

State Bar of South Dakota **NEWSLETTER**



2023 MEMBERSHIP
FEES ARE DUE BY
December 31, 2022

November 2022

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Attention

2023 Membership Fees

ARE DUE BY DECEMBER 31, 2022

Payment can be mailed in or for your convenience can be made online by logging in to your member hub.

« After December 31, 2022 »

A 10% LATE FEE WILL BE APPLIED

State Bar of South Dakota

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P R E S I D E N T ' S C O R N E R

Lisa K. Marso

I was reflecting on the upcoming Veteran's Day, which is a day set aside to honor all military veterans of the United States Armed Forces. Consequently, I take this month to spotlight not just one person who has been dedicated to public service, but instead to spotlight a group of our State Bar Members who have or are currently serving in the Armed Forces, and spotlight former Presiding Judge of the Veteran's Treatment Court Mark Salter.

As many of you know, we are blessed in South Dakota to work alongside so many State Bar members who have served in the Armed Forces prior, during or after receiving their law degrees. Certainly, those who serve after receiving their law degree may serve much as Lieutenant Daniel Kaffee (humor me—Tom Cruise in his white dress uniform defending Private Santiago, the Few Good Men movie released in 1992 that got me through that first year of law school!). Others may serve



Lieutenant Daniel Kaffee🔥

as legal advisors to the command in which they are assigned, providing legal guidance in areas such as administrative law, government contracting, civilian and military personnel law, etc. Regardless of whether the service is or was law related, I am so appreciative

of the service. Here is a list I have been able to compile. I ask you to reach out and thank these individuals for their public service (and if I missed someone, please thank them as well and let me know). May we remember those who serve in our Armed Forces not just on this Veteran's Day, but as well throughout our careers.

Honored Attorneys/Judges: Brian Ahrendt, Kirk Albertson, Clay Anderson, Trevor Archer, Joel Arends, Dylan Bakken, Chris Barondeau, Mike Billion, Jason Campbell, Eric Cleveringa, Justin Clarke, Bradley J. Cordts, Jamie Damon, Wade Druin, Jeremy Duff, Harry Engberg, Gregg Engler, Eric Erickson, Greg Erlandson, Craig Evenson, Dennis Everson, Casey Fideler, Ashley Flood, Bruce Ford, Dusty Ginsbach, Albert Taylor Hayes, Thomas Hensley, Edward Hruska, Christian Jensen, Darrell Jesse, Christopher Kennebeck, Amanda Kippley, Randy Kirkvold, Seth Klentz, Stacy Kooistra, Samuel Krystosek, Paul A. Lewis, Larry Long, Kay Luther, Karla MacArthur Harris, Don McCarty, Jonathon McCoy, Bob Morris, Sam Nelson, Bob O'Connell, Jonathon Olson, Matt Olson, Cris Palmer, Judge Patrick Pardy, Robert Pasqualucci, Kaleb Paulsen, Michael Pickett, Judge Larry Piersol, Matthew Powers, Austin Printz, Spencer Prosen, Rick Ramstad, Jason Ravnsborg, Justice Mark Salter, Tom Sannes, Austin Schaefer, Gary Schumacher, Jim Seward, Tracie Sherrill, Justice Glen Severson, William Simms, Phillip Stiles, Judge Greg Stoltenburg, Judge Eric Strawn, John Taylor, William Taylor, Trevor Thielen, Gary Thimsen, Stuart Tiede, Cole Uecker, and Kellen Willert.

In addition to highlighting these Bar Members, I take this opportunity to specifically spotlight Justice Mark Salter and thank him for his service as a Naval JAG Officer, former Presiding Judge of the Veteran's Treatment Court (VTC), Circuit Court Judge, Supreme Court Justice, and attorney:

Justice Salter: Justice Salter is originally from Parker, S.D. After attending SDSU where he was a journalism major, he earned his law degree from the USD School of Law in 1993. Later that year, he joined the Navy and served on active duty until 1997, and thereafter served in the Naval Reserve for several years. Most of his Naval service involved trying criminal cases, but he also had what he describes as “great experiences outside of the courtroom” of serving on the USS SHREVEPORT (which he describes an amphibious assault ship which, like him, has long since been decommissioned). Prior to being appointed by Governor Dugaard to the Circuit Court Bench in 2013, he worked at the Cutler Law Firm and with the US Attorney's Office. In 2016, then Circuit Court Judge Salter was instrumental with the group that formed the Minnehaha County Veteran's Treatment Court (VTC) and he served his fellow veterans as the VTC's Presiding Judge until 2019. Justice Salter has served as a Supreme Court Justice since his 2018 appointment by Governor Dugaard. His interest in appellate litigation extends into the classroom where he teaches Advanced Appellate Advocacy as an adjunct professor at the USD Knudson School of Law. Thank you Justice Salter, for your lifetime of public service.

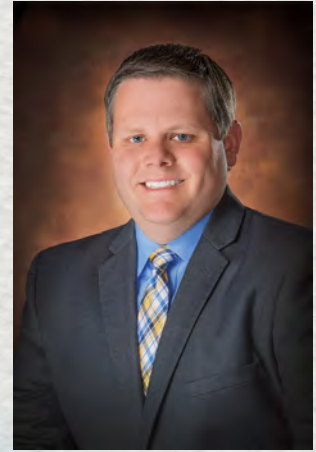
HONORING ALL WHO SERVED

*“A hero is someone who has
given his or her life to
something bigger than oneself.”*

- Joseph Campbell



State Bar of South Dakota YOUNG LAWYER SECTION



Anthony Sutton
YLS President

It has been a busy month for the State Bar and for the Young Lawyer's Section!

On September 30, 2022, I, along with several other members of the State Bar, had the wonderful opportunity to present mock trials to elementary and high school students at the Cheyenne River School District in Eagle Butte. This effort was organized by Seth Pearman and Eric Schulte. The group that participated in the mock trials included Kirk Albertson, Henry Evans, Tre Gillaspie, Seth Pearman, Angel Runnels, Eric Schulte, Anthony Sutton, and Reese Ganje (a student at SDSU). The mock trial presented to the elementary students was a robbery case based on Goldilocks and the Three Bears. The mock trial to the high school students was a methamphetamine conspiracy trial. For that trial, the high school students played all the roles of the lawyers, judge, and witnesses, and we assisted them with their respective parts.

Here are some photos from the mock trial:



These mock trials would not have been possible without the help of the U.S. District



Court Judge Karen Schreier, who drafted the scripts and allowed the group to use the case materials and props. I know I speak for all who participated when I say it was a meaningful experience. We hope that our efforts can start to sow the seeds of interest in careers in the law for those students and will grow into more Native American lawyers practicing in our state.



On October 21, 2022, the Young Lawyers Section held our annual Nuts & Bolts CLE and organized the Statewide Swearing-In Ceremony in Pierre. The Nuts & Bolts CLE had 30 registered who attended either in person or via Zoom. There were 22 new lawyers who participated in the Statewide Swearing-In Ceremony, which was presided by South Dakota Supreme Court Chief Justice Steven Jensen and included remarks from State Bar President Lisa Marso.

The YLS would like to thank all who helped make these two events possible, including the South Dakota Supreme Court, the State Bar Commissioners, the State Bar Staff, and the Missouri Avenue Events Center staff. We would also like to thank all our presenters at the Nuts & Bolts CLE, including John Burke, Charles Frieberg, Marci Stevens, Sadie Stevens, Carla Bachand, Bob Morris, Tony Teesdale, Chief Justice Jensen, and U.S. District Court Judge Roberto Lange.



The YLS would also like to congratulate and say thank you to the 22 new lawyers who participated in the Statewide Swearing-In Ceremony!



Swearing-In Ceremony Reception



South Dakota Attorney's

South Dakota Attorney's

Fellows of the South Dakota Bar Foundation

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

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Melissa Nicholson Breit
Chet Groseclose
Scott N. Heidepriem
Hon. John B. Jones
Jerome B. Lammers
Scott C. Moses
Charles L. Riter
William Spiry
Hon. Jack R. Von Wald

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Richard A. Cutler
William F. Day, Jr.
P. Daniel Donohue
Dana J. Frohling
Richard L. Kolker
Kimberley A.
Mortenson
Timothy J. Rensch

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Jeremiah J. Davis

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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

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Hon. John Bastian	Laura Clark Rowe
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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	Rodrick L. Tobin
Hon. Judith K. Meierhenry	Barry R. Vickrey

Raising the Bar: Our Profession. Our Responsibility.

DEAN'S LIST : NEWS FROM THE LAW SCHOOL



The campaign season and elections will be over or close to over by the time you read this column. Elections are exciting. They are a chance for most citizens to participate in our self-governance. I think that as lawyers we should be particularly excited about that. It is easy not to be excited, however, when we see another campaign cycle of overheated rhetoric, unrealistic promises, and hostility that passes for engagement. While that is unfortunately what our electoral process often is, it is certainly not all that it can or should be. It should be genuine and elevated engagement. As I watched the campaign season, I thought about how the Law School can help elevate our engagement.

It starts with recognizing that the Law School is the home of the law. Whether you are a student or alumni, faculty or staff, citizen or friend, the Law School and South Dakota are our communal home. Our community comes together to expand our collective knowledge through teaching, learning, research, and community engagement.

Because we are a community, we must actively engage with each other. It is important and unavoidable to engage with each other. We must engage our entire community in order to learn and grow. But more importantly, we must engage in a way that elevates our community. We unfortunately see too many examples of negative engagement in the world around us. Our community can and should model a better way. As a community, we can rise to the challenge to elevate our engagement. That means doing certain things.

First, we must engage ideas openly in the search for truth. As a scholarly community, we must be open to exploring new, different, and even unpopular ideas. We should not be a community where certain ideas are somehow impermissible or beyond discussion. Because our engagement with ideas is always in search of truth, some ideas may not hold up to rigorous evaluation. However, more research, more analysis, new facts, and collective deliberation may demonstrate that any idea, even some of those we hold most dear, should be set aside. Although no idea should be out of bounds, in the end not every idea should get equal weight. Elevating our engagement starts with endlessly and rigorously exploring ideas in the ongoing search for truth.

Second, openness to new ideas and new individuals starts with us. There is a rich and wonderful legal community to engage with, but it is not someone else's job to make sure that we encounter new ideas and new people. It is ours. Each of us must make the effort to explore, seek out new ideas, introduce ourselves to individuals with ideas and experiences unlike our own, and initiate engagement with others rather than waiting for others to engage with us. Elevating our engagement means activating it. It means encountering ideas outside our experience and comfort zone. It means reading authors that we disagree with in good faith and the search for understanding. It means associating with other community members who do not think, look, or act like us. Our community elevates when each member of it takes on the opportunity and obligation to engage with others, enriching ourselves and our community by extension.

Third, our engagement must provide a respectful and thoughtful example for the world around us. To modify a lyric from the musical Hamilton, “history has its eyes on you.” So does the world around us. For good reason, many people watch the culture and activity of university campuses. Some people admittedly do so with political motives, playing “gotcha” with isolated events to perpetuate some caricature of what universities are. But more importantly and more commonly, people watch universities for the knowledge they advance and the example of civil and thoughtful engagement that they provide. We must constantly demonstrate the latter to forestall arguments that we are the former. That means focusing our community on reasoned and reasonable discourse, reliance on facts and research, acknowledgement of nuance and complexity, and the admission that many answers are uncertain or contingent. It absolutely means not treating Twitter insults like dialogue, not treating feelings like facts, and not blindly aligning with our faction, right or wrong. The world will look to us as an example; elevating our engagement to provide a good example can make our world a bit better.

Lastly, we need to acknowledge that elevating our engagement is not easy. It is easy to take the low road. It takes less work. It lets us rest in our comfort zones.

It avoids the disorientation of having our ideas and worldviews challenged and changed. But none of us joined this marvelous community just to take the easy way or just to be comfortable. We are here to learn, to grow, to get comfortable being uncomfortable. Elevating our engagement means doing the hard work. It means initiating that work rather than waiting for others to do so. It means persevering in the work when not enough hands join us in it, or even when some within or without our community work against us. Elevating our engagement is not easy, but it is important. It is worth the work.

If you are reading this, you are part of the Law School community. It is a wonderful community. Members of this community will be out in the world pursuing excellence, offering service, and providing leadership sooner than they realize. They will actively engage the world around them in the important ways that lawyers do. It is important that the Law School prepare them not just to engage, but to elevate our engagement as a profession and a society.

Our community will be what we make it. We are working together to make it an example of elevated engagement.



UNIVERSITY OF
SOUTH DAKOTA
KNUDSON SCHOOL OF LAW

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

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

Fall 2022 OCI:

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

SIGN UP HERE

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



Justice Squad

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



**DERRICK JOHNSON
MARGO JULIUS
DAN PAHLKE
GINA ROGERS
TYLER SOBCZAK
STEPHEN WESOLICK**

Special Thanks to:

**JOSEPH HOGUE
STEVE HUFF
KYLE KRAUSE
DENISE LANGLEY
BOB MORRIS
ALISON RAMSDELL
MARWIN SMITH
JAMES TAYLOR
LINDA LEA VIKEN**

**For their help on
SD Free Legal
Answers!**

*Are you interested in becoming a legal superhero and member of the A2J Justice Squad?
Please send a message to access.to.justice@sdbar.net*

THANK YOU
THANK YOU
THANK YOU
THANK YOU



THANK YOU
THANK YOU
THANK YOU
THANK YOU

A special thank you goes out to the South Dakota attorneys that answered President Marso's call to help celebrate the annual National Pro Bono Celebration by signing up to volunteer through Access to Justice or South Dakota Free Legal Answers this year:



- *Jeff Hurd*
- *Gina Rogers*
- *Tamara Lee*
- *Rachel Mairose*
- *Clint Sargent*
- *Alex Halbach*
- *Joan Schueller*
- *Jennifer Clites*
- *Nicholas Ramos*
- *Michael Marlow*
- *Tom Keller*

DIDN'T HAVE A CHANCE TO SIGN UP YET?

- Email Denise Langley at access.to.justice@sdbar.net to sign up to volunteer through Access to Justice.
- Complete your online attorney registration at <https://sd.freelegalanswers.org/Attorneys/Account/Agreement> to start volunteering through the South Dakota Free Legal Answers program!

THANK YOU
THANK YOU
THANK YOU

THANK YOU
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THANK YOU

THANK YOU
THANK YOU
THANK YOU



ACCESS TO JUSTICE, INC.



ANNOUNCEMENTS

Legacy Law Firm, P.C.
is pleased to announce that

Sara E. Show
has become associated with the firm.

Legacy Law Firm, P.C.
7404 S. Bitterroot Place
Sioux Falls, SD 57108

Telephone: (605) 275-5665

sara@legacylawfirmnpc.com

www.legacylawfirmnpc.com

Lynn, Jackson, Shultz & Lebrun, P.C.
is pleased to announce that

Ty M. Daly
has joined the firm.

Lynn, Jackson, Shultz & Lebrun, P.C.
1909 St. Joseph Street, Suite 800
Rapid City, SD 57701

Telephone: (605) 342-2592

tdaly@lynnjackson.com

www.lynnjackson.com

Hoy Trial Lawyers, Prof. L.L.C.

is changing office locations.
Effective October 24, 2022, the Firm's new address will change to:

Hoy Trial Lawyers, Prof. L.L.C.
4900 S. Minnesota Avenue, Suite 200
Sioux Falls, SD 57108-2898

Telephone: (605) 334-8900

Facsimile: (605) 338-1918

www.hoylaw.com

Please update your records with our new address.
Our phone numbers will remain the same.
We look forward to seeing you at our new location.

