

# State Bar of South Dakota

## 2022 ANNUAL MEETING

Rapid City Ramkota & Convention Center

June 22-24, 2022

### *Notice of Annual Business Meeting of the State Bar of South Dakota*

**NOTICE IS HEREBY GIVEN** that the Annual Business Meeting of the State Bar of South Dakota will be held at the Ramkota Hotel & Convention Center in Rapid City, South Dakota, on June 24, 2022, commencing at the hour of 8 o'clock a.m. Mountain Time.

This notice is given pursuant to Article IV, Section 4.4.b. of the Bylaws of the State Bar of South Dakota to all Active and Inactive members thereof.

Dated at Pierre, South Dakota,  
this 1st day of May, 2022.

Andrew L. Fergel  
Secretary-Treasurer  
The State Bar of South Dakota



# GOOD COVERAGE. REASONABLE RATES.

**“** Long history of providing good coverage with reasonable rates and experienced claims handlers who are all lawyers. **”**

▶ Thomas J. Welk, Boyce Law Firm, Sioux Falls, SD

South Dakota law firms can connect directly with ALPS at [learnmore@alpsinsurance.com](mailto:learnmore@alpsinsurance.com) or by calling (800) 367-2577.

Learn more about how ALPS can benefit your firm at

[www.alpsinsurance.com/sdlawyer](http://www.alpsinsurance.com/sdlawyer)

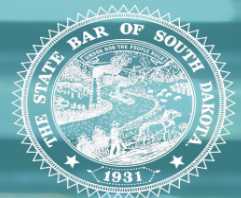
Endorsed by



4.8 / 5



THE NATION'S LARGEST DIRECT WRITER OF LAWYERS' MALPRACTICE INSURANCE



## Jackrabbit Bar Conference 2022

Deadwood, SD

Thursday, June 2nd -

Saturday, June 4th

Click Here  
**INFO**  
For More

# State Bar of South Dakota

## May 2022 *Newsletter* Issue 5

- 4 President's Corner  
William C. Garry
  - 7 Young Lawyers News  
Ole Olesen
  - 12 Dean's List: News From the Law School  
Neil Fulton
  - 36 How to Address the Shadow IT Problem  
ALPS Risk Manager Mark Bassingthwaite
  - 32 Minimizing Meetings for Greater Effectiveness  
Mrg Simon
- 
- 10 Fellows of the South Dakota Bar Foundation
  - 14 A2J Superheroes
  - 16 General Announcements
  - 22 South Dakota Deposition Academy Registration
  - 31 Final Legislative Report
  - 38 Sexual Harassment Prevention Training Important Notice
  - 39 2022 Annual Convention CLE and Social Agenda
  - 46 Review of Public Sector Section Bylaws
  - 53 Board of Bar Commission January and February Meeting Minutes
  - 58 Book Review by Jim Leach
  - 62 Career Center
  - 72 Upcoming Events



## PRESIDENT'S CORNER

*William C. Garry*

The Bar Commission met last month in Deadwood. During the meeting, the topic of incivility in our profession surfaced. LAP Director, Becky Porter, reported that Bar Members are experiencing incivility by both clients and other lawyers. Dean Neil Fulton reported incivility is an issue among law students. Of course, we all witness the lack of civility on a daily basis in the national discourse on a variety of topics. Pandemic-related stress is often cited as a cause for the rise in incivility. No matter the cause, the trend is disturbing and it is incumbent upon all of us to promote integrity, professionalism and civility in our Bar.

Many South Dakota trial lawyers have earned the privilege of membership in the American Board of Trial Advocates (ABOTA). Since its inception, ABOTA has embraced principles of civility, integrity and professionalism as precepts of its Code of Professionalism. I have permission from the ABOTA national office to re-print these principles and they are set forth below. I believe these principles apply to all lawyers, not just trial lawyers. By adhering to these principles, each one of us can do our part to change the culture of incivility in our profession.

— PRINCIPLES OF CIVILITY, —  
INTEGRITY AND  
PROFESSIONALISM



American Board  
of Trial Advocates™



*As a member of the  
American Board of Trial Advocates, I shall*

**Always**

remember that the practice of law is first and foremost a profession.

**Encourage**

respect for the law, the courts, and the right to trial by jury.

**Always**

remember that my word is my bond and honor my responsibilities to serve as an officer of the court and protector of individual rights.

**Contribute**

time and resources to public service, public education, charitable and pro bono activities in my community.

**Work**

with the other members of the bar, including judges, opposing counsel, and those whose practices are different from mine, to make our system of justice more accessible and responsive.

**Resolve**

matters and disputes expeditiously, without unnecessary expense, and through negotiation whenever possible.

**Keep**

my clients well-informed and involved in making decisions affecting them.

**Achieve**

and maintain proficiency in my practice and continue to expand my knowledge of the law.

**Be**

respectful in my conduct toward my adversaries.

**Honor**

the spirit and intent, as well as the requirements of applicable rules or codes of professional conduct, and shall encourage others to do so.

*Preamble*

These Principles supplement the precepts set forth in ABOTA's Code of Professionalism and are a guide to the proper conduct of litigation. Civility, integrity, and professionalism are the hallmarks of our learned calling, dedicated to the administration of justice for all. Counsel adhering to these principles will further the truth-seeking process so that disputes will be resolved in a just, dignified, courteous, and efficient manner.

These principles are not intended to inhibit vigorous advocacy or detract from an attorney's duty to represent a client's cause with faithful dedication to the best of counsel's ability. Rather, they are intended to discourage conduct that demeans, hampers, or obstructs our system of justice.

These Principles apply to attorneys and judges, who have mutual obligations to one another to enhance and preserve the dignity and integrity of our system of justice. As lawyers must practice these Principles when appearing in court, it is not presumptuous of them to expect judges to observe them in kind. The Principles as to the conduct of judges set forth herein are derived from judiciary codes and standards.

These Principles are not intended to be a basis for imposing sanctions, penalties, or liability, nor can they supersede or detract from the professional, ethical, or disciplinary codes of conduct adopted by regulatory boards.

*As a member of the American Board of Trial  
Advocates, I will adhere to the following Principles:*

1. Advance the legitimate interests of my clients, without reflecting any ill will they may have for their adversaries, even if called on to do so, and treat all other counsel, parties, and witnesses in a courteous manner.
2. Never encourage or knowingly authorize a person under my direction or supervision to engage in conduct proscribed by these principles.

3. Never, without good cause, attribute to other counsel bad motives or improprieties.

4. Never seek court sanctions unless they are fully justified by the circumstances and necessary to protect a client's legitimate interests and then only after a good faith effort to informally resolve the issue with counsel.

5. Adhere to all express promises and agreements, whether oral or written, and, in good faith, to all commitments implied by the circumstances or local custom.

6. When called on to do so, commit oral understandings to writing accurately and completely, provide other counsel with a copy for review, and never include matters on which there has been no agreement without explicitly advising other counsel.

7. Timely confer with other counsel to explore settlement possibilities and never falsely hold out the potential of settlement for the purpose of foreclosing discovery or delaying trial.

8. Always stipulate to undisputed relevant matters when it is obvious that they can be proved and where there is no good faith basis for not doing so.

9. Never initiate communication with a judge without the knowledge or presence of opposing counsel concerning a matter at issue before the court.

10. Never use any form of discovery scheduling as a means of harassment.

11. Make good faith efforts to resolve disputes concerning pleadings and discovery.

12. Never file or serve motions or pleadings at a time calculated to unfairly limit opposing counsel's opportunity to respond.

13. Never request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

14. Consult other counsel on scheduling matters in a good faith effort to avoid conflicts.

15. When calendar conflicts occur, accommodate counsel by rescheduling dates for hearings, depositions, meetings, and other events.

16. When hearings, depositions, meetings, or other events are to be canceled or postponed, notify as early as possible other counsel, the court, or other persons as appropriate, so as to avoid unnecessary inconvenience, wasted time and expense, and to enable the court to use previously reserved time for other matters.

17. Agree to reasonable requests for extension of time and waiver of procedural formalities when doing so will not adversely affect my client's legitimate rights.

18. Never cause the entry of a default or dismissal without first notifying opposing counsel, unless material prejudice has been suffered by my client.

19. Never take depositions for the purpose of harassment or to burden an opponent with increased litigation expenses.

20. During a deposition, never engage in conduct which would not be appropriate in the presence of a judge.

21. During a deposition, never obstruct the interrogator or object to questions unless reasonably necessary to preserve an objection or privilege for resolution by the court.

22. During depositions, ask only those questions reasonably necessary for the prosecution or defense of an action.

23. Draft document production requests and interrogatories limited to those reasonably necessary for the prosecution or defense of an action, and never design them to place an undue burden or expense on a party.

24. Make reasonable responses to document requests and interrogatories and not interpret them in an artificially restrictive manner so as to avoid disclosure of relevant and nonprivileged documents.

25. Never produce documents in a manner designed to obscure their source, create confusion, or hide the existence of particular documents.

26. Base discovery objections on a good faith belief in their merit, and not for the purpose of withholding or delaying the disclosure of relevant and nonprivileged information.

27. When called on, draft orders that accurately and completely reflect a court's ruling, submit them to other counsel for review, and attempt to reconcile any differences before presenting them to the court.

28. During argument, never attribute to other counsel a position or claim not taken, or seek to create such an unjustified inference.

29. Unless specifically permitted or invited, never send to the court copies of correspondence between counsel.

#### **When In Court I Will:**

1. Always uphold the dignity of the court and never be disrespectful.

2. Never publicly criticize a judge for his or her rulings or a jury for its verdict. Criticism should be reserved for appellate court briefs.

3. Be punctual and prepared for all court appearances, and, if unavoidably delayed, notify the court and counsel as soon as possible.

4. Never engage in conduct that brings disorder or disruption to the courtroom.

5. Advise clients and witnesses of the proper courtroom conduct expected and required.

6. Never misrepresent or misquote facts or authorities.

7. Verify the availability of clients and witnesses, if possible, before dates for hearings or trials are scheduled, or

immediately thereafter, and promptly notify the court and counsel if their attendance cannot be assured.

8. Be respectful and courteous to court marshals or bailiffs, clerks, reporters, secretaries, and law clerks.

#### CONDUCT EXPECTED OF JUDGES

*A lawyer is entitled to expect judges to observe the following Principles:*

1. Be courteous and respectful to lawyers, parties, witnesses, and court personnel.

2. Control courtroom decorum and proceedings so as to ensure that all litigation is conducted in a civil and efficient manner.

3. Abstain from hostile, demeaning, or humiliating language in written opinions or oral communications with lawyers, parties, or witnesses.

4. Be punctual in convening all hearings and conferences, and, if unavoidably delayed, notify counsel, if possible.

5. Be considerate of time schedules of lawyers, parties, and witnesses in setting dates for hearings, meetings, and conferences. When possible, avoid scheduling matters for a time that conflicts with counsel's required appearance before another judge.

6. Make all reasonable efforts to promptly decide matters under submission.

7. Give issues in controversy deliberate, impartial, and studied analysis before rendering a decision.

8. Be considerate of the time constraints and pressures imposed on lawyers by the demands of litigation practice, while endeavoring to resolve disputes efficiently.

9. Be mindful that a lawyer has a right and duty to present a case fully, make a complete record, and argue the facts and law vigorously.

10. Never impugn the integrity or professionalism of a lawyer based solely on the clients or causes he represents.

11. Require court personnel to be respectful and courteous toward lawyers, parties, and witnesses.

12. Abstain from adopting procedures that needlessly increase litigation time and expense.

13. Promptly bring to counsel's attention uncivil conduct on the part of clients, witnesses, or counsel.



American Board  
of Trial Advocates™

American Board  
of Trial Advocates™



abota.org





State Bar of South Dakota  
YOUNG LAWYER SECTION



*Ole Olesen*  
YLS President

I missed my deadline for April, so this month you get to read that article and also my introduction to next year's Young Lawyers Section President.

Do you remember writing a "personal statement" with your law school applications? I do. I remember it being a very stressful event for me because I did not know anyone that had applied to law school, let alone anyone that had actually gone. I did not know what a "personal statement" was or how to even begin writing them. I scoured the world wide web searching for answers, but found very little help other than it should be a letter that makes you memorable to the readers. Well, after a long internal struggle I opted to write about a solitary event that occurred during an undergraduate psychology class that had a great impact on me. I titled my personal statement "How Two Words Changed My Life" and submitted it. What was that event and what were those two words?

I do not have my personal statement anymore, but I do remember the story and the words. I was taking a 300-level psychology in the workplace course. The professor was one that I had enjoyed in previous classes and I had heard great things about this particular course. On this particular day, our professor sat on top of the desk at the front of the class and began his lecture by asking us why it was so important for us to understand the psychology and culture in our workplace. As with any lecture, I am sure that he looked out to a class of dumbfounded looks on students hoping that he would answer his own question. And he did not disappoint.

The professor told us that we would all be graduating soon. He said, "When you graduate and enter your professions you will be the leaders of industry, you will be the leaders of your community, and you will be the people that others look to for answers and help." His lecture continued, but he continually used the words "when" and "will" in reference to our futures. Something about the lecture really impacted me and I spent what was probably hours thinking about the words that he said to us and why they struck me as so different.

I grew up with parents that were lower middle class. Very few people in my life growing up had a high school diploma, let alone had ever even tried to attend college. The people in my life all believed that if you work hard, then you get rewarded. If you do 'x', then you can get 'y'. It was a formula that I knew well. Those were the words that I grew up hearing: "if" and "then". It is a subtle difference, but one that really changed my view of things.

When my professor stood before me and said "when" and "will," I had never had someone set expectations like that for me. The people in my life had always presented that I had options. If I did something, I might get something else. Nobody had ever set the expectation that I would do something. Nobody had ever set the expectation that my future would be important. Sure, the possibility was presented, but there is something different about knowing that someone expects that possibility to be your reality. There is a confidence instilled in knowing that someone believes so strongly

in you that they already know that is your future. My vision of the future changed that day simply because a man that I barely knew had an expectation of my future that up to that point I had only considered a possibility.

Choose your words carefully. Especially when speaking to our youth. A simple change of words can be the difference between a person thinking a grand future is a mere possibility and knowing it is coming. When I speak to my juvenile clients, I try to employ this as much as possible. Many of them have never considered their bright futures. My expectations of their future are clear. I do not talk to them in terms of “if” they do something, but rather “when” they do it. I don’t know if it helps them. I don’t know if it opens their eyes to a future that they may not have seen themselves in before. But I know that someone in their lives should have a higher expectation of their future. Someone should believe in them. And they should know it.

Now let me introduce you to next year’s Young Lawyers Section President, Anthony Sutton.

Hello all! I am excited to introduce myself, Anthony Sutton, as I transition into the role of President of the Young Lawyer Section in June. Here is a bit about me:

I grew up in Flandreau and have lived in South Dakota my whole life. I am one of seven kids, with 3 sisters and 3 brothers. I had a lively childhood and now have lively family get-togethers with my large extended family.



My parents, Chuck and Val, are in the auction business and many of my childhood memories involve waking up early on Saturdays to work at auctions. While it wasn’t the most fun thing to do as a kid, I now realize those experiences were extremely important. They taught me

the value of hard work, trying to always do my best, and following through on my commitments to others. I graduated from Flandreau High School in 2008 and enjoyed being at a school where I could participate in everything – from choir and band, to sports and theatre, and FFA.

Following high school, I migrated north to Brookings and attended South Dakota State University. Go Jacks!! At SDSU, I was actively involved in student government where, as part of the Students’ Association, we made many lobbying trips to Pierre and Board of Regent meetings and worked with leadership at SDSU and in the City of Brookings. I was also an active member in the Delta Chi fraternity, who I now advise as a member of their alumni board and housing corporation. I had so much fun while in Brookings that I decided to stay a bit longer and take the 5th year victory lap. I graduated in 2013 with majors in History and Political Science and minors in Spanish and American Indian Studies.

As my time at SDSU neared its conclusion, I decided to apply and enroll at USD Knudson School of Law. Although going from the cultural mecca of Brookings to Vermillion was a struggle for me personally (nothing beats Cubbys!), it was a welcome change for my then newlywed wife, Stephanie, a proud Coyote (Go Yotes! she added). Looking back, I can say that going to USD for law school was one of the best life decisions I have made. I made numerous friends, many of which I am still close to and call for advice or to grab lunch or coffee. I am also grateful that I had the opportunity to attend law school with my younger brother, Ryan, who practices at the Pennington County Public Defender’s Office.

