectory, the Public Sector Board, like Justice Salter, would ask you to at least consider public service.

If you’re interested in exploring the opportunities presented within the public sector, I think it’s safe to say that any public sector attorney would be more than happy to visit!! If there’s anything we can do to help with your future endeavours, please let us know!!

Happy New Year!!



Active! Engaged! Leaders!

4th 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 4th 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 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 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 31st. 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

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.

Court



Improvement Program

Training



TRAUMA-INFORMED COURT SYSTEM

The Center for the Prevention of Child Maltreatment and the South Dakota Unified Judicial System are hosting monthly trainings on best practices and unique approaches to working with children and families for attorneys, judges, and other multidisciplinary professionals.

These trainings are supported by the [UJS Court Improvement Program](#) which assesses and improves handling of court proceedings related to child abuse and neglect in South Dakota.

LEARNING MORE CAN KEEP KIDS SAFE

Trainings are held the last Wednesday of the month, with some variation based on holidays and other events, from 12-1 CST via Zoom.

UPCOMING TRAININGS

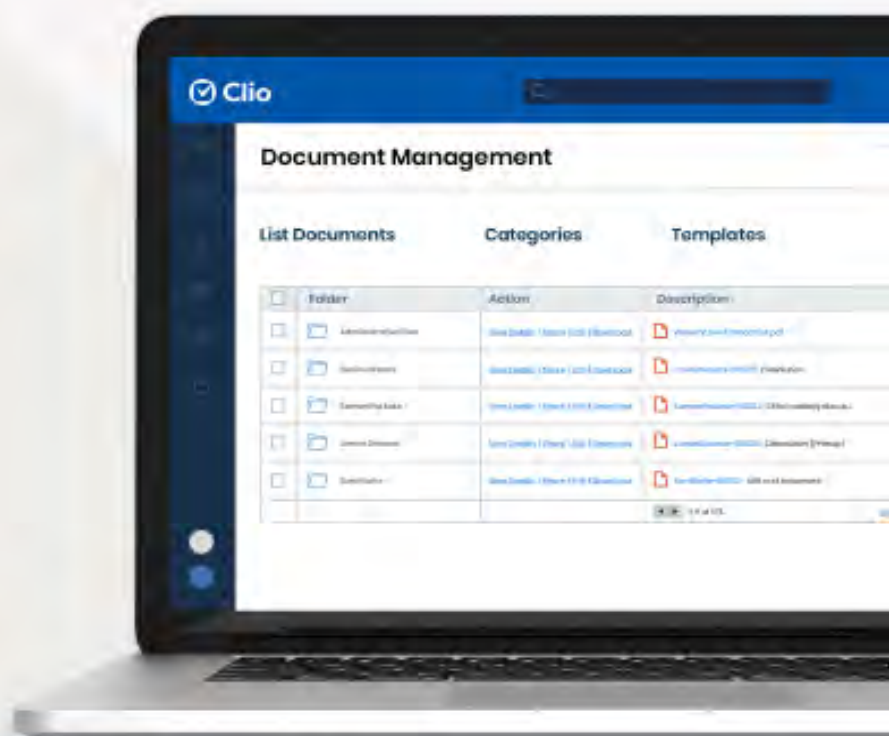
- [Wed Oct 25: Understanding Psychosexual Assessments of Juvenile Offenders](#)
- [Thur Nov 30: Understanding Psychosexual Assessments of Adult Offenders](#)
- [Wed Dec 27: Child & Family Services Review & Data-Driven Processes](#)
- [Wed Jan 31: Family First Prevention Act Update](#)

For more information or to suggest future training topics, email cpcm@usd.edu or visit www.sdcpcm.com/ciptraining

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Easy-to-use software
that streamlines your:

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- Client Intake
- Document Management
- Calendaring and more!



Learn why 150,000+ legal professionals trust
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exclusive State Bar of South Dakota member
discount www.clio.com/sdbar/



State Bar of South Dakota



IN THE SUPREME COURT

OF THE

STATE OF SOUTH DAKOTA

* * * *

IN THE MATTER OF THE DISCIPLINE)	JUDGMENT OF PUBLIC CENSURE
OF GINA RUGGIERI, AS AN ATTORNEY)	
AT LAW)	#30487

On October 17, 2023, the Disciplinary Board of the State Bar of South Dakota filed findings of fact, conclusions of law and a recommendation that respondent Gina Ruggieri be publicly censured, which documentation, pursuant to SDCL 16-19-67, constitutes a formal accusation.

On October 30, 2023, respondent filed an answer to the formal accusation, said answer being an admission to the accusation in its entirety.

The Court thoroughly considered the Board's findings of fact, conclusions of law and recommendation and respondent's answer, and the Court having determined that public censure is an appropriate discipline to be imposed upon respondent, it is therefore

ORDERED that Gina Ruggieri be publicly censured.

IT IS FURTHER ORDERED that the Court adopts the following recommendations in their entirety:

1. That formal discipline be imposed upon Gina Ruggieri in the form of a public censure with the following conditions:
 - a. That Ruggieri provide the Disciplinary Board with verification that her trust account for her solo

STATE OF SOUTH DAKOTA
In the Supreme Court

I, Shirley A. Jameson-Fergel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

1st day of December, 2023.

Shirley A. Jameson-Fergel
Clerk of Supreme Court

Deputy

practice has been closed and any client funds remaining have been transferred to the trust account of J. Scott James with whom Ruggieri is a current partner.

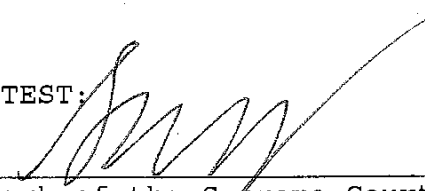
- b. That Ruggieri comply with SDCL 16-18-20.1 and maintain proper trust account records going forward.
 - c. That Ruggieri's annual trust account certifications be approved by J. Scott James prior to filing.
2. That respondent reimburse the State Bar of South Dakota for its expenses in investigating and prosecuting this matter as permitted under SDCL 16-19-70.2

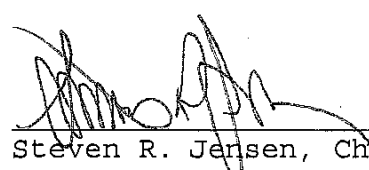
IT IS FURTHER ORDERED that respondent shall on or before January 30, 2034, pay Three-thousand, Thirty-six and 34/100 Dollars (\$3,036.34) to the State Bar of South Dakota as reimbursement of its itemized expenses allowable under SDCL 16-19-70.2, proof of said payment to be filed with the Clerk of this Court on or before March 1, 2024.

DATED at Pierre, South Dakota, this 1st day of December, 2023.

BY THE COURT:

ATTEST:


Clerk of the Supreme Court
(SEAL)


Steven R. Jensen, Chief Justice

PARTICIPATING: Chief Justice Steven R. Jensen and Justices Janine M. Kern, Mark E. Salter, Patricia J. DeVaney and Scott B. Myren

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

DEC - 1 2023


Clerk

**JUDICIAL QUALIFICATIONS COMMISSION
STATE OF SOUTH DAKOTA**

500 East Capitol Avenue
Pierre, SD 57101
Telephone 605-773-2099
Fax 605-773-8437

Mark Haigh, Chair
Rebecca Porter, Vice Chair
Hon. Robert Gusinsky, Secretary
Timothy Engel
Robert Morris
Rory King
Hon. Cheryle Gering

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

December 12, 2023

Notice of Judicial Vacancies

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

FROM: Robert Gusinsky, Secretary, Judicial Qualifications Commission

The retirement of the Hon. Jane Pfeifle (Position E) and Hon. Craig Pfeifle (Position F) will create vacancies for two Circuit Court Judge positions in the Seventh Judicial Circuit. The duty stations for these positions shall be located in Rapid City, SD. As of July 1, 2023, the salary for a circuit court judge position in South Dakota is \$174,448.36. In addition, circuit court judges and their dependents are eligible to participate in the State of South Dakota's health insurance plan; circuit court judges participate in the State's defined benefit retirement plan. The Judicial Qualifications Commission is now taking applications for both these positions.

All lawyers and judges interested in applying should obtain the application form at <http://ujs.sd.gov/>, or contact Lori Grode at the State Court Administrator's Office. The application must be returned to the Administrator's Office and must be postmarked no later than **5:00 PM on February 9, 2024**. Applicants should make sure the application submitted is the 2018 revision. Unless otherwise indicated by the applicant, the Commission will consider all applications submitted to be applications for both Position E and Position F.