Office Sharing Invitation

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

We have a very large office available, large conference room, 2 legal assistant stations, sophisticated scanning and copy machine, extensive library, Westlaw, telephone system, postage meter machine and room for storage of files.

If interested, please call either
Mitch Johnson (605) 381-6464
Brad Gordon (605) 716-3040 or
Sara Waeckerle (605) 608-2727

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

Keely Kleven

has joined the firm as an associate attorney.

Gunderson, Palmer, Nelson & Ashmore, LLP
506 6th Street
Rapid City, SD 57701

Telephone: (605) 342-1078

Facsimile: (605) 342-9503

kkleven@gpna.com

www.gpna.com

Robert J. Rohl
is pleased to announce the opening of his new firm.

Robert J. Rohl, Trial Lawyer

Robert J. Rohl, Trial Lawyer
2902 W. Main Street, Ste 4
Rapid City, SD 57702

Telephone: (605) 519-7750

Facsimile: (605) 519-7322

robert@605legal.com

www.605legal.com

Lynn, Jackson, Shultz & Lebrun, P.C.
is pleased to announce that

Lane M. Haskell

has joined the firm.

Lynn, Jackson, Shultz & Lebrun, P.C.
110 N. Minnesota Ave., Suite 400
Sioux Falls, SD 57104

Telephone: (605) 332-5999

lhaskell@lynnjackson.com

www.lynnjackson.com

Johnson, Janklow, Abdallah & Reiter, LLP
is happy to announce that

Erin Schoenbeck Byre
has joined the firm as an associate attorney.

Johnson, Janklow, Abdallah & Reiter, LLP
101 S. Main Ave., Suite 100
Sioux Falls, SD 57104

Telephone: (605) 338-4304

erin@janklowabdallah.com

Dakota Plains Legal Services

invites you to our open house on
November 16, 2022 from 4 p.m. to 7 p.m.
to help us celebrate our new location.

Dakota Plains Legal Services
202 E. St. Joseph St
Rapid City, SD 57701

Telephone: (605) 342-7171

www.dpls.org

IF YOU ARE AN ATTORNEY IN RURAL SOUTH DAKOTA WITH HIRING NEEDS, PLEASE REGISTER FOR THE
"STAY IN SOUTH DAKOTA" CAREER FAIR AT USD KNUDSON SCHOOL OF LAW BY FOLLOWING THIS LINK

STAY IN SOUTH DAKOTA

CAREER FAIR

**NOVEMBER 3RD
USD KNUDSON SCHOOL OF LAW**

**RECRUITING 101 + BRUNCH - 10:00 AM
TABLING + NETWORKING WITH CURRENT LAW STUDENTS - 12:00 PM - 2:00 PM**

Network with current USD Knudson School of Law students in an informal tabling event to tell them why they should consider staying in South Dakota! Aimed at communities with fewer than 30,000 residents, our goal is to help our students consider communities they may have otherwise overlooked.

We know there is so much to love in your communities, and we want to help spread the word!

Join us in the morning for a Recruiting 101 session and brunch to learn what our students are looking for as they apply for internships and post-graduation positions.

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SIOUX FALLS

NOVEMBER 10, 2022
4:00PM - 6:00PM

PLEASE RSVP BY NOVEMBER 2ND
TO BSCHMIDT@DEHS.COM



ATTENTION!

2023 Member Fees
are Due by
December 31, 2022

PLEASE INCLUDE YOUR
INVOICE WITH YOUR CHECK AND ANY
CONTACT INFO UPDATES.

Pay online by logging in to the
member hub and click on My Billing Info.

www.statebarofsouthdakota.com

Application for Pro Bono Emeritus Status

I, _____, an active member of the State Bar of South Dakota, do hereby apply for Pro Bono Emeritus Status, for the year 2023.

I understand that if approved, rather than pay regular dues for the year 2023, I will only be required to tender the sum of \$125 (same as inactive dues) but I will be entitled to all the rights and privileges of an active member of the State Bar.

Further, I recognize that this status means that I will be requested from time to time to take a referral from East River Legal Services, Dakota Plains Legal Services, or Access to Justice, and I am willing to accept at least one referral in the year 2023.

Finally, I acknowledge that pursuant to the Pro Bono Emeritus Status, I have retired from the active practice of law and I cannot accept private clients, cases for friends or relatives (even if no fee is charged) and that my practice is limited to such referral cases as I accept from the Legal Services Programs, Access to Justice or a non-profit specifically approved by the State Bar. In the event that I decide to accept cases other than those referred to me and which I accept, that I will tender regular active dues and withdraw from the Pro Bono Emeritus Status Program.

Dated this _____ day of _____, 20____

Signature_____

Printed Name_____

Address_____

City, State, Zip Code_____

Phone_____ Email_____

SBSD Executive Director Andy Fergel Resignation Announced

South Dakota State Bar Executive Director Andy Fergel has resigned his position, effective December 31, 2022. Andy has served in that position since 2018, and the Bar is grateful for his years of service. In announcing the resignation to members, State Bar President Lisa Marso wrote, “Andy has provided exemplary leadership to our State Bar, and to our detriment has accepted a position in Bismarck, ND, where he will be closer to his parents, children, and grandchildren.”

As interviews will be conducted in November, to be considered interested candidates should apply as soon as possible. Please include a letter of interest, resume, and references to Lisa Marso at lkmarso@boycelaw.com. Applicants must be licensed attorney and able to spend a significant amount of time in Pierre, SD (especially during legislative terms). Lobbying experience is preferred, but not required.

Competitive benefits and a minimum salary of \$125,000, which may be increased due to qualifications and experience. Essential job duties for the position are set forth in the Bar’s [Bylaws](#) (see Article VI, Section 6.3).

Additional information may be obtained on the Bar’s [website](#).

*South Dakota Law Review
cordially invites you to*

Wine Review

Join us for a wonderful evening of
Heavy hors d'oeuvres, Wine, and
a celebration as we present the
Distinguished Alumnus Award to
John P. Blackburn.



*Let's
celebrate!*

Saturday | November 5th
Mead Cultural Education Center
Yankton | South Dakota
Social Hour | 5-6 p.m.
Main Event | 6 p.m.

Tickets: **\$50**

Send checks to:
South Dakota Law Review
Attn: Managing Editor
414 East Clark Street
Vermillion, SD 57069
or, contact Ashley at ashley.theobald@coyotes.usd.edu

SOUTH DAKOTA BAR FOUNDATION

111 W Capitol Avenue #1
Pierre, South Dakota 57501
605-224-7554

DIRECTORS:

Pamela Reiter, Sioux Falls, President
Reed A. Rasmussen, Aberdeen, Vice President
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Stephanie Judson, Pierre

Kimberley A. Mortenson, Ft. Pierre
Eric C. Schulte, Sioux Falls
Caroline A. Srstka, Sioux Falls
Andrew L. Fergel, Secretary -Treasurer

Members of the State Bar of South Dakota:

As the holiday season approaches, I write on behalf of the South Dakota Bar Foundation to thank all of you that have generously made monetary gifts to the Foundation and to ask that you continue to remember the Foundation in your 2022 holiday plans. While shopping for gifts and gathering with loved ones, please consider setting aside part of your budget to support the work of the Foundation with a tax-deductible charitable donation.

By offering an effective means for the legal community to come together to engage in law related philanthropy, the South Dakota Bar Foundation strengthens the profession by providing lawyers the opportunity to give back in a way that is uniquely important and rewarding for us as lawyers.

Just as the State Bar of South Dakota brings lawyers together to address issues that are common to the profession, the South Dakota Bar Foundation complements those efforts by giving the legal community an effective means to focus on charitable initiatives that lawyers are uniquely positioned to take a leadership role in addressing. In that spirit, the South Dakota Bar Foundation works in close partnership with the State Bar to improve the profession, the justice system, and the community.

Over the past several years, the generosity of many State Bar members has enabled the South Dakota Bar Foundation to assist in ensuring equal access to justice, promoting pro bono work in the legal community, improving public understanding of the law and the justice system, ensuring that the legal profession remains open to people from all walks of life, and helping lawyers who are experiencing difficulties. The work the Foundation has been able to do through its granting program is depicted on the graphs and charts that follow this letter. Please review the charts and be proud of what you have accomplished through your giving.

Our work, however, is not done. The Foundation recently held a strategic planning retreat to establish goals for the upcoming year. One of our goals is to ensure our Bar members are educated about the valuable work of the Foundation and welcome donations of time as well as funds to further the mission of the Foundation. The South Dakota Bar Foundation asks for your continued support. You can help by participating in the opt out when you receive your dues invoice this year or by becoming a fellow of the South Dakota Bar Foundation. Your generosity will have a positive impact on improving our profession, the justice system, and our community. Every gift matters! Please help the South Dakota Bar Foundation in "Raising the Bar". After all, it is "Our Profession" and "Our Responsibility".

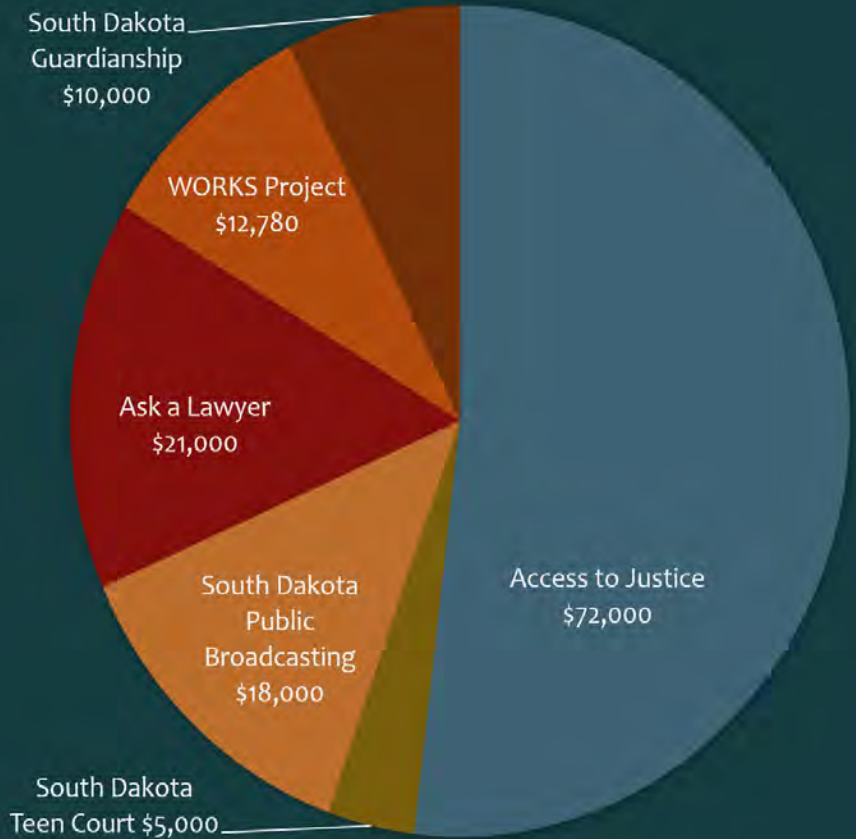
Best regards,

Pamela R. Reiter
President
South Dakota Bar Foundation

Raising the Bar
Our Profession. Our Responsibility.

SOUTH DAKOTA BAR FOUNDATION GRANTS

Awarded for
22-23



Visit sdbarfoundation.com for more information.

EVERY GIFT MATTERS



**Please help the South Dakota Bar Foundation in
“RAISING THE BAR”**



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Do Lawyers Need to Be Concerned About Deepfakes?

The short answer is yes, everyone does; but the reason lawyers need to be concerned requires a longer explanation.

What is a deepfake?

The word “deepfake” comes from combining the words “deep learning” with the word “fake.” A deepfake is digital content that can be created using powerful techniques from machine learning and artificial intelligence to manipulate existing — or generate new — visual and audio content that can easily deceive others who view or hear it. Deepfakes aren’t by definition all bad, for example, deepfake technology is used by the film industry. It’s only when someone creates a deepfake with the intent to cause harm or for use in furtherance of a cyberattack, fraud, extortion attempt, or other scam that they become a serious concern.

Isn’t creating a deepfake crazy hard to do?

Not anymore. Jai Vijayan, Contributing Writer at Dark Reading recently stated: “It’s time to dispel notions of deepfakes as an emergent threat. All the pieces for widespread attacks are in place and readily available to cybercriminals, even unsophisticated ones.”

Researchers with the security company Trend Micro expressed similar concerns in an online post this past

September with this opening statement: “The growing appearance of deepfake attacks is significantly reshaping the threat landscape. These fakes bring attacks such as business email compromise (BEC) and identity verification bypassing to new levels.” They went on to say that more serious attacks will be forthcoming because of the following issues:

1. “There is enough content exposed on social media to create deepfake models for millions of people. People in every country, city, village, or particular social group have their social media exposed to the world.
2. “All the technological pillars are in place. Attack implementation does not require significant investment and attacks can be launched not just by national states and corporations but also by individuals and small criminal groups.
3. “Actors can already impersonate and steal the identities of politicians, C-level executives, and celebrities. This could significantly increase the success rate of certain attacks such as financial schemes, short-lived disinformation campaigns, public opinion manipulation, and extortion.
4. “The identities of ordinary people are available to be stolen or recreated from publicly exposed media. Cybercriminals can steal from the impersonated victims or use their identities for malicious activities.

5. “The modification of deepfake models can lead to a mass appearance of identities of people who never existed. These identities can be used in different fraud schemes. Indicators of such appearances have already been spotted in the wild.”

Why do lawyers need to be concerned?

I would hope it would be self-evident. Due to the amount of other people’s money law firms are responsible for coupled with the amount and variety of sensitive and confidential information lawyers maintain, law firms have been and will continue to be an attractive target for cybercriminals and scammers. The only thing that is changing is the sophistication of the attacks.

As a lawyer, you need to know that a tool that enables someone to create a deepfake of you exists. That deepfake could be used to hack your Amazon Alexa; manipulate a colleague, family member, friend, or employee into moving money; used to hijack your bank account, bypass an identity verification process, or even to plant fake evidence in an attempt to blackmail you. All that person needs is a good photo or a short voice recording. How many people do you know, including yourself, who have already posted all kinds of audio, video, and photos in the social media space? You and I both know it’s practically all of us.

My purpose in sharing all of this is not to instill fear. Rather, it is to create awareness and an appropriate level of concern. We all need to continue to stay abreast as to how the attack vectors continue to change in order to have an opportunity to be proactive in our efforts to avoid falling prey to these ever-evolving cyberattacks and scams.

What should law firms do about the deepfake threat?

As with so many cyber and scam threats, there is no one step you can take and there are going to be no guarantees that any combination of steps will successfully block this threat. All you can do is try your best. That said, the following are becoming more important than ever.

1. Use multifactor authentication on every critical or sensitive account or service. Think bank and other financial accounts, cloud-based services such as practice management programs, email accounts, remote access, and the list goes on.
2. Mandate the use of an out-of-band communication process to verify the legitimacy of every request to transfer funds, regardless of the communication channel the person making the request uses. (out-of-band communication is a method of challenge and response to the requestor of a transfer, payment, or delivery of money using a communication method that is separate and distinct from the communication method the requestor originally used.)
3. Conduct periodic mandatory training that over time covers all the various tactics utilized in social engineering attacks. Include current examples in order to demonstrate how these attacks “look and feel.” And note that mandatory means no exceptions; all lawyers and staff must participate.
4. Encourage social media users to limit their presence on social media and to minimize the posting of high-quality personal images online.
5. Consider using biometric verification processes for access to critical accounts such as banking or other financial accounts. The reason why is biometric data typically has minimal public exposure.
6. Make all conference calls, video calls, etc. private and/or password protected. The goal is to ensure that only trusted known individuals have the ability to participate.