At USD, I was involved in as many student organizations as I could be and sought to take advantage of all the opportunities provided to students. In addition to spending countless hours during my 1L year at my cubicle in the basement, I participated on the Moot Court Board, the Trial Team, and the Transactional Law team. I enjoyed the many opportunities provided to me in law school and am thankful for the faculty members and practicing attorneys who took the time to help students like me to become better lawyers.

I graduated from USD in 2016. (Sidebar: in May 2016 my parents had all four sons graduate from South Dakota schools on the same day: Ryan and I from law



school at USD and the twins, Jacob and Jared, from SDSU and DSU, respectively.)



Following law school, I clerked for the Honorable Karen E. Schreier in Sioux Falls for two years where I learned more about life and the law than I thought was possible. I got involved on the YLS even before I ended my clerkship at the suggestion of Nicole Tupman, who I appreciate getting me involved because I am not sure I would have taken the step to get involved without her encouragement.

Following my clerkship, I joined Johnson, Janklow, Abdallah & Reiter in Sioux Falls. The firm supports and mentors me every day. I believe mentorship is important and that young lawyers should seek to surround themselves with mentors who care about their success. On that note, I am particularly thankful to Pamela Reiter, who has taught me the value of bar service as a lawyer, and to Derek Nelsen, who served as coach to a moot court team I was on in law school and has continued his mentorship of me through the Hagemann-Morris Mentorship Program.

I am incredibly blessed to have a great support system of family, friends, and co-workers. My wife Stephanie and I have been married for six years. We have two children, Quinn (5) and Callum (3), and are expecting our third in June.



Recreationally, I enjoy watching sports (Manchester United, USA Soccer, the Minnesota Vikings, the Jacks, and Notre Dame), traveling, spending time with my family, and playing board games.

Thank you to those 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 look forward to serving as the next President of the YLS and continuing our important work as part of the Bar and of improving the practice of law for South Dakota's newest attorneys.



**DeRouchey Agricultural & Legal Consulting, LLC**

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

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

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

# *Fellows of the South Dakota Bar Foundation*

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

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

Fred & Luella Cozad

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

Frank L. Farrar

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

Thomas C. Barnett, Jr.

Robert E. Hayes

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

Hon. Richard H. Battey  
Chet Groseclose  
Scott N. Heidepriem  
Hon. John B. Jones

Scott C. Moses  
Charles L. Riter  
William Spiry  
Hon. Jack R. Von Wald

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

Renee H. Christensen  
Richard A. Cutler  
William F. Day, Jr.  
P. Daniel Donohue

Dana J. Frohling  
Richard L. Kolker  
Kimberley A. Mortenson  
Timothy J. Rensch

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

Frankianne E. Coulter

Jeremiah J. Davis



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

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

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

Hon. John Bastian	Laura Clark Rowe
Hon. John L. Brown	Hon. Bobbi J. Rank
Mary Jane Cleary	Robert C. Riter, Jr.
Andrew L. Fergel	Thomas Eugene Simmons
Neil Fulton	Jason R.F. Sutton
Tom E. Geu	Sarah L. Thorne
Craig A. Kennedy	Barry R. Vickrey
Hon. Judith K. Meierhenry	

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



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



As you are reading this column, the Class of 2022 has wrapped up its time at the Law School and is preparing for graduation. Their experiences have been unprecedented. They were forced online by COVID-19 in the second semester of 1L year, lived through a hybrid 2L year, and led our return to normality in their 3L year.

They are an accomplished group. They have beaten larger schools like Indiana and South Carolina at various competitions for Trial Team, ADR, and Moot Court. They have published their own work and that of prominent scholars in South Dakota Law Review. After graduation they begin their careers as judicial law clerks, in public service, in business, and at firms across South Dakota and beyond.

There is much more I could say about the class of 2022, but I want you to hear from them. Here are the stories of several members of the class of 2022 in their own words.

### ANNA MAHER

I grew up in Fort Pierre, South Dakota and graduated from South Dakota State University with a B.S. in Economics. I chose USD because of its small class size and engaging professors. During my time in law school, I have enjoyed the significant offering of experiential classes including Trial Techniques, Discovery Practice, Low Income Tax Clinic, Alaska Tax Practicum and Criminal Defense Practicum. I also had the opportunity to serve as the president and treasurer of USD Women in Law and as a member of the Spring 2022 USD Trial Team. I have enjoyed my time with the friends, classmates, and faculty I have met at the USD Knudson School of Law. Upon graduation, I look forward to

joining my father and grandfather at Maher Law in Pierre.

### MADISON JONS

I will forever be grateful for the USD Knudson School of Law community and my time here. Just three short years ago, I made the decision to attend law school to expand my opportunities in the field of tax. USD was an easy choice for me, a South Dakota kid, and it has provided many opportunities to advance my knowledge and experience in tax. As a 2L, I had the opportunity to practice as a student attorney in the Low-Income Taxpayer Clinic, assisting clients with various IRS disputes. I also received the opportunity to travel to Alaska to participate in a tax practicum and prepare tax returns for taxpayers in rural Alaskan villages. I gained further experience through the Volunteer Income Tax Assistance (VITA) program, as well as taking a variety of tax classes. The professors at USD and these incredible experiential opportunities have prepared me to further my education by pursuing an LL.M. Taxation degree following graduation.

Outside of my passion for tax, I have been fortunate to participate in various other activities at USD including my positions as a Staff Writer and, currently, Managing Editor for the South Dakota Law Review, as well as working as a Research Assistant for the brilliant Professor Hannah Haksgaard. Thank you to my classmates who will be lifelong friends and colleagues, the amazing faculty and staff at the USD Knudson School of Law, and the South Dakota Bar for its continuous guidance and support of law students.



### **AUSTIN FELTS**

My name is Austin Felts, and I am a third-year law student at the USD Knudson School of Law. I am originally from Remsen, Iowa, and graduated from the University of South Dakota with a degree in Kinesiology – Exercise Sciences in 2017. Following a brief stint as a middle school math teacher, I was fortunate to find my passion in the legal profession.

During my time at the USD Knudson School of Law, I have served as a Law Ambassador, recruiting the future of our profession, utilized the dual degree opportunities to pursue a JD and an MBA concurrently, and worked at a variety of local businesses in Vermillion. I also had the pleasure to serve as one of the first legal externs for University of South Dakota Athletic Compliance externship, assisting with the creation of Name, Image, and Likeness educational materials to help student athletes meet this new opportunity.

The USD Knudson School of Law Class of 2022 has faced unprecedented challenges as COVID-19 disrupted our second semester of law school. However, our ability to solve problems and adapt to the unique challenges presented by the pandemic has only reinforced our legal education. In this profession, expecting the unexpected is a necessity, and the Class of 2022 will use these skills today to serve citizens of South Dakota tomorrow.

### **LEAH CERANSKI**

My name is Leah Ceranski and I am a 3L at the University of South Dakota Knudson School of Law. During my time in law school, I have been privileged to be a part of many amazing groups and organizations. Over the past three years I have spent time as the Vice President for USD Women in Law, RA for Career Services, and Lexis Nexis Representative. Through these positions I have gained invaluable experience in both the law and forming relationships with others. Not only have I enjoyed my time in these positions, but I feel confident that my experiences have prepared me for nothing but success in my future.

As I reflect on the past three years, I look back in awe over what we all have accomplished as a law school family. USD Law has been a constant through the uncertainty that has been my, and my peers', law school career. As a family, USD Law has made it through a pandemic, we have succeeded in online education, and never lost our faith in each other and the goals we have been pursuing together. Although I am sad to be leaving South Dakota

behind, I am excited for my future and greatly welcome the opportunity to bring what I have learned at USD back to Wisconsin and my future career in law

### **JILL SWANSON**

Hello! My name is Jill Swanson. I grew up near Pukwana, South Dakota before I started my journey in higher education here at USD. I first received a Bachelor of Arts in History and am about to graduate with a Juris Doctor as well as a Master of Arts in History. I have spent much of my law school career studying Indian law and criminal law while writing my master's thesis about the Wounded Knee Occupation of 1973 and how the South Dakota State Legislature reacted to the occupation. Law school was just as challenging as everyone promised, but the worldwide COVID-19 pandemic made my experience that much more challenging! The class of 2022 is the last class to have experienced law school pre-pandemic and it takes an incredible amount of grit and determination to complete what my classmates and I have been able to accomplish. USD law is a unique and special community of scholars, and I am very grateful for the experience!

### **JACK BROWN**

I am Jack Brown. I am a native of Vermillion. I graduated cum laude from Augustana University in 2019 with a B.A. in Government/International Affairs; I came home to start law school in 2019. I have served as a staff writer and Copy Editor for the South Dakota Law Review. In my summers, I have had the opportunity to serve as an intern for Judge Karen E. Schreier and then with the Cutler Law Firm in Sioux Falls. After graduation, I am going to clerk for the Sixth Circuit Court in Pierre. Deciding to come to USD for law school has been one of the most rewarding decisions I have made. I have formed important friendships with fellow students, faculty, and members of the State Bar during my three years. The community here is something I believe to be both unique to the school and one of its greatest assets. The Class of 2022 is filled with such determined, intelligent, and thoughtful future members of the legal community, and each day I come to campus feeling grateful to be a part of it.

The Class of 2022 is full of great stories like these. Their stories will become more rich and rewarding in years to come. Congratulations USD Knudson Law Class of 2022! Good luck with all that comes next.



# JUSTICE SQUAD

Thank you to the following attorneys for accepting a pro bono or reduced rate case from Access to Justice, Inc., this month! You are now a member of the the A2J Justice Squad - an elite group of South Dakota lawyers who accept the responsibility to defend justice, uphold their oath and provide legal representation to those who need it.

## A2J PRO BONO TIPS 101:



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

PAUL ANDREWS  
AMY BARTLING JACOBSEN  
WENDY MCGOWAN  
STEPHANIE POCHOP



## Special Thanks to:

JOSEPH HOGUE  
STEVE HUFF  
KYLE KRAUSE  
DENISE LANGLEY  
BRANDY RHEAD  
JAMES TAYLOR

For their help on  
SD Free Legal Answers!

PLEASE SEND A MESSAGE TO DENISE LANGLEY AT:  
ACCESS.TO.JUSTICE@SDBAR.NET



# 2022 Annual Meeting



*RAMKOTA  
HOTEL*

*JUNE  
22-24, 2022*

*RAPID CITY  
SOUTH DAKOTA*



# ANNOUNCEMENTS

Kennedy, Pier, Loftus & Reynolds, LLP  
Attorneys At Law  
is pleased to announce that

*Melissa Kay*  
has joined the firm as an associate.

Kennedy, Pier, Loftus & Reynolds, LLP  
322 Walnut Street  
Yankton, SD 57078

Telephone: (605) 665-3000

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

## NORTHERN PLAINS WEATHER SERVICES, LLC

**Matthew J. Bunkers, Ph.D. | 605.390.7243**

- **Certified Consulting Meteorologist (CCM)**  
*What does a CCM do? Check out:*  
<https://npweather.com/forms/CCM-article.pdf>
- 27+ years of weather/forecasting experience
- Consulting, reports, depositions, & testimony
- **Specialties:** forensic meteorology, weather & forecasting, radar, satellite, severe storms, rainfall & flooding, fog, winter weather, fire weather, applied climate & meteorology, ag weather, education & training, and technical editing



<https://npweather.com> | [nrnplnsweather@gmail.com](mailto:nrnplnsweather@gmail.com)

**Dava A. Wermers**  
Wantoch Law Office  
has expanded her practice to include

**Parent Coordination Services**

Dava Wermers  
Wermers Family Services  
Parent Coordinator  
221 East 3rd Ave  
Mitchell, SD 57301  
(605) 933-9981

[wermersfamilysvs@gmail.com](mailto:wermersfamilysvs@gmail.com)

**LEGAL SERVICES CORPORATION**  
**Notice of Grant Funds Available**  
**for Calendar Year 2023**

The Legal Services Corporation (LSC) announces the availability of grant funds to provide civil legal services to eligible clients during calendar year 2023. In accordance with LSC's multiyear funding policy, grants are available for only specified service areas. The list of service areas (and their descriptions) where grant opportunities are open are available at <https://www.lsc.gov/grants/basic-field-grant/lsc-service-areas/2023-service-areas-subject-competition>. The Request for Proposals (RFP), which includes instructions for preparing the grant proposal, will be published at <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/basic-field-grant> on or around April 11, 2022. Applicants must file a Pre-Application and the grant application through GrantEase: LSC's grants management system.

Please visit <https://www.lsc.gov/grants/basic-field-grant> for filing dates, applicant eligibility, submission requirements, and updates regarding the LSC grants process. Please email inquiries pertaining to the LSC grants process to [LSCGrants@lsc.gov](mailto:LSCGrants@lsc.gov).

*End the Stigma*

Reach out, seek help, and know that

*you are NOT alone!*

Too often, lawyers, judges, and law students find themselves wrestling privately with addiction or mental health issues. LCL volunteers are here to help and all communication is confidential and privileged.

**CALL BECKY PORTER**  
LAWYERS CONCERNED FOR LAWYERS  
**(605) 391-5191**

**MAY LAW FOR LUNCH: LEGISLATIVE UPDATE**

*with*  
**Julie Johnson**

**Catch-up on what happened during the 2022 South Dakota Legislative Session and find out how new bills could impact you or the businesses you represent.**

**REGISTER  
HERE!**

**Zoom • May 19, 2022 • 12:30PM CST**

## THE STATE BAR IS ACCEPTING APPLICATIONS FOR APPOINTMENT OF BAR DELGATE TO ABA HOUSE OF DELEGATES

A new two-year term will begin in late August of 2022, for South Dakota's Bar Delegate to the American Bar Association ("ABA") House of Delegates. The House is the policy-making body of the ABA and meets twice each year (July/Aug and Feb). The Delegate is expected to attend each House meeting and participate during the year in its other proceedings. The Bar Commission of the State Bar of South Dakota is accepting applications from eligible Bar members for the role of Bar Delegate. To be eligible for appointment, you must be an active member of the State Bar of South Dakota and a member of the ABA.

Applications must be received by **May 16, 2022**, and contain the following:

- A cover letter that includes an explanation of why you want to serve as Bar delegate and how you will be able to effectively represent the State Bar of South Dakota in the ABA House of Delegates; and
- A resume highlighting your experience with the State Bar of South Dakota and/or the ABA.

Email or mail your application to: Andrew Fergel, Executive Director, State Bar of South Dakota, 111 W Capitol Avenue, #1, Pierre, SD 57501 or [andrew.fergel@sdbar.net](mailto:andrew.fergel@sdbar.net)

## Do you need an ERISA attorney?



Amy M. Thompson, Esq., LL.M. provides specialized legal services to private employers, governmental entities, non-profit organizations, and corporate and in-house counsel on fiduciary liability, benefit plan issues, and compliance with the Internal Revenue Code, ERISA, COBRA, HIPAA, the ACA, and other benefits-related laws. Amy represents employers and plan sponsors in agency enforcement actions, provides audit defense, and conducts employee benefit plan corrections.

**Amy M. Thompson, ERISA Attorney**

[www.ERISA-lawyer.com](http://www.ERISA-lawyer.com)

Phone: 605-651-7312

Email: [Amy.Thompson@erisa-lawyer.com](mailto:Amy.Thompson@erisa-lawyer.com)



*Law Office of Amy M. Thompson, P.L.L.C.*





## YOUNG LAWYERS SECTION STATE BAR OF SOUTH DAKOTA

PRESIDENT  
OLE OLESEN

130 Kansas City Street Ste 310  
Rapid City, SD, 57701  
(605) 394-2181  
Ole.Olesen@pennco.org

PRESIDENT-ELECT  
ANTHONY SUTTON

101 S Main Ave. #100  
Sioux Falls, SD 57101-2348  
(605) 338-4304  
anthony@janklowabdallah.com

SECRETARY/TREASURER  
KELSEY BLAIR

515 Ninth St., Suite 201  
Rapid City, SD, 57701  
(605) 342-7822  
anthony@janklowabdallah.com

### BOARD OF DIRECTORS

1st Circuit  
MALLORY SCHULTE  
Yankton

2nd Circuit  
BROOKE SCHMIDT  
Sioux Falls

3rd Circuit  
TONY TEESDALE  
Brookings

4th Circuit  
SPENCER PROSEN  
Spearfish

5th Circuit

6th Circuit  
CHELSEA WENZEL  
Pierre

7th Circuit  
KATELYN COOK  
Rapid City

At Large  
ARMAN ZELJKOVIC  
Rapid City

Law Student  
MARIECLAIRE CHRISTENSON  
Vermillion

### THE YOUNG LAWYERS SECTION SEEKS NOMIATIONS FOR THE YOUNG LAWYER OF THE YEAR AWARD

Members of the State Bar of South Dakota are invited to submit nominations for the 2022 South Dakota Young Lawyer of the Year. This award will be presented at the Annual Meeting in June. Please consider nominating a South Dakota Young Lawyer for this prestigious award. To be considered, the nominee must be a member of the State Bar of South Dakota in good standing and must not have reached the age of 36 years by June 24, 2022 or been admitted to practice in South Dakota or any other state for more than 10 years. Lawyers are only eligible to receive the award one time and lawyers serving on the Young Lawyers Board are not eligible for consideration. Nominees should exemplify the following characteristics:

1. Professional excellence.
2. Dedication to serving the legal profession and the Bar.
3. Service to their community.
4. A reputation that advances legal ethics and professional responsibility.

