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State Bar of South Dakota NEWSLETTER

October 2022

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Ben's Brew Station

719 Walnut St.
Yankton, South Dakota

October 5th, 2022 | 4:30PM - 6:00PM

Food and drinks provided

State Bar of South Dakota

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PRESIDENT'S CORNER

Lisa K. Marso

Weddings. In September my only daughter got married. In October, Past President Bill Gary's only daughter will get married. Truly joyous occasions surrounded by family and friends. Yet it is those connections to others nurtured through the years that created so much of what I found truly meaningful in the celebrations.

When I think of a marriage, my thoughts go to the word "covenant". As we learned in our contract classes, covenants are unconditional promises to do or not do something. As you think about contracts and covenants, I hope you are inspired to again connect to someone with whom you agreed to stay in touch and let them know you are thinking about them. Those are bonds that should not be broken.

Transitioning now to spotlighting two exceptional individuals whom I am certain were at the top of their contract classes. I highlight Judge Cheryle Gering and Public Sector Attorney Director Mulder:

Cheryle Gering: Judge Gering is the current Presiding Judge of First Judicial Circuit. Long before that appointment, her interest in law was fueled in part when seeing a lawyer's office lined with books and thinking, "a job spent reading is the job for me." In junior high she interviewed Judge E.W. Hertz for a class project, and in high school she worked in an attorney's office in her hometown for a summer. When she attended the University of South Dakota, she worked in the law school as a work study student. In 1988, she earned her bachelor's degree in political science and criminal justice. All of these experiences reinforced her decision to go into law. She then attended the University of Iowa Law School, graduating in 1991. She returned to South Dakota, working at the Davenport, Evans, Hurwitz & Smith law firm in Sioux Falls as a civil trial lawyer for nearly twenty years. Judge Gering was the first Circuit Court Judge appointed by Governor Daugaard, beginning her position in the First Circuit on July 1, 2011. She became Presiding Judge in the First Circuit in November, 2017. Judge Gering has served in the past on various State Bar Committees, and currently serves on the Judicial Qualifications Commission, the Judicial Training Committee and the Judicial Ethics Committee. Judge Gering's most frequent advice to attorneys who appear in court is "Be prepared", a truly fitting piece of advice as she certainly is well prepared when attorneys appear before her.

Amber Mulder: Amber Mulder is the Director of Labor and Management for the State of South Dakota Department of Labor and Regulation. Director Mulder hails from Doon, IA. She received her Bachelor's of Arts degree in Criminal Justice and Sociology from the University of Sioux Falls. While working towards her Master's of Public Administration from the University of South Dakota, her administrative law class made her realize law school was where she should be instead. This led her to Hamline University School of Law, where she graduated in 2009. Prior to being appointed as Director, Amber worked in private practice in Iowa for two years and then became a staff attorney and then senior staff attorney for the SD Department of Labor and Regulation providing counsel for the Department particularly in employment law matters, and to the Cabinet Secretary and Unemployment Insurance Division among others. Her appointment as Director occurred in August of 2019, where in addition to providing legal counsel to the Department, she also provides administration of our state labor laws, wage and hour laws, Human Rights Division, and workers' compensation system. During these years, Amber has been actively involved in the State Bar including serving as the Chair of the Labor and Employment Committee for over 4 years and being part of the Administrative Law Committee. About public service, Director Mulder says, "It may not be glamorous work, but every day we are helping people and hopefully making a positive difference in peoples' lives. That's what helps me show up every day - even on the hard days." Thanks Amber; you are a difference maker.

So, as you think about the month of October: reflect on your own marriage and the promises you made to your spouse, reflect on your promises to stay in touch with others, and then act on those promises. It will make a difference!

"Alone we can do so little, together we can do so much."

— Helen Keller

State Bar of South Dakota
YOUNG LAWYER SECTION
YLS

Anthony Sutton
YLS President

As bar exam results were issued this past month, I was pleased to see posts on social media of those passing the bar. This led me to reminisce about when I received my bar exam results and reflect on when I was sworn in at the Statewide Swearing-In Ceremony in 2016. Although I never remembered hearing much about the ceremony when I was a law student and I contemplated skipping the ceremony, I am glad that I did not miss it. The Statewide Swearing-In Ceremony is truly something special and a wonderful bookend to the end of a career as a student and an even better launching off point for an individual's career as a member of the South Dakota Bar. And for me personally, it was a special experience that I got to share with my young family, including my wife and then-one month old daughter, and with several of my classmates.

This year's Statewide Swearing In-Ceremony and Nuts & Bolts CLE will be on October 21, 2022, in Pierre. The Nuts & Bolts CLE will begin at 9 am and will include lunch for all who attend. The Statewide Swearing-In Ceremony will begin at 3 pm in the Capitol Rotunda. A copy of the agenda for the Nuts and Bolts CLE and the invite to the Statewide Swearing-In Ceremony are included as part of this month's newsletter.

I know many young lawyers, especially those just starting jobs or clerkships might not feel that they can ask for a day off to attend the Nuts & Bolts CLE and the Statewide Swearing-In Ceremony. To those recent bar exam passers and young lawyers, I would encourage you to ask as you will not regret it. The CLE we have lined up this year for the Nuts & Bolts is top notch and will feature, the Honorable Chief Justice Steven R. Jensen, the Honorable Roberto A. Lange, John Burke, Bob Morris, and Tony Teesdale, just to name a few presenters. Chief Justice Jensen will also preside over the Swearing-In Ceremony and administer the oath to all who attend.