Authored by: Mark Bassingthwaight, Risk Manager

Since 1998, Mark Bassingthwaight, Esq. has been a Risk Manager with ALPS, an attorney’s professional liability insurance carrier. In his tenure with the company, Mr. Bassingthwaight 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. Bassingthwaight is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility’s Conference Planning Committee. He received his J.D. from Drake University Law School.

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2022

John R. Justice Student Loan Repayment Program

The John R. Justice (JRJ) Grant Program provides student loan repayment assistance for local, state and federal public defenders and local and state prosecutors who commit to extended service in those roles. All Applications and a Service Agreement along with a recent loan statement must be received or postmarked on or before January 31, 2023. A recent monthly statement from the borrowing agency is preferred over the generic “Loan Details” print out option as the monthly statement contains the pertinent information needed.

[JRJ 2022 Application](#)

[3 JRJ 2022 Service Agreements Options](#)

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

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

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

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

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

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

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



TIDYING YOUR OFFICE'S SHARED SPACES

Mrg Simon

It can be challenging to keep shared spaces tidy, especially as everyone in the office begins to hurtle toward the end of the year, as if released from a sling shot. With year-end obligations beginning to drop into the daily workload, it is easy for shared spaces in a law office to be neglected. Whether you work in a large, medium, or solo firm, there are high-traffic common areas that deserve attention to keep your office running smoothly and maintain a productive work environment.

Since the standard stress of a law office is probably beginning to snowball about now, it makes sense to make a list of the shared areas that deserve attention, and a plan to get the key people together to tidy up. It takes a whole firm to make the mess, so everyone should chip in and help. No matter the hourly rate, each person in the office should assume joint responsibility for their shared spaces. Many hands make light work.

Naturally, the reception area makes the first impression for clients as well as colleagues, and frequently for you and your employees. Is there anyone in charge of it? Give the area a good dusting and vacuuming and wipe down all tables (or ask your cleaning service to do a deep clean). Then discard old newspapers or magazines and replace them with a nice coffee table book of local interest that won't age out. Sit down in your chairs or on your sofa. Is the view pleasing and private, or are

client files out for roaming eyes to see? Is the seating comfortable and are the surroundings up to date?

The next shared space is the file room/work room. Are there stacks of files lying around, and the cast-off remnants of the assembly of the last big print project strewn about? Are there old supplies or office equipment setting around that aren't used any longer but are taking up space? Recycle the outdated and broken equipment when you can and toss the others that are cluttering up your work room. All supplies should be stocked and organized for easy access, and each file should be in its place unless being actively worked on. There are some things that are going to be used more by support staff and others by attorneys and paralegals. Make sure your team includes members of each group.

Finally, the kitchen/food and beverage center. First, make sure it's cleaned deeply and then go through all the loose sugar and ketchup packets, napkins, plastic spoons and forks, and other paper goods. How many coffee cups do you really need? Has the refrigerator been cleaned out lately? Make your plan to get these things done.

You know what needs to be done, and you know how to get it done. Just about every organizing client I've had knows these things. Where people get stuck is in

making the time to do it (it usually doesn't take nearly as long as you think it might) and getting the people to do it. No one in any size firm should think themselves above the task of bringing everyone together to divide and conquer the shared spaces in your office. Shared experiences with your coworkers is a good thing, and as attorneys, we should all model cooperative and positive behavior in our work spaces. If you're not going to do it yourself, then hire someone to declutter and organize your spaces and make sure they're trustworthy as they'll likely be exposed to confidential client information. The productivity of your office depends on it.

Mrg Simon is a certified professional organizer and a member of the State Bar of South Dakota.



For a systematic and organized approach to tidying your spaces, you need an attorney you can trust.

In-person and virtual sessions available.
Contact me today!



Mrg Simon

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

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matters.**

**Every individual
has a role
to play.**

**Every individual
makes a
difference."**

-Jane Goodall

AMERICAN BAR ASSOCIATION

STATE DELEGATE REPORT

South Dakota

Dick Travis

dtravis@mayjohnson.com

Post 2022 Annual Meeting

The American Bar Association (“ABA”) convened for its 145th Annual Meeting on **August 3 – 9, 2022** in Chicago, Illinois. The first fully in-person meeting since the beginning of the pandemic, the 2022 Annual Meeting united members from across the country to take part in the many forums, CLE sessions, business meetings, and award programs that took place. Highlights from the conference include:

- *The General Assembly:* At the 2022 General Assembly, the Soul Children of Chicago welcomed the audience with a stirring rendition of “God Bless America” and ABA President Reginald Turner presented Justice Stephen G. Breyer with the 2022 ABA Medal. The highest award given by the ABA, this honor recognizes exceptionally distinguished service by a lawyer to the cause of American jurisprudence. Justice Breyer’s remarks reflected a strong allegiance to the Rule of Law and an unwavering belief in judicial independence. He emphasized the point that judges achieve independence by instilling trust. To accomplish that, he said, “they must persuade the public that they are not politicians in robes and that they make their best effort to decide cases based on the law, not on personal preferences. “
- *Honors and Awards:* In addition to the awarding of the 2022 ABA Medal to Justice Breyer, several other honors and awards were bestowed throughout the week including the 2022 Thurgood Marshall Award; and the 2022 Margaret Brent Women Lawyers of Achievement Award.
- *Excellent Programming:* CLE Showcase Programs were offered during the Annual Meeting that covered a wide array of topics including: 1) The End of Roe and the Rule of Law; 2) Can Courts Avoid Politicization in a Polarized America?; 3) Smartphones, Spyware, and the Greatest Emerging Threat to Civil Liberties & Human Rights Around the Globe; 4) Repairing Racial Wealth Disparity Using the Estate Tax and New Charitable Incentives; 5) Title IX’s 50th Anniversary: Where We’ve Been, Where We Are, and Where We Need to Be; and 6) The Roberts Court 2021–2022: Abortion, Guns and Separation of Powers. See the ABA MCLE Library for these programs.
- *The Membership Meeting:* The Nominating Committee convened the meeting of the Membership and hosted a Candidates Forum on Sunday, August 8, 2022. The following candidates seeking nomination at the 2023 Midyear Meeting provided speeches to the Nominating Committee and to the members of the Association present, as well as answered questions from the Steering Committee of the Nominating Committee: William R. Bay of Missouri for President-Elect for the 2023-2024 term and Marvin S. C. Dang of Hawaii for Secretary for the 2023-2026 term.
- *House of Delegates Proceedings:* The House met for a day and a half during the 2022 Annual Meeting. The Daily Journal of the actions of the House and the Select Committee Report, can be found on the House of Delegates Webpage. The gavel was passed to incoming President, Deborah Enix-Ross of New York and the House welcomed the other newly elected officers: President-Elect, Mary L. Smith of Illinois for the 2022-2023 term; Chair of the House of Delegates, Palmer Gene Vance II of Kentucky for the 2022-2024 term; and Treasurer-Elect, Frank Fritz Langrock of Vermont, for the 2022-2023 term, as well as the new Board of Governors. The House also voted on amendments to the Association’s Constitution, Bylaws and House Rules of Procedure, as well as considered many resolutions on various topics and issues of law including, but not limited to: civil rights and social justice, gun violence, election law, human rights, public trust, dispute resolution, supplemental nutritional assistance programs, anti-racism, cyberstalking legislation, de novo (2nd look hearings), intellectual property, and domestic violence.

Please visit the [ABA Home page](#) to see the most current news on issues impacting our profession and how you can help make a difference, and be sure to utilize [ABA Member Advantage](#), the benefits discount program exclusively for ABA members, where you can find products and services of value for your practice, your home and your leisure time.

I hope you will be able to join us for the **ABA 2023 Midyear Meeting which will be held February 1 – 6, 2023 in New Orleans, Louisiana**. More information on this will be provided in the coming months.

As always, if you have any questions or comments, or if you would like assistance in navigating the many programs and benefits of our Association, please email any of the members of the South Dakota delegation (Sarah Theophilus, Tamara Nash and me).

Regards,
Dick Travis
ABA South Dakota State Delegate

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Cheyenne River Sioux Tribe Law School Recruitment Event

By Seth Pearman, Attorney General
Flandreau Santee Sioux Tribe

Some like it hot, some like it cold Some like it in the pot . . . Wait, that is a children's story that does not include Goldie Locks, a criminal trial, or trying to get Native American students into our profession. Absent a true recollection of the rhymes/stories of our youth, various members of the State Bar of South Dakota traveled to Eagle Butte, South Dakota, and held a law school recruitment event at the Cheyenne Eagle Butte School District on September 30, 2022.

The group was fortunate enough to come prepared with two mock trials prepared by the Honorable Judge Karen Schreier, *State v. Goldie Locks* for the third through sixth grade students, and a methamphetamine trial for the ninth through twelfth grade students. Costume design was heightened by Angel Runnels who brought a blonde wig, policeman's hat, wolf ears, and a cape that enhanced the students' experience, and provided some of us with an opportunity to toss our hair/wig into the wind (imagine a 1990s Herbal Essence commercial).

In all seriousness, we had the opportunity to not only discuss being a lawyer, but to also emphasize that as a group, Native Americans are under-represented in the State Bar, and across the United States, especially the judiciary. The students, un-waivered by statistics, participated in the program like seasoned jurists. The high school students took on the roles of witnesses, prosecutors, defense counsel, and judges, and with very little explanation, ran trials. The younger kids had various discussions on the size of Goldie Locks and ability to break the chair, and the credibility of the Big Bad Wolf.

As a Cheyenne Eagle Butte alumnus, I have found these events to be some of the most rewarding experiences of my practice/life. Being able to explain to some of my younger cousins, kids of my high school classmates, and so many other young Native American students that they too, can become a lawyer, makes the planning and day off work well worth it. If even one or two students were influenced by the presentations, the event was a success.

A special thanks to the Honorable Judge Schreier for allowing us to use her materials; Eric Schulte for

starting the recruitment events during his presidency and instilling the importance of the events to the Bar; Anthony Sutton for continuing the YLS participation in the events; Henry Evans for his immediate action to volunteer for the event and perspectives on practicing in immigration law; Angel Runnels for costume design and mentorship to the students; Tre Gillaspie for his unique perspective and dedication to the project; Kirk Albertson for discussing his journey to become a Native American attorney and adherence to the rules of evidence; Reese Ganje for taking time out of her college schedule to mentor students and express her interest in practicing law in the future; the Cheyenne Eagle Butte School District (especially Jennifer Bowman, Larry Keller, Kimberly Edson, Dee Anne Ducheneaux, and Cora Peterson) for making this event a reality; and finally for Elizabeth Overmoe who constantly supports these efforts, and is a beacon of resources and organization to make the events work.

If anyone is interested in participating in these events in the future, please do not hesitate to reach out to me or anyone else in the group. You, too, could wear the golden locks!

¶ Ninety-eight percent of the students attending Cheyenne Eagle Butte School District are Native American.



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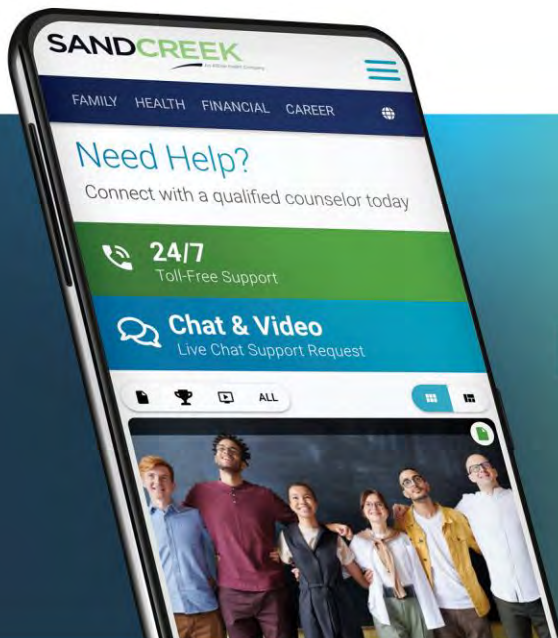
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THE LAND;**

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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;**

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**I WILL ABSTAIN FROM ALL OFFENSIVE PERSONALITY, AND ADVANCE
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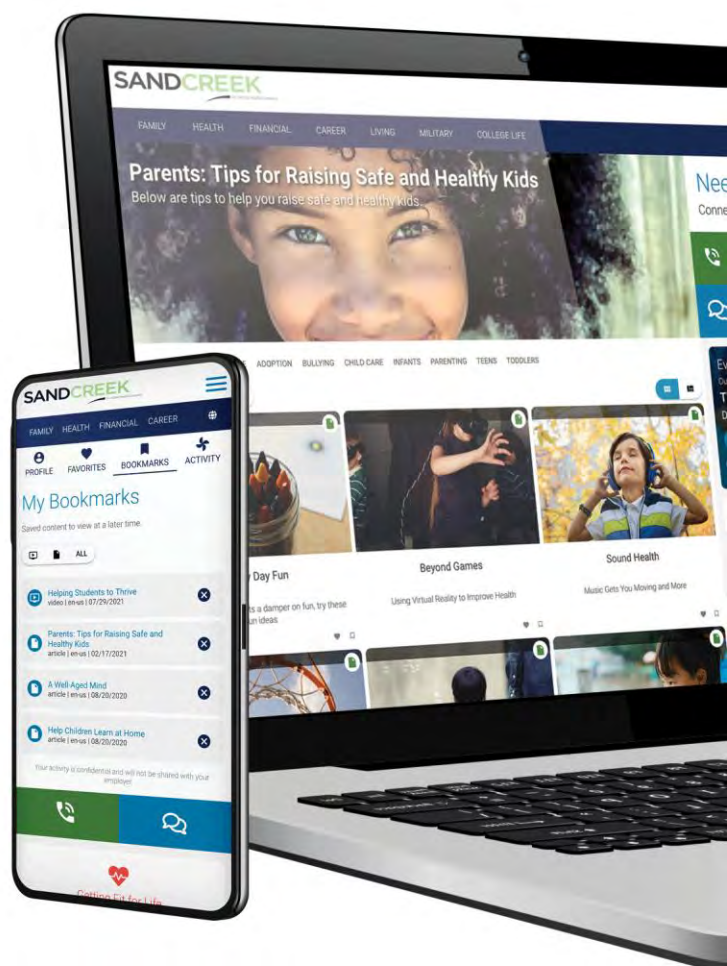
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In Memoriam



Gordon Mydland
May 12, 1922 - October 5, 2022

Gordon J. Mydland, 100 of Lake Preston, SD died peacefully on October 6, 2022 at The Neighborhoods at Brookview Nursing Home in Brookings, SD. Gordon was born on May 12, 1922 near Hetland, SD to Jacob and Anna Mydland. He graduated in 1940 from Lake Preston High School and briefly attended Augustana College before enlisting in the U.S. Navy in 1942, and serving in World War II in the South Pacific. Gordon graduated from South Dakota State College in 1947, and opened a music store in Brookings with his cousin, Robert Madsen and later owned another music store in Pierre, SD. In 1956 he received his law degree from the University of South Dakota in Vermillion where he met Esther Lorraine (Lorrie) Grange, they were married May 29, 1958. Gordon opened a private law practice in Brookings, eventually becoming State's Attorney for Brookings County. Gordon and Lorrie welcomed a son, John Gabriel (Gabe) Mydland in 1961. Gordon continued his long tenure in public service first as a State Senator in the SD Legislature from 1963 to 1968, the elected SD Attorney General and served from 1969 to 1973, and then appointed Circuit Court judge for the 3rd Judicial Circuit based in Brookings from 1973 until his retirement in 1987.