Nominating attorneys should submit a brief letter in support of their nominee to Young Lawyer President-Elect Anthony Sutton at [anthony@janklowabdallah.com](mailto:anthony@janklowabdallah.com) no later than **Monday, May 9, 2022**. The nominating attorney should detail how the nominee meets the above-referenced characteristics.

# **May CLE - Understanding the Juvenile Brain**

**Register  
Here**

**May 6th  
8 am - noon  
Washington Room  
Ramkota Hotel  
Rapid City, SD**

Dr. Brenna Tindall has been practicing in the field for over 10 years and is a Licensed Psychologist, Certified Addiction Specialist III, and on the Certified Sex Offender Management Board, and the Domestic Violence Management Board. She conducts a variety of evaluations such as psychological, diminished capacity, NGRI, competency, psychosexual, domestic violence, learning disability, cognitive, child contact screens, and trauma assessments. With her comprehensive qualifications and experience, she provides lawyers with the strategies they need to work with their clients.

**Co-Chairs - Alecia Fuller, Victoria Reker**

# MAY CLE

## FAMILY LAW

**MAY 6**

**1 PM TO 4 PM**



**REGISTER  
HERE**

### TOPICS:

NEW CHILD SUPPORT  
CHANGES & RULES

PARENTING TIME  
AGREEMENTS BEYOND  
NORMAL GUIDELINES

TAXES & STRATEGIES  
FOR DRAFTING  
AGREEMENTS RELATED  
TO TAX DEPENDENCY  
EXEMPTIONS

ADVANCED CUSTODY  
LITIGATION  
STRATEGIES

**WASHINGTON  
ROOM**

-

**RAMKOTA  
HOTEL**

-

**RAPID CITY  
SOUTH DAKOTA**

**CHAIR -  
THOMAS  
KELLER**



## **SOUTH DAKOTA DEPOSITION ACADEMY**

### **TO ALL MEMBERS OF THE STATE BAR OF SOUTH DAKOTA**

The popular Deposition Academy returns in 2022 for members of the South Dakota Bar. The third Deposition Academy is being held on Wednesday, July 13 through Friday, July 15 at the University of South Dakota Knudson School of Law.

Mastery of the skills needed to gather information, gain admissions, and test theories is essential to a successful trial practice. The Deposition Academy is designed to provide the tools any lawyer needs to confirm facts they know, validate facts they think they know, and learn facts they need to prove their case.

The Deposition Academy is a learning by experience course. Participants in the program will hear about techniques used in taking and defending depositions, see demonstrations by experienced trial lawyers, and then actually practice those skills in a simulated deposition setting. During each workshop, participants will perform and practice skills essential to effective deposition taking or defending and then receive suggestions from experienced members of the faculty that will allow them to enhance their skills. Each workshop adds skills so that by the conclusion of the Academy participants will have built new techniques, enhanced existing skills, and gained confidence.

During the program you will learn a technique that allows you to wring every last bit of information from a witness. You will master techniques developed by The National Institute for Trial Advocacy that include “The Funnel Technique” and “Getting a List.” We will also spend time practicing techniques to defend your client’s interests in a deposition and how to prepare a witness for their deposition.

New to the 2022 version of the Deposition Academy is information and ideas on the process of creating an outline for deposing a witness. There are subtle differences and important additions counsel should consider when the process moves online. This includes additional questions asked during the commitment stage and how exhibits will be distributed and used.

The process of building a top-notch team of instructors is currently underway. The State Bar Trial Academy Committee is working to select a team of women and men who are the best and brightest of the South Dakota Trial Bar. The team will include lawyers who represent plaintiffs and defendants and practice in both large and small firms. The University of South Dakota Knudson School of Law is again providing both space and logistical support for the Academy. The partnership of the Bar Association, the law school, and the South Dakota Chapter of ABOTA, ensures a high-quality course that is open to all.

**DEPOSITION ACADEMY REGISTRATION**  
**JULY 13 – 15, 2022**  
**USD KNUDSON SCHOOL OF LAW, VERMILLION, SD**

**SPONSORED BY THE STATE BAR OF SOUTH DAKOTA, THE SOUTH DAKOTA CHAPTER OF ABOTA  
AND THE UNIVERSITY OF SOUTH DAKOTA KNUDSON SCHOOL OF LAW**

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

**Firm or Organization:** \_\_\_\_\_

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

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Please register me for the 2022 Deposition Academy. I enclose a deposit of \$500 (made payable to SD CLE, Inc.) towards the full tuition of \$1,000. I acknowledge that the deposit, should I be accepted and subsequently am not able to attend, is non-refundable, unless a replacement is found. If I am not accepted, I understand that my deposit will be returned to me. I understand that no interest will be payable on returned deposit. I further understand that I will be responsible for any costs associated with travel, lodging, and meals. If I am accepted, I will pay the balance of \$500 no later than July 1, 2022.

I understand there may be more applicants than available participant spaces and that the Deposition Academy is primarily intended for lawyers with limited litigation experience who desire to further develop his or her skills. The following professional information relative to my professional experience will be used by the admissions committee solely to determine whether I will be accepted for the Deposition Academy and the information will be used for no other purpose nor shared with any other entity. If there are more applicants than available space, I recognize that the admissions committee will accept the earlier application with deposit for similarly situated applicants.

**Size of firm or organization:** \_\_\_\_\_

**Years admitted to practice:** \_\_\_\_\_

**Number of depositions taken:** \_\_\_\_\_

**Number of depositions defended:** \_\_\_\_\_

**Brief description of your current practice:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Mail this completed registration form, together with a check in the amount of \$500, payable to SD CLE, Inc. to:**

**State Bar of South Dakota  
111 W Capitol Avenue #1  
Pierre, SD 57501**



## **South Dakota Paralegal Association, Inc.**

Founded in 1989

**ANNUAL MEETING & SEMINAR - FRIDAY, JUNE 24, 2022 (7:30 am-3:30 pm MST)  
RAMKOTA HOTEL – RAPID CITY, SOUTH DAKOTA**

<i><b>Time</b></i>	<i><b>Agenda</b></i>	<i><b>Speakers</b></i>
7:30-8:00 AM	Registration & Breakfast	
8:00-9:30 AM	When Bedrooms Become Chatrooms: Internet Crimes Against Children	Hollie Strand, Pennington County Sheriff's Department, Internet Crimes Against Children Taskforce
9:30-9:40 AM	Break	
9:40-11:10 AM	Elder Law and Estate Planning	Jennifer and Jarad Tomac, Tomac & Tomac Law
11:10-11:20 AM	Break	
11:20-12:00 PM	SDPA Semi-Annual Meeting	SDPA Executive Committee
12:00-1:00 PM	Lunch	
1:00-2:00 PM	Legal Ethics for Paralegals	Honorable Robert Gusinsky, Judge of the 7th Judicial Circuit Court
2:00-2:10 PM	Break	
2:10-3:10 PM	Case Prep/Trial Prep as a Paralegal	Greg Eiesland, Johnson, Eiesland & Rohl Trial Lawyers
3:10-3:30 PM	Announcements and Adjournment	

### ***REGISTRATION FORM***

**(Online Registration Available at [SDParalegals.com/Store](https://SDParalegals.com/Store))**

Attend: \_\_\_\_\_ In Person \_\_\_\_\_ Webinar

Seminar Fee enclosed (includes luncheon): \_\_\_\_\_ Member \$65 \_\_\_\_\_ Non-Member \$85 \_\_\_\_\_ Student \$30  
Webinar Fee Enclosed: \_\_\_\_\_ Member \$65 \_\_\_\_\_ Non-Member \$85 \_\_\_\_\_ Student \$30

Name: \_\_\_\_\_ Designation (CP/ACP/RP/PLS/PP) \_\_\_\_\_

Firm: \_\_\_\_\_ Email: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

**Thursday Social (location TBD):** \_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ Maybe

**REGISTRATION DEADLINE:** Online: Wednesday, June 22. By mail: Postmark by Friday, June 17. **LATE REGISTRATIONS:** As of June 20, rates will be \$40 for Students, \$75 for Members, and \$95 for Non-Members. **\*REGISTRATION BY MAIL:** If you need to make your registration payment by mail with a check, or by cash in-person on the day of the seminar, email the Education Committee Chair, Rebekah Mattern, at [RMattern@LynnJackson.com](mailto:RMattern@LynnJackson.com). **VIRTUAL ATTENDEES:** Our seminars are live-streamed through GoToMeeting. The times listed above are MST. We cannot guarantee your experience will be equivalent to attending in person. We will ensure the best online experience possible; however, audio, visual, and other technical difficulties may be outside our control. We highly recommend testing GoToMeeting on your device prior to the seminar. **ROOMS:** SDPA has a limited number of rooms available under "South Dakota State Bar/South Dakota Paralegal Association" at \$133.99 plus tax for Thursday, June 23 only. **CANCELLATIONS:** SDPA will provide full refunds for registrations cancelled on or before June 17, 2022 (registrations made through the website will be refunded to your card, less the online processing fee (approximately 5%)). Contact the Education Committee Chair, Rebekah Mattern, at [RMattern@LynnJackson.com](mailto:RMattern@LynnJackson.com) if you need to cancel your registration.

**Continuing legal education credit from NALA has been requested as follows: 5 hours of CLE credit to include 1 hour of ethics credit.**





# **“NOT” A BLACK TIE AFFAIR**

**WEDNESDAY, JUNE 22, 2022**

**RAPID CITY RAMKOTA HOTEL &**

**CONVENTION CENTER**

**HEAVY HORS D'OEUVRES**

**COCKTAILS**

**CASUAL ATTIRE**

**7:00PM**

# Cheers to 50 Years!

The practice of issuing awards to those members of the State Bar who have reached the fifty-year milestone since admission to practice law in the State of South Dakota, inaugurated in 1972, is being continued in 2022. The ceremony has become one of the highlights of our Annual Meeting.

The following State Bar members are eligible to receive the award at the annual meeting in June:

A. Stevenson Bogue  
Bruce Boyd  
Mary Dell Cody  
Van Fishback  
Brian Hagg  
E. James Hood  
Richard Huffman  
Glen Johnson  
R. Van Johnson  
Robert Kean

Wilson Kleibacker Jr.  
Gerald Leeling  
Larry Long  
James Margadant  
William Matheson  
Michael McCann  
Lynn Moran  
Allen Nelson  
Harold O'Connell  
Peter Pagones

Thomas Parlman  
Terry Pechota  
John Quaintance  
Terry Quinn  
Doyle Sage  
Ronald Schulz  
Rodney Steele  
Herb Sundall  
Richard Wendt  
Gregory Yates



## MOUNT RUSHMORE EXCURSION

JUNE 23, 2022

THURSDAY EVENING  
During the Annual Meeting & Convention

# \$25 Per Person

INCLUDES:  
TRANSPORTATION TO & FROM EVENT  
BOXED MEAL  
GUEST SPEAKER (TBA)  
TOUR

Stay tuned for more details

FOR MORE INFORMATION  
CONTACT BETH OVERMOE AT  
[ELIZABETH.OVERMOE@SDBAR.NET](mailto:ELIZABETH.OVERMOE@SDBAR.NET)





# Lawyers write. All. The. Time.

But are you writing as effectively,  
persuasively, and efficiently as you  
could? Would you like to improve  
your skills as a modern legal writer?  
Then this CLE is for you!

Over 270 bar members responded to a survey asking them to help design a CLE to meet your needs. Based on that survey, the CLE will include a variety of lessons on how to

- Write more persuasively and with greater ability to influence thought and action;
- Write more clearly by making better choices about organization and language;
- Write more effectively for online audiences; and
- Write with more awareness about how your writing shapes how others perceive you.

Kirsten Davis is a Professor of Law at Stetson University College of Law in St. Petersburg, Florida. Dr. Davis has been teaching lawyers and law students the art of legal writing for over twenty years. Drawing upon her expertise in both law and human communication, Dr. Davis will lead a CLE that will help you take your writing to the next level, whether you are a novice or experienced lawyer. This fun, fast moving, and interactive CLE will offer new ideas and practice for better, smarter, and modern legal writing.

Jennifer Williams,  
Chair

June 23, 2022 ~ 8 AM  
Ramkota Hotel  
Rapid City ~ Annual Convention



## 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.

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.

Stay tuned for location  
information!

## JOIN US IN THE FIGHT

Whether it's advocating for criminal legal reform, achieving full equality for the LGBTQ+ and Two Spirit community, defending the rights of Indigenous people and tribes to be free from discrimination, or preserving the right to have an abortion, the ACLU takes up the toughest civil liberties issues to defend all people from government abuse and overreach.

**VOLUNTEER YOUR LEGAL EXPERTISE WITH US OR SEND A CASE REFERRAL OUR WAY.**

**Stephanie Amiotte, legal director • Andrew Malone, staff attorney**  
southdakota@aclu.org • P.O. Box 91952, Sioux Falls, SD 57109



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

### GET HELP WITH:

- Family Conflict
- Couples/Relationships
- Substance Abuse
- Work/Life Balance
- Stress
- Depression/Anxiety
- Grief
- Parenting

## YOU HAVE ACCESS TO MENTAL HEALTH COUNSELING

*Short-term counseling by licensed, Master's-level counselors via phone, mobile app, chat, and video. Available to you and your household members 24/7.*



### EVERYDAY ASSISTANCE:

Overwhelmed and scared about her teen's active substance misuse, Gina called in looking for assistance. She received an appointment with a counselor, and during their sessions, she learned parenting strategies and boundary-setting to help manage the situation. Gina also received information about local treatment programs for her son and family support groups.

ACCESS  
VIA:



[sandcreekeap.com](https://sandcreekeap.com)



888-243-5744



Download The App at: [MyLifeExpert.com](https://MyLifeExpert.com)

Company Code: sbsd1

Toll-Free: 1-888-243-5744

**SANDCREEK** EAP  
An AllOne Health Company





105 East Capitol, Suite B  
P.O. Box 794  
Pierre, South Dakota 57501-0794  
(605) 224-9647  
sdguardians@gmail.com

March 25, 2022

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

W.H. Engberg  
Attorney  
Pierre

Eileen Van Soest, Vice President  
Sioux Falls

Ronald J. Hall  
Hall Law Firm  
Aberdeen

Craig Krogstad, Secretary Treasurer  
Sioux Falls

Denny Rowley  
Rowley & Associates  
Spencer

Gerald Beninga  
Active Generations  
Sioux Falls

Andrew L. Fergel  
Secretary-Treasurer  
The State Bar of South Dakota  
222 East Capitol  
Pierre, SD 57501-2596

Dear Mr. Fergel:

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

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

Best regards.

Sincerely,

Ronald Staebell  
President

c: Board of Directors  
Board of Trustees

Richard J. Corcoran, Chairman  
Sioux Falls

Elizabeth Krogstad, Secretary  
Sioux Falls

Lindsey Riter-Rapp, Treasurer  
Pierre

Claudia Vucurevich  
Rapid City

Ronald T. Staebell  
Sioux Falls

Steven T. Kirby  
Sioux Falls





## BILL WATCH

### HOUSE

HB 1008	*HB 1115
HB 1026	HB 1157
*HB 1036	HB 1160
*HB 1037	HB 1199
*HB 1038	HB 1200
HB 1045	HB 1201
HB 1052	HB 1202
HB 1053	HB 1204
HB 1054	HB 1211
*HB 1060	HB 1212
HB 1064	HB 1217
*HB 1068	HB 1218
*HB 1069	HB 1224
HB 1073	*HB 1229
HB 1074	HB 1232
*HB 1075	HB 1246
*HB 1079	*HB 1268
*HB 1085	HB 1270
HB 1094	*HB 1272
*HB 1099	*HB 1278
*HB 1100	*HB 1279
*HB 1104	HB 1287
*HB 1105	HB 1290
*HB 1106	HB 1305
*HB 1107	HB 1311
*HB 1108	HB 1313
*HB 1109	HB 1314
*HB 1110	*HB 1328

*Bills that are Struck  
Through have been killed  
in some manner and are  
not included in this report  
unless an active bar bill.*

*\*Signed by Governor*

## STATE BAR OF SOUTH DAKOTA

Final Report  
April 15, 2022

### STATE BAR BILLS - ACTIVE

HB 1060: repeal certain domestication provisions in the Uniform Limited Liability Company Act.