You may also obtain the application form by writing or telephoning:

Lori Grode
State Court Administrator's Office
500 East Capitol Avenue
Pierre, SD 57501
Telephone: 605-773-3474
Email: lori.grode@ujs.state.sd.us

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

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

THANK YOU

To: Our Wonderful State Bar Members

From: Your Loyal State Bar Staff

Re: Thank You

Thank you for -

1. Paying your dues;
2. Completing your certificates of compliance;
3. Completing the **mandatory** sexual harassment prevention training; and
4. Completing the strategic planning survey.

We appreciate all of your time in completing these tasks.

**FOR THOSE OF YOU WHO COMPLETED ALL FOUR, PLEASE FEEL FREE TO
TAKE THE REST OF THE DAY OFF. 😊**

YOU EARNED IT!

Experienced Attorney

with 48 years of legal practice and an AV rating, currently in a semi-retired status, is actively seeking a part-time position. Available for opportunities in Spearfish, Sturgis, or Deadwood/Lead regions.

Steve Christensen
(605) 490-1668

DeRouchey Agricultural & Legal Consulting, LLC

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



- 34 years Farm Business Instructor at Mitchell Tech
- 4 years of Ag Lending
- 9 years Research, Deposition, Testifying
- Expert witness on agricultural issues

www.deroucheyagriculturallegalconsulting.com



ARE YOU IN COMPLIANCE?

If you have not completed the mandatory Sexual Harassment Prevention training, the deadline for completion is February 1, 2024. You can access the online training on the Member Hub or by clicking the link below. Once you have viewed the training video, confirm your participation to ensure compliance with SDCL 16-18-1.1.

16-18-1.1. Sexual harassment prevention training for attorneys. Each active member of the State Bar of South Dakota shall complete sexual harassment prevention training offered or approved by the State Bar of South Dakota within two years following admission to the practice of law or within two years after the enactment of this rule, and once every three years thereafter. Failure to complete such required training will result in the member being placed on inactive status and may be grounds for disciplinary action.

MANDATORY Sexual Harassment Prevention Training

[CLICK HERE](#)

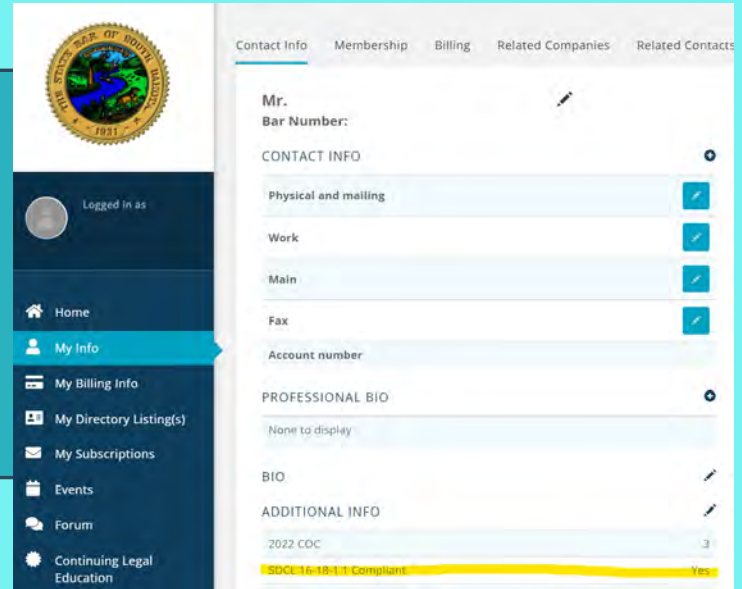
SEXUAL HARASSMENT PREVENTION TRAINING

SDCL 16-18-1.1

How do I know if I did it? If I didn't do it, how do I complete?

AREN'T SURE IF YOU COMPLETED TRAINING?

Login to the Member Hub and click the "My Info" link. If the SDCL 16-18-1.1 Compliant line says "Yes" you are in compliance! If the line is blank, please go to the next step. If you completed the training and the status is not correct, email nicole.ogan@sdbar.net.



*Haven't logged into your State Bar account?
Contact info@sdbar.net, or kylee.alfrey@sdbar.net
and request the login instructions email. You'll then
be sent a link to set up your username and
password.

16-18-1.1

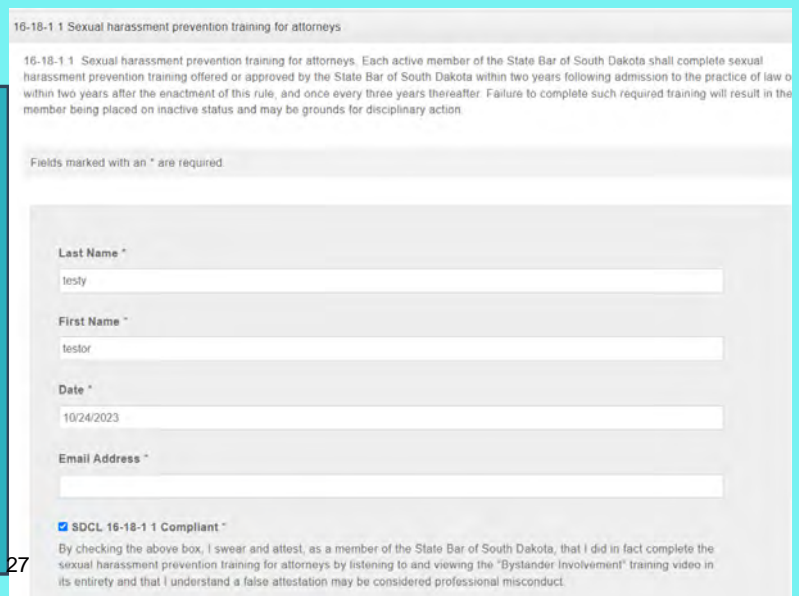
Sexual harassment
prevention
training for
attorneys.

COMPLETE THE TRAINING - IT IS REQUIRED!

Login to the Member Hub and click the large green 16-18-1.1 button in the middle of the page, or scroll down on the left-hand navigation and click the "Member Compliance" link. Watch the video.

CONFIRM PARTICIPATION

You MUST complete the participation form and swear and attest to your attendance for compliance to be recorded. Click the "Confirm Participation" button to the right of the video, complete the form, and submit. If you do not receive a confirmation thank you page, the submission DID NOT go through. You should also receive a confirmation email.



Are you in compliance! ?

SUPREME COURT RULES REQUIRE: MEMBERSHIP DUES,
CERTIFICATE OF COMPLIANCE, SEXUAL HARASSMENT PREVENTION TRAINING

ALL MEMBERS: Complete by February 1, 2024

SEXUAL HARASSMENT PREVENTION TRAINING



Complete training and report compliance by February 1, 2024.

SDCL 16-18-1.1

Each active member of the State Bar of South Dakota shall complete sexual harassment prevention training offered or approved by the State Bar of South Dakota within two years following admission to the practice of law or within two years after the enactment of this rule, and once every three years thereafter. Failure to complete such required training will result in the member being placed on inactive status and may be grounds for disciplinary action.

[View SDCL 16-18](#) | [Login to View Training and Confirm Attendance](#)

ALL MEMBERS: Interest on Lawyers Trust Accounts (IOLTA)

RULE 1.15 SAFEKEEPING PROPERTY



This rule applies to all members who hold client funds.

SOUTH DAKOTA RULES OF PROFESSIONAL CONDUCT 1.15

Exemptions: Nonresident attorneys licensed to practice in South Dakota who comply with applicable IOLTA requirements in the state wherein they maintain their office are exempt from paragraph (3). Attorneys who have applied for and are granted an exemption through the Supreme Court each year. Paragraph (7).

[View SDCL 16-18](#) | [Download IOLTA Forms & Documents](#)

ALL MEMBERS: Due January 1, 2024

CERTIFICATE OF COMPLIANCE



Report on compliance for the previous year in its entirety.

SDCL 16-18-20.2

The provisions of this rule apply to all members of the State Bar of South Dakota concerning trust funds received or disbursed by them in the course of their professional practice of law within the State of South Dakota for the reporting year (2023).

In addition, all lawyers are required to disclose the absence of professional liability insurance as required pursuant to Rule 1.4(c) and must sign the additional verification and certification of disclosure as reflected at the end of the Certificate of Compliance and Insurance Disclosure form.

[View SDCL 16-18](#) | [View Rules of Professional Conduct](#) | [View Specific Exceptions](#)

**DID YOU
KNOW**

you can send in your certificate of
compliance electronically?