Gordon was preceded in death by his wife, Lorrie Mydland in 2000 and married Delores (Kempter) Kurvink in December 2012. Gordon was also preceded in death by sisters Priscilla Pacette, Muriel Shelden and Carol Archer. He is survived by his son Gabe (Cindy) Mydland of Brookings; SD stepson, Brent (Diane) Stapelton of Sun City West, AZ; and granddaughter Kate Mydland of Sioux Falls, SD.

Gordon loved God, his family, his country and the land his family homesteaded in Kingsbury County, SD near Lake Whitewood. Gordon and family moved back to the family farm in 1973. Gordon relished the time he could spend on the farm and loved raising draft horses.

Gordon continued to serve others after his retirement as a hospice volunteer in Brookings and Sun City.

The funeral will be held on Tuesday, October 11th at 10:30am at Johnson-Henry Funeral Home in Arlington, SD. Interment to follow at Lake Whitewood Lutheran Church.



Peter John Pagones
April 7, 1947 -
October 7, 2022

Peter John Pagones, age 75, a resident of Pickerel Lake, formerly of Aberdeen, SD, passed away peacefully on Friday, October 7, 2022, at his lake home following a short illness.

The Memorial Service will be 11:00 a.m., Wednesday, October 19, 2022, at Schriver's Memorial Chapel, Aberdeen. Please join the family to celebrate Peter's life. A light lunch will follow.

Schriver's Memorial Mortuary and Crematory, 414 5th Avenue NW, Aberdeen, is in charge of arrangements. Family and friends may sign the online guestbook and also view the service at www.schrivermemorial.com.

Peter John Pagones was born on April 7, 1947, to John and Bobbie (Kullander) Pagones in Aberdeen, SD. He attended school in the Aberdeen school system, graduating from Central High School in 1965. He went to Northern State University in Aberdeen, SD graduating with his B.S. degree in 1969. Peter continued his education at the University of Arkansas, Fayetteville, AK earning his J.D. degree in 1972. He practiced law his entire career in Aberdeen, retiring in 2010 and settling at Pickerel Lake, SD. He migrated winters to his home in Englewood, FL.

Peter loved the water both at his lake home and at his Florida Beach home enjoying fishing, hunting, and water sports. He also had a love for dogs and had one by his side most of his life.

The family acknowledges appreciation to Marlena Johnson, Peter's friend and companion at the time of

his passing for her friendship, compassion, and care.

Peter is survived by his sister, Pamela (Michael Lamberto) Pagones Martyn; his niece, Molly (Mathew) Carpenter Martyn; his nephew, William (Pamela) Martyn; four great nieces/nephew; and his stepson, Michael Pagones.

He was preceded in death by his parents, John and Bobbie Pagones.

In lieu of flowers, the family prefers donations to the Aberdeen Area Humane Society, 2511 385th Ave S, Aberdeen, SD 57401, or Shriners Hospitals for Children, 2900 Rocky Point Drive, Tampa, FL. 33607.



Robert "Bob" Ellis Berry

Robert "Bob" Ellis Berry, beloved husband, father and brother, passed away peacefully on October 8, 2022 at the age of 92.

Bob was born in Mobridge, SD on May 2, 1930 to Rose and E.Y.

Berry. His sister Nila followed four years later. He grew up in McLaughlin, SD where his parents ran a newspaper and his father E.Y. served as mayor and a state legislator. Bob attended the University of South Dakota earning a BA in business and then a law degree. He served for two years in the Army rising to the rank of First Lieutenant. In 1950, his father E.Y. was elected to the U.S. House of Representatives and moved the family to Washington, DC where Bob eventually followed, after practicing law in Lemmon, SD for several years.

Starting in 1958 Bob worked on Capitol Hill for Senator Karl Mundt as a legislative aid until 1965 and then was counsel for the Senate Government Operations Committee until 1971. During that time he met Marilyn Kirsch, who worked in his father's Congressional office. Bob and Marilyn were married in Rapid City, SD on November 24, 1962. Daughter Nancy was born in April of 1964; son Brian followed in July of 1966.

In 1971 Bob was appointed to be one of the two Reading Clerks of the House of Representatives, a position he held until his retirement in 1987. In 1987 he became a lobbyist for the American Gas Association (AGA)

where he worked until his full retirement in 1997. Post retirement Bob and Marilyn spent many wonderful years traveling the world. Bob also volunteered as a docent at Gunston Hall, happy to be able to share his love of history with people.

Bob was a life-long student of history, a fascination which he passed on to his children. He revered the history of Washington DC and never turned down an opportunity to take visiting relatives on tours. In retirement he dove into the family genealogy and became acquainted with newly discovered distant relatives while always maintaining relationships with the numerous known family members. A perpetual extrovert, there were two types of people in his life, friends, and friends he had yet to meet.

Bob and Marilyn were longtime member of Aldersgate United Methodist Church, having joined the church in 1966. Bob was also a member of the National Society of the Sons of the American Revolution (SAR).

Bob is survived by his beloved wife, Marilyn; daughter, Nancy (David Moore); son, Brian (Melody Berry); grandchildren: Valerie (Clint), Alex (Jane), Greer, Cate, Victoria, and Livy; five great-grandchildren; sister, Nila (John McCracken) and many other relatives who all loved him immensely.

Services will be held on October 29, 2022 at Aldersgate United Methodist Church at 1:00 p.m.. In lieu of flowers, donations may be sent in Bob's name to Aldersgate United Methodist Church, 1301 Collingwood Road, Alexandria, VA 22308 or to any local dog rescue.

Bradley G. Bonynge

Brad Bonynge, 79, passed away Monday, October 10, 2022. A celebration of life service will be held at a later date. Memorials may be directed to the Alzheimer Association 5915 S. Remington Place, Sioux Falls, SD 57108.



Duane C. Anderson

Duane C. Anderson, 92, of Sioux Falls, SD passed away on Thursday, October 27, 2022 at Sanford/USD Medical Center surrounded by his loving family and close

friends.

Duane was born in Crooks, SD, on October 17, 1930, to Anthon Anderson and Evelyn (Frisbee) Anderson. He spent his childhood and adolescence in Crooks until he graduated from Lyon's High School in 1948, received a Bachelor of Arts in Philosophy from Augustana College in 1953, served in the Army in Germany from 1954-1956, and graduated with Juris Doctorate from the University of Minnesota in 1959.

On November 15, 1953, Duane married Margaret L. Anderson at Benton Lutheran Church. After they married, they lived in Germany then Minneapolis, then later returned to Sioux Falls in 1959. His legal career spanned more than 60 years and he worked up until one day prior to his death. His work encompassed various client services from personal, criminal, corporate, charitable, and governmental entities.

Duane was an exceptional civil servant. He served many organizations including St. Mark's Lutheran Church, Bethany Lutheran Home, Good Samaritan Society, Kiwanis Club, Mayflower Society, Augustana College, Benton Lutheran Church, Lutheran Social Services, and the Luther Seminary. He was a passionate philosopher of nature, theism, heritage, and culture. He spent time cultivating various flowers and vegetables and keenly observed the interconnectedness of flora and fauna. He was a creative keeper of holiday traditions and an active curator of his Swedish heritage through his participation in the St. Lucia Festival.

Duane was a family devotee, committed to family togetherness by creating places for them to make cherished memories in his home, cabin at Lake Poinsett, and travel. He was grateful for having shared his life with his wife, Margaret; sons Peter (Debi), Dan (Deanna), and Michael (Ann); daughter Rebecca (Gary),

grandchildren Joshua, Ashley, Tyler, and Benjamin, great-grandchild Dane; and special friends Pastor Lori Hope, Mike and Gloria Simpson, and Gary Pashby. He was preceded in death by his wife and parents.

Funeral service will be 11:00 am Monday, October 31 at Benton Lutheran Church, 46784 257th St., Crooks, SD where his wife's father served as a pastor. Burial will be next to his wife, Margaret at Benton Lutheran Church Cemetery.

Visitation with the family present to greet friends will be from 2:00 – 4:00 pm Sunday, October 30 at Miller Funeral Home-Downtown, 507 S. Main Ave., Sioux Falls, SD.

The funeral service will be livestreamed. To access the livestream click this link;

St. Mark's Lutheran Church, Sioux Falls, SD | Facebook

In lieu of flowers, consider donations to Bethany Lutheran Home, Augustana Center for Western Studies, Benton Lutheran Church, or Lutheran Social Services. These can be sent to St. Mark's Lutheran Church, 2001 S. Elmwood Ave., Sioux Falls, SD 57105



Court



Improvement Program

Training



TRAUMA-INFORMED COURT SYSTEM

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

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

LEARNING MORE CAN KEEP KIDS SAFE

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

UPCOMING TRAININGS

[Wed Oct 26: Multidisciplinary Teams \(MDTs\) in South Dakota](#)

[Wed Nov 30: TBD](#)

[Wed Dec 28: TBD](#)

[Wed Jan 25: Mandatory Reporting](#)

[Wed Feb 22: Independent Living & Young Voices](#)

[Wed March 29: TBD](#)

[Wed Apr 26: Child Abuse Awareness Month, training in conjunction with the State Bar](#)

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

BOARD OF BAR COMMISSIONERS

Minutes, September 21, 2022

Meeting Via Zoom

President Lisa Marso called the meeting to order at 9:00 a.m. Central Time on Wednesday, September 21, 2022. Present at the meeting were Marso, President Elect Heather Bogard, Commissioners Bell, Dougherty, Matson, Olson, Pickar, Richter, Skjoldal, Srstka, and Strait. Executive Director/Secretary-Treasurer Andrew Fergel and A2J, Inc. Coordinator Denise Langley were also present during the meeting.

Minutes of August 17, 2022 Meeting: Commissioner Strait made a motion to approve the minutes of the August 17, 2022 meeting. Commissioner Matson seconded the motion. Motion passed.

President's Remarks: President Marso made brief remarks about the Codington County Bar Social and the Glacial Lakes Bar Social and how important those types of gathering are for building relationships within the bar.

Executive Director's Report: Fergel gave a report on what Bar staff has been working on since his last report to the Commission on August 17, 2022.

H.R. 4436 – Daniel Anderl Judicial Security and Privacy Act of 2021: President Marso shared a letter from the New Jersey State Bar Association asking for the State Bar of South Dakota's assistance in helping pass H.R. 4436 – The Daniel Anderl Judiciary Security and Privacy Act of 2021 by reaching out to South Dakota's U.S. House Representative and asking him to cosponsor the bill. The bill generally prohibits federal agencies and private businesses from publicly posting the personal identifiable information of federal judges and their immediate family members. It also would require information to be removed upon written request from a federal judge; prohibit data brokers from purchasing or selling such information; and establish programs to protect such information at the state and local level. Commissioner Bell made a motion to authorize President Marso, on behalf of the State Bar of South Dakota, to send a letter to Congressman Dusty Johnson asking him to sign on as a cosponsor of H.R. 4436 – The Daniel Anderl Judiciary Security and Privacy Act of 2021. President Elect Bogard seconded the motion. After discussion, the motion passed.

Commissioner Input: Commissioner Richter provided detailed information on the upcoming Leadership Summit to be hosted by the Public Sector Section in Sioux Falls and asked the commission members to continue to promote the event to their colleagues.

There being no further business, President Marso adjourned the meeting.

Respectfully submitted,

Andrew L. Fergel
Executive Director/Secretary-Treasurer



Supreme Court

STATE OF SOUTH DAKOTA

Steven R. Jensen
CHIEF JUSTICE

October 18, 2022

Mr. Andrew L. Fergel
Secretary-Treasurer
State Bar of South Dakota
111 W. Capitol Ave. #1
Pierre, SD 57501

Re: Vacancy on Board of Pardons and Paroles

Dear Mr. Fergel:

The Court has accepted the resignation of Gordon Swanson as a member of the Board of Pardons and Paroles, effective December 15, 2022.

Accordingly, we take this opportunity to announce that any attorney interested in serving as a member of the Board of Pardons and Paroles is invited to indicate that interest by advising the Court no later than November 23, 2022.

Letters and resumes should be directed to:

Chief Justice Steven Jensen
Supreme Court of South Dakota
500 East Capitol Avenue
Pierre, South Dakota 57501

The Court takes this opportunity to publicly express its appreciation to Mr. Gordon Swanson for his dedication and service as a member of the Board of Pardons and Paroles.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven R. Jensen", is written over a horizontal line.

Steven R. Jensen
Chief Justice



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HEALTHCARE PLAN

IMPORTANT NOTICE ABOUT LAUNCH DATE FOR THE STATE BAR OF SOUTH DAKOTA ASSOCIATION HEALTHCARE PLAN

At the May 2022 meeting, the Board of Bar Commissioners passed a motion to proceed with implementation of an association healthcare plan. At that time, it was anticipated that eligible members and firms could begin to bind coverage under the State Bar of South Dakota Association Healthcare Plan starting October 1, 2022. However, issues with building out the agent portal for producers to use in signing up members has delayed launch until January of 2023.

PLEASE LOOK FOR MORE INFORMATION ABOUT THE
ASSOCIATION HEALTHCARE PLAN FOR THE STATE BAR OF
SOUTH DAKOTA IN UPCOMING BAR NEWSLETTERS AND EMAILS.

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

* * * *

1. IN THE MATTER OF THE PROPOSED)	NOTICE OF SPECIAL
AMENDMENT OF SDCL 1-26-33.2)	RULES HEARING
)	
2. IN THE MATTER OF THE PROPOSED)	
AMENDMENT OF SDCL 15-6-5(a) through)	NO. 148
(j))	
)	
3. IN THE MATTER OF THE PROPOSED)	
AMENDMENT OF SDCL 15-6-45(a))	
)	
4. IN THE MATTER OF THE PROPOSED)	
AMENDMENTS OF THE APPENDIX OF FORMS)	
TO SDCL CHAPTER 15-6 TO INCLUDE)	
FORMS 8, 9, 14, 17, 19, 20, and 21)	
)	
5. IN THE MATTER OF THE PROPOSED)	
AMENDMENT OF SDCL 15-12-37)	
)	
6. IN THE MATTER OF THE ADOPTION OF)	
A NEW RULE CONCERNING COURT REPORTER)	
TRANSCRIPT FEES)	

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

NOTICE IS HEREBY GIVEN THAT ON November 9, 2022, at 11:00 A.M., C.S.T., at the Courtroom of the Supreme Court in the Capitol Building, Pierre, South Dakota, the Court will consider the following:

1. Proposed Amendment to SDCL to 1-26-33.2. Time for serving briefs.

Unless otherwise ordered by the circuit court, the appellant shall serve a brief within thirty days after the delivery of the transcript of the contested case hearing to counsel for the parties or to the parties if unrepresented by counsel or within thirty days after the agency record is transmitted to the circuit court pursuant to § 1-26-33, whichever event occurs later. The appellee shall serve a brief within thirty days after the service of the brief of appellant, or in the case of multiple appellants, within thirty days after service of the last appellant's brief. The appellant may serve a reply brief within ten days after service of appellee's brief, or in the case of multiple appellees, within ten days after service of the last appellee's brief. ~~Pursuant to § 15-6-5(d), briefs may not be made a part of the record.~~

Explanation for Proposal

This amendment is proposed by the Practice Rules Revision Committee of the State Bar of South Dakota and the State Bar of South Dakota.

