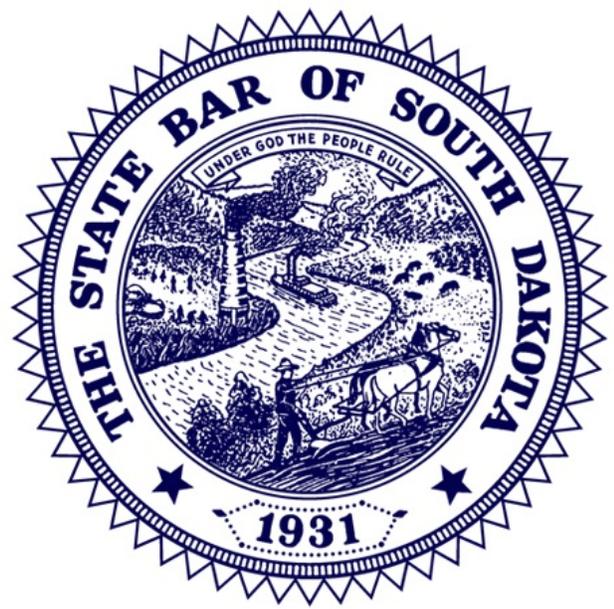


125<sup>TH</sup>

PRESIDENT

OF THE

STATE BAR OF  
SOUTH DAKOTA



*Lisa K. Marso*

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THE STATE BAR OFFICE WILL BE

**CLOSED**

*Monday, July 4th*

# State Bar of South Dakota

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## PRESIDENT'S CORNER

*Lisa K. Marso*

The question of the month: “Does anyone read the President’s Corner?” Here’s my challenge to all of you who have made it this far: Take a few moments to divert your attention (yes right now) to send an email or a text to another attorney or Judge to let that person know you are thinking about that person and/or send a word of encouragement to that person. I am quite sure that any of you that are still reading this message will remember that in the Spring of 2021, I sent a letter communicating that if elected I would strive to promote “Caring & Connection.” I truly believe we need to care for each other to get us to connect, and to get us to connect with each other we must care for one another.

So two highlights on connection and caring this month:

1. What an amazing State Bar Meeting in Rapid City June 22-24, 2022. More than 544 registered, and countless hours of connecting with each other and learning from our speakers were had. A huge thank you to our State Bar staff for making it a wonderful meeting and to our State Bar Attorneys for volunteering your time to teach us (even in those early morning to late afternoon hours). The presentation by our Keynote Speaker (Malcom “Chap” Chapman) on civility provided meaningful suggestions on listening with real interest and respecting each other even with our differences. The bystander involvement training from Dr. Lynn Bowes-Sperry equipped each of us to step up and get involved where we see or learn of sexually harassing behavior through delegation,

distraction, direct communication, defusing, or delaying techniques. Please remember to take opportunities this year to attend the CLE meetings and make additional connections with each other while there.

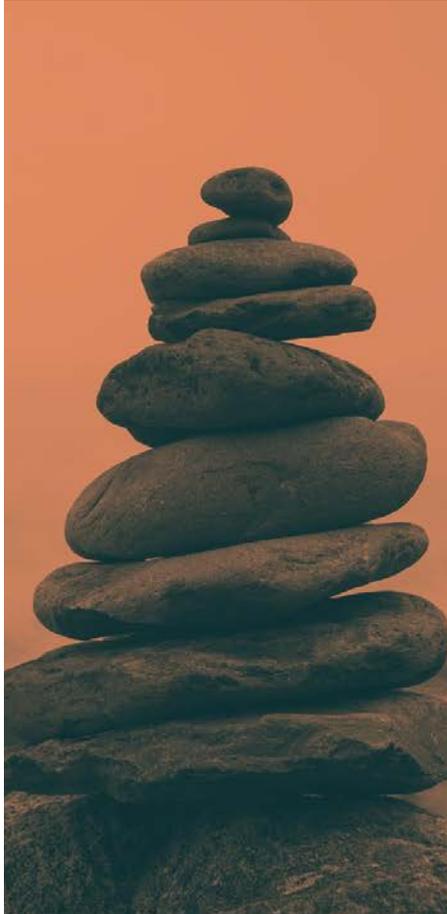
2. This month, through my “Public Sector Spotlight” in my President’s Message, I would like to highlight David Wiest. David graduated from the University of South Dakota School of Law in 1986. Shortly thereafter, he joined the South Dakota Attorney General’s Office and was assigned to the South Dakota Department of Revenue. During his time as an attorney for both offices, he litigated cases that continue to impact tax administration in this State. In 2007, David was appointed to serve as the Deputy Secretary of the Department of Revenue. Since joining the Department of Revenue in 1990, David has steered the Department through significant change, all while continuing to be an advocate for attorney issues, a mentor for the attorneys and employees of the Department, and a significant source of institutional knowledge. David’s leadership and dedication has been exemplary. His mentorship has been inspiring. David embodies the spirit of public service and it is no surprise that he was recognized as the first ever Public Sector Attorney of the Year. As so eloquently stated by Sherri Wald, “the State of South Dakota is very blessed to have an attorney the caliber of David.” I’d like to thank David for all he’s done for the State of

South Dakota over the past thirty-plus years and wish him the very best in all that is yet to come. I look forward to serving you this year.



John Richter and David Wiest

Please reach out to me as needs and interests arise. In the months to come, I will continue to highlight Public Sector attorneys each month, highlight key benefits your State Bar membership provides, and (maybe) even provide a little more substance to the President's Corner. In the meantime, just to get an answer to my "Does anyone read the President's Corner" question I above queried, to the first ten of you who email me ([lkmarso@boycelaw.com](mailto:lkmarso@boycelaw.com)) confirming you sent an email or a text to another attorney or Judge, a coffee gift card will be on its way to you.



Tips for De-Stressing

- Clear your mind
- Breathe
- Go for a walk
- Read a book
- Work out

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State Bar of South Dakota  
YOUNG LAWYER SECTION



*Anthony Sutton*  
YLS President

In the May Newsletter, I wrote that I wanted to thank all of you who have supported the mission of the Young Lawyers Section in the past and have helped grow the Section into what it is today. I am excited to have the opportunity to serve as this year's Young Lawyer's Section President and continue our important work as part of the Bar and improving the practice of law for South Dakota's newest attorneys. I want to give a particular note of thanks to Ole Olesen and the rest of the YLS Board that served this last year. The hard work of last year has put us in a position to try to make this year even better for the young lawyers of our state. And although some of you think your bar service is done for now (ahem – Ole), our work is just beginning. Also, I have your contact information and the YLS will not be afraid to continue reaching out to ask for your help.

Before I start the President's message I planned for this month, I wanted to take a moment of personal privilege and say how happy my wife, Stephanie, big sister Quinn, and big brother Callum are to introduce the newest member of the Sutton family – Elijah Dwight



Sutton, who was born on June 7, 2022 at 1:02 am.

The old adage says it takes a village to raise a child. I believe the same can be said for young lawyers and have experienced this in my own career.

I recently had my first jury trial – a criminal trial in federal court in front of Judge Karen Schreier, who I also happened to clerk for a few years ago. On the other side of the case was a fellow young lawyer, Paige Petersen, who did a fantastic job and was a pleasure to work against. As many of you recall, your first jury trial is a major step in your career. Having never tried a jury trial before, I found myself in the same position as many other young lawyers: where do I start and how do I get through this?

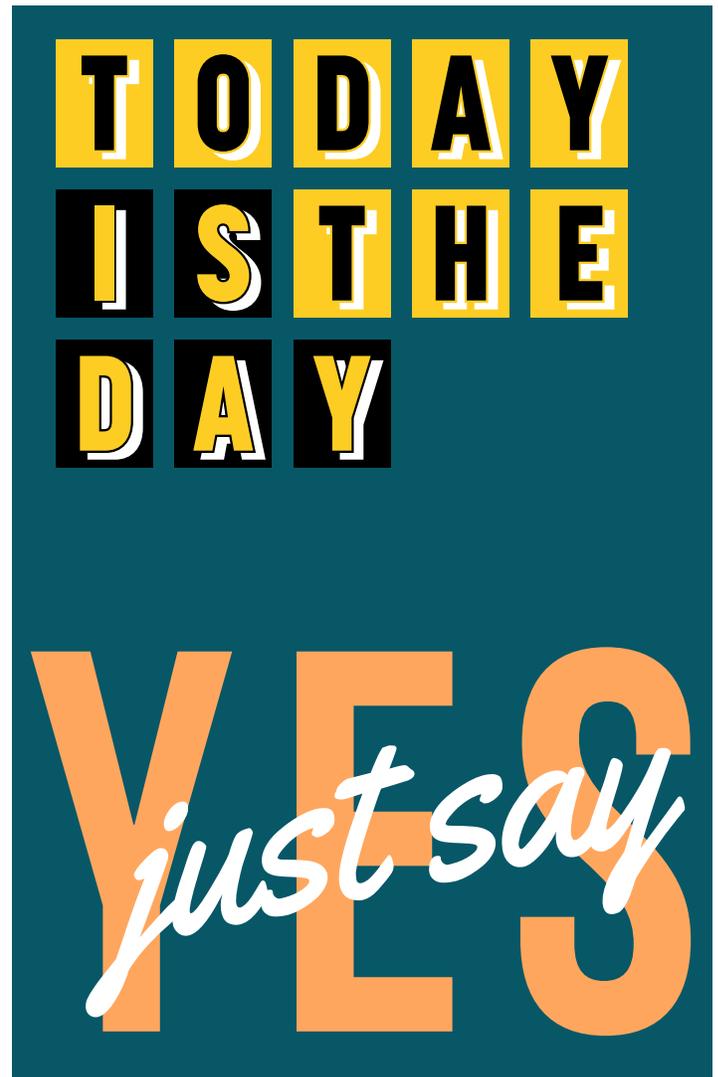
For me, that meant turning to the village: fellow members of the bar. To that end, I want to thank the many lawyers who took time and gave me advice including the Federal Public Defender's Office (Matt Powers, Amanda Kippley, Jason Tupman), members of my own firm (Pamela Reiter, Shannon Falon, Jami Bishop, Sara Show), and several other lawyers (Derek Nelsen, Joshua Zellmer, Raleigh Hansman, Ashley Brost, Ole Olesen, Ryan Sutton, Eric Schlimgen). I am beyond thankful for the advice and support I received from these individuals and many others. I also now realize how important it was for me to have a village.

Not all young lawyers feel they have that village. How do we remedy this? My advice is to pick up the phone or send an email and be comfortable with reaching out. Several of the individuals I asked for advice I did not

know at all or did not know well. Yet, they were willing to give me their time and advice. Mentors come in all forms. Mentorship, however, is a two-way street and one which someone in need of mentorship must often take the first step. Our bar is full of wonderful lawyers who are willing to help, if you are willing to ask for it. So, the next time you feel stuck and would like some advice, don't be afraid to send that email or make that phone call. If you do, you might just realize as I did, how willing to help people are.

If you do not know who to contact or are nervous to reach out, contact the State Bar Office, the State Bar President, a Bar Commissioner, a YLS Officer, or your YLS Circuit Representative. All of these individuals would also be happy to help make introductions and get you the help you need. And if that isn't enough, the YLS has the Hagemann-Morris Young Lawyer Mentorship Coin Program, which is designed to help match young lawyers with mentors who they can contact to get advice when situations come up that you do not know how to address. (Note: If you are interested in finding a mentor through the Hagemann-Morris Mentorship Program, you can apply for one by following this link: <https://www.surveymonkey.com/r/KKR8XXR>.)

So now the ball is in your court and the only question is will you reach out? I hope the answer is "yes."



### ATTORNEYS - OATH OF ATTORNEY

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

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

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

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

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

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

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

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

# *Fellows of the South Dakota Bar Foundation*

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

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Charles L. Riter  
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Jeffrey T. Sveen  
Charles M. Thompson  
Richard L. Travis  
Thomas J. Welk  
Terry G. Westergaard

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

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

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

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- Platinum Fellow – \$10,000, cumulative.
- Gold Fellow – \$5,000, cumulative.
- Silver Fellow – \$1,000 per year.
- Fellow – \$500 per year.

### In Memoriam

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

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

Mail payment to:  
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Pierre, SD 57501

Or you can email this form to:

[tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) or call 605-224-7554 to set up a payment.

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

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



Thank you for the opportunity to report on the state of the Law School. I'm happy to say that through the commitment of faculty and staff, alumni and friends, the Law School has reestablished the fundamental soundness to sustain it in coming years. Without doubt, one of our fundamental sources of strength is the support of so many around us. As the State of South Dakota's law school, we are incredibly supported by the State of South Dakota. The Legislature and Board of Regents provide crucial financial and policy support; increasingly the business community partners with the Law School in important ways; the bench and bar continue their generations of support for the Law School without which we could not endure. We are a community of excellence, service, and leadership. The most fundamental source of our strength is the strength of our community. As South Dakota's law school, you are ALL part of our community. Thank you all for that.

The fruits of our communal labor are visible in the fundamental metrics of the Law School. Recruiting great students is the foundation of everything else we do. It is not an easy task this year as national law school applications are declining by double digit percentages. Despite that challenging national reality, the Law School is within a whisker of the number of applications we had last year and an entering class of more than 70 students. LSAT scores and undergraduate grade point averages remain strong among admitted students, at or above last year's levels. Although these objective numbers are not guarantees of success, they are good indicators and we continue to compete aggressively and creatively to attract great students. We also continue to work hard to expanding our candidate pool. Through expanded

in-state tuition offerings, we have recruited about half our class from outside South Dakota without excluding talented South Dakotans. Our next goal is to keep more of those students in South Dakota to begin their careers.