Email your completed form to:

kylee.alfrey@sdbar.net



Certificate of
Compliance form

CERTIFICATE OF COMPLIANCE

INSTRUCTIONS

The certificate of compliance for the year 2023 must be submitted to the State Bar of South Dakota by **January 31, 2024**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All attorneys who were **ACTIVE members of the State Bar of South Dakota in 2023 must file the compliance form** with the State Bar no later than January 31, 2024. **This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc.** This reporting requirement does NOT include those who were inactive lawyers in 2023, nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients. Thank you.

Paul Cremer
Secretary-Treasurer

TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

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

- 1 - check (a), (b), or (c) if applicable
- 2 - self explanatory (usually appropriate for inactive or retired members)
- 3 - self explanatory (usually exclusive or full-time corporate, legal aid, or public sector lawyer. Please identify the employer.)
- 3(a)- self explanatory (usually appropriate for part-time Bankruptcy trustees)
- 4 - self explanatory (usually appropriate for the employee or associate of a law firm who does not have trust account writing authority.) At this point, inactive, retired, full-time corporate, legal aid, or public sector lawyers, and associates without trust account check writing authority may sign the form and stop.

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

- 5 - state the name, address, and account number of trust account financial institution.
- 6 - the blanks should be completed with the most recent monthly trust account reconciliation.

Keep in mind monthly reconciliations are required. For example, if this form were completed on 12-15-23, you would insert the closing date of the most recent bank statement (i.e. 11-30-23).

6(a)-(h), and 7 - type or print yes or no in space provided. If you can answer "yes" to each of these questions, you are in compliance with SDCL 16-18-20.2. If you must answer any of these in the negative, you need to make changes in your trust accounting system. A negative answer will result in further inquiry.

8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain the same. It is not too late to perform monthly reconciliations through the date of completion of this form and monthly reconciliations must be performed prospectively. Occasionally, trust accounts have an odd amount, such as \$4.54, which has been in the account for years and the client has disappeared. The compliance report should so note the amount and reason (lawyer unable to disperse the sum of \$4.54 belonging to a client because the client is not able to be located).

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

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

All lawyers must submit the compliance form no later than January 31, 2024. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give us a call. Thank you.

**This completed form can be emailed to kylee.alfrey@sdbar.net.*

2023 CERTIFICATE OF COMPLIANCE

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

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

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

1. I (we) have engaged in the private practice of law in South Dakota as:

____ (a) a sole practitioner;

____ (b) a partner or shareholder of a firm practicing under the name of;

____ (c) an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of

_____ and I maintain separate books, records, and accounts showing all legal business performed by me.

____ 2. I have not engaged in the practice of law in South Dakota, and I have neither handled nor been responsible for either clients' trust funds or clients' trust property in South Dakota.

____ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) _____ and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).

____ a. I have served as a trustee in one or more cases under Title 11 of the United States Code, and I am accountable for all funds I handled in connection therewith to the Office of the United States Trustee, which office is statutorily charged with the responsibility for reviewing and supervising my trust operations; therefore, my handling of such funds is not separately accounted for herein in connection with my private practice of law, and I further certify that I am in compliance with all such accounting requirements of said Office.

____ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of _____ and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

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

(Signature)

Full Name (Print or Type)

Business Address

City, State, Zip

Date _____, 2024

Please state the total number of hours of pro bono service, as defined by the South Dakota Rules of Professional Conduct 6.1, that you (or the whole firm) provided in 2023. Enter 0 if none. Total Hours:_____.

Rule 6.1. Voluntary Pro Bono Public Service

A lawyer should render public interest legal service.

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

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

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

(and bears the following name(s) and number(s) _____

6. During the fiscal period ended December 31, 2023, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

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

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

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

- _____ no differences between the totals, excepting those determined to be the result of bank error;
- _____ differences. (Give full particulars below, identifying the months in which there were differences, the amounts involved, and the reason for each item contributing to a difference. Attach additional pages if necessary.)

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

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

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

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

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

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

(Signatures)

(Printed Name)

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

_____, 2024
Date

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

All Responding Lawyer Signatures:

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

_____, 2024
Date

PUBLIC NOTICE

REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE

The current appointment of Magistrate Judge Eric Johnson is due to expire on March 28, 2024. Magistrate Judge Eric Johnson serves in the Second Judicial Circuit.

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

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

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

Comments must be received by December 29, 2023.

2023 John R. Justice Student Loan Repayment Program

The John R. Justice (JRJ) Grant Program provides student loan repayment assistance for local, state and federal public defenders and local and state prosecutors who commit to extended service in those roles. All Applications and a Service Agreement along with a recent loan statement must be received or postmarked on or before **January 31, 2024**. A recent monthly statement from the borrowing agency is preferred over the generic "Loan Details" print out option as the monthly statement contains the pertinent information needed.

[2023 John R. Justice Grant Program Application](#)
[2023 John R. Justice Grant Service Agreements](#)

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

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

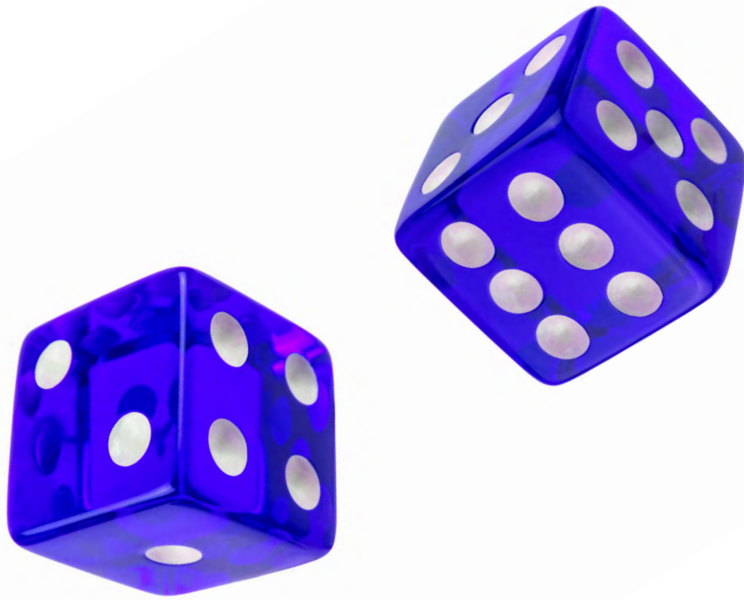
Public defender: an attorney who is continually licensed to practice law and is a full-time employee of a state or unit of local government (including tribal government) who provides legal representation to indigent persons in criminal or juvenile delinquency cases, including supervision, education,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

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

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

Application and a service agreement with original signatures must be submitted to the address below by January 31, 2024. A recent loan STATEMENT must be included that provides the following: (1) account number; (2) your name on the account; and (3) bank payment mailing address.

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



IS MAKING A REFERRAL RISKY?

by: Mark Bassingthwaighte
ALPS Risk Manager

Referrals of all types are commonplace in the practice of law. They are often made after work is declined. Staff may pass a name along in response to a cold call or to a client who needs a service that your firm doesn't provide. Referrals can occur during dinner conversations, at social events, via email or text, or after a presentation given to the general public. Names may be passed along to family members, friends, colleagues, and especially clients. After all, what firm doesn't want to make sure their clients are well taken care of! Heck, if done judiciously, referrals can even be a useful tool in growing a practice.

Too often, however, referrals are made to a variety of professionals without any thought about the potential malpractice exposure. Is such casualness justifiable? Unfortunately, the answer is occasionally no. While I will readily admit that the risk is quite low, this doesn't mean the risk can be dismissed out of hand.

One reason why is the "hunt for a deep pocket" concern. Suppose you make a specific referral and the person the referral is given to relies on your "advice" to work with whoever it was you referred them to. This person is then harmed in some fashion due to the negligent acts of the person you referred them to, and it turns out that professional is uninsured. It happens, and when it does a hunt for a deep pocket might mean that a negligent referral claim is about to land in your lap.

Still have doubts? Then consider this. Thinking just about our own profession, I can assure you that a significant number of attorneys actively practicing

here in the US are indeed uninsured. Some attorneys don't believe that malpractice insurance is necessary. They prefer to protect their assets in other ways. Others simply can't afford the premium payment, particularly during economic hard times. And I have even had a few attorneys tell me that they believe having malpractice coverage simply invites claims. As they see it, if they have no insurance no one will bother suing them. I know this is contrary to widely held beliefs, but it is true none the less.