In 2017, SDCL 15-6-5(d) was amended to require, among other things, that briefs are to be filed. The proposed amendment is housekeeping in nature and is appropriate because SDCL 1-26-33.2 incorrectly provides—relying upon the earlier version of SDCL 15-6-5(d)—that briefs in an appeal pursuant to SDCL Chapter 1-26 may not be made part of the record.

The proposed amendment is not based upon a Federal Rule of Civil Procedure and should not affect other existing rules or statutes.

**2. Proposed Amendments to 15-6-5 (15-6-5(a) through (j))
- Service and Filing of Pleadings and Other Papers.**

15-6-5(a). Service--When required.

Except as otherwise provided in this chapter, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every written motion other than one which may be heard ex parte, and every written brief, notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in § 15-6-4.

15-6-5(b). Service--How made--Proof.

(1) Unless otherwise ordered by the court or provided by rule,
~~Whenever under whenever this chapter service is required requires~~
~~or permitted permits service~~ to be made upon a party represented by an attorney, the service shall be made upon the attorney. ~~unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Service upon a party represented by an attorney may also be made by facsimile transmission as provided in § 15-6-5(f). Delivery of a copy within § 15-6-5 means: Handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person over the age of fourteen years then residing therein. Service by mail shall be by first class mail and is complete upon mailing. Service by facsimile~~

~~transmission is complete upon receipt by the attorney receiving service. An attorney's certificate of service, the written admission of service by the party or his attorney or an affidavit shall be sufficient proof of service. In the case of service by facsimile transmission, proof of service shall state the date and time of service and the facsimile telephone number or identifying symbol of the receiving attorney. The provisions of § 15-6-5 shall not apply to the service of a summons or other process or of any paper to bring a party into contempt.~~

(2) Unless otherwise ordered by the court, all documents filed with the court electronically through the Odyssey® system or served electronically through the Odyssey® system are presumed served upon all attorneys of record at the time of submission.

(3) Documents not filed with the court may be served upon an attorney by any of the following methods:

- A. electronically through the Odyssey® system;
- B. by electronic mail, using the email address designated by the attorney or law firm for service, or if none, the email address published in the Membership Directory of the State Bar of South Dakota;
- C. by first class mail to the attorney's last known address, which is complete upon mailing;
- D. by facsimile transmission subject to the following conditions:
 - (i) the attorney upon whom service is made has the necessary equipment to receive such transmission;
 - (ii) the attorney has agreed to accept service by facsimile transmission, or has served the serving party in the same case by facsimile transmission; and
 - (iii) the time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the Court; or

E. by delivery to the attorney, or an employee of the attorney, at the attorney's office.

(4) An attorney's certificate of service, the written admission of service by the party or his attorney, or an affidavit of service are sufficient proof of service.

(5) Service upon a party not represented by counsel must be made using one of the following methods:

- A. by delivery to the party or leaving it at the party's dwelling house or usual place of abode with some person over the age of fourteen years then residing therein;
- B. by first class mail to the party's last known address, which is complete upon mailing; or
- C. if no address is known, by leaving it with the clerk of the court.

(6) The provisions of § 15-6-5 do not apply to the service of a summons or other process or of any paper to bring a party into contempt.

15-6-5(c). Service on numerous defendants.

In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

15-6-5(d). Filing of papers--Originals--Copies.

The original of all papers served upon a party or presented to any court or judge in support of any application or motion and

including the summons, all pleadings, notices, demands, offers, stipulations, affidavits, written motions, briefs, memorandums of law, and orders shall, if not filed before service, be filed with the court, together with proof of such service, forthwith upon such service. The foregoing requirement of filing applies to the notice of filing of an order and the notice of entry of a judgment together with proof of service thereof, both of which shall be filed forthwith; if not filed within ten days after service thereof, the time of service shall be deemed to be the date of filing of the notice and proof of service. If papers are not to be served, they must be filed with the court at the time of their presentation to the court for any action or consideration.

Any electronic version of any paper or document shall have the same force and effect as the original. A certified copy of an original made by electronic transmission shall have the same force and effect as a certified copy of an original.

15-6-5(e). Definition--Filing with the court.

Except as specifically exempted by these rules or court order,
~~The~~ the filing of pleadings and other papers with the court as required by this chapter ~~shall~~ must be made through the Odyssey® electronic filing system ~~by filing them~~ with the clerk of the court. Self-represented parties may file electronically, but are not required to file electronically. Upon leave of court, an attorney required to file electronically may be granted leave of court to file paper documents with the clerk of the court., except
~~that the~~ The judge may permit a party ~~the papers to be filed~~ file papers with him or her, in which event ~~he shall~~ the judge must note thereon the filing date and forthwith transmit them to the office of the clerk.

~~15-6-5(f). Service by facsimile transmission (fax) to parties represented by attorney.~~

~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, such service may be made by facsimile transmission pursuant to the following conditions:~~

- ~~(1) The attorney upon whom service is made has the necessary equipment to receive such transmission;~~
- ~~(2) The attorney has agreed to accept service by facsimile transmission, or has served the serving party in the same case by facsimile transmission; and~~
- ~~(3) The time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the Court.~~

~~The signature on the facsimile shall constitute a signature under § 15-6-11(a).~~

15-6-5(g). Documents not to be filed--Depositions.

No depositions (except notices to take depositions), interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be filed with the clerk of the court except as provided in this section. Any such filing shall be made electronically in full-size print unless otherwise ordered by the court. Any exhibits to such documents shall be clearly identified and included as a separate electronic file or hyperlinked within the transcript file.

Any discovery materials necessary for the disposition of any motion filed with the court or referenced in any filing with the court shall be attached as an exhibit to ~~and filed with the party's motion in its entirety or as an exhibit to a declaration,~~ affidavit, or other similar filing. Financial account information filed with the court as an exhibit under this section shall be

confidential pursuant to §§ 15-15A-8 and 15-15A-9, and shall remain confidential unless and until access is granted by the court under § 15-15A-10.

If any party designated any or all of any deposition as evidence to be offered in the trial of any case, such deposition shall be filed in electronic format in its entirety with the clerk of the court at the same time as that party's designation.

Depositions used by a party only for the purpose of contradicting or impeaching the testimony of deponent as a witness, pursuant to subdivision 15-6-32(a)(1), shall not be filed unless otherwise ordered by the judge presiding at the hearing or trial.

All depositions which have been read or offered into evidence by agreement of parties, or at the trial or submission of the case to the court, shall become a permanent part of the file.

15-6-5(h).. Civil Case Filing Statements.

Whenever a party or an attorney representing a party commences a civil action, files a notice of appearance, or files an answer or first responsive pleading in a civil action, the party or attorney representing the party shall file a completed civil case filing statement containing identifying information available to that party or attorney regarding all parties, including the adverse party, with the clerk of the court. A statement must also be filed whenever a new party is added to the action. The statement shall be available from the clerk or online at the Unified Judicial System's website. The identifying information for the filing party must be submitted on the filing statement. If the party or attorney representing a party is unable to provide the required information for the filing party, he or she may seek a waiver from the judge assigned to the action. After the information is recorded in the Unified Judicial System docketing system, the filing statement may be destroyed or kept by the clerk of the court in a nonpublic file

for internal record management use by the Unified Judicial System. Access to the filed statement will only be available to court personnel or by court order.

15-6-5(i). Service of discovery requests by electronic mail or portable storage media device ~~computer diskette~~--Costs.

Any party or attorney serving discovery requests pursuant to § 15-6-31, § 15-6-33, § 15-6-34 or § 15-6-36 shall also, upon receipt of a written request, serve those items on the opposing party or attorney by electronic mail or on a portable storage media device ~~computer diskette~~. Failure to comply with such a request shall not make service invalid or extend the time to file a response, but the court shall order payment of the actual costs of reproducing the item and may award such other terms as it deems proper under § 15-6-37 unless good cause for failure to comply with the request is shown.

~~15-6-5(j). Service by electronic mail (email) to parties represented by attorney.~~

~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, such service may be made by email transmission pursuant to the following conditions:~~

- ~~(1) The attorney upon whom service is made has the necessary equipment to receive such transmission;~~
- ~~(2) Prior to the service, the attorney upon whom service is made has agreed in writing to accept service by email, or has served the serving party in the same case by email;~~
- ~~(3) The time and manner of transmission comply with the requirements of § 15-6-6(a), unless otherwise established by the court; and~~
- ~~(4) The sending attorney by facsimile or mail sends a certificate of service specifying the items electronically served.~~

~~The signature or electronic signature on the email shall constitute a signature under § 15-6-11(a). If within two days after the certificate of service is received, the attorney upon whom service is made attests in writing that he or she did not receive the electronic mail submission, then service shall not have been deemed to have been made.~~

Explanation for Proposal

This amendment is proposed by the Practice Rules Revision Committee of the State Bar of South Dakota and the State Bar of South Dakota.

The proposed amendment is intended to: (i) update the rule given the recent adoption of electronic filing rules (SDCL Chapter 16-21A) and the implementation of the Odyssey® file and serve system; and (ii) make the rule more user-friendly to the practitioner by rewriting certain provisions and removing obsolete text. Although the proposed amendments are not based upon a corresponding Federal Rule of Civil Procedure, reference is made to such Rule where appropriate.

The proposed amendments are as follows:

Subpart (a) (Service-When Required): The proposed amendment adds briefs to the list of filings to be served upon all parties. This is appropriate given that briefs are required to be filed pursuant to SDCL 15-6-5(d). Although the corresponding Federal Rule of Civil Procedure, Fed. R. Civ. P. 5(a), does not specify that briefs are to be filed, the Local Rules for the District Court of South Dakota require that briefs be filed and served. See *Local Rule 7.1(B)*.

Subpart (b) (Service-How Made-Proof): The proposed amendment reworks subpart (b). The revision begins by providing that all documents filed or served through Odyssey® are presumed served at the time of submission. Then, by rewording some of the existing text and incorporating certain text from other subparts, the various methods of serving attorneys and unrepresented parties are listed in a more straight-forward manner. The result is a new subpart (b)(3), which lists the various methods of serving attorneys (i.e., Odyssey®, email,

mail, facsimile, and delivery) and a new subpart (b)(5), which lists the various methods of serving unrepresented parties (i.e., delivery, mail, or leaving it with the clerk of courts if no address is known).

With regard to service by email, the proposed rule would provide that emails should be sent to the email address designated by the recipient attorney or law firm for service, or if none, then to the email address published in the Membership Directory.

The corresponding Federal Rule of Civil Procedure is Fed. R. Civ. P. 5(b)(2), which provides that service may be accomplished by the following means:

- (A) handing it to the person;
- (B) leaving it:
 - (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address;
- (D) leaving it with the court clerk if the person has no known address;
- (E) sending it to a registered user by filing it with the court's electronic-filing system or sending it by other electronic means that the person consented to in writing—in either of which events service is complete upon filing or sending, but is not effective if the filer or sender learns that it did not reach the person to be served; or
- (F) delivering it by any other means that the person consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Subpart (c) (Service on number defendants): No proposed changes.

Subpart (d) (Filing of papers-Originals-Copies): No proposed changes.

Subpart (e) (Definition-Filing with the court): The present rule provides that documents are filed "with the clerk of

court." The proposed amendment provides that filings are to be made through the Odyssey® electronic filing system. The proposed amendment also provides that while unrepresented persons may file electronically, they are not required to do so.

The corresponding Federal Rule of Civil Procedure, Fed. R. Civ. P. 5(c)(3)(A), provides that a person represented by an attorney "must" file electronically unless the court allows otherwise. As for unrepresented persons, Fed. R. Civ. P. 5(c)(3)(b) provides that they (i) may file electronically if allowed by the court or local rule, and (ii) may be required to file electronically only by court order or a local rule that includes "reasonable exceptions."

Subpart (f) (Service by facsimile transmission (fax) to parties represented by attorney): The proposed amendment is not substantive in nature as it simply moves these provisions—which provide for the conditions of serving via facsimile—into subpart (b)(3)(D).

As for the corresponding Federal Rule of Civil Procedure, Fed. R. Civ. P. 5(b)(2)(E) provides that service can be accomplished by "sending it by other electronic means that the person consented to in writing." Thus, service by fax is permitted in federal court so long as the recipient has consented in writing to service by fax. However, the service is not effective if the sender learns that the fax did not reach the person to be served.

Subpart (g) (Document not to be filed-Depositions): The existing rule suggests that the only method of filing discovery materials necessary for the disposition of a motion is by attaching them to the motion. In practice, discovery materials and other documents are often attached to a declaration, affidavit, or other similar filing to provide foundation for the document. The proposed amendment allows the movant to file such materials by these other methods.

As for the corresponding Federal Rule of Civil Procedure, by way of example, the Local Rules for the District Court of South Dakota provide that documentary evidence in support of or in opposition to a motion for summary judgment must be attached to an affidavit. See *Local Rule 56.1(B)*.

Subpart (h) (Civil Case Filing Statements): The proposed amendment provides that a civil case filing statement must also be filed when filing a notice of appearance in a case.

Although a Civil Cover Sheet—which is somewhat comparable to a Civil Case Filing Statement is required to be filed

whenever a Complaint is filed in federal court, it does not appear that a Civil Cover Sheet must be filed when an attorney files a notice of appearance.

Subpart (i) (Service of discovery requests by electronic mail or portable storage media device computer diskette-Costs): This subpart requires that parties that serve discovery requests must, upon receipt of a written request, serve them "by electronic mail or computer diskette." Given that computer diskettes are no longer used, the proposed amendment replaces "computer diskette" with "portable storage media device."

There does not appear to be a comparable Federal Rule of Civil Procedure requiring that discovery requests also be served, if requested, by email or portable storage media device.

Subpart (j) (Service by electronic mail (email) to parties represented by attorney): The proposed amendment deletes this subpart as service by email is addressed in the proposed subpart (b)(3)(B). The proposed amendment presumes that the recipient attorney is able to receive email, does not require the recipient's prior agreement to accepting service by email, eliminates the requirement that the sender separately serve via facsimile or mail a certificate of service specifying the document(s) just served by email; and removes the rule that service is deemed to have not been made if, within two days of receiving the certificate of service by fax or mail, the recipient attests in writing that he/she did not receive the email.

As for the corresponding Federal Rule of Civil Procedure, Fed. R. Civ. P. 5(b)(2)(E) provides that service can be accomplished by "sending it by other electronic means that the person consented to in writing." Thus, service by email is permitted in federal court so long as the recipient has consented in writing to service by email. However, the service is not effective if the sender learns that the email did not reach the person to be served.

Because SDCL 15-6-5 concerns the service and filing of documents, it necessarily relates to a number of other rules or statutes. However, the proposed amendments should not affect other existing rules or statutes.

3. Proposed Amendment to 15-6-45(a). Subpoena for attendance of witnesses and for production of documentary evidence--Form--Issuance.

Clerks of courts, judges, magistrates, notaries public, referees, and any other public officer or agency so empowered by § 1-26-19.1 or otherwise authorized by law in any matter pending before them, upon application of any person having a cause or any matter pending in court or before such agency, officer or tribunal, may issue a subpoena for a witness or witnesses, or for the production of books, papers, documents or tangible things designated therein pursuant to the provisions of § 15-6-45(b).