To that end, we produce great career outcomes for our graduates. Our last two classes reported over 90 percent placement in jobs that require or prefer a J.D. We placed sixteen graduates in judicial clerkships last year. Our last two reported Ultimate Bar Passage rates were 87 and 94 percent. Our last three classes have outpaced national numbers on bar passage. Our graduates continue to have the second lowest amount of student debt in the nation. If you stack all this up, we offer students a valuable and affordable education. Our graduates will pass the bar, get jobs, and be able to put their degree to work where they want to make a difference, not just where they have to work to pay for it. That matters for students who want to pursue public service or work in small towns.

I am fond of saying that a lot of my job is lot like a college football coach. We recruit talented students, we coach those students up to be the best they can be, we send them to the pros, and share that good news with our alumni and friends. Through the lens of that metaphor, we are winning program fully prepared to reload not rebuild. Heck, we don't even need a last-second Hail Mary like the Coyotes used to defeat Bill Garry's Jackrabbits this fall.

Despite our fundamental strengths, and my deep belief in the Law School's future, I would provide one caution to all of us. We cannot simply assume the future of the Law School or the profession. The years to come will

provide significant challenges to both. We have to work together to meet those challenges, not assume that someone else will.

We cannot just assume an adequate supply of students choosing law school in the face of an impending demographic cliff of high school graduates and correspondingly increased recruiting pressure. The State Bar Strategic Planning Committee has begun thinking about this with its Pathways Committee, but we all must accept the responsibility to recruit our successors into the profession. We cannot just assume that the students who apply to law school or the graduates who look to enter the profession will be competent or have viable pathways to admission in the face of challenges to scrap the bar exam and entrance exams like the LSAT. We must all thoughtfully enter the conversation of what makes a competent lawyer, how we fairly and accurately measure that, and how we strike the right balance of providing fair and viable pathways to law school and practice while protecting the public. And we must engage in those debates with an honest and informed focus on what is best for the profession, not what is best for ourselves. We cannot assume that lawyers will follow us into public service, private practice, or communities beyond Rapid City and Sioux Falls in the face of expanded demand for lawyers in banking, health care, and corporate work, different generational expectations of lifestyle, earned cynicism about public service, and the general exodus from our smaller towns. We must all model the integrity of our profession, explain the value of public service and “small town” practice, and be open to reimagining the legal profession for the next generation.

These and other challenges face the Law School and the legal profession. If we simply assume that they will all be overcome, if we simply assume that the Law School and the legal profession as we envision it will always be here, we run the risk that they may not. It is crucial for all of us to engage in the work of sustaining the Law School and the legal profession. We must engage ourselves and draw others to that work as well. What we do, for well or ill, we will do together. Let us not assume the future, let us make it together.

Let me end on a brief note of personal privilege. Three years ago I gave my first Law School report. I shared my top ten observations from my first weeks as dean. Looking back, I have three observations that I’d like to reiterate today. Number ten was that “I am excited to be here.” That remains true every day; not a day has gone by when I have not been honored and excited to be at the Law School. We are a community of excellence, service, and leadership, every day shaping the next generation of lawyers. That will ALWAYS be exciting. Number three was that, “you can always come home.” We are the home of the law in South Dakota. By extension, we are the home to lawyers in South Dakota, alumni or not. Remember, you can always come home. Please do; we would love to say, “welcome home.” Lastly, my number one observation was that “it’s a great day to be a South Dakota lawyer.” It’s a great day at the Law School and for South Dakota lawyers. And, as we work together to build our Law School and our profession, there are great days ahead.

Thank you. Go Yotes!



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SOUTH DAKOTA  
KNUDSON SCHOOL OF LAW

## USD Knudson School of Law 2022 Fall On-Campus Interviews (OCI) Information

We are looking forward to on campus interviews this Fall. As a reminder, we invite 2L and 3L students to participate in the Fall OCI process. Our 1L students will participate beginning Spring 2023. We will be sending out employer registration information later this summer, but please see the dates below, so you can plan accordingly for what works best in your schedule!

### **Fall 2022 OCI:**

- Round 1: August 18 and 19
- Round 2: September 8 and 9
- Round 3: September 29 and 30

**SIGN UP HERE**

If you would like to receive information regarding OCI and other opportunities through Career Services, please email [LawCareerServices@usd.edu](mailto:LawCareerServices@usd.edu) to be added to our contact list.



Thank you to the following attorney volunteers for participating in the Access to Justice or SD Free Legal Answers programs between June 2021 and June 2022! YOU are our 2022 LEGAL SUPERHEROES!

## A2J VOLUNTEERS:

- Aaron Pilcher
- Alayna Holmstrom
- Amy Bartling Jacobsen
- Ashley Brost
- Barbara Melber Vargo
- Beth Roesler
- Bob Morris
- Casey Eekhoff
- Cesar Juarez
- Chet Groseclose
- Chris McClure
- Chris Sommers
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- Madison Young
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- Marilyn Trefz
- Mary Akkerman
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- Mary Burd
- Mary Keller
- McLean Thompson Kerver
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- Thomas Frankman
- Tiffani Landeen
- Timothy Cummings
- Timothy Dougherty
- Tom Keller
- Wendy McGowan
- Wesley Schmidt
- William Garry

## SD FREE LEGAL ANSWERS VOLUNTEERS:

- Alex Halbach
- Alison Ramsdell
- Beth Baloun
- Bob Morris
- Brandy Rhead
- Denise Langley
- Elizabeth Overmoe
- James Taylor
- Joseph Hogue
- Kyle Krause
- Linda Lea Viken
- Marwin Smith
- Steve Huff
- Thomas Simmons

ARE YOU INTERESTED IN BECOMING A LEGAL SUPERHERO AND MEMBER OF THE A2J JUSTICE SQUAD?  
PLEASE SEND A MESSAGE TO DENISE LANGLEY AT: [ACCESS.TO.JUSTICE@SDBAR.NET](mailto:ACCESS.TO.JUSTICE@SDBAR.NET)



# A2J

## HERO



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

# ANNOUNCEMENTS



is pleased to announce  
*Ellie J. Bailey*



has joined the firm as an associate.

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A graphic of colorful puzzle pieces in blue, orange, and yellow on a dark brown background.

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Wermers Family Services  
Parent Coordinator  
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wermersfamilysvs@gmail.com

A portrait of Roger DeRouchee, a man in a suit and tie, holding a book.

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**Presenter: Tim Billion**

***Rosebud Sioux Tribe v. United States:  
Litigating the Fort Laramie Treaty of 1851***

**Description:**

After federal regulators shut down portions of the IHS hospital at Rosebud due to poor quality of care, the Rosebud Sioux Tribe sued the United States, alleging that the Fort Laramie Treaty of 1851 obligated the United States to provide healthcare to the Tribe. The District Court ruled in favor of the Tribe, determining that the Treaty required the United States to provide competent, physician-led healthcare to the Tribe. On appeal, the Eighth Circuit affirmed. This presentation will cover the history of the Treaty, summarize the shortcomings in care at issue in the lawsuit, discuss the procedural and practical challenges of the litigation, and analyze the district court and Eighth Circuit decisions and their impact moving forward.



**July 21, 2022**

**12:30 PM - 1:30 PM (CDT)**

**REGISTER HERE**

## PUBLIC SERVANT SPOTLIGHT

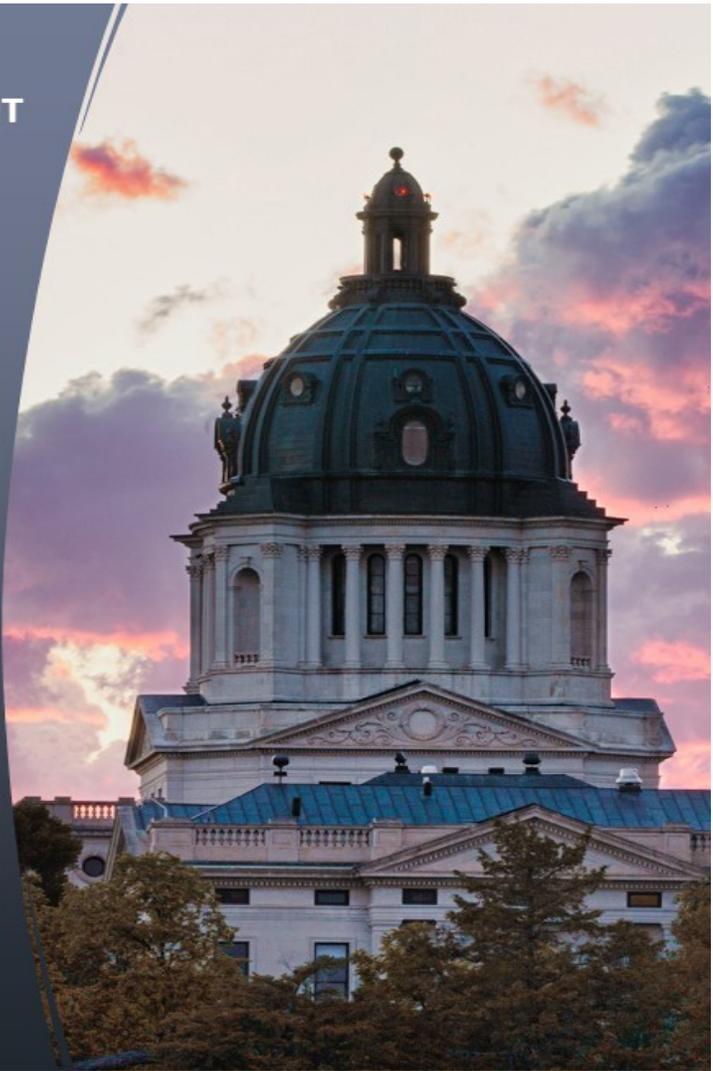
*featuring*

### Sarah Sharp Theophilus

The Public Sector Section and the Administrative Law Committee invite you to join us on July 28<sup>th</sup> at 2:00 p.m., CT, via Zoom:

<https://us02web.zoom.us/j/85877397558?pwd=WW5PbWlrMnZtaWVSSkNENUh6WEF5QT09>

We will have a lot of things to visit with Sarah about, including her job with the VA (which can best be described as medical malpractice defense for the federal government), her involvement with the ABA, and her goal of being State Bar President. Let's have a great turnout for Sarah!



## State Wide Swearing-In Ceremony

**Please  
Join  
Us!**

October 21, 2022  
3:00PM CST

CAPITOL ROTUNDA  
PIERRE SD

*The State Bar of South Dakota Young Lawyers Section requests the honor of your presence at the State Wide Swearing-In Ceremony for the new South Dakota attorneys.*

***Reception to follow at Capitol Lake Visitors Center***

## 2022 ESTATE PLANNING CLE

### with **Read M. Moore**

- **The Secret Life of Powers of Appointment.** This presentation revisits tax law and property law basics of powers of appointment and addresses some lesser-known tax and property law rules related to powers of appointment.
- **Estate Planning for GST Nonexempt Trusts.** Most GST tax-related presentations, however, focus on how to ensure trusts are exempt from the GST tax whether by grandfathering or the application of GST exemption. Presentations on the GST tax, however, rarely cover how the GST tax on nonexempt trusts works. Since the GST tax was implemented in 1986, however, clients have set up thousands of trusts that are not exempt from the GST tax. This presentation describes how the GST tax applies to nonexempt trust and covers planning opportunities. Although the GST exemption has increased substantially in the last 20 years, there are lots of trusts out there with inclusion ratios of one created when the GST exemption was much smaller. Those trusts now will soon face GST tax-related issues even though the trust's assets may be less than the current GST exemption for a living person.
- **Estate Planning for QTIP Trust Assets.** Since 1981 clients have created a very large number of QTIP trusts in the name of estate tax deferral. However, all deferral comes to an end, so often estate tax-related planning is necessary for assets held in QTIP trusts. Planning of this kind, however, is considerably different than when an individual deals with estate planning for individually owned assets. Planning for assets in QTIP trusts involve considerations of fiduciary duties of the trustees to all beneficiaries as well as complicated tax issues related to how section 2044 and 2519 work. This presentation will address how these issues play out.

SEPTEMBER 9, 2022 - 8 AM - NOON

The Country Club of Sioux Falls

**Watch  
this  
newsletter  
for more  
info.**



REGISTER

The In-House Committee invites you to an **advanced transactional negotiations CLE** on the afternoon of September 9 from 1-4 pm. Woods Fuller will host a social for all attendees after the CLE.

This event will be held at  
Missouri River Energy Services  
3724 W Avera Dr., Sioux Falls

# STATE BAR BANKRUPTCY SEMINAR

Brought to you by the United States Bankruptcy Court for the District of South Dakota,  
the State Bar of South Dakota and the Committee on Continuing Legal Education

September 8, 2022

Frederick M. Entwistle & Stanton A. Anker, Co-Chairs

The Country Club of Sioux Falls

3400 W. 22<sup>nd</sup> St., Sioux Falls

9:00 a.m. to 9:15 a.m.

## ***Welcome***

by the **Hon. Charles L. Nail, Jr.**, Chief Judge for the Bankruptcy Appellate Panel for the Eighth Circuit and Chief Judge for the United States Bankruptcy Court for the District of South Dakota.

9:15 a.m. to 9:45 a.m.

## ***Smart moves for debtors' and creditors' attorneys in chapter 13 cases***

by Trustee **Dale A. Wein**.

9:45 a.m. to 10:15 a.m.

## ***Ideal intake procedures and dealing with difficult clients***

by **Stan H. Anker**, Anker Law Group, P.C. of Rapid City.