A more serious concern is when an attorney accepts a referral fee. This is a concern because such fees are too easily viewed by a client as payment for your legal advice to have the client work with the other attorney. Remember clients need to be made aware of fee splits, so acceptance of such a fee can come with liability for the other attorney's missteps, particularly if the misstep is a blown statute of limitations date and the other attorney is uninsured. To avoid this risk, never ask for a referral fee and if one is offered, it's best to decline or suggest that the referral fee be refunded to the client.

That said, if your practice is to accept referral fees, proceed fully aware of the risk involved and act accordingly. Be up front with the client about the arrangement because when you share fees, you share liability. Think about Rule 1.5 of the Model Rules of Professional Conduct, which states that a division of a fee can only occur if the division is in proportion to the services performed and the client agrees in writing. In addition, the fee must be reasonable, and each attorney will assume joint responsibility for the representation.

This rule clearly requires that a referring attorney who will be accepting a referral fee inform the client of the presence of the referral fee and obtain written consent to the fee division. Given all this, at a minimum, it would seem prudent to stay in contact with the other attorney in order to monitor critical dates and see that work is completed on time because there is no free lunch here.

Now, two side notes are in order. First, prior to ever making a referral where a referral fee is expected, consider making certain that the attorney you are referring to has malpractice insurance in place and that the limits are adequate for the size of the matter being referred. Do not accept verbal verification of coverage. There are attorneys who will say they are insured in order to obtain the business. Ask the other attorney for a copy of her declaration page to her malpractice policy prior to ever making this kind of referral. Some attorneys rationalize this concern away by thinking this isn't necessary because the folks they refer to are all highly competent professionals. In response, know that competent professionals can and sometimes do make mistakes or miss critical deadlines. Again, it happens.

Second, occasionally an attorney who has recently been disbarred will seek to refer clients and request a referral fee. If the referral happened to be made while this attorney was in good standing with the bar, payment of the referral fee would be acceptable. However, if this attorney is seeking to make the referral and asking for a fee after being disbarred, the payment of a referral fee would be prohibited under Model Rule 5.4(a) which prohibits the sharing of fees with a non-attorney.

Acceptance of a referral fee is not the only method of creating a liability from a referral. Referrals to specific individuals or a referral made with a promise such as "Ms. Jones is the finest (CPA, financial planner, personal injury plaintiff attorney, whatever the case may be) in the area and always gets great results" can also create liability. So, another way to avoid exposure for a negligent referral claim is to always provide a minimum of two to three names and make no promises. Of course, suggesting the individual contact a referral service, such as a state or local bar in the case of attorney referrals, would be another way to go.

Next, be extremely cautious when making a referral to an officemate in an office-sharing situation. By their very nature office sharing arrangements create added

vicarious liability for everyone in the space. Internal referrals just increase the risk. Here again, it's important to give at least two to three names, one of which can be an officemate. If so, be certain to disclose that one of the names provided is an officemate, make no promises about that person, and be certain that the individual receiving the referral understands that the officemate is completely independent from you. Of course, never refer someone to an officemate who is uninsured or underinsured. This risk simply isn't worth it.

The final issue concerns staff. Occasionally a firm will have a sound referral policy in place that all attorneys understand and follow yet some staff members may be completely unaware of the policy or the reason the policy is in place and thus not follow the rules in every instance. There is no ill will here, just an honest desire to try and see that clients and others get the best help possible. Their motivation is to provide good service. These staff will sometimes make a specific referral to an attorney or other professional whom they know and think highly of, blissfully unaware of the associated risks. For clients who are upset, staff may even try to reassure them by making certain "harmless" promises about the person they are referring someone to, for example, "Attorney X is a very good attorney and well respected by our firm." This is not something you want to have happen for all the reasons discussed above.

In order to avoid this problem, make certain that all staff understand your firm's policy and procedure for referrals and also the reasons why such a policy is necessary. Develop a referral list with three names for the various types of matters the firm will refer out and make it available to everyone in the office. If this list doesn't cover a referral request, have the staff pass the matter on to one of the attorneys, politely decline by stating the firm does not make referrals, or have them recommend an appropriate referral service.



Question Presented: How should a lawyer proceed with a scheduled hearing when the lawyer representing the opposing party has become unresponsive and lawyer has determined the opposing lawyer may not be communicating with or even able to represent the opposing lawyer's client?

Short Answer: The lawyer should advise the court of these facts immediately, and before the hearing if possible.

Rules Implicated: 3.3 and 4.2

FACTS

Lawyer represents Client in a lawsuit in state circuit court. The Defendant is represented by a lawyer who, during the lawsuit, relocated to another state. Since the relocation, the other lawyer has become increasingly unresponsive. Lawyer has since obtained a hearing date for the matter. Lawyer served the Defendant with notice of the hearing through the Unresponsive Lawyer and also served the lawyer for another party to the litigation (who is aligned with Lawyer's Client, or at least is not aligned with the Defendant). That lawyer has also expressed concern about the Unresponsive Lawyer's lack of communication.

Concerned that the Unresponsive Lawyer may have again relocated, Lawyer determined that the Unresponsive Lawyer's address is no longer listed in the state bar directory. Lawyer next confirmed in a conversation with the office of the state bar that the Unresponsive Lawyer is no longer licensed to practice law in South Dakota.

The Unresponsive Lawyer is still listed as Defendant's attorney of record in the lawsuit, and the hearing date is approaching. Lawyer inquires how Lawyer should proceed with the hearing, including how to proceed depending upon whether the Unresponsive Lawyer appears. Lawyer does not believe Lawyer can contact the Unresponsive Lawyer's client directly.

ANALYSIS

Lawyer is correct that Lawyer should not contact the Unresponsive Lawyer's client directly. Rule 4.2 forbids direct contact with represented parties. Even if the Unresponsive Lawyer is not licensed to practice law in South Dakota, the Lawyer should not risk direct contact under the assumption the Unresponsive Lawyer is no longer representing or purporting to represent the other party to the lawsuit.

Rule 3.3(a) provides that a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to timely correct a false statement of material fact or law previously made. Lawyer previously filed and served a notice of hearing reflecting that Lawyer had served notice on the Defendant through counsel, i.e., the Unresponsive Lawyer. The Committee is not suggesting that Lawyer had any reason to proceed otherwise, or that this was not compliant with the rules. However, since scheduling and noticing the hearing, Lawyer has obtained facts indicating that the Lawyer's representation about notice to the Defendant through the Unresponsive Lawyer is either inaccurate or at least strongly in doubt. Lawyer will likely arrive at a hearing where the Unresponsive Lawyer (and the Defendant) will either not appear at all, or where the Unresponsive Lawyer will not be legally permitted to participate.

Before the hearing date, (if possible) Lawyer should contact the Court (serving copies of the communication to all of the other lawyers and any unrepresented parties), and disclose the facts described above, so the Court can determine what steps should be taken next, including how best to ascertain whether and to what extent the Defendant is aware of the situation. This may require rescheduling the hearing and granting the Defendant time to retain a new lawyer, but will prevent the Lawyer and the Lawyer’s Client from obtaining relief that may have to be vacated later if it were determined the Unresponsive Lawyer’s client lacked knowledge or notice of the proceedings.

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sdguardians@gmail.com

Ronald T. Staebell, CLU, ChFC
President
Principal Financial Group
Sioux Falls

December 8, 2023

W.H. Engberg
Attorney
Pierre

Eileen Van Soest, Vice President
Sioux Falls

Ronald J. Hall
Hall Law Firm
Aberdeen

Craig Krogstad, Secretary Treasurer
Sioux Falls

Denny Rowley
Rowley & Associates
Spencer

Gerald Benings
Active Generations
Sioux Falls

Paul Cremer
Secretary-Treasurer
The State Bar of South Dakota
111 W. Capitol Ave., #1
Pierre, SD 57501-2596

Dear Mr. Cremer:

On behalf of the Board of Directors, I want to take this opportunity to express the Guardianship Program's deep gratitude to the State Bar for its most recent grant of \$10,000 through the Bar Foundation. The State Bar has been a true supporter, and long time friend of the Guardianship Program.

The State Bar can join in taking credit for assisting the lives of many people who need protection, and are unable to fend for themselves. The Board of Directors and staff of the Guardianship Program look at the legal profession as guardians of our nation's system. Credit is not often enough expressed.

Best regards.