Any attorney of record who has been duly admitted to practice in this state and is in good standing upon the active list of attorneys of the State Bar of South Dakota may issue a subpoena for a witness or witnesses, and for production, inspection and copying of records and exhibits, in any action or proceeding, or collateral hearing, civil or criminal, in which the attorney is the attorney of record for any party. When an attorney issues a subpoena, the attorney must contemporaneously transmit a copy thereof to the clerk of the court, or to the secretary or other filing officer of the board or tribunal in which the matter is pending, for filing. Such officer shall file such copy as one of the public records of the action or proceeding.

A subpoena shall state the name of the court, or tribunal, the title of the action or proceeding, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. It shall state the name of the person or party for whom the testimony of the witness is required. The seal of the court or officer, or tribunal, shall be affixed to the original and all copies, if issued by a court or officer having a seal. If the subpoena is issued by an attorney, it shall be issued in the name of the presiding officer of the court, or tribunal in

which the matter is pending and shall be attested and signed by the attorney, designating the party for whom the attorney is attorney of record. A subpoena shall also include the following text in bold, capitalized type immediately above the signature of the individual signing the subpoena:

YOU SHOULD TREAT THIS DOCUMENT AS YOU WOULD A COURT ORDER. IF YOU FAIL TO COMPLY WITH THE COMMAND(S) IN THIS DOCUMENT WITHOUT ADEQUATE EXCUSE, THE COURT MAY FIND YOU IN CONTEMPT AND ASSESS MONETARY OR OTHER SANCTIONS AGAINST YOU.

YOU HAVE CERTAIN OBLIGATIONS AND RIGHTS AS IT CONCERNS THIS DOCUMENT, INCLUDING THOSE SET FORTH IN SDCL § 15-6-45.

YOU SHOULD CONSIDER CONTACTING AN ATTORNEY REGARDING YOUR OBLIGATIONS AND RIGHTS.

Explanation for Proposal

This amendment is proposed by the Practice Rules Revision Committee of the State Bar of South Dakota and the State Bar of South Dakota.

The proposed amendment requires that subpoenas issued pursuant to SDCL 15-6-45 include provisions designed to inform the recipient of certain basic, yet important, information. Generally, the language: (i) emphasizes that a subpoena is an important document and should be treated like a court order; (ii) advises the recipient that he/she has obligations, and rights, as it concerns the subpoena; (iii) informs the recipient that a failure to comply with the subpoena may result in the recipient being found in contempt; and (iv) states that the recipient should consider contacting an attorney regarding the recipient's obligations and rights.

All parties—including the recipient, the parties to the pending lawsuit, and the court—benefit from recipients of subpoenas being better informed. For example, the parties and the court

benefit when subpoenas are not ignored because resources are not needlessly expended enforcing compliance. Likewise, recipients of subpoenas benefit by understanding that they have rights, such as when a subpoena is unreasonable or oppressive.

Although the proposed amendment is not based on it, the corresponding Federal Rule of Civil Procedure is Fed. R. Civ. P. 45. That rule requires that subpoenas include the following text aimed at protecting persons subject to subpoenas and explaining their duties in responding:

**(d) Protecting a Person Subject to a Subpoena;
Enforcement.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit
Inspection.**

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms

in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i)** expressly make the claim; and
- (ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Fed. R. Civ. P. 45(a)(1)(A)(iv).

Although far less extensive, the proposed amendment would result in SDCL 15-6-45(a) being consistent with the objective of its federal counterpart.

The proposed amendment should not affect other existing rules or statutes.

4. Proposed Changes to Forms 8, 9, 14, 17, 19, 20, AND 21 OF THE APPENDIX OF FORMS TO SDCL CHAPTER 15-6.

Form 8. Complaint for negligence

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against defendant in the sum of dollars and costs an amount to be determined by the trier of fact.

Note:

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

Form 9. Complaint for negligence where plaintiff is unable to determine definitely whether the person responsible is C.D. or E.F. or whether both are responsible and where his evidence may justify a finding of willfulness or of recklessness or of negligence

A.B., Plaintiff

vs. COMPLAINT

C.D. and E.F., Defendants

1. On June 1, 1956, in a public highway called Phillips Avenue in Sioux Falls, South Dakota, defendant, C.D. or defendant E.F., or both defendants, C.D. and E.F. ~~willfully or recklessly or~~ negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting

his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C.D. or against E.F. or against both in the sum of _____ dollars and costs.

Form 14. Motion to dismiss, presenting defenses of failure to state a claim, of lack of service of process, and of lack of jurisdiction under § 15-6-12(b)

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the state of South Dakota, and (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M.N. and X.Y. hereto annexed as Exhibit A and Exhibit B respectively.

Signed:

Attorney for Defendant

Address: _____

~~Notice of Motion~~

To: _____

Attorney for Plaintiff

~~Please take notice, that the undersigned will bring the above motion on for hearing before this Court in the courtroom at the Court House in the City of Sioux Falls, South Dakota on the _____ day of _____, 20____, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.~~

~~Signed:~~

~~Attorney for Defendant~~

~~Address: _____~~

Form 17. Motion to bring in third-party defendant

Defendant moves for leave to make E.F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed:

Attorney for Defendant C.D.

Address: _____

~~Notice of Motion~~

~~_____ (Contents the same as in Form 14. No notice is necessary if the motion is made before the moving defendant has served his answer).~~

~~_____ Exhibit A~~

~~_____ STATE OF SOUTH DAKOTA IN CIRCUIT COURT~~

~~_____ COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT~~

~~_____ A.B., Plaintiff~~

~~_____ vs.~~

~~_____ C.D., Defendant and Third-Party SUMMONS~~

~~_____ Plaintiff~~

~~_____ vs.~~

~~_____ E.F., Third-Party Defendant~~

~~_____ To the above-named Third-Party Defendant:~~

~~_____ You are hereby summoned and required to serve upon _____, plaintiff's attorney whose address is _____, and upon _____, who is attorney for C.D., defendant and third-party plaintiff, and whose address is _____, an answer to the third party complaint which is herewith served upon you and an answer to the complaint of the plaintiff, a copy of which is herewith served upon you, within 30 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third party complaint.~~

Attorney for C.D.

Third-Party Plaintiff

STATE OF SOUTH DAKOTA IN CIRCUIT COURT

COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT A.B., Plaintiff

vs. THIRD-PARTY

C.D., Defendant and Third-Party COMPLAINT

Plaintiff

vs.

E.F., Third-Party Defendant

1. Plaintiff A.B. has filed against defendant C.D. a complaint, a copy of which is hereto attached as "Exhibit C."

2. (Here state the grounds upon which C.D. is entitled to recover from E.F., all or part of what A.B. may recover from C.D.)

~~The statement should be framed as in an original complaint.)~~
~~Wherefore C.D. demands judgment against third-party defendant E.F.~~
~~for all sums that may be adjudged against defendant C.D. in favor~~
~~of plaintiff A.B.~~

~~Signed:~~

~~_____
Attorney for C.D.~~

~~_____
Third-Party Plaintiff~~

~~_____
Address:~~

~~_____
Source: SD RCP, Form 17.~~

Form 19. ~~Motion to bring in third-party defendant~~ Notice of Hearing

~~_____
Defendant moves for leave, as third-party plaintiff, to cause~~
~~to be served upon E.F. a summons and third-party complaint, copies~~
~~of which are hereto attached to Exhibit X.~~

~~Signed:~~

~~_____
Attorney for Defendant C.D.~~

~~_____
Address:~~

~~_____
Notice of Motion~~

~~_____
(Contents the same as in Form 14. The notice shall be~~
~~addressed to all parties to the action.)~~

~~_____
Exhibit X~~

~~_____
(Contents the same as in Form 18.)~~

~~Note:~~

~~Form 19 is intended for use when, under § 15-6-14(a), leave of~~
~~court is required to bring in a third-party defendant.~~

~~To: [adverse party] and [his/her/its] attorney[s], [attorney's[s']~~
~~address]:~~

~~PLEASE TAKE NOTICE that [moving party]'s [name of motion] will~~
~~be brought on for hearing before the Honorable [name of judge],~~
~~Circuit Court Judge, in the [name of County] County Courthouse,~~
~~[City], South Dakota, on the _____ day of _____, at~~
~~_____ .m., or as soon thereafter as counsel can be heard.~~

Form 20. Motion to intervene as a defendant under § 15-6-24

STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT
A.B., Plaintiff
vs. MOTION TO INTERVENE
C.D., Defendant AS A DEFENDANT
E.F., Inc., Applicant for

Intervention

E.F., Inc., moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in its proposed answer, of which a copy is hereto attached, on the ground that it is the manufacturer and vendor to the defendant of the automobile described in plaintiff's complaint, the brakes of which are alleged to have been defectively manufactured; and as such, if the allegations of plaintiff's complaint be true, would be the one ultimately liable to the plaintiff, and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action. Signed:

Attorney for E.F., Inc.,
Applicant for Intervention
Address: _____

~~Notice of Motion~~

~~(Contents the same as in Form 14)~~
STATE OF SOUTH DAKOTA IN CIRCUIT COURT
COUNTY OF MINNEHAHA SECOND JUDICIAL CIRCUIT
A.B., Plaintiff
vs. INTERVENER'S ANSWER
C.D., Defendant
E.F., Inc., Intervener

First Defense

Intervener admits the allegations stated in paragraphs 1 and 4 of the complaint; denies the allegations in paragraph 3, and denies the allegations in paragraph 2 in so far as they assert that the brakes of the automobile described in plaintiff's complaint were defectively manufactured.

Second Defense

Plaintiff was guilty of contributory negligence which proximately caused or contributed to the accident and to the personal injuries which he sustained therein, if any, in that he drove said automobile at a high rate of speed in a negligent and careless manner after the discovery of the defective condition of the brakes which contributory negligence on the part of the plaintiff was greatly more than slight in comparison to the negligence, if any, of this intervener.

Signed:

Attorney for E.F., Inc.,
Intervener
Address: _____

Note:

Under § 15-6-24 the motion to intervene must be served upon all parties as provided in § 15-6-5.

**Form 21. Motion ~~for production of documents etc.~~ to Compel under §
15-6-3415-6-37.**

~~Plaintiff A.B. moves the court for an order requiring defendant C.D.~~

~~—— (1) To produce and to permit plaintiff to inspect and to copy each of the following documents: (Here list the documents and describe each of them.)~~

~~—— (2) To produce and permit plaintiff to inspect and to photograph each of the following objects: (Here list the objects and describe each of them.)~~

~~—— (3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed).~~

~~—— Defendant C.D. has the possession, custody, or control of each of the foregoing documents and objects and of the above-mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.~~

~~—— Signed:~~

~~_____
Attorney for Plaintiff~~

~~_____
Address:~~

~~_____
Notice of Motion~~

~~_____
(Contents the same as in Form 14)~~

~~_____
Exhibit A State of South Dakota~~

~~_____
County of _____~~

~~_____
A.B., being first duly sworn says:~~

~~—— (1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control).~~

~~—— (2) (Here set forth all that plaintiff knows which shows that each of the above-mentioned items is relevant to some issue in the action).~~

~~_____
Signed: A.B.~~

~~_____
(Jurat)~~

[Movant], pursuant to SDCL 15-6-37(a), respectfully moves the Court for an order compelling [opposing party] to [specific relief sought]. The Court should enter the requested order because:

1. The discovery was properly served;

2. [Opposing party] has failed to respond to the discovery;

3. Counsel for [movant] certifies that he has, in good faith, conferred or attempted to confer with [opposing party] in an effort to secure the information or material without court action;

all as set forth in the accompanying Brief in Support of [movant]'s Motion to Compel Discovery.

Attach the following certification:

Certification of Good Faith Efforts to Resolve

Counsel for [movant] hereby certifies, pursuant to SDCL 15-6-37(a)(2), that counsel attempted, in good faith, to resolve this discovery dispute without involving the Court.

On [date], the undersigned communicated to [opposing party] that [opposing party's] responses to outstanding discovery requests were inadequate because [explain what you believe you are entitled to.]

[list each successive communication, including:

a. who participated,

b. the date, and, if relevant, the time of each communication, and

c. the manner of each communication.]

Summarize the outcome of these communications, identifying the substantive dispute that has stalemated the parties discussions, and which the Court must resolve.

Explanation for Proposal

This amendment is proposed by the Practice Rules Revision Committee of the State Bar of South Dakota and the State Bar of South Dakota.

Appendix C to SDCL Chapter 15-6 contains a number of forms that, as the Introductory Statement to the forms states, "are intended for illustration only." After reviewing the forms, the Committee determined that a few modifications would make the forms more accurate and helpful to practitioners. The forms proposed to be amended and the nature of the amendment are as follows:

Form 8: The proposed amendment removes the reference to a specific dollar amount and replaces it with language stating that the plaintiff seeks "an amount to be determined by the trier of fact." In addition to a plaintiff not being required to allege a specific dollar amount, this change results in the form being more consistent with attorneys' practice of not specifying a specific dollar amount sought, which is often

because the precise amount of damages is not known at the inception of the action.

Form 9: The form presently combines two different and significant issues: (i) the potential liability of two defendants; and (ii) differing theories of liability, i.e., negligence and willfulness/recklessness. The proposed amendment will make the form less confusing by limiting its application to a complaint for negligence when it is unclear which of the defendants is liable or whether both are.

Form 14: The form presently includes a "Notice of Motion" and accompanying text. While other jurisdictions require a "Notice of Motion," SDCL Chapter 15-6 does not contemplate such a "Notice of Motion." Instead, a motion is typically filed and notice of the hearing is provided either in the motion or a separate filing. The proposed amendment removes the "Notice of Motion" text.

Form 17: In addition to an illustrative motion to add a third-party defendant, the form includes a "Notice of Motion" and accompanying text as well as examples of a Third-Party Summons and Complaint. The proposed amendment removes the "Notice of Motion" for the reasons discussed previously. The proposed amendment also removes the illustrative Third-Party Summons and Complaint because illustrative examples of both are already contained in Form 18.

Form 19: The present form contains a motion to add a third-party defendant. Because an example of a motion to add a third-party defendant is already set forth in Form 17, this form is duplicative. For that reason, the proposed amendment replaces the form in its entirety and replaces it with an example of a Notice of Hearing. A Notice of Hearing was selected because it is a commonly prepared document and the forms do not contain an example of one.

Form 20: The proposed amendment removes the "Notice of Motion" for the reasons discussed previously.

Form 21: This form presently contains an example of a "motion for production of documents" and also contains a "Notice of Motion." Although the motion for production of documents includes language from SDCL 15-6-34, the proposed amendment provides a form that is broader in its scope of use (i.e., not limited to documents and inspections) and more typical of what is seen in practice. The proposed amendment also removes the

"Notice of Motion" for the reasons previously discussed. Finally, the proposed form includes an example of a certification by counsel of his/her good faith efforts to secure the information or material without court action as required by SDCL 15-6-37(a)(2).

The proposed changes are not based on any particular Federal Rules of Civil Procedure and will affect other existing rules or statutes.

5. Proposed Amendment to 15-12-37. Disqualification on court's own motion.

A judge or magistrate having knowledge of a ground for self-disqualification under the guidelines established by Canon 3E e shall not, unless Canon 3E d is utilized, await the filing of an affidavit but shall remove himself on written motion to be filed in duplicate by the judge or magistrate with the clerk of courts of the county wherein the action is pending. The clerk of courts shall notify the presiding judge, and the parties or their attorneys in the manner provided by this chapter for notification on filing of an affidavit for change of judge or magistrate.