10:15 a.m. to 10:30 a.m.

## **Morning break.**

10:30 a.m. to 11:00 a.m.

## ***Emerging issues in debtor/creditor law***

by **Timothy M. Engel**, May, Adam, Gerdes & Thompson LLP of Pierre.

11:00 a.m. to 11:30 a.m.

## ***Getting started as a debtors' attorney and how to fill the knowledge gaps***

by **Rebecca Ronayne**, Ronayne Law Office, P.C. of Aberdeen.

11:30 a.m. to 12:00 noon

## ***Maximizing creditors' returns in Sub V Chapter 11s and Chapter 12s***

by **Anthony M. Hohn**, Davenport, Evans, Hurwitz & Smith, LLP of Sioux Falls.

12:00 noon to 1:00 p.m.

## **Bankruptcy Bar Lunch.**

1:00 p.m. to 1:45 p.m.

## ***How to succeed in front of the BAP***

by the **Hon. Charles L. Nail, Jr.** and the **Hon. Anita L. Shodeen**, Chief Judge for the United States Bankruptcy Court for the Southern District of Iowa.

1:45 p.m. to 2:15 p.m.

## ***What the Office of the United States Trustee cares about and why***

by **Mary R. Jensen**, Acting United States Trustee for Region 12.

2:15 p.m. to 2:30 p.m.

## **Retirement farewell cake and coffee for Scheduling and Courtroom Deputy Nita L. Sarvis.**

2:30 p.m. to 3:00 p.m.

## ***How to keep your chapter 7 trustee happy***

by Trustee **Lee Ann Pierce**.

3:00 p.m. to 3:30 p.m.

## **New Bankruptcy Judge time.**

3:30 p.m. to 3:45 p.m.

## ***Looking to the future—near and far—of electronic filing***

by Clerk **Frederick M. Entwistle**.

3:45 p.m. to 4:00 p.m.

## ***Closing remarks***

from the **Hon. Charles L. Nail, Jr.**

Register online at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com) > Events & Education.

ANNUAL MEETING AWARDS HIGHLIGHTS



Brendan Johnson

DIVERSITY & INCLUSION AWARD



Patrick G. Goetzinger

MCKUSICK AWARD



Marcus Ian Hause

WILLIAM F. DAY, JR.  
Law Student Pro Bono Award



Reese M. Almond

PRESIDENT'S PRO BONO AWARD

*Critical Race Judgments: Rewritten U.S. Court Opinions on Race and the Law*  
Edited by Bennett Capers, Devon W. Carbado, R.A. Lenhardt, & Angela Onwauchi-Willig  
(2022)

Reviewed by Thomas E. Simmons<sup>1</sup>

Feminist legal scholars have recently been rewriting judicial decisions. A total of eight books in the *Feminist Judgments* series collect reimagined tax, property, and tort cases. They've proven quite popular. Many make for a stimulating read.<sup>2</sup>

Now, a collection with critical race theorists taking the same approach has emerged. In it, thirty-eight United States Supreme Court decisions have been remodeled and organized under five headings (such as “Intimate Choice and Autonomy” and “Property and Space”). Each author crafts an opinion as if a person open to critical race theory had written it.

What is critical race theory?

Its central contentions include the assertions that race is a social construction that intersects with and is shaped by other social categories; law produces and legitimizes racial power; the historical dimensions of de jure discrimination continue to shape contemporary patterns of racial inequality; formal equality is rarely if ever enough to achieve substantive equality; racial discrimination is not exhausted by conscious racial intentionality; and the juridical developments of colorblindness have functioned largely to entrench rather than ameliorate extant racial disadvantages.<sup>3</sup>

Rewriting the famous opinions was supposed to have been governed by a set of rules, though the editors concede that not all scholars were keen to abide by them. By and large, the authors constrain themselves to the same precepts that the Justices would have been bound by –

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<sup>1</sup> Member, State Bar Lawyers' Committee on Diversity & Inclusion (LCDI). The views expressed by Simmons are his own and neither those of the South Dakota State Bar, nor LCDI, the South Dakota Board of Regents, the University of South Dakota, its Knudson School of Law, faculty, administrators, agents, affiliates, or employees.

<sup>2</sup> *E.g.*, FEMINIST JUDGMENTS: REWRITTEN PROPERTY OPINIONS (Eloisa C. Rodriguez-Dod & Elena Maria Marty-Nelson eds., 2021). Collected there is Knudson School of Law Professor Haksgaard's lively commentary on *Tate v. Water Works & Sewer Board of Oxford* (Ala. Ct. App. 2016) (rejecting a widow's homestead rights).

<sup>3</sup> CRITICAL RACE JUDGMENTS: REWRITTEN U.S. COURT OPINIONS ON RACE AND THE LAW, 8 (Bennett Capers, Devon W. Carbado, R.A. Lenhardt, & Angela Onwauchi-Willig, eds., 2022) (hereinafter, Capers, *et al.*), *citing* RICHARD DELAGO & JEAN STEFANIC, CRITICAL RACE THEORY: A READER 7-10 (2014).

judicial ethics, *stare decisis*, etc. They limit themselves to relying on secondary authority only to the extent that it was then in existence. Some of the fanciful opinions reach outcomes directly opposed to the original, others reach the same result, but for different reasons.

The results are mixed and somewhat uneven. Rewritten cases like *Dred Scott*,<sup>4</sup> *Gong Lum*,<sup>5</sup> *Loving*,<sup>6</sup> and *Korematsu*<sup>7</sup> are worthwhile, but predictable. The more interesting cases are those which consider issues offering little in the way of footholds for a critical race theorist, such as *Roe v. Wade*.<sup>8</sup> Melissa Murray, of NYU School of Law, offers a rewritten Blackmun opinion for *Roe* which invalidates Texas' criminalization of abortion not on the basis of the Fourteenth Amendment, but the Thirteenth.

How? But linking the unavailability of abortion to “badges and incidents of slavery.”<sup>9</sup> That the argument is quite a stretch is beside the point.<sup>10</sup> Professor Murray connects 20<sup>th</sup> century criminalization of post-quickening abortion procedures with the widespread breeding of slaves, especially following the 1808 ban on slave importation. Slaves were economically valuable for their manual labor as well as for their reproductive labor; birthing new slaves was profit center.

“Not surprisingly, the white planter class staunchly opposed enslaved women’s efforts to control reproduction and fertility, whether through contraception or abortion.”<sup>11</sup> Tragically,

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<sup>4</sup> *Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

<sup>5</sup> *Gong Lum v. Rice*, 275 U.S. 78 (1927).

<sup>6</sup> *Loving v. Virginia*, 388 U.S. 1 (1967).

<sup>7</sup> *Korematsu v. U.S.*, 323 U.S. 214 (1944).

<sup>8</sup> 410 U.S. 113 (1973).

<sup>9</sup> U.S. CONST. amend. XIII (1865). See *The Civil Rights Cases*, 109 U.S. 3, 20 (1883) (interpreting the enforcement section of the 13<sup>th</sup> Amendment as permitting Congress “to pass all laws necessary and prop for abolishing all badges and incidents of slavery”); Jennifer Mason McAward, *Defining the Badges and Incidents of Slavery*, 14 J. OF CONSTITUTIONAL LAW 561 (2012) (explaining that the phrase “badges and incidents of slavery” is found within the Congressional findings)

<sup>10</sup> Two fundamental shortcomings of Professor Murray’s *Roe* opinion are (1) that the ‘badges and incidents’ phrase relates to Congress’ power to enact legislation to enforce the 13<sup>th</sup> Amendment (like the power to coin money) and not a prohibition itself (such as free exercise); and (2) ‘badges and incidents’ refers to action with a significant potential to result in de facto slavery such as making it a criminal offense to educate a class of individuals, withhold property rights from them, or ban their testimony in court. *E.g.*, *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968).

<sup>11</sup> Capers, *et al.*, *supra* note 2, at 530.

“many enslaved women went to great pains to ... deliberately miscarry pregnancies rather than see their children conscripted into a brutal system of physical and economic coercion.”<sup>12</sup> By extension, contemporary no-abortion laws contain within them echoes of the slaveowner mandates. Moreover, 20<sup>th</sup> century laws which withhold the ability to curtail the existence of preborn family members mimic, to some extent, chattel slavery’s nonrecognition of Black families. Both restrict a mother’s ability to define who comprises the members of her own family.<sup>13</sup> These are connections which might otherwise go unnoticed, but for a critical race theory lens.

Critical race theory has been consistently wielded by progressives and, as a result, shunned by conservatives.<sup>14</sup> Indeed, each of the decisions in this collection reach decidedly liberal outcomes. Nothing about emphasizing the roles that race, economics, and social structures have in the law dictates a progressively endorsed conclusion, however.

Take *Terry v. Ohio*, for example: *Terry* legitimized the ‘stop and frisk.’<sup>15</sup> Georgetown’s Paul Butler’s over-the-top rewrite of *Terry* subverts Earl Warren’s opinion by reworking it into a minstrel show in which defendant John Terry (“colored, hereinafter Black Thug 1”) is cast alongside a detective (“Our Hero”) and “The Fourth Amendment, white.”<sup>16</sup>

Professor Butler has Earl Warren ponder how the expansion of police powers might be turned against whites. So, instead of legitimizing frisks with a diluted predication prerequisite, the fictional Justice Warren crafts “a black male exception to the Fourth Amendment

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<sup>12</sup> *Id.*, citing E.M. Pendleton, *On the Susceptibility of the Caucasian and African Races to the Different Classes of Diseases*, SOUTHERN MED. & SURGICAL J. 338 (1849).

<sup>13</sup> For the record, I cannot equate abortion rights (terminating motherhood) with the right to maintain a mother-child relationship (preserving motherhood).

<sup>14</sup> *E.g.*, S.D. House Bill 1012 (2022) (prohibiting Board of Regents institutions from directing students to affirm a claim that meritocracy was “created by members of a particular race ... to oppress members of another race”).

<sup>15</sup> *Terry v. Ohio*, 392 U.S. 1 (1968).

<sup>16</sup> Capers, *et al.*, *supra* note 2, at 150.

requirement for probable cause for police searches and seizures.”<sup>17</sup> Probable cause is henceforth optional whenever the suspect is non-white.

It’s a rather ridiculous foray. Butler acknowledges that his submission amounts to “an ironic joke.”<sup>18</sup> It’s ludicrous, really. Goofy. And less than illuminating.

A less ridiculous *Terry* rewrite might emphasize how the stop and frisk technique – properly prescribed by the objective reasonable suspicion standard – permits more effective law enforcement in all communities, including marginalized communities, so long as race is never allowed to justify the detention of an individual. *Terry* could be more cogently rewritten by concentrating on the aim of providing security to communities of color – while adhering to the Constitutional text. Properly moderated security often better secures liberty than hamstrung cops.

A less ludicrous *Terry* rewrite might engage with the perspectives of communities of color. Survey data reveals that persons of color favor *more* police presence, not less.<sup>19</sup> It’s a thin sliver of academics and activists who wish to dismantle or defund police departments. The prevailing opinions of communities of color often think otherwise. Critical race theory can highlight perspectives such as these – as well as others – in this captivating book.

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<sup>17</sup> *Id.* at 156.

<sup>18</sup> *Id.* at 157.

<sup>19</sup> See Jason L. Riley, *The Continuing Importance of Thomas Sowell*, 51 *IMPRIMIS* 5 (Mar. 2022) (citing polls from 1993, 2015, 2019, and 2020). “In a Gallup poll released in 2020, 81 percent of blacks nationwide said they wanted police presence in their neighborhood to remain the same or to increase.” *Id.* There are polling contrasts across racial groups. When it comes to spending on police, Whites and Hispanics adults are more likely than Blacks or Asians to favor increases. But between 2020 and 2021, “[t]he share of Black adults who say police spending in their area should be decreased [fell] 19 percentage points...” Kim Parker & Kiley Hurst, *Growing Share of Americans Say They Want More Spending on Police in their Area*, PEW RESEARCH CENTER (Oct. 26, 2021), <https://www.pewresearch.org/fact-tank/2021/10/26/growing-share-of-americans-say-they-want-more-spending-on-police-in-their-area/>.



I love a good a story, particularly when a valuable lesson can be learned from its telling. Here are two memorable ones.

A long-term client reached out to his attorney with a quick question about an airplane he owned. The plane had been under renovation, which included a substantial upgrade, for some time. Due to time delays and cost overruns, a significant fee dispute had come into play. Figuring that possession of the plane would strengthen his position in the fee dispute, the client reached out to his attorney to ask if he could remove his property from the repair facility. For reasons unknown, the attorney failed to take any time to discuss the situation in depth. Instead, he made the decision to quickly share a technically correct answer. His reply was along the lines of “yes, recovery of property you already own is not illegal. You have a right to its possession” and he left it at that. The client shortly thereafter successfully recovered

the property and was subsequently arrested due to the manner in which the recovery was done. Eventually the client incurred a substantial loss as a result of a civil suit brought by the repair facility. Of course, this client then sought recovery from the attorney alleging negligent advice. The attorney tried to defend his actions by essentially saying “Not only did I never tell him to go and take possession of the plane, I had no idea he would try something like that! This one’s not on me.” Suffice it to say, that defense didn’t fly. Pun intended.