Sincerely,

Ronald Staebell
President

c: Board of Directors
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In Memoriam



Ronald Dale Buskerud
October 17, 1947 -
November 26, 2023

Ronald Dale Buskerud, 76, passed away in Gilbert, AZ on Sunday, November 26, 2023 after a brief battle with cancer. Ron was born on October 17, 1947 in Dell Rapids, SD to Orville and Luella (Pedersen) Buskerud. He grew up working long days during summers for his father's construction company, Buskerud Construction on projects across South Dakota. Ron lettered in football and basketball, graduating from Dell Rapids High School in 1965. He attended Augustana College, Sioux Falls, SD, graduating with a Bachelor's of Science Degree (Political Science) in 1970. He married Patricia (Patty) Huffman on February 9, 1968. Patty and Ron welcomed their daughter Pamela Sue (Pam) into their family in 1968 in Dell Rapids, SD.

Ron enlisted in the United States Army in 1970. He attended Basic Training at Fort Lewis, WA, Military Intelligence School at Fort Holabird, MD followed by 50 weeks of Korean language school at the Defense Language Institute in Washington, D.C. Ron was stationed in Korea where he was a Special Agent in Military Intelligence from August 1971 until September 1972. Ronald Gregory (Greg) was born into the family in 1972 in Dell Rapids, SD.

Ron went to work full time for Buskerud Construction in 1972 when he returned to Dell Rapids from the Army. Ann Christine was born in Dell Rapids in 1974 completing the family. While living and working in Dell Rapids, Ron was elected to four terms on the Dell Rapids City Council. Ron attended the University of South Dakota Law School as a non-traditional student, graduating with a Juris Doctorate in 1984. He practiced law in Sioux Falls and then established a law practice in Dell Rapids. Additionally, Ron served as the Dell Rapids City Attorney for four years.

In 1990, Patty, Ron and the family moved to Rapid City, where he worked as a Pennington County Deputy State's Attorney, and subsequently as the Chief Civil Deputy Attorney for Pennington County for ten years.

Ron then served as the Administrative Assistant to the Pennington County Commission for eight years. During that time, he enjoyed lobbying at the South Dakota Legislature each year on behalf of the taxpayers and residents of Pennington County. Ron married Marcia Elkins on September 11, 1999 sharing many adventures over the next 24 years.

Following retirement from the Commission Office, Ron ran for the Pennington County Commission (District 5) in 2010. He served two terms as a Pennington County Commissioner for eight years before fully retiring. While a Commissioner, Ron served on the Board of Directors for the South Dakota Association of County Commissioners and as the President of the Black Hills Association of County Commissioners. He truly enjoyed serving on the Board of Directors for the Pennington County Senior Citizens and supporting the senior citizens in the County.

Ron loved music from an early age growing up to enjoy most the Rock and Roll of the 1950's and 60's. On a wager, Ron and friend Arlie Brende formed a band called Arlie's All Stars. Neither one knew how to play guitar, so Ron took guitar lessons from Community Education in Sioux Falls. Arlie and Ron convinced talented musicians and friends, Mark Aspaas and Comet Haroldson to join them for the initial gig. Friends Bob Christensen, Brian Wirt, Dr. Ken Aspaas, Gayland Bender, Steve Samuelson, Rick Knobe and John Mogen joined the band over the next few years. Playing music and performing skits, the All Stars raised over \$800,000 for Make a Wish, the Sioux Falls Shriner Burn Transportation Fund, the Avera Cancer Foundation, and other charities, all causes close to Ron's heart. Ron was very proud that the band was inducted into the South Dakota Rock and Roll Music Association in 2011, receiving a Music in the Community Recognition Award. Ron owned and played "too many" guitars, as well as a banjo, loving music to his last day. Music spoke to Ron's soul and he shared his love of great music with his three children.

From his teenage years, Ron could be found on the golf course where he made many great friends over the years, even scoring a hole in one at Meadowbrook Golf Course. Ron and Marcia began spending winters in Arizona in 2016 so that he could enjoy golf year round. Ron loved to read, was fascinated by American history particularly the Civil War and Old West, enjoyed a good

museum – large and small – made and restored furniture for family, venturing to Spring baseball games in Florida and Arizona with friends, completing the LA Times crossword daily and building model ships, including recently starting a 9090-piece Lego Titanic model. With the purchase of his first of three Corvettes in 2019, Ron and Marcia made new friends while touring the Black Hills and Arizona, and parts in between. Ron most enjoyed sharing a story or joke with old friends and new ones, with his favorite line being “Never let the truth get in the way of a good story.” Ron was very proud of his military service and was a member of Post No. 65, The American Legion, Dell Rapids, SD for 51 years. He was also a member of Post No. 1273, Veterans of Foreign Wars, Rapid City, SD.

Ron is greatly missed by his wife, Marcia Elkins, his daughter Pam (Keith) Brockberg of Yankton, SD, son Greg (Angie) Buskerud of Rapid City, SD and daughter Ann Redwood (Daniel Turnbow) of Rapid City, SD, along with grandchildren, Patrick (Lexi) Harris, Jackson Harris, Nicholas (Tori) Harris, Garrison Brockberg, Avery Brockberg, Gracie Brockberg, Kyra Keimig, Devon Redwood and Danica Turnbow, and great-grandsons Cash Loftus and Sawyer Harris; sister, Sharon Kayser, along with six nephews who referred to him as their “fun uncle”, and furry children, Bogey and Cooper. Ron was incredibly proud of his children and grandchildren and the lives they have made with their own families.

Ron was preceded in death by his parents, Orville and Luella Buskerud, brother and sister-in-law, Terry and Veronica Buskerud, and brother-in-law Jon Kayser, as well as furry children, Max, Abbey Road, and Delaney.

A private family funeral will be held with burial at Black Hills National Cemetery. A Celebration of Life will be held at a later date. In Ron’s memory, please stop and share a story or a joke with a friend, old or new. In lieu of flowers, the family requests a memorial donation to Make A Wish South Dakota or the Humane Society of the Black Hills.



Judge Jon R. Erickson
May 10, 1950 -
December 2, 2023

Judge Jon R. Erickson, 73, of Huron, South Dakota, passed away on Dec. 2, 2023 at Huron Regional Medical Center.

Jon was born in Watertown, South Dakota on May 10, 1950 to Richard (Dick) and Joan (Downes) Erickson and was an older brother to sisters Laurie and Liz. Some of Jon’s fondest childhood memories were of his family. He frequently told stories about spending time in his grandfather’s hardware store or on his aunt and uncle’s farm in South Shore, South Dakota.

Jon’s family moved to Sioux Falls when he was five, and he spent the rest of his childhood there. He graduated from Lincoln High School, which is where he discovered his aptitude and passion for debate, government and politics – interests that would define the rest of his personal and professional life.

He honed his talents at the University of South Dakota where he earned his bachelor’s degree and then graduated from its law school in 1975.

Jon began his four-decade legal career at Andera, Margadant and Erickson in Chamberlain, South Dakota; also serving as the Brule County Deputy State’s Attorney (1975-1980). He then continued serving the people of South Dakota in Pierre as Assistant Attorney General, State of South Dakota (1980-1987) and Assistant U.S Attorney, District of South Dakota (1987-1988). In 1988 he was appointed as a judge in South Dakota’s Third Circuit by Gov. George Mickelson. The appointment brought Jon to Huron where he sat on the bench for 30 years. Throughout his distinguished career, Jon held a number of leadership positions, including Chair, Board of Pardons and Paroles (1985-1987); President, South Dakota Judges Association (1996-1997); Chair, Ethics Committee, South Dakota Judges Association (1991-1996); South Dakota Unified Judicial System Planning Council (1996-1998); and the Judicial Qualifications Commission (2000-2008).

A testament to Jon’s warmth and generosity, some of the proudest moments of his career were when he

had the opportunity to preside over weddings and adoptions. Nothing gave him more joy than giving joy to others.

Of his many accomplishments, Jon was perhaps proudest of his family. Jon married Patricia (Blackford) Erickson in 1986. Although they eventually divorced, Jon and Pat remained good friends and loving co-parents to their daughter, Ann, who they welcomed in 1989. Jon was an especially doting and devoted father and was Ann's all-around biggest fan. Ann has so many happy memories of her dad. She will always treasure her childhood weekends with him at Lake Poinsett, enjoying countless hours on the water and making Saturday morning trips to the Estelline bakery. She'll also cherish more recent memories, like when Jon officiated her own wedding in Huron.