Explanation for Proposal

The proposal offered by the State Court Administrator's Office would fix two errant statutory references to the Code of Judicial Conduct contained in 15-12-37 (Supreme Court Rule 75-5, section 18). The proposal is not based on any other federal or state law and would not impact other rules or statutes.

6. A Proposal for the Adoption of a New Rule Concerning Court Reporter Transcript Fees.

Section 1. The fee for the preparation of a transcript from a court reporter's notes of evidence is three dollars and sixty cents per page for the original. The fee for a copy, furnished on

request, is sixty-five cents per page, to be paid to the officer of the court who prepared the transcript.

Section 2. Implementation Date:

This rule change shall become effective January 1, 2023.

Explanation for Proposal

The proposal by the Unified Judicial System's Court Reporter Committee is intended to implement the provisions of HB 1079 which was passed during the 2022 Legislative Session. This proposal was based on a comparison of current rates provided in the surrounding states and the federal courts. Information related to those charges are attached to this rule proposal as Appendix A.

HB 1079 during the 2022 Legislative Session provided:

An Act to revise provisions regarding court transcript costs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 15-15-7 be AMENDED:

15-15-7. Unless ordered by the court to be supplied to an indigent or an indigent's counsel and paid out of the county treasury where court was held, a fee shall be charged to the person ordering a typewritten transcript by filing of an order for transcript on appeal of a proceeding taken by an officer of the court, which shall be certified to be a correct transcript of the reporter's notes of the evidence, ~~at the rate of three dollars per page for the original. The fee for a copy, furnished on request, is forty cents per page, to be paid to the officer of the court who prepared the transcript.~~

Section 2. The amendment to § 15-15-7 provided in section 1 of this Act is subject to the Supreme Court's adoption of a new rule establishing the page rate cost for both an original and copy of the transcript, effective January 1, 2023.

Appendix A

Court Reporter Page Rates

South Dakota	\$3.00/Original	.40/copy
Minnesota	\$3.25/Original \$4.75/Original	.25/copy (Criminal) .25/copy (Civil)
North Dakota	\$3.25 Original	.75/copy
Iowa	\$3.50/Original	.50/copy
Montana	\$2.60/Original	.50/copy
Nebraska	\$3.25/Original	.50/copy

Any person interested may appear at the hearing and be heard, provided that all objections or proposed amendments shall be reduced to writing and the original and five copies thereof filed with the Clerk of the Supreme Court no later than October 21, 2022. Subsequent to the hearing, the Court may reject or adopt the proposed amendments or adoption of any rule germane to the subject thereof.

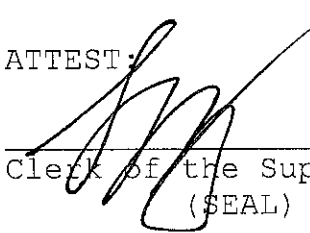
Notice of Rules Hearing No. 148 - November 9, 2022

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

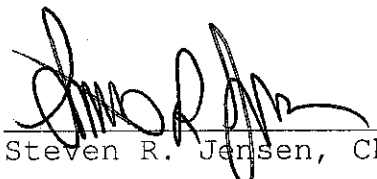
DATED at Pierre, South Dakota this 6th day of October, 2022.

BY THE COURT:

ATTEST:



Clerk of the Supreme Court
(SEAL)



Steven R. Jensen, Chief Justice

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

OCT - 6 2022


Clerk

PUBLIC NOTICE

REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE

The current appointment of Magistrate Judge Todd Hyronimus is due to expire on February 25, 2023. Magistrate Judge Todd Hyronimus serves in the Seventh Judicial Circuit.

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

Pursuant to UJS policy members of the bar and the public are invited to comment as to whether Magistrate Judge Todd Hyronimus should be reappointed to another four-year term.

Written comments should be directed to:

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

Comments must be received by: November 27, 2022

Career Center

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

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



Associate Attorney – Custer

Associate Attorney - Custer The Custer, SD law firm of Southern Hills Law PLLC is seeking to hire an attorney for its growing regional criminal and civil practice. This position is open to any level of experience who is right for training. Salary \$50,000/yr non negotiable. Work will include preparation of criminal and civil litigation documents and some appearances in local state courts. Interested persons should send cover letter and resume to southernhillslaw@gmail.com

Prosecuting Attorney – Lower Brule

ESSENTIAL FUNCTIONS:

- Represent the Tribe in prosecution of adults committing criminal acts within tribal jurisdiction, including fish and wildlife offenses.
- Represent the Tribe in prosecution of juveniles committing delinquent acts or status offenses within tribal jurisdiction.
- Represent the Tribe in juvenile proceedings of child abuse/neglect/dependency occurring within tribal jurisdiction and ICWA proceedings transferred to Tribal Court.
- Oversight of juvenile diversion program.
- Attend court hearings, including drug court.
- Evaluates evidence, interviews witnesses, prepare legal pleadings including subpoenas, search warrants, arrest warrants, and juvenile pick-up and detain orders. Work closely with the police department
- Draft written complaints, motions, proposed orders, legal briefs, jury instructions, sentencing recommendations, and other legal documents as appropriate.

- Conduct all necessary case preparation before Tribal Court hearings and trials.
- Assist in developing and improving the Tribe's criminal justice system, including code development.
- Ability to communicate effectively, both orally and in writing.
- Ability to multitask, prioritize assignments and remain organized.
- Argue and present cases as appropriate in Tribal Court and appeals therefrom.
- Maintain criminal and juvenile case statistics.

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

- Have Juris Doctor degree from an accredited law school and be a member in good standing of the South Dakota State Bar Association.
- Experience and competence in criminal advocacy, criminal jury trial experience preferred.
- Experience and competence handling juvenile and child protection cases.
- Knowledge of federal Indian law; criminal law and procedure; juvenile law and procedure; and healing to wellness court or alternative courts process and procedures.
- Respect for the culture and traditions of the Lower Brule Sioux Tribe.
- Computer skills, including knowledge of Word, Excel and Access programs.

SALARY: Negotiable, depending on experience

- **CLOSING DATE:** Open until filled
Applications shall be in writing, to include a professional

resume, legal qualifications and any other submissions at the option of the applicant. Native American preference applies. Applications may be obtained from the LBST Personnel Office, Lower Brule, South Dakota (605-473-5561) or contact Chief Judge Lorrie Miner at Lower Brule Tribal Court (605-473-2010).

Staff Attorney – Pierre

Job ID: 20598

Location: Pierre

Salary: \$69,300 to \$77,012 DOE

Closing Date: Open Until Filled

This position is exempt from the Civil Service Act. This is a full-time position with the Division of Insurance, part of the Department of Labor and Regulation. For more information on the Division of Insurance, please visit <https://dlr.sd.gov/insurance>.

Why the Division of Insurance?

At the Division of Insurance, our mission is to protect the public by providing assistance, fair regulation, and promoting a health, competitive market and we do so in team focused work environment. The team works hard together to protect the citizens of South Dakota when navigating the insurance and securities markets. Insurance companies, bail bondspersons, investment advisors, complex business transactions, federal/state conflicts, healthcare, auto claims... these are a few of the broad subject areas our team handles on a daily basis. Our collaborative efforts drive professional customer service and contribute to a favorable regulatory climate for business. These fields are evolving rapidly as technology reshapes our world. Along the way you'll gain valuable experiences like:

- prosecution of insurance and securities violations.
- legal review of multimillion and multibillion dollar insurance company mergers and acquisitions.
- consumer complaint support to directly assist claim recovery for citizens.
- professional growth through new challenges and valuable trainings.
- collaboration with other states and national companies, including multistate examinations.
- balance and flexibility for your personal life.

What you will do:

- represent the Division before the Office of Hearing Examiners and state and federal courts.

- prosecute investigation files, prep witnesses, perform discovery, prepare briefs, etc.
- provide legal services and support to all areas of the Division.
- assist in drafting administrative rules and proposed legislation.
- provide legal and policy advice to management and staff in a positive mentoring environment.
- collaborate with other State agencies and departments.

Who we want:

- an attorney interested in practicing within a broad range of legal subjects within the vast fields of insurance and securities law.
- a highly motivated attorney with a passion for service and desire to make a difference.
- a dedicated civil servant who will represent the Division with strong leadership skills and legal advice on a wide range of highly visible and sensitive issues.

What you need:

- graduate from an accredited law school and member of the South Dakota Bar Association.
- experience in government practice or in-house legal department is preferred.
- experience in an administrative law setting as well as state and federal court is a plus.
- excellent communication skills and legal drafting are required.
- ability to analyze complex technical issues, facts, and precedent to provide sound advice.
- ability to develop and maintain strong relationships with diverse groups.
- equally as important will be a strong work ethic and interpersonal skills, discretion, confidentiality, and a positive approach.

If you enjoy a fast-paced career in a continually evolving field with a great team by your side, apply. You must apply online at <https://sodakprod-lm01.cloud.infor.com:1443/lmg/hr/xmlhttp/shorturl.do?key=JX1>. Required documents: resume, cover letter, and writing sample. A license to practice law in the South Dakota is desired. Knowledge of insurance and securities law is a plus.

VETERANS' PREFERENCE ELIGIBLE

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 ten 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.

Lateral Attorney – Sioux Falls

BOYCE LAW FIRM, LLP, in Sioux Falls, South Dakota has an opening in its TRUSTS & ESTATES practice area for a lateral attorney with 3-10 years of experience in private practice or relevant experience in the trust industry. Qualified candidates will have a background in advanced estate planning and/or trust administration, superior communication skills, and be highly self-motivated. Ideal candidates will have an existing book of transferable business and LLM in Taxation. 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. For more information about Boyce Law Firm, please visit www.boycelaw.com.

Attorney – Pierre

Position: Attorney

Agency: South Dakota Public Utilities Commission

Location: Pierre

Salary: \$90,000 or more dependent upon qualifications and relevant experience

Closing: Open Until Filled

Position Purpose

Represent the South Dakota Public Utilities Commission in proceedings before the commission and the regulated industry. Research, analyze, write, and provide legal guidance regarding dockets such as utility tariff filings, transmission siting permit requests, contested cases, and other commission administrative

proceedings. Present legal findings in writing and orally before the commission in meetings and hearings. Position represents the commission at various meetings and events involving utility industry, government representatives and constituents. Position reports to the commission's executive director. To learn more about the Public Utilities Commission, its authority and its work, visit PUC.sd.gov.

Qualifications

Must be a graduate from an ABA accredited law school and possess a Juris Doctorate. Must be licensed by the South Dakota State Bar to practice law in South Dakota, with experience as an attorney.

Knowledge and Skills

- the law;
- the legislative process;
- Proper English usage;
- excellent legal research, critical thinking and analytical capabilities;
- grasp of accounting and economic principles;
- professional legal writing experience;
- excellent oral presentation and written communication skills;
- utility background or knowledge preferred; and
- must be qualified to practice law in South Dakota pursuant to SDCL 16-16-12.1.

Ability to

- research and interpret federal laws, state statutes and administrative rules;
- research and comprehend technical matters;
- prepare data requests and discovery materials;
- write concise briefs, direct testimony, legal notices, orders, rules and statutes;
- cross examine expert witnesses;
- participate in negotiated settlement agreements on behalf of commission;
- be proficient in the use of applicable office computer software programs;
- effectively organize and prioritize multiple projects and responsibilities with overlapping deadlines;
- be diplomatic, decisive, self-motivated, and trustworthy in dealing with confidential matters;
- work effectively and efficiently within procedural schedules, project timelines, and in preparation for regular commission meetings as well as commission hearings;
- travel and work evenings and weekends as needed; and

-lift at least 40 pounds to load and unload materials and equipment for meetings and events.

Additional Comments

-In and out-of-state travel (by auto and airplane) and overnights are occasionally required to attend meetings, training sessions, conferences, and other events. A valid driver's license is required.

-The State of South Dakota provides employer-paid health insurance plus 11 paid holidays, generous vacation and sick leave accrual, dental, vision, and other insurance options and retirement benefits. Access South Dakota's benefit information at <https://bhr.sd.gov/job-seekers/work-for-state-government/>.

-This position is exempt from the Civil Service Act.

-Equal Opportunity Employer.

To Apply

Interested candidates shall submit a resume, cover letter and contact information for three work-related references via email to puc@state.sd.us

South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501
PUC.sd.gov

Staff Attorney – Sioux Falls

East River Legal Services (ERLS) is seeking to hire a Staff Attorney. This position is in our Sioux Falls, South Dakota office. We are a non-profit law firm serving low-income individuals in the 33 Eastern South Dakota counties. ERLS exists to better the lives of the over 52,000 people living in poverty in Eastern South Dakota. We offer free legal services to our community's veterans, older Americans (60+), individuals with disabilities, victims of crime, and all those facing financial insecurity and/or homelessness.

General Responsibilities:

Under the supervision of the Managing Attorney, the Staff Attorney will represent victims of crime in all areas of law including housing, family law, protection orders, landlord/tenant disputes, evictions, utilities, public benefits, consumer, and other civil matters. The types of services provided include legal advice, brief service, and/or extended representation. Aside from direct representation, the Staff Attorney may also, from

time-to-time, prepare and deliver client training and other community education, appear in administrative and judicial forums, and contribute to special legal and community projects.

Duties and Responsibilities:

- Conduct and oversee client interviews, investigation, field investigations, and fact gathering;
- Provide high-quality legal representation or advice to clients on housing, family law, protection orders, guardianships, and other related matters in state court and administrative proceedings in Eastern South Dakota;
- Handle a full range of litigation activities including drafting pleadings, conducting depositions, completing discovery, negotiations, motions practice, and representing ERLS clients at trial;
- Provide education and outreach to members of the community, service providers, and community organizations;
- Work in collaboration with community organizations that provide rental assistance, domestic violence support, and other services available to support our clients;
- Keep well-informed of the applicable laws and case laws as they develop and change to ensure that ERLS is applying new laws properly;
- Keep accurate records of case activities and provide the necessary information to meet grant and other reporting requirements;
- Perform other duties which may be assigned from time to time by the Managing Attorney or Executive Director.

Knowledge, Skills, & Abilities:

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

Salary and Benefits:

Salary based on experience. Benefits include paid

holidays and vacation days, parental leave, health, dental, vision, travel reimbursement, Life, AD & D, and IRA.

Pay:

\$53,000.00 - \$65,000.00 per year

To Apply:

Interested applicants should send their Cover Letter and Resume to:

East River Legal Services
Attn: Melissa Frericks
335 N. Main Ave., Suite 200
Sioux Falls, SD 57104-6038
Or Email to:
Melissa@erlservices.org

Closing Date: Open Until Filled

Financial Examiner– Sioux Falls or Pierre

Division of Banking Financial Institution Examiner

Job ID: 20584

Salary: \$50,000 annually

Closing Date: Open Until Filled

This is a Full-Time 40 Hours Weekly position with the South Dakota Division of Banking, part of the Department of Labor & Regulation. For more information on the Division of Banking, please visit <https://dlr.sd.gov/banking>. The Division of Banking regulates the state's banking, trust, and financial services industries to assure that our citizens have confidence in our state's financial markets and services. We are seeking an inquisitive individual with analytical and communication skills to join our team of professional Financial Institution Examiners in either Pierre or Sioux Falls.