My next story involves an attorney who was representing the executor of an estate. This attorney would later describe the situation as his having little involvement because the client was really running the show. Apparently, all the client wanted was a little advice and direction from time to time. At one point, this client reached out to share that she disagreed with a conclusion the Commissioner of Accounts had reached

regarding the calculation as to how certain funds should be distributed. The attorney casually shared that he too disagreed with the Commissioner's conclusion and also let the client know that if an issue were to ever arise, he would speak with the Commissioner in order to clear up the confusion. Unfortunately, this client took that response as an implicit okay to go ahead and she disbursed the funds in accordance with her interpretation of the will. Needless to say, the Commissioner did not approve the accounting and now there was a problem.

### **Here are the takeaways.**

I get that at times it can be tempting to take the easy way out when a client asks a question. If nothing else, quickly spouting off some generic or technically correct advice or sharing an off-the-cuff comment can certainly save some time. Regardless of your reasoning, a decision to take the easy way out is never a good idea. That's a takeaway.

It also matters not if the reason you decide to take an easy way out is because you truly believe you don't have the time, view the question as unimportant, are talking with a non-client, are talking in a casual setting, or are just saying what you think your client wants to hear so you can move on. These are all rationalizations; and when rationalizations are used to justify a decision to take an easy way out, trouble may be just around the corner. Such advice, which really is the equivalent of giving advice in a vacuum, is problematic because you are failing to consider how the person you are speaking with might rely upon or act on the advice. This too is a takeaway.

Giving advice in a vacuum is rarely appropriate, particularly in the absence of adequate and documented disclaimers. Even if technically allowable under some defined set of circumstances, doing so fails to take into

account the realities of the attorney-client relationship. Clients do expect their attorney to stand by any and all advice given and the client will consider an attorney's attempt to claim an intentional limited knowledge of the circumstances as irrelevant. The client will still seek to hold their attorney accountable for any unanticipated fallout that occurs once the client acts on the advice received. Again, a takeaway.

### **But wait, there's more.**

There is also an ethical component to this. Consider ABA Model Rule 1.4 Communication, which states in section (b), "*A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.*" This makes it quite clear. At a minimum, the attorneys in the two stories above should have taken the conversations further by inquiring about their client's proposed course of action. By not doing so, these two attorneys allowed their clients to act without the benefit of legal advice given with full awareness of the entire situation. Had these two attorneys made an effort to take into account what their clients were thinking, the advice would have been, out of necessity, quite different.

In the end, a defense along the lines of "I had no idea my client was going to do that" is no defense at all, even with perceived short unimportant calls where one is tempted to not take the time to ask the right questions. When situations like the above arise, there is no middle ground. There really are just two options. One is to decline to provide any advice and the other is to take the time to give a competent, thorough, and reasoned response based upon full awareness of the client's situation. Come at it from a different perspective by trying to put yourself in your client's shoes. Would you expect anything less when asking your attorney a question? Call me a skeptic if you must; but I seriously doubt it.



**Authored by: Mark Bassingthwaighte, Risk Manager**

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



## Employer Survey

Please provide information to USD Knudson School of Law and help us prepare students for future employment. Individual results will not be shared and will only be used for internal purposes. Please email [Teramie.Hill@usd.edu](mailto:Teramie.Hill@usd.edu) if you have questions or need to speak with Career Services.



## RD Hurd Student Pro Bono Society

The R.D. Hurd Society at the University of South Dakota Knudson School of Law performed over 380 hours of pro bono work for East River Legal Services (ERLS) during the 2021-2022 school year. Eight First- and second-year law students worked directly with East River Legal Services attorneys and staff to complete legal research, draft pleadings, and participate in court proceedings. All RD Hurd students completed a legal education piece for use by ERLS and Access to Justice.

Students work under the supervision of attorneys at East River Legal Services in Sioux Falls, S.D. in the areas of family law and landlord/tenant. Students are volunteers and do not receive any compensation or school credit for their time. Projects included brochures on bankruptcy, how to avoid scams, safe social media usage, and renter's rights. RD Hurd students were also onsite at the ERLS Sioux Falls office to assist in client intake and discovery projects.

Lea Wroblewski, East River Legal Services Executive Director, had this to say about the program. "The RD Hurd program and its student participants benefit our

community by assisting clients at ERLS. Student support for attorneys ensures that cases move forward quickly, ensure access to the courts, and amplify client voices. The student end of the year projects provide helpful information to South Dakota citizens on assorted topics that are common legal issues in South Dakota."

Anne Weyer, 2021-22 RD Hurd student president shared, "despite the Covid pandemic, USD law students continued to give back to the legal community and adapt to new challenges, setting record breaking pro bono hour totals. The RD Hurd Society provides students with real world experience early on in their legal education. The students doing this work are nothing short of impressive and will be leaders in the profession."

The R.D. Hurd Volunteer Law School Society, established by the 2nd Circuit Bar of South Dakota, has given law students regular opportunities to provide pro bono legal services to low-income persons. The Society is named after the late South Dakota Judge, R.D. Hurd. Hurd graduated from USD Law in 1967 and was appointed to the Second Circuit bench in 1980.



Photo: (L-R)

2Ls: Sydney Boots, Micayla Bamberg, 1Ls: Jessa Howes, Andy Keyes, James McCormack, Hannah Hyatt, Madison Gosch, 3L: Anne Weyer. Not pictured Gabriele Sayaloune.



# COUNSELOR'S CLOSET

M R G S I M O N

“What is it about wearing a tuxedo or that little black dress, that makes us feel confident, beautiful, splendid, even invincible?” wrote novelist Vera Nazarian. I expect most of us can identify with a similar sense of confidence when striding into court or a meeting in an outfit that we know fits well and looks good on us. And a confident lawyer is a productive and happy lawyer.

Perhaps secretly, we all aspire to a professional wardrobe that makes us feel that way every day, and there’s no reason you can’t have such a wardrobe. Your closet can become a source of joy rather than a place of dread, where you waste precious time each morning searching for things that go together, that fit well, that are still in style.

Apply the basic tenets of the KonMari Method® to your closet and you can have a splendid wardrobe where everything fits and looks great on you. To do this, follow the time-tested steps of the Method: categorize and subcategorize, identify the items that bring you joy and serve their purpose, recycle or discard the rest, and then organize into a way that makes getting dressed easy for you.

You can remove every item from your closet and drawers and pile them on your bed to get a true idea of just how much clothing you own. If you prefer, you can just go subcategory by subcategory, pulling out all of your suits and blazers first, for example. Then, when you can see all of them laid out, pick up your favorite one and reflect on how it makes you feel when you’re wearing it: confident, attractive, maybe even invincible! That is what “joy” looks and feels like when it comes to clothing. And that’s the way all your clothes should make you feel.

You should try on clothes to make sure they fit properly – not too big or too small. Are they in good condition or are the sleeves starting to fray, is a button missing, are the elbows wearing thin or starting to pill? If you find yourself sighing and struggling to decide, try asking questions like “If I ran into my ex while wearing this, how would I feel?” “how much would I pay to buy it again?” or “If I didn’t have this, what would I wear instead?” Do not keep an item “just in case,” “someday” almost always means “never.” If you’re promising yourself that you’re going to lose weight so you can fit into something, ask yourself if you’re 100% certain that

the item will still be in style by the time you hit your goal weight.

Once you've asked yourself those tough questions and thinned out your suits and blazers, move on to shirts and blouses, trousers and skirts, sweaters, ties, scarves, shoes, handbags, socks and underwear. Keep going until you've made it through every piece of clothing you own. Then, get rid of the items you are recycling or discarding. Don't let them back into your house.

The final step is folding and hanging to reorganize your wardrobe. The KonMari Method has a specific way of folding your clothes so they can be stored vertically to see everything at once (so nothing gets lost at the bottom of a pile). Non-slip hangers are a good investment in your wardrobe as well. While there's much more to organizing than just that, those are the basics to achieving a wardrobe that you enjoy wearing and eliminating from your closet the so-so items that make you feel frumpy or sloppy. You can now start every day with joy, wearing clothing that brings you joy and makes you feel confident!

NOTE: Adapt this method to fit your situation. Obviously, replacement clothing choices are limited in most of South Dakota, and you might have to "make do" until you can find that pair of shoes that goes well with your outfit. Further, "restocking" essential items can take a bite out of your budget so if you need to set some long-term goals for your wardrobe, make a specific plan now.

*Mrg Simon is a South Dakota attorney and professional organizer, certified in the KonMari Method® of tidying and decluttering.*



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*Mrg Simon*

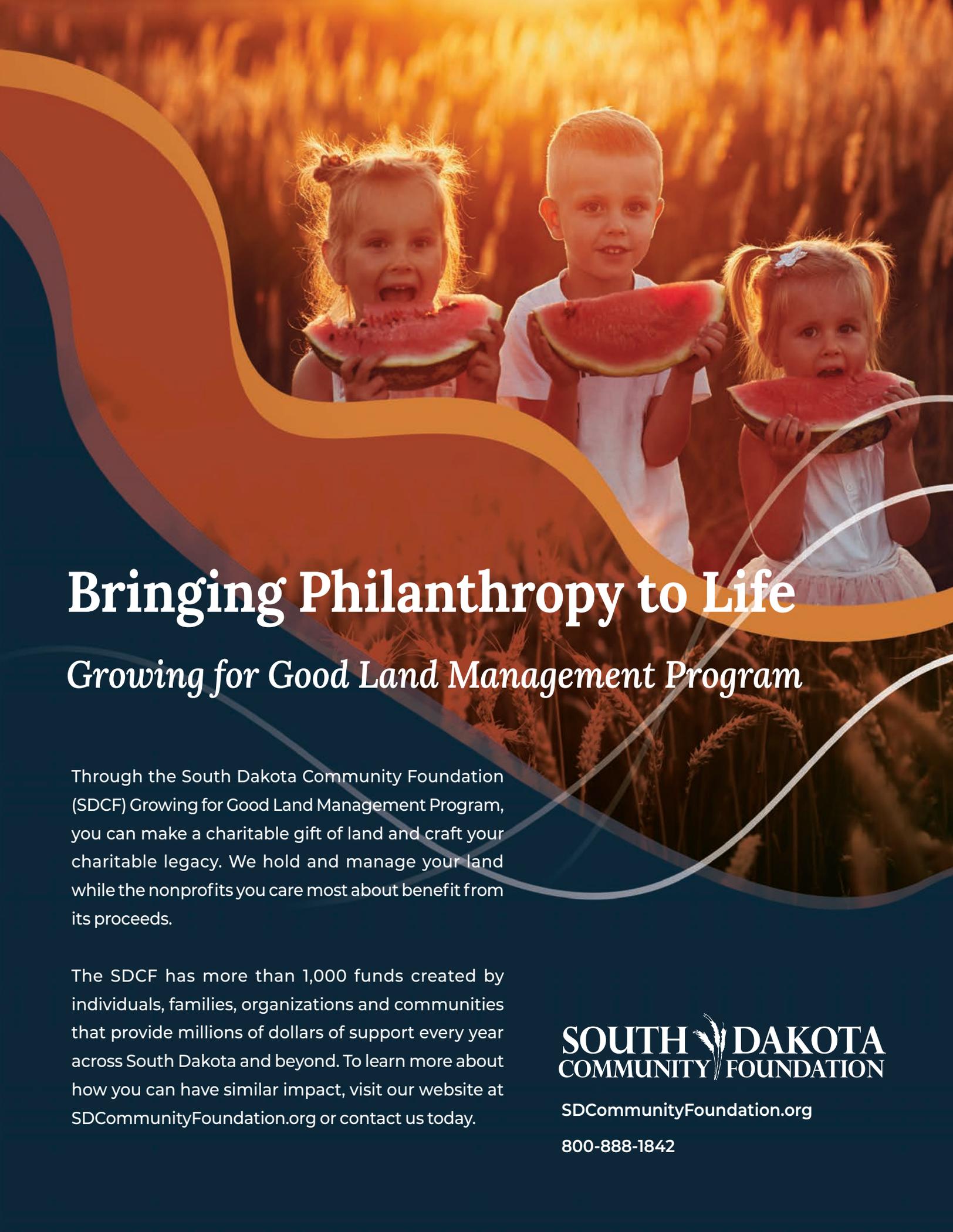
Mrg Simon, J.D.  
Certified KonMari™ Consultant  
mrg.simon@designed2stick.com

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*This event is independent of the State Bar.*



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## **Who is a Holder in Due Course and Why Your Clients Should Care**

*by: Thomas Ashby*

Trillions of dollars of transactions still are paid by checks. Moreover, occasionally simple promissory notes are made that qualify as negotiable instruments. A “holder in due course” (“HDC”) is a holder of a check or negotiable note who meets legal requirements specified in Article 3 of the Uniform Commercial Code. Because HDC status can be so powerful, it is wise for all lawyers with clients who issue or receive numerous checks to know how to achieve, defeat or surmount HDC status.

If your client is an HDC, your client, at least in theory, takes free of “personal defenses.” Personal defenses include, without limitation: lack or failure of consideration; undue influence; misrepresentation that does not render the transaction void, such as fraud in the inducement that does not involve lack of reasonable opportunity to learn the instrument was a check or to learn its “essential terms;” breach of warranty; unauthorized completion of an incomplete instrument; and prior payment. See generally UCC § 3-305(2) and Ashby & Rosenberg, “Paper Tigers? Cashier’s Checks, Nonpayment and the Holder in Due Course Debate,” Vol. 138 *The Banking Law Journal* No. 5 (May 2021).

An HDC also is insulated from recoupment rights asserted against a prior holder of the check or other negotiable instrument. UCC § 3-305(2) (the HDC, however, is still generally subject to recoupment rights arising from the HDC’s own agreements).

Although Article 3 specifies several rare exceptions, basically an HDC is a holder of a check or other negotiable instrument if:

(A) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

(B) the holder took the instrument for value, in good faith, without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, without notice that the instrument contains an unauthorized signature or has been altered, without notice of any claim to the instrument described in § 554.3-306, and without notice that any party has a defense or claim in recoupment described in § 3-305, subsection 1.