Perhaps the only thing Jon loved more than being a father was being "Grampa Jon" to Ann's two young sons, Beau (2) and Wells (5 months). If you chatted with Jon recently, you probably heard a story (or several) about them; and you know the way his eyes lit up when he spoke of them. His time with them was too short, but Ann looks forward to finding ways for them to know Jon as they grow older.

Jon was an avid reader and a lifelong student of history, particularly South Dakota history and his family's genealogy. He loved a good joke and relished a bad one. He appreciated a sharp wit and good humor, qualities that he himself had in spades. He saw the world through his travels with friends and family; he was happiest in good conversation, especially if it included a cigar; and he invested in his community, serving on the boards for Huron's Stone Church, the Center for Independence Foundation and the Huron Country Club.

Jon was a caring and generous friend to many, and his friendships played a large and important role in his life. Jon's family would like to express their profound gratitude to his friends for the happiness they brought him – most especially his trusty "Friday night group" and the wonderful community at the Huron Country Club.

Grateful to have known and been loved by Jon are his daughter, Ann Erickson (Robert Rodby) and two grandsons, Beau and Wells Erickson Rodby of


Minneapolis, Minnesota; sisters Laurie McGreevy (Jim) of Phoenix, Arizona and Lizbeth Gullickson (Chuck) of Sioux Falls; and his ex-wife and friend Pat Erickson (Ron Wheeler) of Huron, South Dakota. Between his and Pat's families, Jon was a beloved uncle to nine nieces and nephews, known for his puns, pranks and general sense of mischief, and influencing more than one of them to enjoy a cigar with him.

Jon was preceded in death by his parents, Dick and Joan.

A celebration of Jon's life will be announced at a later date. Memorial gifts may be directed to Welter Funeral Home and will be distributed to some of Jon's favorite causes.

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10
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2.0

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1:30 pm EST - 2:30 pm EST
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Alphabet Soup:
Enhancing your EI and
WI

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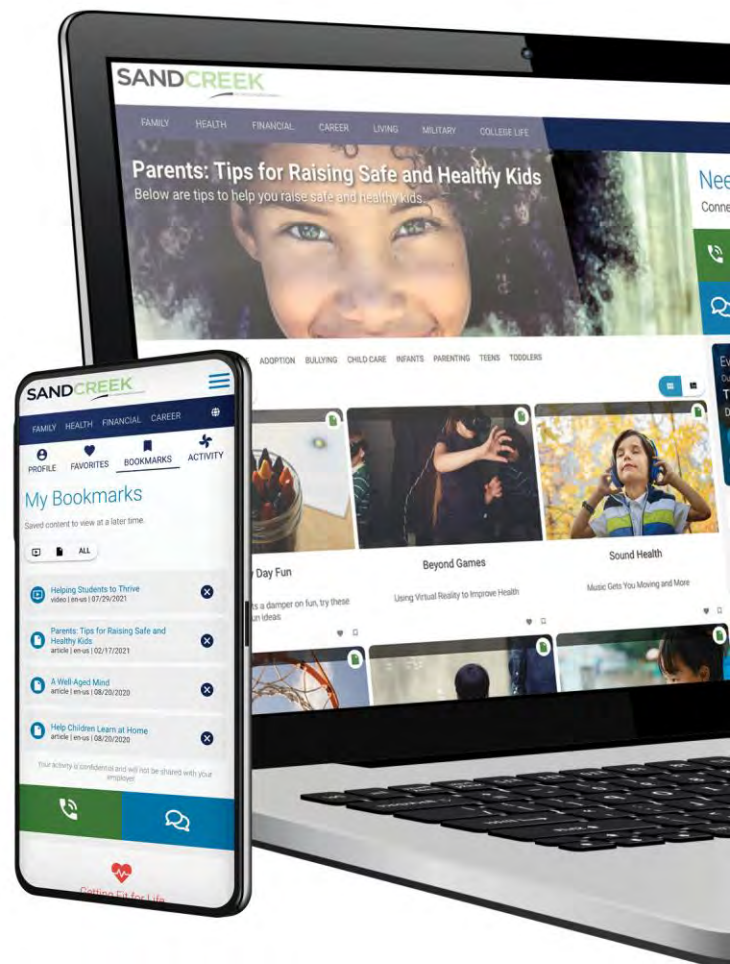
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State Bar of South Dakota Association Healthcare Plan Now Available

As part of our ongoing commitment to our members, the State Bar of South Dakota has partnered with Avera Health Plans to provide affordable healthcare benefits to South Dakota Bar members and their employees. In 2019, State Bar leadership advocated for an Association Group Healthcare Plan and our members noted in a 2022 survey that a healthcare option would be a worthwhile member benefit. At its May 2022 meeting, the Bar Commission passed a motion to proceed with implementation of an Association Healthcare Plan and we are pleased to announce its availability beginning February 1, 2023.

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

Office Location	Agency	Contact
Mitchell & Yankton Area	Dice Financial	Jacquelyn Johnson
Aberdeen Area	Mark Mehlhoff	Mark Mehlhoff
Sioux Falls Area	Midwest Employee Benefits	Dawn Knutson
Sioux Falls & Brookings Area	McGreevy & Associates	John Lawler
Pierre, Mitchell & Sioux Falls Area	Fisher Rounds & Associates,	Josh Gilkerson
Watertown Area:	Freimark & Associates	Todd Freimark

Black Hills Insurance Agency & Carver Insurance will handle Western South Dakota.

Office Location	Agency	Contact
West River	Black Hills Insurance Agency & Carver Insurance	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.

Rosebud Sioux Tribal Court

ROSEBUD SIOUX INDIAN RESERVATION
P.O. Box 129
ROSEBUD, SOUTH DAKOTA 57570

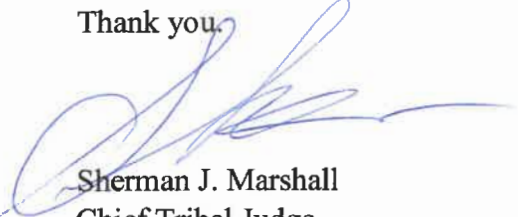
TO MEMBERS OF THE STATE BAR OF SOUTH DAKOTA

Re: Request for Assistance

The Rosebud Sioux Tribal Court is in need of attorneys to appoint as Special Public Defenders to help in cases in which our Public Defenders have conflicts in our adult criminal court and in our juvenile court. Our court allows attorneys to appear either in person or via zoom and we currently pay \$100 per hour with travel being paid at \$1.00 per mile which covers the attorney's travel time and use of their vehicle. Invoices are paid monthly. A Tribal Business License is required.

Thank you. Should you be interested in taking some of our conflict cases, please contact Cheryl Rogers, Director of Administration, at (605) 747-2278 or by email at cheryl.rogers@rstjustice.org. Cheryl will also be able to answer any questions you may have or provide further information

Thank you.


Sherman J. Marshall
Chief Tribal Judge

cbr/file



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.

Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

Email your employment announcement to 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



Associate Attorney – Sioux Falls

Griese Law Firm, P.C., is seeking a full time associate attorney to join the growing law office. Applicant must be a strong advocate, motivated and organized. Must be currently licensed to practice law in South Dakota.

Position is paid salary commensurate with experience. Benefits and bar dues included.

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

Attorney – Statewide

Agency: Department of Labor & Regulation

Location: Statewide, negotiable

Salary: \$69,300.72 - \$77,012.12, depending on experience

Pay Grade: L1

Closing Date: Open Until Filled

The Department of Labor and Regulation is looking for an attorney to handle a mixed caseload including serving as an administrative law judge for workers' compensation hearings, representing the department's professional licensing boards and commissions in disciplinary complaints, advising, and representing the reemployment assistance division in tax appeals and investigations, and providing additional legal services to department agencies on an as-needed basis. Additional duties may include, but are not limited to, advising department agencies on administrative rulemaking and/or legislative bill drafting.

This is a Full-Time 40 Hour Weekly position with

the Department of Labor & Regulation, Labor and Management Division. For more information on the Department of Labor & Regulation, please visit <https://dlr.sd.gov/>.

Licenses and Certifications:

Current admission to practice with the State Bar of South Dakota or ability to obtain admission within six months of start date.

The Ideal Candidate Will Have:

A strong work ethic, self-starter, and experience in administrative hearings, administrative law, and/or criminal prosecution.

Knowledge, Skills, and Abilities in:

- state and federal workers' compensation laws and case rulings;
- statutes applicable to administrative hearings, procedures, and due process;
- rules of evidence and procedure;
- preparing and analyzing legal documents and writing;
- making sound judgments;
- identifying and applying legal principles;
- expressing oneself clearly and concisely, orally and in writing.
-

Additional Requirements: To be considered, please attach your resume.