Sponsor: Representative [Stevens](#) (prime) and Senator [Wheeler](#)

State Bar Position: SUPPORT

Status: Signed by the Governor on 3/8

Summary: The primary purpose of the bill is to eliminate duplicative statutes related to LLC domestication.

SB 79: clarify cross-references regarding powers of attorney.

Sponsor: Senator [Johns](#) (prime) and Representative [Odenbach](#)

State Bar Position: SUPPORT

Status: Signed by the Governor on 3/28

Summary: This is a clean-up bill to correct cross references found in SDCL § 59-12-8.

SB 107: provide for the remote witnessing of certain legal instruments.

Sponsor: Senator [Wheeler](#) (prime) and Representative [Stevens](#) (prime)

State Bar Position: SUPPORT

Status: Signed by the Governor on 3/28

Summary: This bill would allow for certain legal instruments to be completed/executed utilizing remote witnesses.

HB 1073: provide for diploma privilege for admittance to the practice of law.

Sponsor: Representative [Fitzgerald](#) (prime) and Senator [Sutton](#) (prime)

State Bar Position: OPPOSE

Status: [State Affairs](#) Deferred to the 41st legislative day, Passed, [YEAS 8, NAYS 4](#).

Summary: If passed, this bill would allow any USD law school graduate, past or present, to be admitted to the bar without taking the bar exam upon furnishing qualifications as to age and moral character so long as that applicant was an SD resident prior to admittance.

HB 1199: remove irreconcilable differences as a cause for divorce.

Sponsor: Representative [Randolph](#) (prime)

State Bar Position: OPPOSE

Status: [House Judiciary](#) Deferred to the 41st legislative day, Passed, [YEAS 7, NAYS 6](#).

Summary: This bill would amend SDCL 25-4-2 by removing irreconcilable differences a cause for divorce and repeal SDCL 25-4-17.1 through 25-4-17.3. This bill would also replace "conviction of felony" with "conviction of a crime resulting in incarceration."

## HOUSE BILLS - MONITOR

### BILL WATCH

### SENATE

~~SB 3~~

\*SB 7

~~SB 8~~

\*SB 15

~~SB 16~~

~~SB 20~~

~~SB 25~~

\*SB 35

\*SB 38

\*SB 55

\*SB 60

~~SB 70~~

~~SB 72~~

SB 77

~~SB 78~~

\*SB 79

\*SB 81

~~SB 82~~

\*SB 83

\*SB 103

SB 107

~~SB 111~~

\*SB 120

~~SB 137~~

~~SB 146~~

~~SB 164~~

\*SB 169

~~SB 172~~

~~SB 173~~

~~SB 182~~

\*SB 195

~~SB 198~~

\*SB 199

~~SB 207~~

~~SB 208~~

~~SB 209~~

~~SB 211~~

~~SB 211~~

*Bills that are ~~Struck Through~~ have been killed in some manner and are not included in this report unless an active bar bill.*

*\*Signed by Governor*

HB 1036: revise certain provisions regarding search warrants for tracking devices.  
Sponsor: The Committee on [Judiciary](#) at the request of the Attorney General  
Status: Signed by the Governor on 2/9

HB 1037: revise the penalty for certain willful violations by grain buyers and grain warehouse operators.  
Sponsor: The Committee on House [Judiciary](#) at the request of the Attorney General  
Status: Signed by the Governor on 3/9

HB 1038: establish an opioid trust fund and to declare an emergency.  
Sponsor: The Committee on [Judiciary](#) at the request of the Attorney General  
Status: Signed by the Governor on 3/18

HB 1068: clarify the processing of sexual assault kits performed on individuals ages sixteen and seventeen.  
Sponsor: Representatives [Reed](#) (prime) and Senators [Duhamel](#) (prime)  
Status: Signed by the Governor on 3/15

HB 1069 include out-of-state convictions as a basis of an enhanced penalty for certain drug crimes.  
Sponsor: Representative [Perry](#) (prime) and Senator [Novstrup](#) (prime)  
Status: Signed by the Governor on 2/17

HB 1075: modify legal and official notice publication requirements.  
Sponsor: Representative [Reed](#) (prime) and Senator [Otten \(Herman\)](#) (prime)  
Status: Signed by the Governor on 2/17

HB 1079: revise provisions regarding court transcript costs.  
Sponsor: Representative [Stevens](#) (prime) and Senator [Johns](#) (prime)  
Status: Signed by the Governor on 3/7

HB 1085: expand the eligibility for a small estate probate.  
Sponsor: Representative [Mortenson](#) (prime) and Senator [Wheeler](#) (prime)  
Status: Signed by the Governor on 2/17

HB 1099: revise provisions related to courtroom modifications for child witnesses.  
Sponsor: Representative [Reed](#) (prime) and Senator [Duhamel](#) (prime)  
Status: Signed by the Governor on 3/15

HB 1100: revise provisions related to the video recording of certain victim testimony at a preliminary hearing or deposition.  
Sponsor: Representative [Reed](#) (prime) and Senator [Duhamel](#) (prime)  
Status: Signed by the Governor on 3/15

HB 1104: revise provisions related to the location of courtroom facilities.  
Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice Passed  
Status: Signed by the Governor on 2/10

HB 1105: allow for a good cause exception to the time for an involuntary commitment hearing.  
Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice  
Status: Signed by the Governor on 2/10

HB 1106: provide for the security and privacy of certain personally identifiable information for judicial officers and to declare an emergency.

Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice

Status: Signed by the Governor on 2/14

HB 1107: establish a process for requesting records prepared or maintained by court services officers.

Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice

Status: Signed by the Governor on 2/14

HB 1108: revise provisions related to driving under the influence.

Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice

Status: Signed by the Governor on 2/14

HB 1109: revise a provision related to the review of the master jury list.

Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice

Status: Signed by the Governor on 2/14

HB 1110: revise a provision related to the appointment of a guardian ad litem or a special advocate to represent an abused or neglected child.

Sponsor: The Committee on [Judiciary](#) at the request of the Chief Justice

Status: Signed by the Governor on 3/9

HB 1115: allow succession to real property by an affidavit.

Sponsor: Representative [Cwach](#) (prime)

Status: Signed by the Governor on 3/9

HB 1229: authorize the formation of corporations and limited liability companies by physical therapists, occupational therapists, and speech-language pathologists.

Sponsor: Representative [Gosch](#) (prime)

Status: Signed by the Governor on 3/18

HB 1268: revise provisions related to name changes when obtaining a marriage license.

Sponsor: Representative [Drury](#) (prime) and Senator [Wheeler](#) (prime)

Status: Signed by the Governor on 3/16

HB 1272: revise provisions related to counseling for domestic abuse defendants.

Sponsor: Representative [Reimer](#) (prime) and Senator [Diedrich](#) (prime)

Status: Signed by the Governor on 3/18

HB 1278: revise the child support obligation schedule.

Sponsor: Representative [Stevens](#) (prime) and Senator [Rusch](#) (prime)

Status: Signed by the Governor on 3/18

HB 1279: revise certain provisions relating to child support.

Sponsor: Representative [Stevens](#) (prime) and Senator [Rusch](#) (prime)

Status: Signed by the Governor on 3/18

HB 1328: require law enforcement to report certain seizures of property.

Sponsor: Representatives [Aylward](#) (prime)

Status: Signed by the Governor on 3/15

## HOUSE RESOLUTIONS - MONITOR

---

HCR 6003: declaring April 26<sup>th</sup> to be shared parenting day

Sponsor: Representatives [Pischke](#) (prime) and [Dennert](#)

Status: [House of Representatives](#) Passed on 2/10. [Senate](#) Concurred in Resolution on 2/15



## SENATE BILLS - MONITOR

---

SB 7: revise provisions related to custody and visitation rights by medical cannabis cardholders.

Sponsor: Senator [Wheeler](#) (prime) and Representative [Finck](#) (prime), at the request of the Marijuana Interim Study Committee

Status: Signed by the Governor on 3/7

SB 15: revise provisions providing that certain professions are not subject to discipline for certain conduct relating to medical cannabis.

Sponsor: Senator [Stalzer](#) (prime) and Representative [Otten \(Ernie\)](#) (prime), at the request of the Marijuana Interim Study Committee

Status: Signed by the Governor on 3/7

SB 35: increase penalties for actions related to grain transactions.

Sponsor: The Committee on [Agriculture and Natural Resources](#) at the request of the South Dakota PUC

Status: Signed by the Governor on 2/10

SB 38: prohibit a grain broker from engaging in certain transactions or activities and to provide a penalty therefor.

Sponsor: The Committee on [Agriculture and Natural Resources](#) at the request of the South Dakota PUC

Status: Signed by the Governor on 2/10

SB 55: appropriate funds for the expansion of broadband infrastructure and to declare an emergency.

Sponsor: The [Committee on Appropriations](#) at the request of the Governor's Office of Economic Development

Status: Signed by the Governor on 3/28

SB 60: revise the General Appropriations Act for fiscal year 2022.

Sponsor: The [Committee on Appropriations](#) at the request of the Bureau of Finance and Management

Status: Signed by the Governor on 3/24

SB 77: enhance the penalty on registered sex offenders who commit sexual contact without consent from a person capable of consenting.

Sponsor: Senator [Duhamel](#) (prime) and Representative [Reed](#) (prime)

Status: Signed by the Governor on 3/15

SB 81: revise the definition of sexual contact.

Sponsor: Senator [Duhamel](#) (prime) and Representative [Reed](#) (prime)

Status: Signed by the Governor on 3/15

SB 83: modify when a motion for expungement of an arrest record may be made and to declare an emergency.

Sponsor: Senator [Rohl](#) (prime) and Representative [Bartels](#) (prime)

Status: Signed by the Governor on 3/15

SB 103: make an appropriation to support the teen court grant program and to declare an emergency.

Sponsor: Senators [Hunhoff](#) (prime) and Representative [Tidemann](#) (prime)

Status: Signed by the Governor on 3/24

SB 120: include intentionally manipulated images or recordings in the crime of invasion of privacy by recording.

Sponsor: Senator [Castleberry](#) (prime) and Representative [Bordeaux](#)

Status: Signed by the Governor on 3/28

SB 169: establish a means for certain Department of Corrections inmates to earn credit against fines or costs ordered by the sentencing court.

Sponsor: Senator [Rusch](#) (prime) and Representative [Davis](#) (prime)

Status: Signed by the Governor on 3/18

SB 195: establish the burden of proof after a claim of immunity.

Sponsor: Senator [Wiik](#) (prime) and Representative [Hansen](#) (prime)

Status: Signed by the Governor on 3/15

SB 199: revise provisions related to a name change for certain crime victims.

Sponsor: Senator [Diedrich](#) (prime)

Status: Signed by the Governor on 3/15

# REGISTER HERE

- TWO SHOTGUN STARTS AT 8:00 A.M. AND 2:00 P.M.
- 4-PERSON TEAM SCRAMBLE
- LUNCH WILL BE PROVIDED BETWEEN ROUNDS
- TOURNAMENT OPEN TO ALL BAR MEMBERS (WHICH INCLUDES THE JUDICIARY), SPOUSES/PARTNERS, COURT REPORTERS, AND LAW STUDENTS.
- ENTRY FEE IS \$125/PLAYER (\$500/TEAM)

Annual Bar Convention

The Golf Club at Red Rocks

ACCESS TO JUSTICE

ANNUAL

Golf  
TOURNAMENT

THURSDAY

JUNE 23, 2022

THE GOLF CLUB AT RED ROCKS

RAPID CITY



## How To Address The Shadow IT Problem

by: *Mark Bassingthwaite, Esq.*  
[mbass@alpsinsurance.com](mailto:mbass@alpsinsurance.com)

### What is shadow IT?

Let me start with a story I heard recently. A law firm had in place a written policy that set forth a list of approved services, software and tech devices that could be used by staff and attorneys. During a network security assessment conducted by an outside vendor, the question “Does anyone at the firm use Dropbox” was asked. The answer was “Absolutely not. Dropbox is not an approved service.” This is when one of the security consultants informed the firm that over 80 email addresses of firm attorneys and staff were tied to individual Dropbox accounts. Such much for firm policies.

With this story in mind and for the purposes of this post, I will define shadow IT as services, software, and hardware that is being used for work by firm staff and/or attorneys without the explicit approval of a firm’s IT staff, which means it’s also outside of the control of IT staff. Please take note of the phrase “without the explicit approval of a firm’s IT staff” in this definition. To be clear, just because a service, software or device is outside of the control of IT staff doesn’t necessarily mean there’s a problem. Many firms have intentionally deployed IT that is outside of the control of their IT staff.

A cloud-based case management system or an online backup service are two common examples. When firm’s go in this direction, however, the difference is IT staff is usually involved in order to make sure this IT is deployed in a secure and responsible way. That’s what’s missing with shadow IT.

### Why is shadow IT a problem?

Let’s go back to the above story. The concern over the 80+ individuals who were using Dropbox was that they would fail to take necessary steps to use it in a competent and secure way and that indeed was the case. Missteps would have included things like not enabling two factor authentication, failing to create a unique strong password for account access, and not responsibly using file permission settings to control file access, just for starters.

You now can see how this story exemplifies the shadow IT problem. When staff and attorneys at any firm make unilateral decisions to not abide by a firm’s policies and procedures and just use any service, software, or device they like, unintended consequences can follow. Such decisions might be “justified” by a belief that the rules don’t apply to them, the rules make no sense or are too



difficult to follow, no one can tell them what they can or can't do with their own devices, or even that doing so made their work easier or more efficient in their minds. Unfortunately, if the unintended consequence turns out to be a network security breach, which is the greatest concern, their reasoning matters not.

### **Is there a solution to the shadow IT problem?**

Truth be told, I believe completely eradicating the problem for any firm is going to be an unattainable goal. That said, the problem can be effectively managed. Before you can responsibly address the problem, however, it's important to understand that shadow IT is often brought into play because there were tech needs that were unmet, associated risks that were not understood, and/or an apathy about existing policies. In addition, know that trying to simply outright ban shadow IT coupled with some type of punishment for any rule breakers is going to be an effort in futility. Thus, the place to start is in determining what shadow IT is in use throughout your firm. Yes, you may need to declare amnesty, if you will, for a period of time in order to do so, but you can't solve the shadow IT problem until you know what shadow IT is in use and why.

Once you know what is in use and why, work with your IT staff to determine the risks and benefits of this shadow IT and decide which of this tech makes sense to

support and which doesn't. Next, all staff and attorneys need to be educated as to why certain tech is going to be brought out of the shadows and sanctioned by the firm and why the decision to not support other shadow tech was made. Include in this education an explanation of how to securely use the newly sanctioned tech and detail the security your IT staff has layered on top of what the tech vendor provides. If no shadow IT is to be brought out of the shadows due to security concerns, take whatever time is necessary to find an acceptable tech solution that will meet the needs of those who have been using shadow IT. Again, trying to ban something without providing an acceptable alternative solution accomplishes nothing.

Next, update your internal acceptable use policies as called for and couple this with any training others might need to responsibly use any newly sanctioned tech. And here's

one final idea that can help ensure long-term compliance by all with your firm's internal policies. Repeat this process perhaps every other year. Better yet, encourage anyone who is thinking about using shadow IT to bring their idea to a firm leader or IT support for review; because sometimes someone has a really good idea that just might improve the efficiency of everyone at the firm. In other words, make it easy to bring shadow IT out of the shadows.



Authored by: Mark Bassingthwaighe, Risk Manager

Since 1998, Mark Bassingthwaighe, Esq. has been a Risk Manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaighe 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. Bassingthwaighe 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.