UCC § 3-302(1). The author's experience is that most disputes about HDCs focus on one or more of the requirements of good faith and notice or whether, if fraud exists, it is fraud "in the execution."

Good faith formerly required only honesty in fact, a definition still extant in New York. But almost all states now define good faith for HDC purposes as "honesty in fact and the observance of reasonable commercial standards of fair dealing." UCC § 3-103(4). Thus, be alert on whether legal authorities on good faith cited by you or your opponent are governed by the old or revised Article 3.

As for notice, observe that it is only specified types of notice that disqualify a holder from being an HDC. An example of a court that upheld HDC status despite notice of fraud in general is *Wohlrabe v. Pownell*, 307 N.W.2d 478, 484 (Minn. 1981). According to *Wohlrabe*, having notice sufficient to block HDC status means more than a failure to inquire about an unknown fact. Some "danger signals" or a "shining red light" must be present. The holder's notice of fraud against it did not equate to notice that a check had been procured by fraud such that a valid recoupment assertion existed.

In practice, the good faith and notice requirements often blend together in HDC analysis. *Agrifund LLC v. Heartland Co-op*, 436 F.Supp.3d 1230, 1237 (S.D. Ia. 2020). The *Agrifund* case arguably is closer to the mainstream of judicial rulings than *Wohlrabe*. The *Agrifund* court noted the objective part of "good faith" imposes no general duty of inquiry. See UCC § 9-331, comment 5. Rather than generalities, Iowa's test on notice of a claim to a check or of recoupment rights sufficient to deny HDC status appears to be: actual knowledge, receipt of "a notice or notification of it;" or knowledge of "facts and circumstances ... at the time in question" that give the holder "reason to know that it exists." *Agrifund*, 436 F.Supp.3d at 1238; quoting *Agriliance, LLC v. Runnels Grain Elevator*, 272 F.Supp.2d 958, 813 (S.D. Ia. 2003).

Financial institutions frequently receive deposits of checks payable originally to another legal person. They thus become a "holder" of those checks. If you represent a financial institution, review or have a specialist review the financial institution's policies and checking account agreements for how quickly funds become available for use by the depositor and for how the institution deals with "yellow flags" or other unusual facts.

Endorsements also can generate HDC issues for nonbanks. The original payee may endorse to a nonbank endorsee. That endorsee becomes a holder. If that endorsee sues to enforce the check against the drawer, the drawer may assert fraud, breach of contract or warranty, improper completion of an originally incomplete check, or other negative behavior by the original payee. Who wins often depends on whether the endorsee is an HDC. If you represent a business that often gives value for endorsed checks, consider advising the business what "commercial standards of fair dealing" to

adopt. E.g., waiting until the check clears to give credit for the check if the business knows of a dispute between the payor and original payee of the check (especially if the dispute involves a contract known to be involved with the check); or phoning the payor bank to see if the account remains open and funded.

Finally, a comment about fraud: As indicated, fraud “in the execution” is usually a defense against a holder, whether or not the holder is an HDC. A requirement for fraud in the execution is that it “induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms.” See generally UCC Sec. 3-305.

Many other opportunities exist for lawyers knowledgeable about HDC status to deliver value to clients dealing with checks or negotiable notes. You may wish to make a “note” to “check” with your clients on this topic.

-----

Thomas Ashby is a partner in the Omaha office of Baird Holm Law Firm. Tom serves on the South Dakota State Bar’s Debtor-Creditor Committee; on the Section Council of the Iowa State Bar Association’s Commercial and Bankruptcy Law Section; and as Vice Chairman of the Nebraska State Bar Association’s Bankruptcy Section and Chairman of the Bank Attorneys Section. Especially because some aspects of HDC requirements can be fact-intensive, Tom believes it is appropriate to advocate different and more nuanced positions in some circumstances from those expressed in this article, depending on the claim or cause being represented.

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# Guest Post by Frank Pommersheim on the Retirement of Judge Sherman Marshall

*by: Matthew L.M. Fletcher*

## JUDGE SHERMAN MARSHALL RETIRES

Sherman Marshall, Chief Judge of the Rosebud Sioux Tribal Court, recently retired after more than 35 years as the heart and soul of the Rosebud Sioux Tribal Court system. Judge Marshall was born and raised on the Rosebud Sioux Indian Reservation. He is a fluent Lakota speaker and deeply steeped in Lakota tradition and custom. Sherman received his Associate of Arts degree from Sinte Gleska University and also was the first recipient of a Bachelor of Selected Studies from Sinte Gleska University. He is a 1984 graduate of the University of South Dakota School of Law and a long time member the South Dakota Bar Association. Upon graduation from USD Law, Sherman was admitted to practice and returned home to the Rosebud Sioux Reservation. After serving as an administrator at Sinte Gleska University for several years, he joined the Rosebud Sioux Tribal Court as the Chief Judge, a position he has held since 1986. It is likely that Judge Marshall is one of longest serving judges on any tribal court in Indian Country.

It is difficult to fully understand and comprehend how much Sherman was able to accomplish during his long tenure on the bench. Early in his judicial career, Judge Marshall decided that it was incumbent upon him and his staff to visit all 20 tribal communities on the Reservation to describe the judicial system to community members and equally important, to receive input (including criticism) from community members. Over time, these efforts did much to enhance and increase community respect for the Rosebud Sioux Tribal Court system. Judge Marshall was also instrumental in helping to establish the Rosebud Sioux Tribal Bar Examination, as a necessary prerequisite for practice in the tribal courts of the Rosebud Sioux Tribe. Rosebud is the only tribe in South Dakota and one of the few anywhere in Indian country that prepares and administers its own Bar Examination. Closely related to the implementation of its own Bar Examination, Sherman was a key figure in establishing Sicangu Oyate Tribal Bar Association, one of the very few functioning tribal bar associations that exists in Indian Country. The Sicangu Oyate Tribal Bar Association, which includes

both law trained and non-law trained tribal advocates has served to help create and identify a community of practitioners who are committed to practicing in tribal court with integrity and a commitment to fairness and due process.

Judge Marshall is well known for conducting his courtroom with respect for all who enter whether native or non-native, whether pro se or represented by counsel, whether a humble individual, large corporate entity, or the Tribe itself. No one walks away feeling they were disrespected or didn't have a chance to be heard. This includes parties or witnesses who might feel more comfortable speaking or testifying in Lakota with Judge Marshall translating.

Judge Marshall's respect and generosity extended to visitors as well, including the students in my Indian law class over a 25 year period in which Judge Marshall warmly received students, patiently answered their questions, and went so far as to have his staff prepare a traditional meal including fry bread and wojapi to eat and share in the courtroom. My students were often stunned by a generosity they had done nothing to earn. And it is fair to say, I think, it changed many student attitudes about what is possible and what occurs in tribal courts. Judge Marshall was not trying to impress or to change anyone. He simply was a Lakota person deeply committed to the traditional values that are part of who he is.

Without fanfare or ever calling attention to himself, Sherman also served for 20 years on the Oglala Sioux Tribe Supreme Court and as a long time trial judge for the Flandreau Santee Sioux Tribe.

Judge Marshall is also deeply committed to his family, which includes his wife Marilyn Bearshield Marshall and their adult children William and James. Sherman also served his country in Vietnam.

*With admiration and gratitude,  
Frank Pommersheim, Emeritus Professor of Law  
Associate Justice, Rosebud Sioux Supreme Court*

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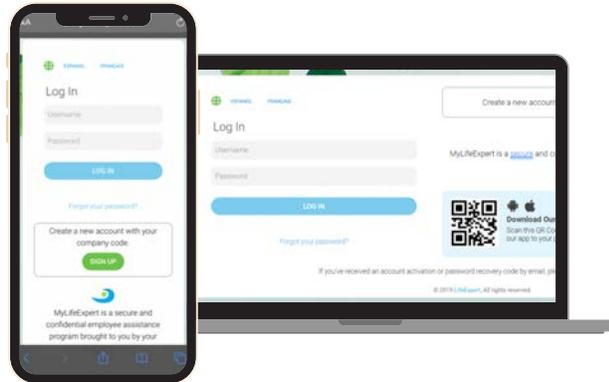
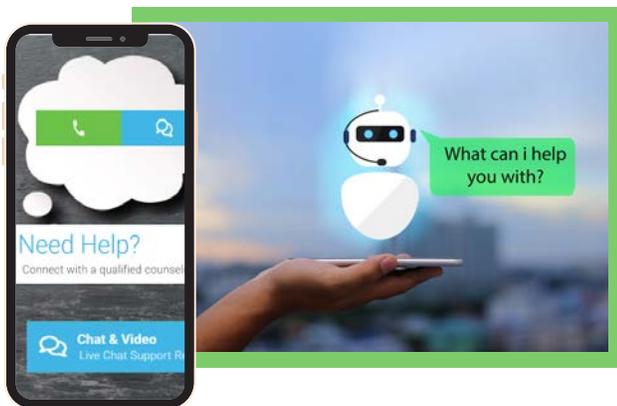
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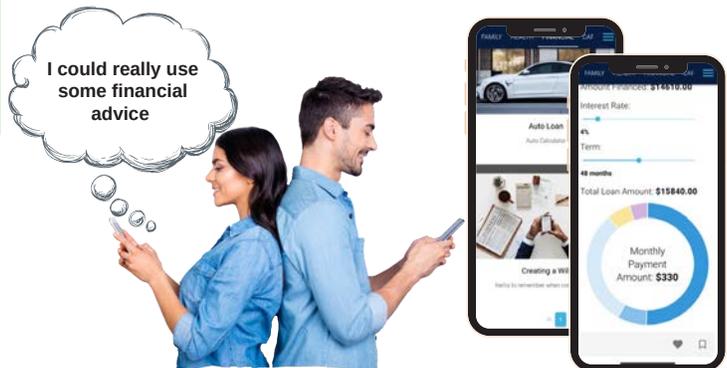
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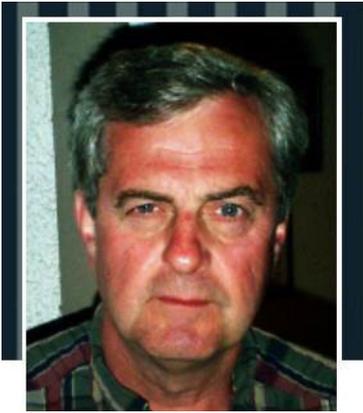
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# *In Memoriam*



John Jeffrey Smith

John Jeffrey Smith, 71, passed away September 8, 2021. A Celebration of his life will be held at 2:00pm, Friday, June 24, 2022 at Feigum Funeral Home.

John was born on June 24, 1950 in Aberdeen, South Dakota to Lorraine Aspelund Smith and Francis “Pete” Smith, who were attending Northern State Teachers College at the time. The family moved to Milbank, then to Peever, where John started school. These moves were followed by moves to Vermillion, Huron, Winner, back to Huron, then finally to Pierre. Summers were spent on the Smith farm near Browns Valley, MN. As a child it was playing in the barn or riding on the tractor, and eventually led to summer jobs at the family fireworks stand, then to stacking flax straw with his brothers Jim and Frank, and cousin Jim “Spook” Potter.

Like most people from Pierre, John loved the river. Growing up in Huron and Pierre, he spent winters ice skating and playing hockey, sailing an ice boat his dad made, and skiing. Summers were spent swimming and boating, water skiing, and playing tennis and golf.

John graduated from Huron High School in 1968. He kept busy in High School, where he played football, starred in the production of *Our Town* as the Stage Manager, and was in the homecoming court. In his off hours John played the cornet and sang backup in the band “The Natives”, along with his close friend Steve Wilson. They were only teenagers, but played all the roadhouses in the eastern part of South Dakota.

After months of scholarship offers arriving daily in the mailbox from colleges and universities across the country, John decided to accept a full ride scholarship to Columbia University in New York City, where he joined his cousin Spook. He left South Dakota on the first airplane flight of his life, and arrived in a city

he had never been in. His years at Columbia were transformative, especially for a kid whose life had thus far been lived in small towns and on his grandparents’ farm.

John graduated from Columbia in 1972 with a BA in English and Philosophy. He returned to South Dakota and worked various jobs in Pierre. It was during this educational hiatus that John met and fell in love with Gayle Jirsa. The two were married 2 days after John had an emergency appendectomy and 2 days before he started Law School at the University of South Dakota in 1974. John graduated from Law School in 1977. John and Gayle went on to have 2 children, Abbey in 1978 and Sam in 1979.

Following his graduation from law school, John interned at the Homestake Mine Law Firm in Lead SD, and then for Chief Justice Roger Wollman of the South Dakota Supreme Court. He became an Assistant Attorney General before being appointed Secretary of Water and Natural Resources by then Governor Bill Janklow. From 1989-2002 John worked as a corporate attorney for ATC/Stream Media in Sioux Falls and New York City. He was very happy to return to life as a public servant, serving as General Counsel for South Dakota Public Utilities Commission(PUC). John retired from the PUC in 2015.

John was a brilliant, kind and humble man. He had a quick mind, and a sharp and often inappropriate sense of humor. He liked to talk...and talk some more. His dad referred to him as “The Professor” because of his ability to discuss something ad nauseam. John was respected by his colleagues as a responsible, intelligent, and approachable man.

John is survived by his children Abbey and Sam, his ex-wife Gayle, his sister Ann Johnston, brother in law Bob Johnston, niece and nephew Mary Johnston and Eric(Sarah) Johnston, great nephew Soren Johnston, and his many nieces and nephews and in-laws in the Jirsa family. John was preceded in death by his parents and his brothers, Jim and Frank.