Examiners at the Division of Banking enjoy:

- Training – Effective on-the-job training is combined with annual off-site training at locations such as Hilton Head, SC; Arlington, VA; and Boston, MA.
- Pay Advancements – Salary increases are offered for successful work performance and completion of formal trainings.
- Positive working environments – Enjoy having your own office while still working as part of a knowledgeable and supportive team.

- Personal growth – Develop comprehensive knowledge of the financial industry while developing leadership and communication skills.
- Advancement – Successful examiners will receive numerous certifications with internal promotional opportunities available.

As part of a team, you will:

- determine the financial condition of state-chartered banks, trust companies, and licensed financial institutions;
- evaluate adequacy of financial institutions' internal control procedures;
- determine compliance with State and Federal statutes related to banking, trust, licensing, and consumer protection;
- evaluate loan and investment portfolios to determine quality and suitability;
- make recommendations on findings;
- investigate consumer complaints related to supervised financial institutions.

The ideal candidate will have:

- A bachelor's degree in banking, finance, accounting, or a related field with an advanced degree preferred. Professional experience that leads to mastery of the following knowledge and abilities will be considered.
- Knowledge of accounting and auditing principles and procedures; the organization of banks and other financial institutions; banking work environments; fiduciary principles; consumer protection statutes and regulations; and Microsoft Office products and management information systems.
- Skill to communicate concisely and effectively with co-workers, financial institution staff and officials, and examiners from other agencies; gather, interpret, report, and use financial information; understand and interpret federal and state banking regulations.

Additional Requirements: To be considered, attach your resume, letter of interest, writing sample & post-secondary transcripts

This position is exempt from the Civil Service Act. This position is eligible for Veterans' Preference per ARSD 55:10:02:08. 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 ten paid holidays, generous vacation and sick leave accrual, dental, vision, and other insurance options, and retirement benefits. You can view our benefits information at <https://bhr.sd.gov/job-seekers/work-for-state-government/>. This position is a member of Class A retirement under SDRS.

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

Senior Assistant City Attorney – Sioux Falls

HIRING RANGE DOQ: \$3,564.00 - \$4,403.20 bi-weekly

DEADLINE FOR FILING: Wednesday, November 9, 2022

Job Summary

Perform advanced professional legal services representing serious and complicated aspects of the law that require extensive research. Provide legal assistance, advice, counsel to, and representation of City government, elected officials, officers, and employees regarding complex legal matters across various disciplines as assigned.

This position is responsible for transactional matters and litigation with a heavy emphasis in real estate related matters, including, but not limited to, condemnations, tax deeds, TIFs, parking easements, quiet title actions, affordable housing, foreclosures, and bankruptcies.

Minimum Qualifications

Graduation from an accredited school of law and a minimum of six (6) years' experience in the practice of law, preferably in public sector law, regulatory compliance work experience, or diversified program management experience including conducting research and/or investigations and analyzing data; or any such

combination of education, experience, and training as may be acceptable to the hiring authority.

Admission in good standing to the State Bar of South Dakota

APPLICATION AND SELECTION

Apply online at www.sioxfalls.org/careers. Most qualified will be invited for testing. If an ADA accommodation is needed, please contact, 72 hours prior to closing date, 605-367-8740 or recruiter@sioxfalls.org.

Staff Attorney – Pierre

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

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

Competitive salary (\$58,500 to \$60,000) and full benefits are provided. Position open until filled. To apply please include a letter of interest, resume, and writing sample to sandy.hook@drsdlaw.org or mail to:

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

Staff Attorney – Mission

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Mission, South Dakota office. The Mission office serves the counties Gregory, Jones, Mellette, Todd and Tripp, along with the Rosebud Reservation.

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

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

CLOSING DATE: Open until filled.

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

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

Law Clerk – Sioux Falls

Position Title: Term Law Clerk to U.S. Bankruptcy Judge Laura L. Kulm Ask (Full-time)

Location: Sioux Falls, South Dakota

Position Available: January 17, 2023

Salary: \$66,214 - \$94,373 (JSP 11-13)(based on qualifications)

Announcement Number: 22-01

Closing Date: November 18, 2022, or until filled

Type of Appointment: Two years with the possibility

of renewal or appointment to a career law clerk position.

POSITION OVERVIEW:

This position will be a Term Law Clerk for the Honorable Laura L. Kulm Ask, United States Bankruptcy Judge for the District of South Dakota. The position is for a two-year term beginning January 2023, with the possibility of renewal or appointment to a career law clerk position.

REPRESENTATIVE DUTIES INCLUDE:

Reviewing pleadings that come before the Court to determine the issues involved and the basis for relief;

Reviewing dockets and monitoring progress on matters;

Reviewing and potentially screening motions and draft orders for judge's review;

Drafting of bench memorandums for the judge's consideration;

Performing extensive legal research, proofreading orders and opinions while verifying citations, and preparing legal documents such as draft orders, memoranda, and opinions;

Assisting with case management responsibilities including preparation for conferences and general docket management tasks;

Attending court hearings and trials, and assisting the judge at those;

Maintaining liaison between the Court and litigants, including communicating with counsel;

Keeping abreast of changes in the law and briefing the judge on them; and

Performing miscellaneous administrative duties and other duties as assigned.

MINIMUM QUALIFICATIONS:

The candidate must be a U.S. citizen or eligible to work in the United States, a graduate from a law school of recognized standing by the American Bar Association or the Association of American Law Schools, and have one or more of the following attributes:

- Standing within in the upper one-third of their law

school class;

- Experience writing for a law review or on a moot court, externship or clinical program; or
- Demonstrated proficiency in legal studies, which in the opinion of the judge, is equivalent to one of the above. The determination of an acceptable equivalence rests with the judge.

PREFERRED QUALIFICATIONS:

- An academic background in bankruptcy or secured transactions coursework
- Excellent legal research and writing skills
- Ability to effectively communicate, both orally and in writing
- Good organizational, computer, and word processing skills
- Ability to work effectively and well with others in a team-based environment
- Ability to maintain confidentiality, uphold the court's ethical rules and exhibit good judgment, maturity, dependability and responsibility
- Ability to manage time and prioritize tasks to meet deadlines
- Previous experience as a federal law clerk or practicing attorney is highly desirable

BACKGROUND CHECK:

The selected candidate will be required to undergo an FBI fingerprint check through the FBI Criminal Justice Information Services Division. The successful candidate for this position is subject to a full National Crime Information Center (NCIC) background records check.

BENEFITS:

This position falls within the Judicial Branch of the United States Government and includes most federal benefits. Term Law Clerks are not eligible to participate in the Federal Employee Retirement System or the Thrift Savings Plan. Employees are not classified under Civil Service, but are entitled to similar benefits as other Federal employees. These benefits include:

- 11 paid holidays
- Optional participation in choice of health plans, dental and vision insurance programs, group life insurance program, long term care insurance, and pre-tax flexible spending account plan for certain expenses

HOW TO APPLY:

Interested persons should email a completed Application

for Judicial Branch Federal Employment (Form AO 78), cover letter, detailed resume, a writing sample, and a law school transcript in a **single .pdf document** to ginger_elless@ndb.uscourts.gov. Applicants selected for an interview may also be asked to provide a list of references prior to the interview.

<http://www.uscourts.gov/forms/human-resources-forms/application-judicial-branch-federalemployment>

DISCLOSURES:

- Only qualified applicants will be considered for this position.
- Interview and relocation expenses will not be reimbursed.
- Electronic direct deposit of salary payment is mandatory.
- All court employees are at-will employees, and therefore the appointee may be removed from this position at any time.
- Travel may be required.
- The court reserves the right to modify the conditions of this job announcement or to withdraw the job announcement without any prior written notice or other notice.
- Employees engaging in work for the District of South Dakota are required to be fully vaccinated against COVID-19. Proof of vaccination will be required to entrance on duty.
- Employees must adhere to a Code of Ethics and Conduct which is available to applicants for review upon request.
- The United States Bankruptcy Court is an Equal Opportunity Employer.

Deputy Clerk – Mission

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Mission, South Dakota office. The Mission office serves the counties Gregory, Jones, Mellette, Todd and Tripp, along with the Rosebud Reservation.

QUALIFICATIONS/RESPONSIBILITIES: Applicants must have a JD degree and be licensed to practice, or by reciprocity be able to obtain a license to practice, in South Dakota, or be qualified to take the next South Dakota Bar Exam; must be a bright, motivated, self-starter; must have the tenacity to assume immediate

practice responsibilities, including handling a significant caseload touching on many different areas of law with an emphasis on family law. Additionally, the applicant should expect to make regular appearances in state and tribal court. Applicants must demonstrate an interest in poverty law and working with Native American and low income clients.

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

CLOSING DATE: Open until filled.

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

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

Deputy Clerk – Pierre

U.S. District Court
District of South Dakota

www.sdd.uscourts.gov

Announcement #: 08-22

Number of Vacancies: 1

Location: Pierre, South Dakota

Salary: CL 25 – CL 27 (\$43,767 – \$86,084)

commensurate with experience

Employment: Regular, full-time

Closing Date: Open until filled; first review date to commence 11/14/2022

About the District of South Dakota

The U.S. District Court for the District of South Dakota consists of federal court chambers, clerk's office, and probation and pretrial services. The District serves two active district judges, three senior district judges, and three magistrate judges.

The clerk's office manages federal courthouse duties in Sioux Falls, Pierre, Aberdeen, and Rapid City, South Dakota.

ABOUT THE POSITION

The U.S. District Court for the District of South Dakota is seeking a full-time Deputy Clerk in the Pierre, South Dakota office. The deputy clerk maintains accurate court records through the entirety of criminal and civil court cases through the Court's electronic case management system (CM/ECF), handles cashiering duties with the general public, provides a high level of customer service at all times, and provides jury operations support and courtroom support. This position reports to a member of the clerk's office management team.

POSITION DUTIES AND RESPONSIBILITIES

- Perform complex case management transactions such as opening and closing cases while ensuring the appropriate statistical data.
- Prepare and process appeals, warrants, subpoenas, notices, and form orders.
- Answer inquiries from attorneys as well as the public regarding case status and procedural rules.
- Act as a courtroom deputy for civil and criminal case proceedings. Assist with the orderly flow of proceedings including setting up the courtroom, assuring the presence of all necessary participants, and operating all courtroom technology equipment. Take notes of proceedings and rulings and prepare and docket minute entries.
- Communicate with outside agencies, counsel, and the public to facilitate orderly case management and case progression.
- Coordinate the presence of court reporters and court interpreters when needed.
- Serve as backup for magistrate judge scheduling by coordinating with various outside government agencies.
- Process attorney admission applications, prepare certificates, attend admission ceremonies, and maintain record of admitted attorneys.
- Assist with jury administration by processing juror summonses and assisting with jury selection/empanelment.
- Organize and arrange naturalization ceremonies. Representative duties include preparing programs, sending press releases, and attending ceremonies to assist as needed.
- Perform records management duties including requesting, maintaining, and returning records to the Federal Records Center, and filing and archiving documents using electronic imaging.
- Perform cashier functions as outlined in the Internal Control Manual.
- Communicate clearly and effectively, both orally and

in writing.

- Travel to other locations within the district as required.
- Other duties as assigned.

MINIMUM QUALIFICATION REQUIREMENTS

Applicants must be a high school graduate (or equivalent) and possess at least two years of general experience.

- To qualify at a CL 25 – CL 26, applicants must possess the education and general experience stated above, plus a minimum of one-year specialized experience.
- To qualify at a CL 27, applicants must possess the education and general experience stated above, plus a minimum of two years specialized experience.

General experience is considered progressively responsible clerical, office, or administrative work that provided an opportunity to gain specific knowledge and skills related to the functions of a deputy clerk.

Specialized experience is defined as progressively responsible clerical or administrative experience which includes regularly applying rules, regulations, directives, or laws in the workplace and routinely utilizing specialized terminology and automated software systems or equipment for word processing, data entry, and report generation. Such experience is typically found in law firms, legal counsel offices, banks, credit firms, educational institutions, social service organizations, insurance companies, real estate firms, or title companies.

Excellent customer service and problem-solving skills with a high level of technical and computer aptitude is required.

Experience and knowledge with electronic case management systems and basic knowledge of federal and local guidelines is required.

EDUCATIONAL SUBSTITUTION

Education above the high school level may be substituted for required general experience on the basis of one academic year (30 semester or 45 quarter hours) equals one year of general experience.

Education may not be substituted for specialized experience.

PREFERRED QUALIFICATIONS

A bachelor's degree and previous legal experience is

highly desired.

BENEFITS

- Paid Annual Leave
- Paid Sick Leave
- 12 weeks Paid Paternal Leave
- 11 Paid Holidays per year
- Health Insurance with government subsidy
- Dental & Vision Insurance
- Telework opportunities
- Compensation time earnable
- Group Life Insurance
- Flexible Spending Accounts
- Long-Term Care Insurance
- Federal Employee Retirement System
- Thrift Savings Plan (TSP) option with up to 5% agency match

Visit U.S. Courts Benefits for more information.

CONDITIONS OF EMPLOYMENT

- Applicants must be a U.S. citizen or eligible to work in the United States.
- Judiciary employees must adhere to the Code of Conduct for Judicial Employees at all times.
- Employees of the United States District Court are hired under excepted appointments, are not covered by the Civil Service System, and are considered “at will” employees.
- The candidate hired for this position will be subject to a full background record check.
- This position is subject to mandatory electronic funds transfer participation for payment of net pay (direct deposit).
- The U.S. District Court for the District of South Dakota reserves the right to amend or withdraw any vacancy announcement with or without written notice to applicants. If a subsequent vacancy of the same position becomes available within a reasonable amount of time after the original announcement has closed, the Court Unit Executive reserves the right to select a candidate from the original applicant pool of the previous vacancy announcement.

APPLICATION INSTRUCTIONS

For priority consideration, applicants should submit the following:

- 1) A completed AO 78 Judicial Branch for Federal Employment application, found on <http://www.uscourts.gov/> under Court Forms. Candidates should

not answer questions 18-20 on form AO 78;

2) A letter of interest describing how you meet the skills and experience described under “Minimum Qualification Requirements”;

3) A current resume to include at least three (3) professional references;

All documents should be attached and emailed in PDF format with “Vacancy 08-22” in the subject line to Brooke Richards at: brooke_richards@sdd.uscourts.gov.

Incomplete application packages will not be considered.



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

Having A Rough Day?
Place your hand on your heart.
Feel that? That's called purpose
You're Alive for A Reason!
DON'T GIVE UP!!!!

UPCOMING EVENTS

November 5 | Wine Review | Mead Cultural Education Center | Yankton

November 16 | Bar Commission Meeting | Teleconference

November 17 | Law for Lunch - Consumer Protection

December 15 | Law for Lunch - Cybersecurity

December 21 | Bar Commission Meeting | Teleconference

January 5, 2023 | Bar Commission Meeting | Pierre

January 5-6, 2023 | Disciplinary Board Meeting | Chamberlain

January 19, 2023 | Law for Lunch - Tax Update

February 15, 2023 | Bar Commission Meeting | Teleconference

February 16, 2023 | Law for Lunch - Administrative Law Process

March 15, 2023 | Bar Commission Meeting | Teleconference

March 16, 2023 | Law for Lunch - Appellate Process Do's & Don'ts

April 12, 2023 | Bar Commission Meeting | Sioux Falls

May 17, 2023 | Bar Commission Meeting | Teleconference

May 18, 2023 | Law for Lunch - 2023 Legislative Updates

June 23, 2023 | Bar Commission Meeting | Ramkota, Sioux Falls

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State Bar of South Dakota

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“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

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