# IMPORTANT NOTICE

Members of the State Bar of South Dakota:

On January 5, 2022, the Supreme Court of South Dakota entered an Order (see Supreme Court Rule 22-06) to add a new section to SDCL Chapter 16-18 that mandates sexual harassment prevention training for active members of the State Bar of South Dakota. Supreme Court Rule 22-06 became effective on February 1, 2022 and is codified at SDCL 16-18-1.1. SDCL 16-18-1.1 reads as follows:

**16-18-1.1. Sexual harassment prevention training for attorneys.**

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

At this year's Bar Convention, at 1:00 p.m. Mountain Time, on Thursday, June 23rd, the State Bar will be offering a CLE entitled "*Bystander Involvement: A Proactive Approach to Resolving Sex-based Harassment*". Attendance at and completion of this CLE offering will meet an active member's obligation under the rule for the initial reporting period. Completion of this training also satisfies the judicial training obligation under Rules 22-05/ Rule 22-06. To receive credit for the CLE, members will be required to sign in before the training begins and sign out upon the conclusion of the CLE.

For those members unable to attend the "Bystander Involvement" training in person at this year's convention, an online remote training will be available on the State Bar's website beginning in July of 2022. Completion of the online remote "Bystander Involvement" training will also meet a current active member's training obligation under SDCL 16-18-1.1, for the first reporting period, if completed before February 1, 2024.

Please contact me or Bar staff if you have any questions.

Andrew Fergel  
Executive Director

# 2022 State Bar Convention Events

## CLE

[Register »](#)

ALPS/ETHICS  
WITH  
ROBERT MINTO



### ALPS/Ethics

☑ Wednesday 1 PM CLE Choice:

#### Speakers

- **Robert W. Minto, Jr. - ALPS Board Chair**

#### Summary

ALPS/Ethics with Robert Minto

ELECTION LAW UPDATES  
WITH  
• KEA WARNE  
• SARA FRANKENSTEIN  
• RICH WILLIAMS

### Election Law Updates

☑ Wednesday 1 PM CLE Choice:

#### Summary

Election Law Updates with Kea Warne, Sara Frankenstein, and Rich Williams

IN-HOUSE COUNSEL PANEL  
COMMON HANDBOOK/  
COMPANY POLICY DRAFTING  
ISSUES

### In-House Counsel Panel

☑ Wednesday 3:30 PM In-House Counsel Panel

#### Summary

Common Handbook/Company Policy Drafting Issues



### Early Bird

☑ Thursday 6:30 AM Early Bird

#### Summary

Early Bird



### Legal Writing with Kirsten Davis

☑ Thursday 8 AM Legal Writing CLE

#### Summary

Over 270 bar members responded to a survey asking them to help design a CLE to meet your needs. Based on that survey, the CLE will include a variety of lessons on how to • Write more persuasively and with greater ability to influence thought and action; • Write more clearly by making better choices about organization and language; • Write more effectively for online audiences; and • Write with more awareness about how your writing shapes how others perceive you.



**BYSTANDER INVOLVEMENT:  
A PROACTIVE APPROACH TO  
RESOLVING SEX-BASED  
HARASSMENT**

## Bystander Involvement: A Proactive Approach to Resolving Sex-based Harassment

📅 Thursday 1 PM Bystander Involvement CLE

### Summary

Completion of this training meets the requirements of Supreme Court Rule 22-06

**COURT SECURITY:  
WHAT A LAWYER  
NEEDS TO KNOW**

## Court Security: What a Lawyer Needs to Know

📅 Thursday 3:30 PM Court Security CLE

## SOCIAL



## Not a Black Tie Affair II

📅 Wednesday 7 PM Not a Black Tie Affair II



## Access to Justice Golf Tournament

📅 Thursday 8 AM Access to Justice Golf Tournament

### Summary

The Golf Club at Red Rocks Rapid City, SD



## Access to Justice Golf Tournament

📅 Thursday 2 PM Access to Justice Golf Tournament

### Summary

The Golf Club at Red Rocks Rapid City, SD

**Additional Social Events will be added to social media as we have more information, and will be advertised in the June Newsletter.**

**Register »**

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

---

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

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

Address \_\_\_\_\_

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

*I would like to contribute:*

☐ in Lump Sum   ☐ Annually   ☐ Semi-Annually   ☐ Quarterly   ☐ Monthly

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

### In Memoriam

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

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

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

Or you can email this form to:

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

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



## Minimize Meetings for Greater Effectiveness

*by Mrg Simon*

As a group, many of us lawyers spend an inordinate amount of time in meetings of all kinds. Some are necessary and help advance issues, but far more are tedious, rambling, and time-consuming, not to mention that many may be of little relevance. When it comes to organizing your office life, managing your meeting time should be a significant priority. The more time you spend in meetings, the more essential it is that your time is being used in the most effective way possible. Unfortunately, many people who schedule and attend meetings are on autopilot, and there's little time management to the tedium that meetings have become.

One of the foundations of organizing your office so that your daily work matches the ideal vision you have for your practice of law is taking a hard look at your schedule and saying "No" to useless and time-consuming meetings on your schedule and demand more accountability for those that are necessary. As psychologist Brene' Brown is known to say, 'a moment of discomfort is better than hours of regret.' It might be difficult to turn down a meeting request or bow out

of one you're already committed to, but it's better than living with the resentment over the amount of your time that has been wasted while you could have been preparing for a hearing or working on a pleading.

How do you do that, especially when it's a long-standing regular and mandatory meeting? If, for example, your staff meetings cover everything from this week's trial schedule to who's responsible for ordering toner and who arrived late, there's a lot of valuable time being wasted. Approach the meeting leader with an objective and well-thought-out list of the meeting items that are "musts" for you (and the other attorneys in the office) and those that are completely out of your scope of work that come up regularly at the staff meetings. Better yet, ask the meeting leader for an agenda for each week's meeting along with his or her desired outcome(s) of the meeting.

Whoever is leading the meeting – including you – should have a clear agenda distributed in advance, and the participants should know what is expected of each



of them at the meeting so that they can come prepared (to maximize efficiency). That allows you to objectively identify who is needed and who is not. Perhaps suggest breaking the meeting into smaller groups to address like issues, or even a 10-minute Teams or Zoom call to address the pressing issues. And don't include any issues that should be addressed one-to-one instead of at a group meeting; if it's not relevant to the whole group, just have a short conversation in private.

Finally, when invited to a meeting, don't automatically accept the invitation. Ask the organizer if your attendance is necessary based on the agenda (request an agenda if there is none). Further, don't assume that you have to take the meeting at the proposed time. If you have a conflict – personal or otherwise – you have the right to suggest a different time so that you can meet all of your obligations in a balanced way. Finally, don't be afraid to suggest that an email exchange can serve the same purpose and explain your position or proposal. The organizer may just thank you!

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

**Take it from someone who's been there: when you start losing things in your office, it's time to call in help!**

Clear your cluttered office with an experienced and professional organizer, who's also a fellow lawyer.



*Mrg Simon*

Mrg Simon, J.D.  
Certified KonMari™ Consultant  
[mrg.simon@designed2stick.com](mailto:mrg.simon@designed2stick.com)

Contact Mrg for a free consultation at 605-929-1493

## 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***



# Thank You

For your contributions towards the bronze statue of former Governor Coe Crawford!

## Contributors:

Pierre lawyer Jason Glodt and family, as owners of the building and Curt and Kimberly Mortenson of Ft. Pierre have each become one quarter Sponsors of the Crawford statue.

Members of the State Bar of South Dakota have sponsored one quarter of the cost.

Davenport, Evans, Hurwitz  
& Smith, LLP of Sioux Falls

Lori Wilbur of Sioux Falls

Robert C. Riter, Jr. of Pierre

Sandy Zinter of Pierre

South Dakota State's  
Attorneys Association of Pierre

Bill Van Camp, Jr. of Pierre

Bob and Kim Hayes of Sioux Falls

Andy and Shirley Fergel of Pierre

Ron Schmidt and Chuck Schroyer, formerly of the Firm Schmidt, Schroyer, Colwill, Zinter & Barnett, PC of Pierre, in Memory of their deceased former partners, Gary F. Colwill & Steven L. Zinter.

All donors are also individually recognized on the Trail of Governors website: [www.TrailofGovernors.com](http://www.TrailofGovernors.com).



The life sized bronze statue of former Governor Coe Crawford, Sixth Governor of South Dakota, 1907 – 1909, and accomplished lawyer was unveiled in June, 2021 and is now permanently displayed on the Trail of Governors near the entrance of the State Bar headquarters located directly across from the Hughes County Courthouse in the historic Hyde Block building on Capitol Avenue in Pierre.

Pierre lawyer Jason Glodt and family, as owners of the building and State Bar members Curt and Kimberly Mortenson of Ft. Pierre have each become one-quarter Sponsors of the Crawford statue.

To include “Members and Friends of the State Bar of South Dakota” as an additional Sponsor and be included on the bronze plaque that will accompany the statue,

\$18,000 will have to be raised. Bar members, Law firms, and friends of the Bar have thus far contributed over \$6,000 toward this goal. The names of all donors will be included on a plaque to be installed inside the Bar headquarters. A Bar member has also offered to match additional contributions from State Bar members and friends to complete the one-quarter Sponsorship. Donors may choose to honor former partners of their firms.

To date, those individual Bar Members, firms and friends of the Bar who have made tax free contributions to the State Bar Sponsor effort include the following:

- Davenport, Evans, Hurwitz & Smith, LLP, Sioux Falls
- Andy and Shirley Fergel, Pierre
- Bob and Kim Hayes, Sioux Falls

- Robert C. Riter, Jr., Pierre
- South Dakota State's Attorneys Association
- Bill Van Camp, Jr., Pierre
- Lori Wilbur, Sioux Falls
- Sandy Zinter, Ft. Pierre
- Ron Schmidt, Rapid City and Chuck Schroyer, Pierre, formerly of the firm of Schmidt, Schroyer, Colwill, Zinter and Barnett, PC, in memory of their deceased partners, Gary F. Colwill and Justice Steven L. Zinter.

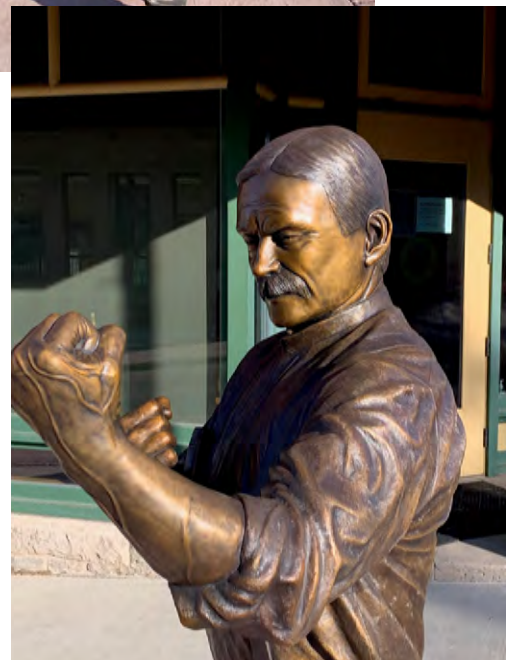
All donors are individually recognized on the Trail of Governors website: [www.TrailofGovernors.com](http://www.TrailofGovernors.com).

Contributions should be made to the Trail of Governors Foundation and may be sent to the State Bar, 111 W.

Capitol Ave. #1, Pierre, SD 57501 or to the South Dakota Community Foundation, Box 296, Pierre, SD 57501. Please note "State Bar/Crawford" on checks.

On June 17, 2022 at 10:00 AM the public is invited to attend the unveiling of the last three statues of South Dakota's 31 former Governors in the Capitol Rotunda, completing the initial phase of the Trail of Governors until the next former Governor will be honored.

If you have any questions, please contact retired bar member Chuck Schroyer who serves on the Board of the Trial of Governors at 605 280-2623.





The Public Sector Section is publishing their bylaws for section members to review and vote on all amendments at their annual meeting in June.

---

**BYLAWS OF  
THE PUBLIC SECTOR LAWYERS SECTION OF THE  
STATE BAR OF SOUTH DAKOTA**

**PREAMBLE**

These Section Bylaws are adopted subordinate and subject to the bylaws of The State Bar of South Dakota, pursuant to the authority granted therein as well as written statements of Policy or procedure issued by the Board of Bar Commissioners of The State Bar of South Dakota. The bylaws of The State Bar of South Dakota and the written statements of policy and procedure issued by the Board of Bar Commissioners shall take precedence over any inconsistent provision appearing in these Section Bylaws.

**ARTICLE I.  
NAME**

The name of this Section of The State Bar of South Dakota shall be THE PUBLIC SECTOR LAWYERS SECTION OF THE STATE BAR OF SOUTH DAKOTA (hereinafter referred to as the "Section").

**ARTICLE II.  
PURPOSE**

The general purpose of the Section shall be to foster the identification, discussion, and interchange of ideas relative to the interests, rights, duties, responsibilities, and concerns unique to public sector lawyers of the State of South Dakota; to aid and promote the advancement of public sector lawyers and encourage their interest and participation in the activities of South Dakota and the State Bar; to continue to encourage the State Bar of South Dakota to be responsive to the needs of public sector lawyers ; to promote the activities of the State Bar of South Dakota; and to further the purpose and objectives of the State Bar of South Dakota. Some of the identified specific purposes are as follows:

- A. To engage in and conduct education and related programs of interest and value to public sector lawyers (member service) and the general public (public service);
- B. To improve the image of the legal profession and advance the role of the legal profession in serving the public;
- C. To sponsor and promote scholarship in the legal profession among public sector lawyers;
- D. To communicate through the State Bar Newsletter, the Annual Meeting Program, the Public Sector listserv and otherwise with members of the Section and the State Bar of South Dakota; and

- E. To serve as a communication conduit for the State Bar of South Dakota, subject to appropriate authorization.

### **ARTICLE III.** **MEMBERSHIP**

- B. **QUALIFICATION FOR MEMBERSHIP**: Membership in this Section shall be open to all active members of The State Bar of South Dakota who are in good standing, and who routinely represent, provide legal counsel to, or are employed, full time or part-time, by federal, state, tribal, local, or other governmental entities.
- C. **REQUEST FOR MEMBERSHIP**: A qualified lawyer may become a member of the Section by requesting their inclusion in the Section each spring through the Committee and Section Preference process.

### **ARTICLE IV.** **OFFICERS**

- A. **COMPOSITION**: The officers of the Section shall be President, Vice-President, and Secretary.
- B. **ELECTION OF OFFICERS**: Election of the officers of the Section shall take place at the Annual Section Meeting. Any member of the Section is eligible for the position of an Officer of the Section. A member of the Section may place their name in nomination for an office of the Section by providing the Section President with a written statement of the member's intent to seek that office, at any time. Candidates for officers may also be nominated from the floor at the Annual Section Meeting. Officers shall be elected by simple majority vote of the Section members present at the Annual Section Meeting. Vacancies in any office shall be filled by appointment of the Section's Board of Directors until the next Annual Section Meeting.
- C. **TERMS**: The term of each officer shall be for two years commencing at the conclusion of the Annual Meeting of the State Bar of South Dakota at which they are elected in the Annual Section Meeting. Duly elected qualified and acting officers shall hold office until their successors are elected. Officers may serve no more than two terms of two years each. If an officer fills an empty office they may serve two additional two year terms following the expiration of the term filled.
- D. **OFFICE OF PRESIDENT**: The President shall plan and supervise the agenda and programming of the Section during their term, subject to the direction and approval of the Section Board of Directors. They shall keep the Section's Board of Directors and members informed of all decisions and activities of the Section. The President shall schedule and preside at all regular meetings of the Section and shall serve in the capacity of Chair of the Section Board of Directors, being an ex-officio member voting only as necessary to break a tie vote of the Section Board. The President shall serve as one of

the principal liaisons between the Section and the State Bar of South Dakota Board of Bar Commissioners. The President shall perform such other duties and acts as necessary to carry out the functions of their office, or as may be designated by the Bar Commissioners, Executive Director, and/or Section Board of Directors.

- E. VICE-PRESIDENT: The Vice-President shall aid the President in the performance of their duties and responsibilities in such manner and to such extent as the President and/or the Section Board of Directors may prescribe. The Vice-President shall perform such further duties or acts as necessary to carry out the functions of their office, or as may be designated by the President and/or the Section Board of Directors. In case of death, resignation, temporary or permanent incapacity or disability of the President, the Vice-President shall perform the duties of the President for the duration of the President's term or the duration of the President's incapacity or disability.
- F. SECRETARY: The Secretary shall keep the minutes and records of all meetings of the Section and the Section Board of Directors. The Secretary shall keep a role of the Section's members, shall attend to correspondence, shall issue all required notices of Section meetings, and shall generally consult with and assist all officers of the Section in the manner and to the extent they may request. The Secretary shall be the liaison between the Section and the State Bar of South Dakota regarding the retention and maintenance of books, papers, documents and other property pertaining to the work of the Section. The Secretary shall review and approve all requests for reimbursement from Section officers, members of the Section Board of Directors and of the Section.