## Gustav Keith Johnson

Gustav Keith Johnson, 67, of Rapid City, SD, passed away March 29, 2022, at the Monument Hospice House in Rapid City, SD, after a

courageous battle with cancer.

Gus was born October 24, 1954, in Harold, South Dakota, to Keith and Muriel (Gustafson) Johnson.

He attended elementary school for a brief time in Harold, SD, until his family moved to Pierre, SD. After graduating from Pierre High School, he attended Tucson Arizona State College, and completed 2.5 years of undergraduate. He then moved back to Pierre to work for the family business, Johnson Brothers. Gus went on to finish his undergraduate degree and graduated from the University of South Dakota School of Law and was admitted to the South Dakota State Bar Association in 1984. After graduation, he began work for the South Dakota Division of Banking and Finance as legal counsel. After leaving this position, Gus was engaged in the private practice of law in Pierre, SD, until he was appointed as deputy state's attorney in Pennington County. He remained in that position until 1990. In September of 1989, Sheila Kari and Gus were married. Jessica Jayne Johnson, her father's pride and joy was born in December of 1992. Gus continued his private practice in Rapid City until his retirement in 2019.

Gus enjoyed playing guitar, hosting friends for supper and spending time with his family.

Gus was a dearly loved father, grandfather, brother and friend. Survivors include his daughter and son-in-law, Jessica (Bradley) Fried; and granddaughter, Laurynn Fried of Bison, SD; sisters, Nancy (Monte) Hanson, of Gillette, WY, Lorene (Jim) Fromm, Granite Falls, MN, and Linda (Jim) Flannery, San Marcos Island, FL; numerous cousins, nieces, nephews, and many friends.

He is preceded in death by his granddaughter, Katelynn Fried; his father, Keith; mother, Muriel; and sister, Susan (Johnson) Markve.

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## PUBLIC SECTOR SECTION ANNUAL MEETING

Meeting Minutes

June 23, 2022

11:00AM MST

Best Western Ramkota, Rapid City

1. Introductions: Tracey Dollison-Decker, Rich Williams, Joel Landeen, Justin Williams, Lisa Marso, Jennifer Utter, Carrie Srtska, Brett Kempema, Steve Blair, Carla Cushman, Dave Pfeifle, John Richter, Justin Goetz, Kristen Edwards, Gerry McCabe, Yvette LaFrentz, Dave McVey, Anita Fuoss, Kirsten Jasper, Ann Mines-Bailey, Sarah Thorne, Amanda Fay, Elizabeth Overmoe
2. Board Member updates
  - a. John and Tracey worked to update the bylaws.
  - b. Public Sector attorney of the year award will be given out at the business meeting tomorrow.
  - c. Law Day committee sub-committee had one meeting and then the work didn't happen. Probably just got so busy that we couldn't do much more with it.
  - d. Rich and Carla thank John and Tracey for all of their work.
  - e. John Richter's updates:
    - Public Service spotlights to highlight the talents that are in the public sector.
    - How else should we recognize talent in the public sector. Public Sector Attorney of the Year is being rolled out this year to do just that.
    - Dave Wiest is the inaugural recipient of the Public Sector Attorney of the Year award. John provided background on Dave to the group. There will be a short video for this presentation.
    - Created the Public Sector Rising Star Award to recognize Sarah Covington. Award of appreciation to Sarah Covington for her work in putting together the Public Servant Spotlight every month for the last year.
3. Approval of revised By-Laws
  - a. Should we consider a mandatory opt-in for all .gov type emails. Managing the list would be a step to figure out. Who does it?
  - b. Moved by Lisa, seconded by Rich. Bylaw changes approved unanimously.
4. Nomination and election of new board members
  - a. Kristen Edwards – President
  - b. Current Vice-President is Karen Leonard.
    - There were no nominations so Karen will remain as Vice-President.
  - c. Secretary-Treasurer is Rich Williams.
    - Tracks the budget and updates the bylaws
    - Brent Kempema was elected
  - d. Four At-Large Board members
    - Matt Mirabella
    - John Richter

- Carla Cushman
- Rich Williams was elected to serve as an at-large board member, replacing Mark Vargo.

5. Anything else?

- a. Dave Pfeifle brought up the issue of hiring shortages. Some counties are struggling to get states attorneys. The Chief Justice has been approached on this and knows this is a crisis. There will be a task force appointed. Many counties are nearing bankruptcy, so adding traveling attorney's fees is not going to help.
- b. Mentorship in the public sector. Any public sector attorney in less than ten years of practice. Dave is willing to take on mentoring quite a few of them. Dave is asking this group to take on one each. Municipal attorney listserv usually gets used for random questions.
- c. Two things:
  1. One on one mentorship
    - a. How would this work if we are getting paid for it?
    - b. Mentorship is not doing the work for those you are mentoring
    - c. If there are FAQs we can create materials surrounding those.
  2. Second, creating almost a referral network of what public sector attorneys do, for work, and if they are willing to take phone calls from other attorneys with questions.
- d. Further discussion on attorney shortage and next steps. It was suggested that the board take the information above and develop a plan to assist and support efforts of mentorship and referrals for public sector attorneys.

6. Thank you to Tracey for her year of service!

Meeting was adjourned at 11:51AM.

Board Members:

Kristin Edwards – President  
Karen Leonard – VP  
Brent Kempema – Secretary/Treasurer  
Matt Mirabella – At Large  
John Richter – At Large  
Carla Cushman – At Large  
Rich Williams – At Large

**South Dakota State Bar**

**Real Property, Probate and Trust Section**

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**Annual Section Meeting Minutes**

**Date:** June 23, 2022  
**Time:** 11:00 AM  
**Location:** Convention Center Best Western (Ramkota), Rapid City

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MEETING TYPE:	<input checked="" type="radio"/> Regular	<input type="radio"/> Special
MINUTES TYPE:	<input checked="" type="radio"/> Proposed	<input type="radio"/> Approved

**I. Call To Order**

The meeting was called to order at 11:00 AM. A quorum was determined.

**II. Roll Call**

Officers Attendance (No Executive Council members):

Elliot Bloom	Chair	<input checked="" type="radio"/> Present	<input type="radio"/> Absent
Stephen Wesolick	Chair Elect	<input checked="" type="radio"/> Present	<input type="radio"/> Absent
Stephen Wesolick	Acting Secretary	<input checked="" type="radio"/> Present	<input type="radio"/> Absent
Andrew Fergel	Budget Officer	<input checked="" type="radio"/> Present	<input type="radio"/> Absent
Dana Frohling	Secretary	<input type="radio"/> Present	<input checked="" type="radio"/> Absent
		<input type="radio"/> Present	<input type="radio"/> Absent
		<input type="radio"/> Present	<input type="radio"/> Absent

Attendees: 22 members were in attendance as recorded by the Secretary.

**III. Approval of Agenda**

The agenda was presented by the Chair and approved by the members.

**IV. Budget Officer's Report**

Mr. Fergel addressed the membership about the annual budget of \$1,000, the division not having regularly scheduled events outside of the lunch and annual meeting. The Bar Commissioners can approve more as the division might request.

## South Dakota State Bar

### Real Property, Probate and Trust Section

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#### V. Committee Report(s)

- a. **Title Standards Committee:** The committee, by Erika Olson, reported on the efforts the past year and coming up to update South Dakota's Title Standards. Substantive revisions are coming in the next year. Ms. Olson was recognized by the Chair for the outstanding work she and her committee have done in the past year.
- b. **Bylaws Committee:** The Chair led discussion about the Bylaws update effort having been put on hold in the past year. Until last year's annual meeting, nobody really knew what the Bylaws were and, upon review, action to update those required action by the Executive Council, which had been mostly inactive and no new members had been elected in 2021. Bylaws will be reviewed in the upcoming year.

#### VI. Update on New Laws and Year in Review

The Chair led a roundtable discussion about the following new developments: increased value of small estates affidavits; succession of real property by affidavit; and remote witnessing.

#### VII. New Business

In addition to the continued work of the Title Standards Committee, the Chair discussed the need for action relating to updating South Dakota's probate forms; the coming Electronic Wills statutes in other states with South Dakota needing to be proactive; alternatives to probates, including pour-over will set aside administration.

Additionally, the Chair led discussion relating to increasing value in membership in RPPT, once a very large and active Bar division. Such benefits being review and coordination with other committees on proposed legislation; providing topics and speakers to the Bar CLE committee to increase visibility while informing other Bar members who are not on the RPPT; informing Bar members of how easy it is to become a member of RPPT; supporting each other in our respective law practices and positions. There is much interest by Bar members in RPPT, we just haven't been visibly active. Mr. Fergel emphasized again how important the RPPT is and how much help he needs from the Section. Combining CLE with the annual and, possibly, mid-year meetings will increase visibility and interest.

#### VIII. Election of Executive Council Members

Nominations were received from the floor and the following members were elected without opposition to the six-member Executive Council, commencing 2022 (unless otherwise indicated):

One-year term:	Jerad Tomac
Two-year term:	Laura Hodson and Bobbi Thury
Three-year term:	Rochelle Norberg and Sheila Woodward
Last year to be fulfilled:	Brian Kirby

**South Dakota State Bar**

**Real Property, Probate and Trust Section**

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Past Chair: Elliot Bloom

All new officers (see below) for one year

**IX. Election of Officers**

Stephen Wesolick, having been elected at the 2022 annual meeting as Chair-elect, succeeded to the position of Chair of the Section.

Nominations were received from the floor and the following members were elected without opposition as officers for 2022-2023:

Chair-elect: Jennifer Tomac  
Secretary: David Hansen

**X. Other Business**

The Chair, Mr. Bloom, was recognized by the members for his effort the past year to re-engage the Section. Mr. Wesolick looks forward to having his assistance in an informal “emeritus” status to continue that good work.

**XI. Adjournment**

On motion and second, the annual meeting was adjourned at 12:10 PM.

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**EXECUTIVE COUNCIL MEETING MINUTES**

**I. Call To Order**

The meeting was called to order at 12:15 PM. A quorum was determined.

**II. Executive Council Attendance:**

Chair: Stephen Wesolick  
Chair-elect: Jennifer Tomac  
Past-Chair: Elliot Bloom  
Secretary: David Hansen  
Members-at-large: Laura Hodson, Rochelle Norberg, Jerad Tomac

**III. New Business**

The Chair led a discussion about better communication to the leadership and membership of the Section. Ideas included using the State Bar ListServe or Hub service, creating a Facebook group page (Jennifer Tomac will lead), Microsoft Teams, and the USD ListServe hosted by Prof. Baron. All ideas to be explored further in future meetings.

## South Dakota State Bar

### Real Property, Probate and Trust Section

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Executive Council meetings are proposed to be held monthly by Zoom or other video communication.

The Chair led a discussion about maintaining or forming the following committees:

Title Standards Committee to be chaired by Erika Olson  
Bylaws Committee to be chaired by Stephen Wesolick  
Probate Forms Committee to be chaired by Jerad Tomac  
CLE Committee to be chaired by David Hansen

Members to committees will be sought by the Chair and the individual committee chairs.

The following standing committees were identified as not being high-priority at this time and, upon motion and second, the Executive Council voted in favor of discontinuing them, until further action is necessary and member interest increases:

Finance Committee  
Trust Committee  
Real Property Committee  
TODD Committee  
UPC/Guardianship Committee  
Uniform Trust Committee  
Joint Accounts Committee  
Digital Assets Committee

The Chair discussed his intent to form study groups for the following topics:

Electronic Wills  
Pour-over Will Administration (non-probate)  
Any new proposed legislation affecting the Section's subject matter

Elizabeth Overmoe is the Bar staff liaison for the Section.

#### **IV. Adjournment**

On motion and second, the annual meeting was adjourned at 1:00 PM.

**South Dakota State Bar**  
**Real Property, Probate and Trust Section**

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**Minutes Certification:**

Proposed minutes respectfully submitted,

\_\_\_\_\_  
Acting Secretary

\_\_\_\_\_  
Date

(Pending)

Approved by the on \_\_\_\_\_.