This position is exempt from the Civil Service Act.

The State of South Dakota does not sponsor work visas for new or existing employees. All persons hired will be required to verify identity and eligibility to work in the United States and complete an Employment Eligibility Verification, Form I-9. The State of South Dakota

as an employer will be using E-Verify to complete employment eligibility verification upon hire.

The State of South Dakota offers employer paid health insurance plus eleven paid holidays, generous vacation and sick leave accrual, dental, vision, and other insurance options, and retirement benefits. You can view our benefits information at <https://bhr.sd.gov/job-seekers/work-for-state-government/>. This position is a member of Class A retirement under SDRS.

Must apply online: <https://sodakprod-lm01.cloud.infor.com:1443/lmg/hr/xmlhttp/shorturl.do?key=ODI>
You must apply online, emailed resumes or submissions will not be accepted.

South Dakota Bureau of Human Resources
Telephone: 605.773.3148 Email: careers@state.sd.us
<http://bhr.sd.gov/workforus>
"An Equal Opportunity Employer"

Staff Attorney – Sioux Falls

South Dakota Voices for Peace (SDVFP) seeks an Unaccompanied Children's Project (UCP) Staff Attorney to carry out direct legal services to children in immigration court, living in South Dakota, including state civil court proceedings as it relates to representation of children in immigration court. The UCP Staff Attorney will work on a team with other attorneys, paralegals, Community Health Workers, interns, interpreters and will be supervised by the CEO, an immigration attorney. The UCP Staff Attorney must be a self-motivated advocate with a passion for justice and equity and experienced in working with multilingual, vulnerable clients. The UCP Staff Attorney will represent children and families through the immigration process, including immigration court work. Immigration Court is in Fort Snelling, MN. This position is based in Sioux Falls, SD.

Primary Responsibilities:

- Conduct intakes, legal research, fact development, work with multilingual clients, work with children, draft and file immigration filings, affidavits, briefs, prepare clients for interviews and court proceedings.
- Attend Continuing Legal Education (CLE) opportunities as it pertains to children in immigration court and family law issues.

- Explain family law, immigration law, and procedures to children and their families.
- Represent clients through immigration court proceedings and understand EOIR practices and procedures.
- Represent clients through administrative agency proceedings including but not limited to USCIS (United States Citizenship and Immigration Services.)
- Represent guardians and custodians in SD state court as it relates to a child's immigration law proceedings.
- Stay abreast of all federal and state immigration policies and rule changes in immigration law and state laws related to guardianships, conservatorships, and custody.
- Represent SDVFP at regional roundtables and committees pertaining to immigration law and our practice area.
- Work with legal team to develop sound strategies in case management and track data for grant requirements.
- Work with SDVFP team to develop public education materials, Know Your Rights materials, and communication strategies.
- Work with SD Voices for Justice lobbyists to advance the goals of SD Voices for Peace and coalition partners on legislation impacting undocumented, immigrant and refugee populations. Support legislative advocacy with legal and policy analysis.
- Demonstrate a commitment to diversity, equity and inclusion in the workplace using a personal approach that values all individuals and respects differences in race, ethnicity, age, gender identity and expression, sexual orientation, religion, ability, and socio-economic circumstance.
- Commit to work collaboratively and respectfully toward resolving obstacles and/or conflicts.
- Travel as required.

Qualifications:

- Demonstrated commitment to the mission and goals of SD Voices for Peace and SD Voices for Justice.
- J.D. degree from an A.B.A accredited law school and 1-3 year experience in the legal field.
- Licensed to practice law in any U.S. jurisdiction with the ability to join the South Dakota Bar (willing to take the next bar examination or

waive in) or eligible to take the next SD Bar Examination.

- Passionate commitment to and familiarity with immigrants' rights, racial and social justice, and state issues impacting immigrant communities.
- Demonstrated ability to work with vulnerable clients.
- Demonstrated ability to work with multilingual clients and interpreters.
- Demonstrated ability to work with multicultural team.
- Fluency in Spanish (written and spoken) preferred but not necessary.
- Proven ability to work independently as well as within a team.
- Excellent interpersonal, conflict resolution, and verbal communication skills.

To Apply:

This is a full-time position funded through Acacia Center for Justice grant. Competitive salary starting at \$55,000 and commensurate with experience. Health benefits; generous paid holidays; generous PTO; quarterly wellness days; optional flexible schedule; student loan repayment; professional membership dues, malpractice insurance, and SD Bar dues included. Applications will be accepted until the position is filled. Email the following in one PDF file named yourinitialsUCPATtny to CEO, Taneeza Islam taneeza@sdvfpeace.org :

- o A one-page cover letter with salary requirements;
- o Resume (2 pages only);
- o One writing sample (1000 word max); and
- o 3 references including Name, Title, phone # and email.

Assistant Federal Public Defender – Rapid City

FEDERAL PUBLIC DEFENDER

Districts of South Dakota and North Dakota

The Federal Public Defender for the Districts of South Dakota and North Dakota seeks an attorney to join our branch office in Rapid City, South Dakota. Our office provides high-quality representation to people charged with federal crimes who cannot afford to hire an attorney. We operate under the authority of the Criminal Justice Act.

Position Description: Assistant Federal Public Defenders zealously and professionally represent clients in a fast-paced, challenging, diverse, and rewarding work environment. Responsibilities include managing a caseload; working with clients; interviewing witnesses and family members; developing release plans; reviewing discovery; preparing pleadings, motions, and briefs; developing litigation strategies; working with experts; advising CJA panel attorneys; and in-court litigation through all stages of a criminal case. Some travel is necessary. Attorneys in our office may not engage in the private practice of law.

Qualifications: Required: (1) graduation from an accredited law school; (2) admission to practice in good standing before the highest court of a state or the District of Columbia; (3) must become admitted to the South Dakota Bar within a year of beginning employment; and (4) US citizenship or work authorization.

Above all we are looking for applicants with a demonstrated commitment to indigent defense, and an ability to work well in a team environment. We value court experience, creativity, and superior research and writing skills.

Salary and Benefits: The salary range is commensurate with experience within a range of \$69,107-162,148. The position is full-time with federal benefits, including health and life insurance, retirement, and the Thrift Savings Plan. Salary is paid bi-weekly and only by direct deposit. A final offer of employment is subject to funding and a background check.

How to Apply: Apply by emailing a letter of interest, resume, three references, and a recent writing sample in a single pdf document to SDX_JOBS@fd.org. Applications must be received by close of business February 16, 2024.

The Federal Public Defender for the Districts of South Dakota and North Dakota is an Equal Opportunity Employer. Women and minorities encouraged to apply.

Vacancy Announcement: December 18, 2023

Attorney – Sioux Falls

U.S. DEPARTMENT OF JUSTICE
ASSISTANT UNITED STATES ATTORNEY
UNITED STATES ATTORNEY'S OFFICE
DISTRICT OF SOUTH DAKOTA
CRIMINAL DIVISION
ANDREW W. BOGUE FEDERAL BUILDING
515 NINTH STREET, SUITE 201
RAPID CITY, SD 57701
UNITED STATES
23-SD-CRIM-002

About the Office:

The United States Attorney's Office, District of South Dakota includes a main office located in Sioux Falls, South Dakota and two branch offices located in Pierre and Rapid City. South Dakota encompasses a large and diverse geographical area of 75,809 square miles and a population of about 895,376 people.

More information about the U.S. Attorney's Office, South Dakota can be found at: <http://www.justice.gov/usao/sd/>

Job Description:

The U.S. Attorney's Office for the District of South Dakota is seeking an experienced attorney to fill an Assistant United States Attorney (AUSA) position in the Criminal Division of its Rapid City office. AUSAs in the Criminal Division advise federal law enforcement agents on criminal investigations, present criminal cases to the grand jury, prepare and argue a broad range of motions, try criminal cases before the United States District Court, conduct research, write briefs and present oral arguments to the Eighth Circuit Court of Appeals. Candidates should be capable of handling significant and complex criminal prosecutions involving a variety of violations of federal laws related to firearms, narcotics, white collar fraud, child pornography, and immigration crimes as well as Major Crimes Act violations in Indian Country involving murder, child sex abuse, rape, and more.

Qualifications:

Required qualifications: Applicants must possess a J.D. degree, be an active member of the bar (any U.S. jurisdiction) and have at least one year of post-J.D. legal or other relevant experience. Be a U.S. citizen or National. In addition, applicant must also be a member, or be eligible to become a member, of the federal district

court bar. If the successful candidate is not a member of the South Dakota Bar, he or she must become a member of the South Dakota Bar within twelve months.