## **ARTICLE V.** **BOARD OF DIRECTORS**

- A. COMPOSITION: The Section shall be governed by a Board of Directors. The Board of Directors shall consist of the President, Vice-President, Secretary, and four at-large Section members. All Board of Director members shall be voting members, except for the President who shall preside over all board meetings and only vote as necessary to break a tie.
- B. TERMS: The term of each member of the Board of Directors shall be for two years commencing at the conclusion of the State Bar of South Dakota Annual Meeting at which they are elected in the Annual Section Meeting. Duly elected qualified and acting board members shall hold office until their successors are elected. The members of the Board of Directors may not serve on the board more than four consecutive years unless elected as an Officer of the Section. Two at-large board positions will be filled in odd numbered years and two will be filled in even number years, beginning with two positions being filled for a two-year term in June 2022. For the remainder of 2022, the other two at large positions will remain until June 2023, where a two year position will be elected.
- C. FUNCTIONS: The Board of Directors shall manage and control the affairs of the Section subject to the State Bar of South Dakota bylaws, rules, regulations, policies and procedures. Between Annual Section Meetings, the Board of Directors shall have the full



power to implement programming to serve the Section purpose, except if such programming was determined by the Section membership to no longer serve the Section purpose during the Section Annual Meeting. The Board of Directors shall assist and cooperate with the officers, Bar Commission, committees, and staff of the State Bar of South Dakota.

- D. MEETINGS: The Board of Directors may set meetings throughout the year to conduct Section business and fulfill the Section purpose. Any and all action taken by the Board of Directors shall be reported to the Section members by sharing meeting minutes and presented at the next Annual Section Meeting.
- E. QUORUM: A simple majority of the Board of Directors (i.e. four) present at any board meeting shall constitute a quorum for the transaction of business.
- F. RULES OF ORDER: Except as otherwise provided, meetings shall be conducted in accordance with commonly accepted rules of parliamentary procedure, with Roberts Rules of Order serving as reference for such rules.
- G. ELECTIONS: Election of the Board of Directors shall take place at the Annual Section Meeting. Any member of the Section is eligible for the position of director of the Section. A member of the Section may place their name in nomination for Director by providing the Section President with a written statement of the member's intent to seek that position at any time. Candidates for Directors may also be nominated from the floor at the Annual Section Meeting. Directors shall be elected by simple majority vote of the Section members present at the Annual Section Meeting. Vacancies in the Board of Directors shall be filled by appointment of the Section's Board of Directors until the next Annual Section Meeting.

## **ARTICLE VI** **MEETINGS**

- A. ANNUAL SECTION MEETING: The regular annual meeting of the Section shall be held each year at the same time and place as the annual meeting of the State Bar of South Dakota. Annual elections shall take place at the Annual Section Meeting. Written notice of the time, date, and location of the Annual Section Meeting, a description of the positions on the Section Board of Directors and Section Officers which are subject to election, a statement that candidates may be nominated from the floor, and a description of other business scheduled to be conducted at the Annual Section Meeting, shall be provided electronically to Section members immediately prior to the month in which the Annual Section Meeting occurs. The members of the Section present at the Annual Section Meeting shall constitute a quorum for the transaction of all Section elections and business. Action of the Section shall be conducted by simple majority vote of the Section members present at the Annual Section Meeting.
- B. ANNUAL MEETING ORDER OF BUSINESS: The order of business shall be as follows: outgoing President's report; Vice-President's state of the state address; report of

the Board of Directors; report of any Section Committees; miscellaneous business; nomination and election of officers and Board members.

- C. RULES OF ORDER: Except as otherwise provided, meetings shall be conducted in accordance with commonly accepted rules of parliamentary procedure, with Roberts Rules of Order serving as reference for such rules.

## **ARTICLE VII.** **FINANCIAL MATTERS**

- A. AUTHORITY TO EXPEND FUNDS: No Officer, Board of Director, or Section member, other than the President, or one or more persons expressly designated by the President, shall have the authority to incur any liability, cost, or expense in the name of the State Bar of South Dakota or the Section. The authority of the President to incur liability, cost, or expense on behalf of the State Bar of South Dakota or the Section is limited to the amounts and purposes as funded by the State Bar Board of Commissioners. The State Bar of South Dakota Executive Director shall be the custodian of all Section funds.
- B. MEMBERSHIP FEES: There shall be no Section membership fees unless the Section membership requests the Section Board of Directors to petition the Bar Commission to establish a Section membership fee. Such a request by the Section members shall be made by majority vote at an Annual Section Meeting. The Bar Commission may approve, amend, or reject the establishment of Section membership fees.
- C. Section Expenses: Section expenses shall be handled pursuant to any policy and/or process adopted by the Board of Directors so long as they are in accordance with established State Bar of South Dakota policy regarding Section expenses and reimbursement.

## **ARTICLE VIII.** **COMMUNICATIONS**

- A. COMMUNICATIONS WITH SECTION MEMBERS: It shall be the duty and responsibility of the Section officers and Board of Directors to regularly communicate Section activities through the State Bar of South Dakota Newsletter, Annual Meeting program, Section Listserv or other means as necessary. Minutes of each meeting of the Board of Directors shall be delivered promptly to the State Bar of South Dakota Executive Director and to the Section Board of Directors.
- B. REQUESTS FOR ACTION BY THE BAR: Whenever the Section desires to request action by the Bar Commission, the requested action shall be adopted by majority vote of the Board of Directors and appear in the Board's minutes. The requested action shall be submitted in a letter accompanying the minutes, directed to the State Bar President, in care of the Executive Director. If the vote on the requested action is not unanimous by the Section's Board of Directors, the number of votes for and against the requested action

shall be set forth in the minutes, along with an opportunity for dissenting members of the Board of Directors to set further their position.

- C. ANNUAL REPORT: The Section President shall file a concise, written report summarizing the activities of the current year, a description of any anticipated activities for the ensuing year, and the full text of any proposed action, as well as any necessary documentation explaining the basis for the proposed action, with the Executive Director no later than May 1 of that year.

#### **ARTICLE IX.** **AMENDMENTS**

These Bylaws may be amended at any Annual Section Meeting by majority vote, provided, however, that such proposed amendment(s) shall first have been approved by a majority vote of the Section Board of Directors. Advance publication of such proposed amendment(s) shall be provided to each Section member through publication in the State Bar Newsletter at least thirty days prior to the Annual Section Meeting. Any amendment(s) to the Bylaws adopted at an Annual Section Meeting shall not become effective until finally approved by the State Bar of South Dakota Bar Commission.



# United States District Court

## District of South Dakota

Office of the Clerk  
Room 128, Federal Building & U.S. Courthouse  
400 South Phillips Avenue  
Sioux Falls, South Dakota 57104

Matthew W. Thelen  
Clerk of Court

Telephone  
605.330.6600

**PUBLIC NOTICE**  
**FOR REAPPOINTMENT OF INCUMBENT MAGISTRATE**  
**JUDGE**  
**March 16, 2022**

The current term of office of United States Magistrate Veronica L. Duffy, in Sioux Falls, South Dakota, expires on October 15, 2022. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of Magistrate Judge Duffy to a new eight-year term.

The duties of a magistrate judge in this court include the following:

(1) conducting most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conducting various pretrial matters and evidentiary proceedings on delegation from a district judge; and (4) trial and disposition of civil cases upon consent of the litigants.

Comments from members of the bar and the public are invited as to whether Magistrate Judge Veronica L. Duffy should be recommended by the panel for reappointment by the court. Please mail comments by May 14, 2022 to:

Matthew W. Thelen,  
Clerk of Court  
United States District Court  
400 South Phillips Ave.  
Sioux Falls, South Dakota 57104  
[Matt\\_Thelen@sdd.uscourts.gov](mailto:Matt_Thelen@sdd.uscourts.gov)

# BOARD OF BAR COMMISSIONERS

Minutes, January 7, 2022

Hotel on Phillips

Sioux Falls, South Dakota

President William Garry called the meeting to order at 9:00 a.m. Central Time on Friday, January 7, 2022, in Sioux Falls, South Dakota. Present at the meeting were Garry, President Elect Lisa Marso, Commissioners, Aasen (via Zoom), Christensen (via Zoom), Dougherty, Johnson, Kempema, King (via Zoom), Pickar (via Zoom), Richter, Roby, Skjoldal (via Zoom) and Trefz. Also, present during all or part of the meeting were Executive Director/Secretary-Treasurer Andrew Fergel, Strategic Plan Coordinator Elizabeth Overmoe, Assistant Director Nicole Ogan, Access to Justice, Inc. Coordinator Denise Langley (via Zoom), and LAP Director Rebecca Porter (via Zoom).

Minutes of December 15, 2021, Meeting: Commissioner Pickar moved to approve the minutes of the December 15, 2021, meeting held via Zoom. Commissioner Kempema seconded the motion. Motion passed.

Strategic Plan Update: Strategic Plan Coordinator Elizabeth Overmoe gave a short update on upcoming work of the State Bar's Strategic Plan Committee that includes an upcoming retreat on May 20, 2022, in Sioux Falls that will focus on "Pathways" to the legal profession.

Mid-year Committee and Section Reports: Ms. Overmoe provided a synopsis of the mid-year reports that were submitted to the Commission from the Bar's committees and sections. Thereafter, a discussion followed about the work of the committees and sections, the number of committees, and whether there was an opportunity to better utilize our member volunteers through restructuring. Based upon the discussion, Commissioner Dougherty made a motion to have President Garry appoint a subcommittee of the Board to analyze the current number of committees and structure and make recommendations for restructuring. Commissioner Trefz seconded the motion. Motion passed.

South Dakota Servicemembers Civil Relief Act Legal Guide: Ms. Overmoe informed the Commission that the State Bar of South Dakota Veterans Committee completed its work producing a Servicemember Civil Relief Act Guidebook over the past few years. She reported that the Committee worked with law students, professors, attorneys, and members of the judiciary to complete the project. She noted that the completed guidebook was made part of the Commission's meeting materials and that the forward for the guidebook was written by Gregory M. Huckabee, Associate Professor of Business Law at the USD Beacom School of Business. Professor Huckabee was the U.S. Army judge advocate representative and chair of the SSCRA

and SCRA Task Forces.

Lawyers Assistance Program Report: Lawyers Assistance Program Director Rebecca Porter reported on the activities of the LAP program and her work for the program since her last report. Ms. Porter's thorough oral report was supplemented with a written report that was included in the Board's meeting materials.

Financial Report: Fergel and Ogan presented a financial report to the Commission that included information about fund balances in all the operational accounts for the State Bar of South Dakota, SD CLE, Inc., and Access to Justice, Inc.

D/O Liability Insurance and Employment Practices Insurance: Fergel gave an overview of the insurance coverages currently in place for the State Bar and officers and directors of the State Bar. A discussion was then held concerning a quote, provided to the Commission in its meeting materials, for employment practices liability insurance and officer/director insurance. After reviewing the quote, several Commissioners had questions about whether the quoted policy would cover them in their roles as directors of SD CLE Inc. and Access to Justice, Inc.; therefore, no action was taken by the Commission. Fergel informed the Commission that he would get back in touch with the producer to get answers to the questions the Commission had.

2022 Legislative Session: Fergel gave a report about what the Bar would be working on during the upcoming 2022 legislative session and the potential bills he has been hearing about that the Bar may be asked to weigh in on.

Court Appointed Attorney Fees and Mileage: Fergel provided information to the Commission about how the court appointed attorney hourly rate and the mileage allowance are set along with the Court Appointed Attorney Guidelines, and current statutes related to court appointments and the court appointed attorney and public defender payment fund. A discussion followed about how the current hourly rate for court appointments may be inadequate and how the Bar might facilitate a discussion about potentially raising the rate. Fergel stated that he would seek to visit with the Chief Justice about the potential for appointing a working group of stakeholders to work on the issue.

Bar Commissioner Positions Up for Election at Annual Meeting in June: President Garry informed the Commission that commissioner positions for Circuits 1, 2, 3, 6, and 7 will be up for election at 2022 annual meeting in June. He asked that current commissioners look for candidates that may have an interest in running for the spots now so that the candidates can make an informed decision about whether to run well in advance of the June annual meeting.

Update on Association Healthcare Plan for State Bar: Fergel informed the



Commission that the Bar is continuing to explore an Association Healthcare Plan for the State Bar, its members, and the members' employees. Fergel stated that the producer working on developing the plan had to switch providers and that the producer would be meeting with new potential provider in the coming week.

State Bar of South Dakota to Host Jackrabbit Bar Conference in 2022: Fergel reminded the Commission that the dates the South Dakota State Bar will host the Jackrabbit Bar Conference in 2022 are June 2<sup>nd</sup> through June 4<sup>th</sup>. He informed the Commission the conference would be hosted in Deadwood, South Dakota, with the host hotel being the SpringHill Suites by Marriott. He also noted that program and event planning for the conference was well on its way.

Transitioning In-House Committee to Section Starting August 1, 2022: Nicole Tupman, Chair of the In-House Counsel Committee, met with the Commission to discuss transitioning the committee to a section. Ms. Tupman, as part of the discussion, provided proposed bylaws for an In-House Counsel Section developed by the In-House Counsel Committee in anticipation of becoming a section. After, Ms. Tupman's presentation advocating for the committee to become a section, she answered several questions presented by the Commission. Thereafter, a motion was made by Commissioner Kempema to transition the In-House Counsel Committee to an In-House Counsel Section, effective August 1, 2022, the beginning of the Bar's next fiscal year. Commissioner Dougherty seconded the motion. Motion passed.

There being no further business, Commissioner Johnson made a motion to adjourn the meeting. The motion was seconded by Commissioner Kempema. The motion passed and the meeting was adjourned.

Respectfully submitted,

Andrew L. Fergel  
Executive Director/Secretary-Treasurer

BOARD OF BAR COMMISSIONERS  
Minutes, February 16, 2022  
Meeting Held by ZOOM

President Bill Garry called the meeting to order at 9:00 a.m. Central Time on Wednesday, February 16, 2022. Present were President Garry, President Elect Lisa Marso, Commissioners Foral, Kempema, King, Pickar, Richter, Skjoldal, and Trefz. Also, present were Secretary-Treasurer Andrew Fergel and Strategic Plan Coordinator Beth Overmoe.

Minutes of January 7, 2022, Bar Commission Meeting: Commissioner Pickar made a motion to approve the minutes of the January 7, 2022, Bar Commission meeting. Commissioner Kempema seconded the motion. Motion passed.

Executive Director's Report: Executive Director Fergel gave a report on the items he and staff have been working on since the January 7, 2022, Bar Commission meeting.

Legislative Update: Fergel updated the Commission on the progress of the legislation the State Bar was supporting and the legislation it was opposing during the 2022 Legislative Session.

Association Healthcare Plan: Fergel informed the Commission that Dan Maguire would be attending the Commission's meeting on April 22, 2022, to answer questions from the Commission about association healthcare plans. While there, he will present several plan options with proposed rates that will be available for selection by the Commission in formulating an association plan.

Sexual Harassment Prevention Training: Fergel reported that since the Supreme Court's adoption of Rules 22-05 and 22-06, that mandate sexual harassment prevention training for lawyers and judges, the State Bar and the UJS have been working together to develop training that will allow judges and Bar members to meet the requirements under the rules. As part of that work, the Bar and UJS have engaged in contract talks with Lynn Bowes-Sperry, an Associate Professor of Management at California State University, to provide in-person training sessions and prepare content to produce a video for the purpose of providing remote sexual harassment prevention training to those that are unable to attend the in-person sessions. Completing an in-person session or the remote video training would meet a Bar member's or judge's obligation under the rules. Fergel informed the Commission that the recommendation was to have the Bar and UJS execute separate contracts with Ms. Bowes-Sperry and that the Bar contract would provide for one in-person training session during the State Bar Convention at \$2,800.00, video preparation and production at \$4,500.00, plus reimbursable costs for one day of meals, half the cost of one flight to and from Rapid City, and one night of lodging. Fergel then request that the Commission consider a motion to approve the proposed training and authorize

him, as Secretary/Treasurer of the State Bar of South Dakota and SD CLE Inc., to execute a contract with Ms. Bowes-Sperry, in an amount up to \$10,000.00, for the purpose of providing one session of in-person sexual harassment prevention training at the State Bar Convention in June of 2022 and preparing and producing a video to provide for remote sexual harassment prevention training. Thereafter, President Elect Marso made the motion as requested. Commissioner Trefz seconded the motion. After a brief discussion, the motion passed.