\_\_\_\_\_  
Board Secretary

\_\_\_\_\_  
Date



# State Bar of South Dakota Committee Assignments 2022-2023

## ADMINISTRATIVE LAW

Mallori Barnett, Pierre  
*Justin Bell, Pierre*  
Steven Blair, Rapid City  
Meghan Borchert, Sioux Falls  
Niclas Dahlvang, Wessington Springs  
Kristen Edwards, Pierre  
Morgan Erickson, Yankton  
Holly Farris, Pierre  
Anita Fuoss, Pierre  
Julie Johnson, Mina  
Kody Kyriss, Pierre  
Ryan Loker, Pierre  
Frank Marnell, Pierre  
Amber Mulder, Sioux Falls  
Graham Oey, Sioux Falls  
*Nick Ramos, Sioux Falls*  
John Richter, CH, Pierre  
Caroline Srstka, Sioux Falls  
Catherine Williamson, Pierre

## AGRICULTURAL LAW

*Stan Anker, Rapid City*  
Elliot Bloom, Rapid City  
James Cremer, Aberdeen  
Brian Donahoe, Sioux Falls  
Kristen Edwards, Pierre  
Craig Evenson, Clear Lake  
Amanda Gaikowski, Sioux Falls  
Thomas Geu, Vermillion  
Quincy Kjerstad, Rapid City  
David Larson, Chamberlain  
Robert Nelson, Sioux Falls  
Mitchell Peterson, Sioux Falls  
Kelsea Sutton, Co-CH, Burke  
Jacob Tiede, Mitchell  
Michael Traxinger, Co-CH, Aberdeen  
Paul Tschetter, Sioux Falls  
Chelsea Wenzel, Pierre

## ALTERNATIVE DISPUTE RESOLUTION

*Bert Bucher, Sioux Falls*  
*Paul Cremer, Pierre*  
Gregory Erlandson, Rapid City  
Hon. David Gienapp, Madison  
Chet Groseclose, Sioux Falls

Lindsay Harris, Sioux Falls  
Katie Johnson, Beresford  
*Garrett Keegan, Rapid City*  
Michael McKnight, Sioux Falls  
Elizabeth Rosenbaum, Sioux City, IA  
Laura Rowe, Onida  
Heidi Thoennes, Sioux Falls  
Marilyn Trefz, CH, Vermillion  
Linda Lea Viken, Rapid City

## ASK A LAWYER

Reece Almond, CH, Sioux Falls  
Chris Christiansen, CH, Rapid City  
Mike Srstka, Vice-CH, Sioux Falls  
Kellen Willert, Vice-CH, Belle Fourche

## BUSINESS LAW

Amy Arndt, Co-CH, Sioux Falls  
Frances Becker, Rapid City  
Josh Brown, Sioux Falls  
*Joshua Clark, Sioux Falls*  
James Cremer, Aberdeen  
Thomas Deadrick, Pierre  
Justin DiBona, Rapid City  
Ryan Fargen, Sioux Falls  
Tom Geu, Vermillion  
Patrick Goetzinger, Rapid City  
Chad Hansen, Dell Rapids  
Dixie Hieb, Sioux Falls  
Laura Hodson, Rapid City  
*Pradeep Jayaraman, Sioux Falls*  
Curtis Jensen, Rapid City  
Darrell Jesse, Yankton  
*Tommy Johnson, Sioux Falls*  
Brian Kirby, Sioux Falls  
Andrew Knutson, Co-CH, Sioux Falls  
Carey Miller, Sioux Falls  
Heath Oberloh, Sioux Falls  
Erika Olson, Rapid City  
Barry Sackett, Sioux Falls  
Timothy Thomas, Rapid City  
Bobbi Thury, Sioux Falls  
Rod Tobin, Aberdeen  
*Nicole Tupman, Sioux Falls*  
Shane Vogt, Sioux Falls  
Jayna Voss, Sioux Falls  
*Reece Weber, Rapid City*

Sheila Woodward, Yankton

## CLIENT ASSISTANCE FUND

Pat Archer, CH, Onida  
Beth Baloun, Sioux Falls  
Amy Bartling-Jacobsen, Gregory  
Matthew Naasz, Rapid City  
Nancy Oviatt, Watertown

## CONTINUING LEGAL EDUCATION

Hon. Tara Adamski, Pierre  
Stanton Anker, Rapid City  
*Carla Cushman, Rapid City*  
*Holly Farris, Pierre*  
Alecia Fuller, Rapid City  
*Anita Fuoss, Pierre*  
Eric Hanson, Sioux Falls  
Meghann Joyce, Sioux Falls  
Tom Keller, Sioux Falls  
Jessica LaMie, Pierre  
***Heather Lammers-Bogard, CH, Rapid City***  
Jessica Larson, Rapid City  
Melissa Neville, Aberdeen  
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## CRIMINAL LAW

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### CRIMINAL LAW continued...

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Thomas Keller, Sioux Falls  
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Renee Christensen, Sioux Falls  
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Zach Flood, Mitchell  
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Kathy Hoskins, Sioux Falls  
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Last Update: 6/17/2022

# Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

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



## Staff Attorney - Pierre, Sioux Falls or Rapid City

Disability Rights South Dakota is currently seeking an attorney for the position of Staff Attorney/Team Lead. This position can be in Pierre, Sioux Falls, or Rapid City, to be determined by successful applicant. The primary purpose of this position is to provide legal representation to clients of Disability Rights South Dakota and perform oversight of program(s) within Disability Rights South Dakota. The successful candidate will hold a Juris Doctor degree with admission to the state bar or within six months of hiring date; one to three years applicable law and litigation experience is preferred.

The candidate should be highly motivated, organized, have excellent communication skills (written and oral), be detail orientated, and have an understanding of database programs. Other skills needed are the ability to meet and greet the public, work in a team environment, and have an understanding of the service delivery system. This position requires the incumbent to have knowledge of grant management including compliance to the sponsored programs at the local, state and/or federal levels (depending on granting agency). The incumbent should have knowledge of state laws, programs, and issues concerning persons with disabilities and understanding of a non-profit office environment.

Competitive salary (\$58,500 to \$62,500) and full benefits are provided. Position open until filled. To apply please include a letter of interest, resume, and writing sample to [sandy.hook@drsdlaw.org](mailto:sandy.hook@drsdlaw.org) or mail to:

Disability Rights South Dakota

Attn. Sandy Hook - Executive Assistant  
2520 E. Franklin St., Ste. 2  
Pierre, SD 57501

DRSD is an Affirmative Action/Equal Opportunity Employer.

Veterans, minorities, and persons with disabilities are encouraged to apply.

## Telecommunications/Broadband Consulting Attorney - Mitchell

Vantage Point Solutions (VPS), a growing and dynamic telecommunications/broadband consulting and engineering firm headquartered in Mitchell, SD, is seeking a staff attorney to:

### Primary Functions:

- Work alongside consulting staff to provide legal, regulatory, and business consulting for telecommunications, broadband, wireless, and CATV clients
- Complete regulatory research and educate clients about compliance with FCC and state regulatory commission rules
- Draft and review various contracts, network agreements, lease agreements, and customer service agreements
- Negotiate CATV programming and interconnection agreements
- Guide clients through acquisitions and mergers as well as business and strategic planning

### Required Qualifications:

- Juris Doctorate with excellent academic and work history

- 0-5+ years' experience in the telecommunications industry – greater experience is a plus but will train the right person
- Interest in Internet, telecommunications, video, and wireless law and technology
- Ability to assess the facts, law, and the client's business position and efficiently assimilate information from a variety of sources to determine creative business plans and solutions
- Excellent written and verbal communication skills and ability to interact effectively with clients, staff, and regulatory authorities
- Ability to independently manage a substantial workload in cooperation with and support of consulting team on a wide variety of time-sensitive matters
- Outstanding legal research and writing skills
- Understanding of business finances and business and strategic planning
- Strong computer skills, including Microsoft Office Suite (Word, PowerPoint, Excel, MS Office)

VPS offers a competitive pay and outstanding benefits package based on experience. VPS is an employee-owned ESOP.

Please submit a resume and cover letter to Mikaela Burma, Manager of Regulatory and Legal, at Mikaela.Burma@vantagepnt.com. See [www.vantagepnt.com](http://www.vantagepnt.com) for more information about VPS.

### Child Support Referee

Location: 3rd Judicial Circuit  
 Category: Unified Judicial System  
 Post Date: 6/3/2022  
 Type: Independent Contractor  
 Close Date: 07/15/2022  
 No. of Positions Available: 1

**Position Description:** This position is that of an independent contractor with the Unified Judicial System as a child support referee. The qualifications and duties of the referees are generally described in South Dakota Codified Law including SDCL 25-7A-6 and 25-7A-22. Candidates for appointment as child support referees are recommended to the Supreme Court for appointment by the State Court Administrator. The referee will primarily serve the 3rd Judicial Circuit; however, cases could sometimes be assigned from other circuits state-

wide. After approval by the Supreme Court, a contract will be entered between the referee and the UJS. As of July 1, 2022, the flat-fee compensation for work as a child support referee is \$292 per case, as long as the contract requirements are met. The referee must provide their own equipment, schedule their own hearings, and draft the necessary documents. Space may be provided, if necessary, in the local Courthouse.

To be considered for the child support referee position, the applicant must be:

- A licensed attorney in the State of South Dakota & is a member in good standing of the State Bar Association;
- Familiar with family law and the child support referee process;
- Organized in scheduling hearings and managing the associated paperwork;
- Able manage time & priorities;
- Able to facilitate and maintain good working relationships with a wide variety of sources including the public, clerks, Judges, and DSS;
- Able to remain neutral and objective while assisting the public with the child support referee process;
- Able to manage stress and work with difficult people;
- An effective communicator via telephone and e-mail;
- Detail-oriented;
- Able to meet strict deadlines;
- Able to maintain a professional demeanor at all times;
- Able to comply with the requirements of UJS.

A letter of interest as well as a complete resume may be submitted by 5:00 p.m. on July 15, 2022, to the following address:

Justin Goetz  
 State Court Administrator's Office  
 Director of Policy & Legal Services  
 500 E. Capitol Avenue  
 Pierre, SD 57501  
[Justin.Goetz@uj.s.sd.us](mailto:Justin.Goetz@uj.s.sd.us)

The candidate recommended for approval to the Supreme Court will be subject to a background check.

## **ASSISTANT FEDERAL PUBLIC DEFENDER**

The Federal Public Defender for the Districts of South Dakota and North Dakota seeks an attorney to join our branch office in Sioux Falls, 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) admission to practice in the US District Court for the District of South Dakota by the time of entrance on duty; (4) willingness to become admitted to the South Dakota Bar within a year of beginning employment; and (5) 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 \$70,821-166,173. 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. Position

is open until filled. More than one vacancy may be filled from this announcement.

FEDERAL PUBLIC DEFENDER  
Districts of South Dakota and North Dakota  
101 South Main Avenue, Suite 400  
Sioux Falls, SD 57104

Jason J. Tupman  
Federal Public Defender  
Telephone: (605) 330-4489  
Fax: (605) 330-4499

The Federal Public Defender for the Districts of South Dakota and North Dakota is an Equal Opportunity Employer. Women and minorities encouraged to apply.  
mail: SDX\_JOBS@fd.org  
Vacancy Announcement: June 6, 2022

## **Financial Institution Examiner – Sioux Falls or Pierre**

Job ID: 18248  
Agency: Department of Labor & Regulation - Division of Banking  
Salary: \$47,500 annually  
Pay Grade: GZ-H  
Closing Date: Open Until Filled  
This is a Full-Time 40 Hours Weekly position with the Department of Labor & Regulation. For more information on the Department of Labor & Regulation, please visit <http://dlr.sd.gov>. This position is exempt from the Civil Service Act.

The South Dakota Division of Banking regulates the state's banking, trust, and financial services industries to assure that our citizens have confidence in our state's financial markets and services. We are seeking an inquisitive individual with analytical and communication skills to join our team of professional Financial Institution Examiners in either Pierre or Sioux Falls.

Examiners at the Division of Banking enjoy: Training– Effective on-the-job training is combined with annual off-site training at locations such as Hilton Head, SC; Arlington, VA; and Boston, MA. Pay Advancements– Salary increases are offered for successful work performance and completion of formal trainings. Positive working environments– Enjoy having your

own office while still working as part of a knowledgeable and supportive team. Personal growth– Develop comprehensive knowledge of the financial industry while developing leadership and communication skills. Advancement– Successful examiners will receive numerous certifications with internal promotional opportunities available.

### **South Dakota Code Counsel - Pierre**

The Legislative Research Council (LRC), the nonpartisan research and support staff to the South Dakota Legislature, is accepting applications for the position of Code Counsel. The Code Counsel position was created in 1970 when the Revisor of Statutes was transferred from the Supreme Court to the Legislative Branch. The Code Counsel is appointed by the Executive Board of the LRC, in the same manner as the LRC Director, and serves as a key member of the LRC's senior staff team.

Duties and Responsibilities: Significant duties and responsibilities of the Code Counsel include the following: 1) Provides staff support to the South Dakota Code Commission; 2) Edits South Dakota Codified Laws, including catchlines, assigning statute numbers, resolving conflicts between statutes, and writing Code Commission notes to explain how conflicts are resolved and how nonstatutory material may affect the Code; 3) Works with a team of editorial professionals at the publisher of South Dakota Codified Laws (Thomson Reuters) to edit and publish the Code; 4) Edits Session Laws by establishing the subject index for bills, assigning chapter numbers, and preparing the Session Laws for publication; 5) Administers, as delegated by the LRC Director, the statutory administrative rules review function, which entails coordinating with other LRC staff and executive branch personnel on the review and editing of administrative rules for legality, clarity, style, and form, and coordinating with LRC support staff on the publication of the South Dakota Register and the Administrative Rules of South Dakota; 6) Takes primary responsibility for review and editing of all administrative rules filed during the legislative session; 7) Serves as principal legal counsel to the LRC Director; and 8) Functions as a legislative attorney as time permits, providing staff support to legislative committees, drafting legislation, researching legal and general questions, and advising on legislative procedures.

Minimum Qualifications: 1) ) A law degree from an accredited postsecondary institution; and 2) Admitted to the practice of law in the State of South Dakota or eligible to and becomes admitted within one year after employment.

Preferred Qualifications: 1) Substantial general legal practice experience in South Dakota or substantial varied legal practice experience in federal, state, or local government work in South Dakota; 2) Specific experience serving as an in-house counsel for a private entity or a government, assisting in a policymaking role; or 3) Specific experience in drafting and organizing statutes, administrative rules, or ordinances.

Salary Range: The Code Counsel salary range is \$101,904 to \$152,856 for FY 2023.