Preferred Qualifications: Applicants must demonstrate superior analytical ability; strong research, writing and courtroom skills; exercise fair and sound judgment; follow all Department of Justice and United States Attorney's Office policies; exhibit the ability to work collaboratively in a supportive and professional manner with other attorneys, support staff, and law enforcement agencies; superior analytical and communications skills; handle matters in court persuasively and justly on behalf of the United States of America; and be devoted to excellence.

Applicants must meet all qualification requirements upon the closing date of this announcement.

Salary:

Assistant United States Attorneys pay is administratively determined based, in part, on the number of years of professional experience. The range of starting pay including a 16.50% locality payment is \$69,107 to \$180,756.

Type of Position:

All initial attorney appointments to the Department of Justice are made on a 14-month (temporary) basis pending favorable adjudication of a background investigation.

Travel:

Employment will require occasional travel to court at designated sites within and outside the District. Travel is also required for witness interviews, preparation for court hearings and training, including training at the Department of Justice's National Advocacy Center, Columbia, SC.

Application Process:

Provide cover letter, resume, writing sample (not to exceed 20 pages), and list of three professional references with contact information. All documents are to be submitted electronically in one single PDF attachment and include the announcement number (24-SD-CRIM-001) in the subject line of your email. Email address to submit application package:

USASD.applications@usdoj.gov

Application Deadline: Applications must be received by close of business, 5:00 p.m. (CST), Friday, January 19, 2024.

Note: The District of South Dakota is not responsible for lost/misrouted or delayed email transmissions.

Relocation Expenses: Relocation expenses will not be authorized.

Number of Positions: Multiple positions could be filled.

This and other attorney vacancy announcements can be found at: <https://www.justice.gov/legal-careers>.

* * *

Department Policies

Equal Employment Opportunity: The U.S. Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. Except where otherwise provided by law, there will be no discrimination because of race, color, religion, national origin, sex - including gender identity, sexual orientation, or pregnancy status - or because of age (over 40), physical or mental disability, protected genetic information, parental status, marital status, political affiliation, or any other non-merit based factor. The Department of Justice welcomes and encourages applications from persons with physical and mental disabilities. The Department is firmly committed to satisfying its affirmative obligations under the Rehabilitation Act of 1973, to ensure that persons with disabilities have every opportunity to be hired and advanced on the basis of merit within the Department of Justice. For more information, please review our full EEO Statement.

Reasonable Accommodations: This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Outreach and Recruitment for Qualified Applicants with Disabilities: The Department encourages qualified applicants with disabilities, including individuals with targeted/severe disabilities to apply in response to posted vacancy announcements. Qualified applicants with targeted/severe disabilities may be eligible for direct

hire, non-competitive appointment under Schedule A (5 C.F.R. § 213.3102(u)) hiring authority. Individuals with disabilities are encouraged to contact one of the Department's Disability Points of Contact (DPOC) to express an interest in being considered for a position. See list of DPOCs.

Suitability and Citizenship: It is the policy of the Department to achieve a drug-free workplace and persons selected for employment will be required to pass a drug test which screens for illegal drug use prior to final appointment. Employment is also contingent upon the completion and satisfactory adjudication of a background investigation. Congress generally prohibits agencies from employing non-citizens within the United States, except for a few narrow exceptions as set forth in the annual Appropriations Act (see, <https://www.usajobs.gov/Help/working-in-government/non-citizens/>). Pursuant to DOJ component policies, only U.S. citizens are eligible for employment with the Executive Office for Immigration Review, U.S. Trustee's Offices, and the Federal Bureau of Investigation. Unless otherwise indicated in a particular job advertisement, qualifying non-U.S. citizens meeting immigration and appropriations law criteria may apply for employment with other DOJ organizations. However, please be advised that the appointment of non-U.S. citizens is extremely rare; such appointments would be possible only if necessary to accomplish the Department's mission and would be subject to strict security requirements. Applicants who hold dual citizenship in the U.S. and another country will be considered on a case-by-case basis. All DOJ employees are subject to a residency requirement. Candidates must have lived in the United States for at least three of the past five years. The three-year period is cumulative, not necessarily consecutive. Federal or military employees, or dependents of federal or military employees serving overseas, are excepted from this requirement. This is a Department security requirement which is waived only for extreme circumstances and handled on a case-by-case basis.

Veterans: There is no formal rating system for applying veterans' preference to attorney appointments in the excepted service; however, the Department of Justice considers veterans' preference eligibility as a positive factor in attorney hiring. Applicants eligible for veterans' preference must include that information in their cover letter or resume and attach supporting

documentation (e.g., the DD 214, Certificate of Release or Discharge from Active Duty and other supporting documentation) to their submissions. Although the "point" system is not used, per se, applicants eligible to claim 10-point preference must submit Standard Form (SF) 15, Application for 10-Point Veteran Preference, and submit the supporting documentation required for the specific type of preference claimed (visit the OPM website, www.opm.gov/forms/pdf_fill/SF15.pdf for a copy of SF 15, which lists the types of 10-point preferences and the required supporting document(s). Applicants should note that SF 15 requires supporting documentation associated with service-connected disabilities or receipt of nonservice-connected disability pensions to be dated 1991 or later except in the case of service members submitting official statements or retirement orders from a branch of the Armed Forces showing that their retirement was due to a permanent service-connected disability or that they were transferred to the permanent disability retired list (the statement or retirement orders must indicate that the disability is 10% or more).

USAO Residency Requirement: Assistant United States Attorneys must reside in the district to which appointed or within 25 miles thereof. See 28 U.S.C. 545 for district specific information.

* * *

This and other vacancy announcements can be found under Attorney Vacancies and Volunteer Legal Internships. The Department of Justice cannot control further dissemination and/or posting of information contained in this vacancy announcement. Such posting and/or dissemination is not an endorsement by the Department of the organization or group disseminating and/or posting the information.

Litigation Attorney – Rapid City

Gunderson, Palmer, Nelson & Ashmore, LLP, an AV-Rated, 20+-lawyer firm located in Rapid City and Pierre, South Dakota, is looking for a litigation associate attorney at the Rapid City location. The ideal candidate will have a minimum three years of litigation experience. Must be a member of South Dakota State Bar or have to ability to become member. Must possess a strong business sense and strategic decision-making skills.

The firm offers a comprehensive benefits plan,

competitive salary structure and the opportunity for professional development. You can learn more about our firm by visiting our website at gpna.com or our Facebook page at [Facebook.com/GPNAlawfirm/](https://www.facebook.com/GPNAlawfirm/).

All inquiries will be kept confidential. Please send your cover letter, resume, curriculum vitae and references to our firm's Legal Administrator, Kate Ackerson at kackerson@gpna.com or by coming into our office at 506 6th Street, Rapid City, SD 57701.

Construction Litigation Attorney – Rapid City

Gunderson, Palmer, Nelson & Ashmore, LLP, an AV-Rated, 20+-lawyer firm located in Rapid City and Pierre, South Dakota, is looking for a construction litigation associate attorney at the Rapid City location to assist in this growing practice area. The ideal candidate will have a minimum three years of litigation experience and an interest in learning construction law. The firm is willing to train the right person for this practice area. Must be a member of South Dakota State Bar or have to ability to become member. Must possess a strong business sense and strategic decision-making skills.

The firm offers a comprehensive benefits plan, competitive salary structure and the opportunity for professional development. You can learn more about our firm by visiting our website at gpna.com or our Facebook page at [Facebook.com/GPNAlawfirm/](https://www.facebook.com/GPNAlawfirm/).

All inquiries will be kept confidential. Please send your cover letter, resume, curriculum vitae and references to our firm's Legal Administrator, Kate Ackerson at kackerson@gpna.com or by coming into our office at 506 6th Street, Rapid City, SD 57701.

HIRING?

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your open positions here!*

Email: tracie.bradford@sdbar.net

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

JANUARY 10, 2024

BAR COMMISSION MEETING

Zoom

JANUARY 4 - 5, 2024

DISCIPLINARY BOARD MEETING

Pierre

JANUARY 16, 2024

JANUARY LAW FOR LUNCH - TAX UPDATE

Zoom

FEBRUARY 20, 2024

FEBRUARY LAW FOR LUNCH - ORGANIZATION

Zoom

MARCH 19, 2024

MARCH LAW FOR LUNCH - INDIAN LAW

Zoom

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