Other Topics Discussed: During the meeting, the Commission reviewed the election process for State Bar commissioners and discussed how to recognize the work of outstanding volunteers, section chairs, and committee chairs.

Adjourn: Commissioner King made a motion to adjourn the meeting. Commissioner Pickar seconded the motion. The motion passed and President Garry adjourned the meeting.

Respectfully submitted,

Andrew L. Fergel  
Secretary-Treasurer

#### 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.*



*Civil Rights Queen: Constance Baker Motley  
and the Struggle for Equality*  
by Tomiko Brown-Nagin (2022)

Reviewed by Jim Leach<sup>1</sup>

Constance Baker Motley is probably the least well-known giant of twentieth-century American law. The daughter of immigrants, she grew up poor, as one of twelve children. Her West Indies heritage made her a “Negro.” In 1940, when she began college, only 24% of Americans had graduated from high school. A tiny percentage of people with skin color like hers had graduated from college, and far fewer still had professional degrees. Of those, 98% were men. Only about a hundred Black women practiced law in the entire United States.

Motley went on to graduate from Columbia Law School, then became a central figure in the civil rights movement, working alongside Thurgood Marshall in the small but astonishingly effective NAACP Legal Defense Fund. She risked her life representing Black people in the deepest South. She argued ten cases before the United States Supreme Court, winning nine. At age 44, she was the first Black woman ever to become a federal judge. She had a

---

<sup>1</sup>Member, State Bar Lawyers’ Committee on Diversity and Inclusion. I wrote this review at the request of the LCDI. All opinions are my own.

distinguished career on the bench of the Southern District of New York. And she made a marriage that lasted 59 years until her death in 2005, and raised a fine son.

But this book is not just about an extraordinary person or her extraordinary achievements. It is about issues that lawyers and judges still face.

One of those issues is how each of us deals with fear, and what courage we show, or fail to show, in our personal and professional lives. None of us is likely ever to have to go to court knowing, as Motley sometimes did, that an assassin's bullet might cut down our client or us. But we all may face the risk of professional disapproval if we go beyond what is considered customary in who we represent, how we represent them, what issues we raise, and how hard and far we pursue those issues.

This book examines how Motley, as a Black woman, was viewed, and how it affected her career. Some of the highest professional positions she might have reached eluded her largely because she was a woman. These include head of the NAACP Legal Defense Fund when Thurgood Marshall left to become a Second Circuit judge, and potential appointment herself to the Second Circuit or even the United States Supreme Court. The question for us is how lawyers of

color, and women lawyers, are viewed in our bar, and how it affects possible opportunities for them.

Few lawyers of any color or gender have argued ten cases before the United States Supreme Court and won nine, or tried and won pathbreaking cases she tried to frankly racist judges. Yet even when Motley was nominated for and took the federal bench, many viewed her as unqualified. These were not just misogynists and racists. They included many of the lawyers, all white and male, at the highest levels of the New York City bar.

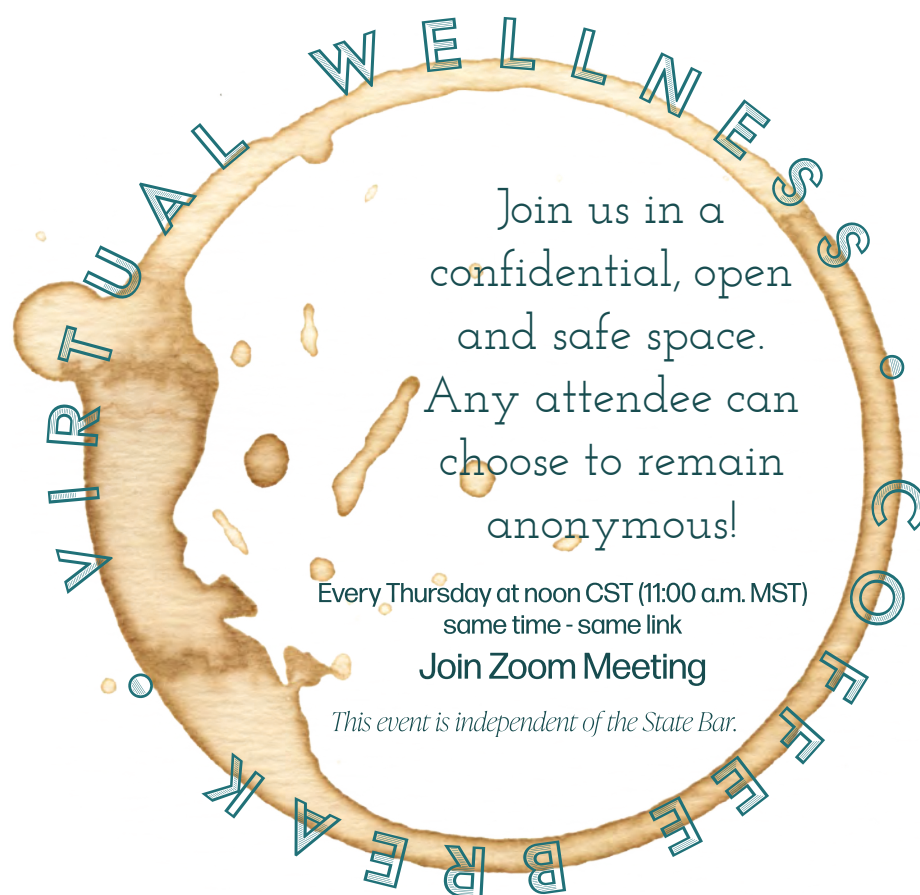
Today, this book leads us to wonder how Justice Ketanji Brown Jackson will be viewed. Some, no matter what she does, will see her only as the fulfillment of a campaign promise, rather than as a supremely talented lawyer, as well as a start at balancing the scales of justice after 233 years of nationhood without a Justice who is Black and female, or any Justice who has worked as a public defender.

Finally, this book allows us to ask ourselves whether in our brief time on this earth, we are doing the best we can with what we have. Today is different than when Motley grew up, but South Dakota has no shortage of social issues. These include the status, living conditions, and future of Native people, both on



and off reservations; the integration into our society of new immigrants who have joined the 90% of South Dakotans whose families were earlier immigrants; the scourge of poverty, especially among children, whose bodies and minds are being formed while they do not have enough to eat; the ongoing disparity in pay between women and men; and our increasingly and frighteningly polarized society.

I hope you read this book. I hope I have done it at least some justice. For me, the pages flew by, and I had to make myself stop reading to get to bed at a reasonable hour. This book is not only educational and inspiring, it's exciting.



# ***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)



## **Governor's Office-Deputy General Counsel, Pierre**

### **Job Description:**

The Governor's Office of the General Counsel is seeking a deputy general counsel to work closely with the General Counsel and policy advisors to provide legal assistance on a wide variety of topics from communicating legal advice to staff, public records, assist with managing litigation, and contract review, to legislative action items and crafting internal policies. The deputy general counsel conducts a great deal of research and writing, including preparing legal and staffing memorandums, and interacts with general counsels of the various state agencies. Candidates must be self-starters and able to handle a fast-paced work environment. Candidates must also manage their time efficiently, write concisely, and communicate effectively. This is a paid position located in Pierre, South Dakota. Interested candidates may submit resume and cover letter to [Katie.Hruska@state.sd.us](mailto:Katie.Hruska@state.sd.us).

### **Lateral Attorney - Sioux Falls**

BOYCE LAW FIRM, LLP, in Sioux Falls, South Dakota, has an opening its TRUSTS & ESTATES practice area for a lateral attorney with 1-3 years of experience in private practice or relevant experience in the trust industry. Qualified candidates will have a background in estate planning and/or trust administration, superior communication skills, and be highly self-motivated. Boyce Law Firm LLP is a top-rated, multi-specialty law firm. Compensation will be commensurate with education and experience. Benefits include generous 401K, health insurance, annual CLE tuition, professional

dues and memberships and numerous incidentals. Confidential inquiries, including resume and cover letter should be directed to Jennifer Bunkers, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to [jebunkers@boycelaw.com](mailto:jebunkers@boycelaw.com). For more information about Boyce Law Firm, please visit [www.boycelaw.com](http://www.boycelaw.com).

### **Attorney - Sioux Falls**

BOYCE LAW FIRM, LLP, in Sioux Falls, South Dakota, is seeking candidates who have 1-3 years of experience in private practice who are interested in commercial litigation, including construction and real estate matters, and trust and estate litigation. Qualified candidates will have experience in civil litigation and possess superior communication skills. Applicants must be self-starters with a strong desire to learn. Boyce Law Firm LLP is a top-rated, multi-specialty law firm. Compensation will be commensurate with education and experience. Benefits include generous 401K, health insurance, annual CLE tuition, professional dues and memberships and numerous incidentals. Confidential inquiries, including resume and cover letter should be directed to Paul Tschetter, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to [pwtschetter@boycelaw.com](mailto:pwtschetter@boycelaw.com). For more information about Boyce Law Firm, please visit [www.boycelaw.com](http://www.boycelaw.com).

### **Attorney - Sioux Falls**

BOYCE LAW FIRM, LLP, in Sioux Falls, South Dakota, is seeking candidates who have 1-3 years of experience in private practice who are interested in employment law, workers' compensation, and related matters. Qualified candidates will have experience in civil litigation and

possess superior communication skills. Applicants must be self-starters with a strong desire to learn. Boyce Law Firm LLP is a top-rated, multi-specialty law firm. Compensation will be commensurate with education and experience. Benefits include generous 401K, health insurance, annual CLE tuition, professional dues and memberships and numerous incidentals. Confidential inquiries, including resume and cover letter should be directed to Paul Tschetter, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to [pwtschetter@boycelaw.com](mailto:pwtschetter@boycelaw.com). For more information about Boyce Law Firm, please visit [www.boycelaw.com](http://www.boycelaw.com).

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

The Sioux Falls law firm of May & Johnson, P.C. is seeking an associate attorney to focus on business and transactional matters. Experience in private practice is desired. All inquiries will be kept confidential. Send resume and references to: [jbrekke@mayjohnson.com](mailto:jbrekke@mayjohnson.com).

### **Chief Legal Counsel - Pierre**

Job ID: 18995

Agency: Department of Revenue, Legal Division

Location: Pierre

Salary: \$95,484.24 to \$106,091.28 annually, DOE

Pay Grade: L4

Closing Date: Open Until Filled

This is a full-time position with the Department of Revenue. For more information on the Department of Revenue, please visit <https://dor.sd.gov/>.

This position is exempt from the Civil Service Act.

#### **Why the Department of Revenue**

At the Department of Revenue, culture is everything. It's at the heart of what we do for our employees, community, and our customers – the citizens of South Dakota. Our work is driven with a vision to create an open and collaborative environment that provides professional customer service, contributes to a favorable economic climate, and is accountable to the citizens of South Dakota. Sound like a good fit?

As a Department of Revenue employee, here's what you'll experience:

- Innovation – We are always looking for new ways to push forward and evolve
- Professional growth – We provide new challenges for you to tackle and encourage opportunities for you to tap into your strengths and interests to further develop

professionally

- Fit – Get to do what you do best every day
- Collaboration – Ability to work with all divisions within the department as the leader of the Legal team
- Giving back to the community – Opportunities to support local organizations throughout the year

Who we want

- a highly motivated and experienced attorney with a passion for service and desire to make a difference while serving as a senior leader within the department;
- a dedicated individual who will represent the Department of Revenue with strong leadership skills and legal advice on a wide range of highly visible and sensitive issues;
- a leader who will provide direction and guidance to a team of lawyers practicing within a broad range of legal subjects, including, but not limited to: taxation, bankruptcy, Indian law, motor vehicles, alcohol and tobacco regulation, lottery, and gaming.

What you will do

The duties of the Chief Legal Counsel include:

- leading a team of attorneys including one senior attorney and three staff attorneys;
- leading the Investigative Service Bureau team which undertakes fraud investigations and supports all divisions of the department
- litigation;
- legal research and interpretation;
- legal counsel;
- legislation, rulemaking and policies - draft, review, and lobby legislative matters on behalf of the department;
- contract preparation and review;
- hearings and adjudication;
- providing legal advice to the Secretary, Deputy Secretary, and Division Directors of the department;
- acting as a liaison between the department and the Attorney General's office and other stakeholders.

What you need

Education/Licenses:

- graduate of an accredited law school and member of the South Dakota Bar Association.

The ideal candidate will have:

- at least 5 years of experience in government practice or in-house legal department;
- knowledge and experience of litigation practice and strategies;
- excellent communication skills including both verbal and written;



- ability to be a strong strategic and analytical thinker;
- experience leading a team and operating in a fast-paced environment;
- experience in establishing a vision, goals, and objectives for all individuals within the legal division to include personal and professional development;
- ability to embrace organizational culture change and empower employees to be change agents;
- ability to develop and maintain strong relationships with diverse groups.

Equally important will be a strong work ethic and interpersonal skills, discretion, confidentiality, and a positive attitude!

If you enjoy a fast pace, working with a fun group, and are comfortable both implementing and accepting changes, you're going to enjoy this position.

Additional Requirements: To be considered, attach your CV/resume, cover letter, and a writing sample.

Successful applicant(s) will be required to undergo a background investigation. An arrest/conviction record will not necessarily bar employment.

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

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

Must apply online:

You must apply online, emailed resumes or submissions will not be accepted.

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

## Attorney - Rapid City

Credit Collections Bureau is seeking to expand by adding an attorney to join their Rapid City, SD branch. Credit Collections Bureau has been a successful Midwest collection agency for over 30 years, with locations in 3 states. You can join this successful team and continue to provide their clients with excellent results on their accounts receivable needs, while maintaining compliance with applicable laws and regulations.

Requirements include:

- The ideal candidate will have 0-3 years' experience.
- Must be licensed in South Dakota, ability to be licensed in South Dakota, or seeking licensure during the July 2022 Bar Exam.
- Ability and desire to obtain licensure in other states.
- Making court appearances and participate in hearings.
- Ability to conduct legal research and summarize findings concisely.
- Drafting civil litigation pleadings and defend the same.
- Participate in both civil litigation and business and transaction law. A rare opportunity to do both!
- Desire to become an expert in healthcare collections, as well as applicable laws and regulations
- Willingness to take direction from Senior Counsel.
- Must be a team player who is organized and can professionally interact with all staff.

Benefits include: 40-hour work week, competitive salary, and benefits package, matching 401(k), health, dental and vision insurance, and generous PTO package.

To apply, please submit a resume and cover letter by email to [meganbrandriet@cabinet.com](mailto:meganbrandriet@cabinet.com)

## Deputy/Senior Deputy Public Defender - Sioux Falls

GENERAL INFORMATION:

Interested in becoming part of an experienced litigation team that has a high capacity for trials and offers an expansive opportunity for courtroom practice? The Minnehaha County Public Defender's Office is seeking a compassionate Deputy Public Defender/Senior Deputy Public Defender with excellent advocacy skills who is committed to ensuring justice, humanity, and equality to indigent clients appearing in the criminal and juvenile justice system. Our attorneys have multiple jury trials each year and daily courtroom appearances. Apply now to be considered for an opportunity with

access to a vast document library to help you in your criminal defense career and to be surrounded by skilled criminal defense attorneys.

The Minnehaha County Public Defender's Office is a County department responsible for providing legal services to indigent persons in criminal and civil matters in which the law requires the appointment of counsel for any person who cannot afford to retain counsel. The office provides representation in criminal, delinquency, child welfare, mental health, as well as appeals and post-conviction cases related to those matters. We are dedicated to providing advocacy, community-oriented defense, and protecting fundamental constitutional and human rights. The Minnehaha County Public Defender's Office enjoys a reputation for ensuring that attorneys are provided support and skills training in their areas of expertise which includes memberships to the South Dakota and National Association of Criminal Defense Lawyers (SDACDL and NACDL) and National Association for Public Defense (NAPD), registration expenses for CLE's, and State Bar of South Dakota annual dues.

\*\*\*Please attach a cover letter to the online application.\*\*\*

The hiring range is \$3,167.20 - \$3,582.40/biweekly with full earning potential up to \$4,363.20/biweekly.

This posting will remain open until filled. Review of applications begins on Thursday, April 28th, 2022.

SALARY: \$3,167.20 - \$3,582.40 Biweekly  
CLOSING DATE: Continuous

All applications must be submitted by 5:00 p.m. on the date the position closes.