Application Process: Applications (consisting of a letter of interest, resume, and up to 5 references) should be submitted via hard copy or e-mail to:

Reed Holwegner, Director

South Dakota Legislative Research Council  
500 East Capitol Avenue, Pierre, SD 57501

E-Mail: [Legis.Resume@sdlegislature.gov](mailto:Legis.Resume@sdlegislature.gov) | Phone: 605-773-3251

### **Senior Associate Attorney - Sioux Falls**

The law firm of Ogborn Mihm Quaintance, PLLC ([www.OMQLegal.com](http://www.OMQLegal.com)) is seeking a general practice lawyer with five years or more of business and transactional law experience to assume an immediate role in an active practice. Candidates should have strong organizational, writing and communication skills.

Salary and Benefits: Competitive, depending upon experience.

To Apply: An Interested applicant should send a cover letter and a resume with references to: Mike Ogborn, [Mike.Ogborn@omqlegal.com](mailto:Mike.Ogborn@omqlegal.com). All applications will be kept confidential.

## Deputy State's Attorney - Watertown

The Codington County State's Attorney's Office is inviting applicants for the position of Deputy State's Attorney. The position will be responsible for the prosecution of adult misdemeanor and felony cases occurring in Codington County, South Dakota. Duties include charging determinations, bond arguments, preliminary and grand jury hearings, drafting and arguing motions, court/jury trials, witness preparation, and briefing the court on relevant case law. Additional duties include assisting in the prosecution of abuse and neglect cases, juvenile cases, and representation in the Codington County Drug Court and the Veteran's Treatment Court, when necessary.

### Qualifications:

Applicants must possess a Juris Doctorate degree from an accredited law school and be licensed to practice in South Dakota or willing and qualified to sit for the next available South Dakota bar examination. Working knowledge of civil and criminal law and methods and practices of pleadings; court procedures and rules of evidence; principles, methods, materials and practices utilized in legal research; and general law and established precedents.

Salary: Starting salary \$73,434.00. Codington County also offers a comprehensive benefits package including vacation leave, sick leave and paid holidays; health, dental and life insurance and inclusion in the South Dakota Retirement System (SDRS).

Please submit resume to: Rebecca Morlock Reeves, Codington County State's Attorney, 14 1st Ave. SE, Watertown, SD 57201

Opening and Closing dates: May 24, 2022 – until filled.

## Contractors in the Southeast Judicial District

The North Dakota Commission on Legal Counsel for Indigents is currently looking for contractors in the Southeast Judicial District, primarily Foster and Wells Counties. If you are interested please fill out the Application for Conflict Counsel Appointment ([applicationConflictCounsel.pdf](#) (nd.gov)) and email it to [clcivc@nd.gov](mailto:clcivc@nd.gov). If you have any questions regarding these contracts, please contact Executive Director Travis Finck or Deputy Director Todd Ewell at 701-845-8632.

## Senior Paralegal

Contact Name: Amy Koenig

<https://careers.blackhillsenergy.com/jobs/9698939-senior-paralegal>

### Job Specifications

Performs contract administration support; legal research; law department database design, management and maintenance; provides corporate paralegal support, including corporate records management and maintenance; and may provide litigation support, including assistance of outside counsel in discovery matters.

SALARY RANGE: \$29.18 - \$43.65 per hour (Determined by the knowledge, skills and abilities of the applicant.)

REPORTING RELATIONSHIP: Deputy General Counsel

LOCATION: Our Company Headquarters in Rapid City, South Dakota

### ESSENTIAL JOB FUNCTIONS:

- Support the preparation, drafting, review and negotiation of contracts and agreements, regulatory filings, working closely with internal business managers, internal lawyers and outside lawyers to determine need for and scope of potential contracts and regulatory filings.
- Assist counsel in the use and development of company templates or form agreements, including standard service contracts for routine services; review counterparty proposed changes to standard forms and advise supervising attorney on deviations.
- Perform legal research as requested by attorneys.
- Assist in due diligence activities relating to business transactions.
- Design/develop and maintain structure for company documents, files, forms, etc., including legal files.
- May provide litigation support, involving such activities as developing and maintaining files and reports; routing complaints to appropriate insurers/ outside counsel; drafting/coordinating responses to interrogatories, requests for admission/search/ produce documents, fact investigations and discovery responses, interviews, document reviews/gathering/ productions/indexing.
- Work with internal lawyers, other legal staff and business leaders to support delivery of other legal services, as needed.

### QUALIFICATIONS:

- Minimum of (10) ten years of corporate or law office

paralegal experience required.

- Bachelor's Degree in Paralegal Studies, or an equivalent combination of education and experience (corporate or private legal practice), required.
- Paralegal Certificate required.

#### KNOWLEDGE/SKILLS/ABILITIES:

- Legal research and analysis capabilities.
- Advanced office administration practices and concepts.
- Automation applications and computer databases.
- Written business communication and report writing techniques.
- Communicate effectively, both orally and in written form, with all levels of the organization; clients, witnesses, internal and external legal counsel, customers; vendors and contractors; and local, state, regional and federal agencies.
- Obtain, compile, organize and analyze complex transaction documentation.
- Coordinate a variety of tasks and assignments simultaneously.
- Maintain confidential information.
- Use independent and discretionary judgment.

#### MENTAL/PHYSICAL DESCRIPTIONS AND WORKING CONDITIONS:

The mental and physical descriptions are representative of the activities an employee in an office job performs. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Mental description: Understand, remember, apply oral and/or written instructions or other information, and communicate routine factual information. Apply common sense in performing job functions, usually within a set of rules or guidelines.

While performing the duties of this job, the employee continuously accesses, inputs, and retrieves electronic information and communicates regarding the information. Employee frequently moves about the office space. Employee must be able to operate routine office equipment including computers and similar equipment. Must be able to routinely perform this work for an average of 6-8 hours per day and occasional extended hours as necessary. Must be capable of regular, reliable, and timely attendance.

Specific lifting abilities required by this job include: Sedentary work. Exerting up to 10 pounds of force occasionally and/or negligible amount of force

frequently or continuously to lift, carry, push, pull or sitting most of the time. Jobs are sedentary if moving about is only occasionally and all other sedentary criteria are met.

Work environment: Routinely perform work indoors in climate-controlled shared work area with moderate noise level. Willing to travel occasionally (less than 10 days per year) by automobile (as driver and passenger), commercial airlines, rental vehicles and public transportation and be able to lodge in public facilities. Must have proper licensing to operate a motor vehicle.

This description is not intended to be an all-inclusive list of responsibilities, duties, and requirements for employees in this position. Job descriptions may and do change periodically. Where positions are covered by a collective bargaining unit agreement, the terms and conditions of the agreement will apply.

About our Company: We are a customer, growth and safety focused utility company that is dedicated to our communities. We improve life with energy as an energy partner of choice. Our diverse culture fuels unique perspectives, opening doors to new insights and possibilities. Based in Rapid City, South Dakota, we have over 3000 employees and serve 1.3 million natural gas and electric utility customers across eight states (South Dakota, Montana, Wyoming, Colorado, Nebraska, Iowa, Kansas, and Arkansas).

Enjoy our Comprehensive Benefits Package! Annual incentive program, 401(k) (6% company match and up to 9% company retirement contribution), tuition reimbursement, paid time off, additional Veteran PTO, paid holidays and annual floating holidays, company paid short term and long term disability, paid maternity and paternity benefits, health and wellness program, and competitive medical, dental and vision insurance.

Candidates must successfully pass a pre-employment drug screen and background check.

Black Hills Energy does not sponsor applicants for work visas. All applicants must be legally authorized to work in the US.

We are an equal opportunity employer. All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age, or status as a protected veteran.

### **Staff Attorney - Fort Thompson**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Fort Thompson, South Dakota, office. The Fort Thompson office serves the counties of Brule, Buffalo, Hyde and Lyman, along with the Lower Brule and Crow Creek Reservations.

**QUALIFICATIONS/RESPONSIBILITIES:** Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; and must demonstrate an interest in poverty law and working with Native American and low income clients.

**SALARY:** Competitive, depending on experience. DPLS has excellent fringe benefits, including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

**CLOSING DATE:** Open until filled.

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

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

### **Staff Attorney - Ft. Yates, ND**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Ft. Yates, North Dakota office. The Ft. Yates office serves Campbell, Corson and Walworth counties in South Dakota and the Standing Rock Indian Reservation.

**QUALIFICATIONS/RESPONSIBILITIES:** Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South

Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; and must demonstrate an interest in poverty law and working with Native American and low income clients.

**SALARY:** Competitive, depending on experience. DPLS has excellent fringe benefits, including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

**CLOSING DATE:** Open until filled.

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

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

### **Staff Attorney - Rapid City**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Rapid City, South Dakota, office. The Rapid City office serves Butte, Custer, Fall River, Harding, Lawrence, Meade, Pennington and Perkins counties in South Dakota.

**QUALIFICATIONS/RESPONSIBILITIES:** Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; and must demonstrate an interest in poverty law and working with Native American and low income clients.

**SALARY:** Competitive, depending on experience. DPLS has excellent fringe benefits, including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

CLOSING DATE: Open until filled.

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

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

### **Staff Attorney - Sioux Falls**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Sioux Falls, South Dakota, office. The Sioux Falls office serves Native American clients in the counties of Aurora, Beadle, Bon Homme, Brookings, Brown, Charles Mix, Clay, Codington, Day, Davison, Deuel, Douglas, Edmunds, Faulk, Hamlin, Hand, Hanson, Hutchinson, Jerauld, Kingsbury, Lake, Lincoln, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Sanborn, Spink, Turner, Union and Yankton, along with the Flandreau and Santee Indian Reservations.

QUALIFICATIONS/RESPONSIBILITIES: Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate practice responsibilities, including handling a significant caseload touching on many different areas of law with regular appearances in court; and must demonstrate an interest in poverty law and working with Native American and low income clients. Some travel is required.

SALARY: Competitive, depending on experience. DPLS has excellent fringe benefits, including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

CLOSING DATE: Open until filled.

APPLICATION INFORMATION: Please submit a letter of interest and resume to: Thomas S. Mortland, Executive Director, Dakota Plains Legal Services,

PO Box 727, Mission, SD 57555, (605) 856-4444, [tmortland@dpls.org](mailto:tmortland@dpls.org).

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

### **Staff Attorney -Sioux Falls**

East River Legal Services (ERLS) is a non-profit organization. We serve low-income individuals in the Eastern half of South Dakota covering 33 counties. ERLS strives to improve the lives of the people we serve in a wide variety of ways from helping them find resources in the community to assisting them with their civil legal issues in and out of Court. ERLS represents people from all walks of life who qualify for our benefits including but not limited to veterans, older Americans, people with disabilities, victims of crime and people of any race, nationality, or gender.

Our office is currently seeking to hire highly motivated attorneys interested in working with low-income individuals and provide them with equal access to Justice. We strive in our office to work as a team and fulfill the needs of our clients.

Applicants will be expected to meet the following job requirements:

- Conduct and oversee client interviews, investigation, field investigations, and fact gathering
- Provide high-quality legal representation or advice to clients on housing, family law, protections orders, guardianships and other related matters in state court and administrative proceedings in Eastern South Dakota
- Conduct a full range of litigation activities, including drafting pleadings, conducting depositions, completing discovery, negotiations, motions practice, and represent our clients at trial.
- Provide education and outreach to members of the community, service providers, and community organizations
- Work in collaboration with community organizations that provide rental assistance, domestic violence support, and other services available to support our clients
- Keep well-informed of the applicable laws and case laws as they develop and change to ensure that the program is applying new laws properly

- Keep accurate records of case activities and provide the necessary information to meet grant and other reporting requirements
- Perform other duties which may be assigned from time to time by the Managing Attorney or Executive Director

Qualifications:

- JD admitted to practice in South Dakota or be eligible for admission to the South Dakota State Bar.
- Strong written and oral communication skills
- Ability to spot legal issues in cases and comfort with providing real-time counsel & advice
- Experience working independently with minimal supervision
- Excellent negotiation and organizational skills
- Ability to relate well and work with low-income clients and collaborate with community organizations
- Capacity to work in a high-volume environment and a changing court and policy landscape

Compensation depends on experience. Benefits include, vacation and sick leave, paid holidays, medical, dental, vision, life, mileage reimbursement/per diem for covered travel. Additionally, ERLS pays professional dues including the cost for an out of state attorney to waive into the South Dakota State Bar Association. The position will report directly to the Managing Attorney.

Interested applicants should email a cover letter and résumé to Melissa Frericks, Program Administrator, at [melissa@erlservices.org](mailto:melissa@erlservices.org). Applications will be accepted until the position is filled.

ERLS is an Equal Opportunity Employer (EEO). We prioritize equity and inclusion in our organizational culture and hiring. We encourage all applicants regardless of race, gender identity, sexual orientation, religion, national origin, age, disability, parental status, marital status, formerly incarcerated individuals or on any other identity factor to apply.

DO YOU HAVE A JOB ANNOUNCEMENT?

Send it to  
[tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net)

SAVE THE DATE

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2023 ANNUAL MEETING & CONVENTION

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July 21 | July Law for Lunch - Rosebud Sioux Tribe v. United States | Webinar

July 21-22 | Bar Commission Retreat/Board Meeting | Clubhouse, Sioux Falls

July 22 | Young Lawyer Board Meeting | Clubhouse, Sioux Falls

September 8 | September Bankruptcy CLE | The Country Club of Sioux Falls

September 9, 8-noon | Estate Planning CLE | The Country Club of Sioux Falls

September 9, 1-4pm | Advanced Transactional Negotiations CLE | Missouri River Energy Services, Sioux Falls

September 22-23 | Disciplinary Board Meeting | TBA

October 21 | Bar Commission Meeting | Pierre

October 21 | Nuts and Bolts CLE | Pierre

October 21 | Statewide Swearing-In Ceremony | Capitol Rotunda, Pierre

**For more events go to  
[www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)**