#### EXAMPLES OF DUTIES INCLUDE:

Advocate on behalf of individuals charged with felonies and misdemeanors through all phases of litigation to include pre-trial, trial, and litigating all aspects of the case through disposition. Coordinate efforts with a support team of paralegals and other staff to ensure the responsible handling of a demanding caseload through disposition of the case. Maintain client communications by telephone, office appointments, and institutional visits. Keep client apprised of investigations, negotiations, and court rulings. Appear at regularly scheduled court dockets and appearances related to

an assigned caseload. Conduct legal research and draft motions and pleadings. Interview witnesses. Review legal documents, police reports, transcripts, and related correspondence. Attend professional development training both within and outside the office.

#### MINIMUM QUALIFICATIONS:

Graduation from a college of law and attainment of a Juris Doctorate degree from an accredited law school. Admission by the Supreme Court of South Dakota to practice law in the State of South Dakota or be licensed to practice law in any other state and able to take the next bar examination offered in South Dakota. This opportunity is also open to recent law school graduates who are eligible to sit for the next available South Dakota bar examination. Comparable combination of education and experience may be considered. Possession of a valid driver's license and must maintain a safe driving record with Minnehaha County. Must successfully complete pre-employment background process. Working knowledge of civil and criminal law, court procedures, and the principles and practices of legal research. Ability to work with a diverse population and be attentive to the needs of the clientele. Working knowledge of the principles, methods, materials, and practices utilized in legal research. Working knowledge of general law and established precedents. Ability to speak and write effectively in the preparation and presentation of legal matters. Ability to maintain effective working relationships with co-workers, clients, other agencies, and the public. Ability to maintain professional appearance and demeanor. Consideration for appointment as a Senior Deputy Public Defender requires a minimum of two years of relevant work experience.

#### PREFERRED QUALIFICATIONS:

Demonstrates a commitment to working with the indigent accused and to providing social advocacy to the clientele served by the Public Defender's Office.

Minnehaha County is an Equal Opportunity Employer and does not discriminate on the basis of race, color, creed, religion, national origin, citizenship, ancestry, gender, gender identity, sexual orientation, marital status, pregnancy, age, disability, veteran's status, genetic information, or any other protected group in accordance with state and federal law. Arrangements for accommodations required by disabilities can be made by contacting Human Resources at (605) 367-4337.

APPLICATIONS MAY BE FILED ONLINE AT:  
<http://jobs.minnehahacounty.org>

OUR OFFICE IS LOCATED AT:

415 N Dakota Avenue

Sioux Falls, SD 57104

605-367-4337

[jobs@minnehahacounty.org](mailto:jobs@minnehahacounty.org)

Job #22-49

DEPUTY/SENIOR DEPUTY PUBLIC DEFENDER

MB

### **Wealth Management Sr Officer - Brookings**

GRADE: 7

**OVERALL FUNCTIONS:** The Senior Trust Officer (STO) is responsible for the administration and overall client relationship management of a book of trust and investment agency accounts in accordance with the terms of the governing instruments and state and federal laws. The STO will develop trust and investment prospects as well as focus on the retention of existing business for the bank and Wealth Management Services (WMS). Working in conjunction with the Manager of WMS, the Senior Trust Officer will provide leadership and act as a mentor to other Officers as it pertains to trust administration, estate planning, and changes to fiduciary law.

**QUALIFICATIONS:** The Senior Trust Officer will have a bachelor's degree and five years of prior trust and/or investment experience or the equivalent. A Juris Doctorate is preferred but not required. It is required that this person complete advanced training as a Certified Trust and Financial Analyst or Certified Wealth Strategist. The STO will possess an understanding of laws and regulations governing the administration of trust and estate accounts. The STO will have a good understanding of investments, asset allocation, and financial planning techniques. This person will have strong communication skills to enable effective communication and interaction with fellow staff, clients, and the general public.

**PRINCIPAL RESPONSIBILITIES ARE TO:**

1. Administer a book of accounts in accordance with the terms of the governing document and departmental policies and procedures. Monitor daily activity with

reference to investments, tax, and personal objectives.

2. Maintain contact with clients, beneficiaries, and organizations regarding account performance, financial planning, tax and estate planning, and other issues to ensure the client's personal financial goals are being met, the beneficiary's needs are being addressed, and other retention services are provided.

3. Resolve problems and inquiries from grantors, principals, beneficiaries, and others. Handle requests for distributions or planning and approving necessary expenditures for care and maintenance.

4. Actively participate in the development of wealth management services and new trust and investment prospects in Brookings, eastern South Dakota and west-central Minnesota. Develop referral sources from current clients, by bank staff, and through professionals in the area.

5. Provide leadership and fill the role as a resource for other officers in the area of trust and estate planning, estate settlement, and conservatorships. Keep abreast of legislation and regulatory developments to maintain technical skills and substantive knowledge necessary to render effective account administration and the support of other officers.

6. Administer farm management accounts including the completion of semi-annual inspections, negotiations of farm lease agreements, and review of land production and income generation.

7. Administer 1031 Qualified Tax Deferred Exchanges in compliance with IRS rules and regulations.

8. Act in accordance with FBT policies and procedures as set forth in the employee handbook.

9. Adhere to compliance procedures and participate in required compliance training.

WMS Portfolio Manager = Brookings

Grade: 7

**OVERALL FUNCTION:** This person works directly with the WMS Chief Investment Officer to supervise and execute all WMS investment activities within established risk/reward parameters. Articulates perspective on current investment outlook and ensures communication to clients and staff. Implements investment policies and strategies and provides guidance to Trust Administrators, Trust Officers, and Wealth Advisors with respect to investment policies and procedures. Uses multiple sources and data points to monitor and research WMS investment strategy.



**QUALIFICATIONS:** This person should have a bachelor's degree, plus a minimum of seven years of experience in trust and investments or the equivalent. A professional designation such as a CFP, CPA or CTFA is strongly desired. Must have a clear understanding of economic principals and their impact on the financial markets. Strong interpersonal, problem solving, and analytical skills are required. Good written and oral communication skills are required. Excellent customer service and PC skills are required. This person must be able to develop working relationships with referral sources (both internal and external), interact on a high level with other area professionals, and become an integral part of the overall Bank team.

**PRINCIPAL RESPONSIBILITIES ARE TO:**

1. Investment Oversight – Monitor and maintain portfolios in coordination with Wealth Management Officers and Wealth Advisors utilizing approved portfolios and investments set forth by the Trust Investment Committee or directed by clients. Additionally, investing/re- investing client portfolios in accordance with their stated objective. Responsible for communication with external research sources, application of 3rd party investment recommendations, and applying them to client portfolios.
2. Conducts ongoing proactive research and is responsible for making recommendations to the WMS Chief Investment Officer and TIC regarding strategic and tactical investment actions. Communicates investment strategy and changes to clients and colleagues. Creates and maintains investment marketing and sales/retention support materials.
3. Provide guidance to Wealth Management Officers and Wealth Advisors with respect to investment policies and procedures; translates and communicates complex investment topics and financial market issues into simple language and everyday terms that can be absorbed by clients, prospects and employees and sells the value proposition of First Bank & Trust's Wealth Management solutions.
4. Trust Investment Committee – responsible for attending and supporting TIC meetings, including setting, preparing/disseminating materials, and preparing minutes.
5. Retirement Plan Services Support – Monitor an approved mutual fund list the ERISA department can use for its investment offerings in retirement plans with a focus on diversification, performance, internal expenses and suitability. Be available to discuss

investment options with current and prospective Plan Sponsors and Plan Investment Committees in our efforts to retain existing plans and attract new ones.

6. Client Sales – responsible for working in partnership with Wealth Officers and Advisors to acquire new client relationships and generate referrals to other areas of the Bank.

7. Assist in the completion of all internal and external audit requests. Provide direct assistance to the manager for all regulatory compliance reviews (FDIC/State) as requested.

8. Compliance – follow all applicable securities and regulatory laws and regulations, FB&T policies, procedures and compliance requirements.

9. Other – responsible for completion of other client and/or department tasks as assigned by WMS manager(s).

10. Act in accordance with FBT policies and procedures as set forth in the employee handbook.

Adhere to compliance procedures and participate in required compliance training

### **Family Law Attorney - Sioux Falls**

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

### **Assistant United States Attorney**

U.S. DEPARTMENT OF JUSTICE  
ASSISTANT UNITED STATES ATTORNEY  
UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF SOUTH DAKOTA  
CIVIL DIVISION  
325 S. 1st Avenue, Suite 300  
SIOUX FALLS, SD 57104  
UNITED STATES  
22-SD-CIVIL-001

About the Office:

The United States Attorney's Office, District of South Dakota includes a main office located in Sioux Falls, South Dakota and two branch offices located in Pierre

and Rapid City. South Dakota encompasses a large and diverse geographical area of 77,123 square miles and a population of about 884,659 people.

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

#### Job Description:

The U.S. Attorney's Office for the District of South Dakota is seeking an experienced attorney to fill one Assistant United States Attorney (AUSA) position in the Civil Division of its Sioux Falls office. This attorney primarily will be responsible for the Affirmative Civil Enforcement (ACE) program, which pursues civil actions against corporations and individuals that engage in fraud, violate federal laws, and divert controlled substances. The selected attorney will have responsibility for litigating matters under the False Claims Act, including civil health care fraud, procurement fraud, and other frauds against the government, as well as pursuing civil actions under the Controlled Substances Act and other affirmative civil enforcement statutes.

The ACE program also includes civil rights matters, including enforcement of the Americans with Disabilities Act and the Fair Housing Act. The selected attorney will handle all aspects of investigations and cases, including gathering evidence, taking testimony, writing briefs, and appearing in court at hearings and trials. The attorney may also handle other types of cases as needed. Responsibilities will increase and assignments will become more complex as your training and experience progress.

#### Qualifications:

Required qualifications: Applicants must possess a J.D. degree, be an active member of the bar (any U.S. jurisdiction) and have at least one year of post-JD legal or other relevant experience. Be a U.S. citizen or National. In addition, applicant must also be a member, or be eligible to become a member, of the federal district court bar. If the successful candidate is not a member of the South Dakota Bar, he or she must become a member of the South Dakota Bar within twelve months.

Preferred Qualifications: Applicants must demonstrate superior analytical ability; strong research, writing and courtroom skills; exercise fair and sound judgment; follow all Department of Justice and United States Attorney's Office policies; exhibit the ability to work

collaboratively in a supportive and professional manner with other attorneys, support staff, and law enforcement agencies; superior analytical and communications skills; handle matters in court persuasively and justly on behalf of the United States of America; and be devoted to excellence.

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

#### Salary:

Assistant United States Attorneys pay is administratively determined based, in part, on the number of years of professional experience. The range of basic pay is \$56,983 to \$149,044, plus a locality payment of 16.20%.

#### Type of Position:

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

#### Travel:

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

#### Application Process:

Provide cover letter, resume, writing sample (not to exceed 20 pages), and list of three professional references with contact information. All documents should be submitted electronically in one continuous .pdf attachment and include the announcement number (22-SD-CIVIL-001) in the subject line of your email. Email address for application package:

[USASD.applications@usdoj.gov](mailto:USASD.applications@usdoj.gov)

Application Deadline: Applications must be received by Wednesday, June 01, 2022.

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

Relocation Expenses: Relocation expenses will not be authorized.

Number of Positions: One

This and other attorney vacancy announcements can be found at:

## Department Policies

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

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

**Outreach and Recruitment for Qualified Applicants with Disabilities:** The Department encourages qualified applicants with disabilities, including individuals with targeted/severe disabilities to apply in response to posted vacancy announcements. Qualified applicants with targeted/severe disabilities may be eligible for direct hire, non-competitive appointment under Schedule A (5 C.F.R. § 213.3102(u)) hiring authority. Individuals with disabilities are encouraged to contact one of the Department's Disability Points of Contact (DPOC) to express an interest in being considered for a position. See list of DPOCs.

**Suitability and Citizenship:** It is the policy of the Department to achieve a drug-free workplace and persons selected for employment will be required to pass a drug test which screens for illegal drug use prior to final appointment. Employment is also contingent upon the completion and satisfactory adjudication of a background investigation. Congress generally prohibits agencies from employing non-citizens within the United States, except for a few narrow exceptions as

set forth in the annual Appropriations Act (see, <https://www.usajobs.gov/Help/working-in-government/non-citizens/>). Pursuant to DOJ component policies, only U.S. citizens are eligible for employment with the Executive Office for Immigration Review, U.S. Trustee's Offices, and the Federal Bureau of Investigation. Unless otherwise indicated in a particular job advertisement, qualifying non-U.S. citizens meeting immigration and appropriations law criteria may apply for employment with other DOJ organizations. However, please be advised that the appointment of non-U.S. citizens is extremely rare; such appointments would be possible only if necessary to accomplish the Department's mission and would be subject to strict security requirements. Applicants who hold dual citizenship in the U.S. and another country will be considered on a case-by-case basis. All DOJ employees are subject to a residency requirement. Candidates must have lived in the United States for at least three of the past five years. The three-year period is cumulative, not necessarily consecutive. Federal or military employees, or dependents of federal or military employees serving overseas, are excepted from this requirement. This is a Department security requirement which is waived only for extreme circumstances and handled on a case-by-case basis.

**Veterans:** There is no formal rating system for applying veterans' preference to attorney appointments in the excepted service; however, the Department of Justice considers veterans' preference eligibility as a positive factor in attorney hiring. Applicants eligible for veterans' preference must include that information in their cover letter or resume and attach supporting documentation (e.g., the DD 214, Certificate of Release or Discharge from Active Duty and other supporting documentation) to their submissions. Although the "point" system is not used, per se, applicants eligible to claim 10-point preference must submit Standard Form (SF) 15, Application for 10-Point Veteran Preference, and submit the supporting documentation required for the specific type of preference claimed (visit the OPM website, [www.opm.gov/forms/pdf\\_fill/SF15.pdf](http://www.opm.gov/forms/pdf_fill/SF15.pdf) for a copy of SF 15, which lists the types of 10-point preferences and the required supporting document(s). Applicants should note that SF 15 requires supporting documentation associated with service- connected disabilities or receipt of nonservice-connected disability pensions to be dated 1991 or later except in the case of service members submitting official statements or



retirement orders from a branch of the Armed Forces showing that his or her retirement was due to a permanent service-connected disability or that he/she was transferred to the permanent disability retired list (the statement or retirement orders must indicate that the disability is 10% or more).

\* \* \*

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

#### COVID-19 Vaccination Requirement

The COVID-19 vaccination requirement for federal employees pursuant to Executive Order 14043 does not currently apply. Some jobs, however, may be subject to agency- or job-specific vaccination requirements, so please review the job announcement for details. Click [here](#) for more information.

### Career Opportunities in North Dakota Legal Counsel for Indigents

Attorney I Public Defender - Williston, ND  
Closing Date: 5/3/2022

Attorney I Public Defender - Bismarck, ND  
Closing Date: 5/3/2022

Attorney II Public Defender - Dickenson  
Closing Date: 5/15/2022



# LAWPAY<sup>®</sup>

AN AFFINIPAY SOLUTION



State Bar of South Dakota

Member  
Benefit  
Provider

“I love LawPay! I’m not sure why I waited so long to get it set up.

– Law Firm in Ohio

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.



22% increase in cash flow with online payments



Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA



62% of bills sent online are paid in 24 hours

PAYMENT  
RECEIVED



YOUR FIRM  
LOGO HERE

Trust Payment  
IOLTA Deposit

New Case Reference

\*\*\*\* \* 9995

\*\*\*

TOTAL: \$1,500.00

VISA



POWERED BY  
LAWPAY

eCheck

DISCOVER

PAY ATTORNEY

Get started at  
[lawpay.com/sbsd](http://lawpay.com/sbsd)  
866-251-9220

Data based on an average of firm accounts  
receivables increases using online billing solutions.

LawPay is a registered agent of Wells Fargo Bank N.A.,  
Concord, CA, Synovus Bank, Columbus, GA., and Fifth  
Third Bank, N.A., Cincinnati, OH.



# UPCOMING EVENTS



Hello  
May

May 6 | Criminal Law AM & Family Law PM CLE's | Ramkota, Rapid City

May 18 | Bar Commission Meeting | Teleconference

May 19 | Law for Lunch - Legislative Update | Zoom

June 2 - 4 | Jackrabbit Bar | SpringHill Suites, Deadwood

June 22 - 24 | Annual Meeting & Convention | Ramkota, Rapid City

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 | The Country Club of  
Sioux Falls

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