Because many bar exam passers might feel that they cannot ask for a day off in October, I want to put the onus on the rest of us as members of the bar and

employers of new lawyers to encourage them to attend the Nuts & Bolts CLE and the Statewide Swearing-In Ceremony. Lawyers who were recently sworn in or plan to delay their admission due to a clerkship can also attend—and are highly encouraged to attend—the Statewide Swearing-In Ceremony and the Nuts & Bolts CLE. Family members and current Members of the Bar are also encouraged to attend the Statewide Swearing-In Ceremony and welcome some of South Dakota's newest lawyers.

During both the Nuts & Bolts CLE and the Statewide Swearing-In Ceremony, there will be discussions regarding mentorship and specifically regarding the Hagemann-Morris Mentorship Coin Program. This year, the YLS Board is looking to revamp the mentor program to try to make it easier for both interested mentees and interested mentors to apply. While additional details on our efforts will be discussed in future newsletters, I wanted to include links for both potential mentees (mentee application) and mentors (mentor application) to apply to participate in the program. The Mentorship Program is a great way to support our new members of the South Dakota Bar and provide them with the guidance they need to succeed. The Hagemann-Morris Mentorship Coin Program is another great opportunity for established members of the bar to encourage the young lawyers they interact with to apply for the program. If anyone has issues with the links and is interested in participating in the Mentorship Program as either a mentee or mentor, please feel free to contact me (anthony@janklowabdallah.com) and I will be happy to help get you started.

I look forward to seeing many of our newest lawyers, their families, and other members of the Bar on October 21st in Pierre!

Fellows of the South Dakota Bar Foundation

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Hon. Charles B. Kornmann
Lisa Hansen Marso
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Hon. Judith K. Meierhenry
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Hon. Bobbi J. Rank
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☐ Gold Fellow – $5,000, cumulative.
☐ Silver Fellow – $1,000 per year.
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In Memoriam

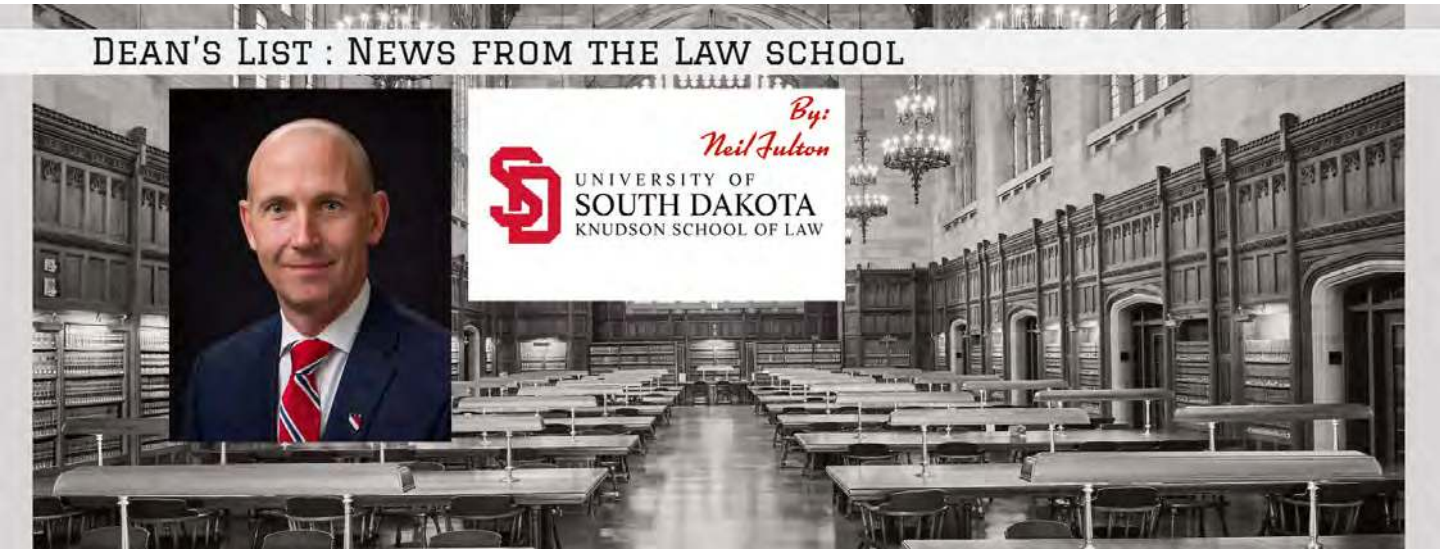
Donations in memory of a lawyer or judge may be made and will be deposited in the endowment fund. Such donations will be combined to qualify the deceased lawyer/judge as a fellow.

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

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

Or you can email this form to:
tracie.bradford@sdbar.net or call 605-224-7554 to set up a payment.

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



October generally brings exam results, and this year is no different. For July of 2022, the first-time pass rate for Law School graduates in South Dakota was 79%. That number is the starting point to assess bar exam results, not the end. We are waiting for results from other jurisdictions to determine our total first-time pass rate for the Class of 2022. More important, however, is Ultimate Bar Passage (the percentage of students who took and passed a bar exam within 2 years of graduation) because that is the number that the ABA looks at for accreditation. I also think it gives a more complete picture of bar success than first time rates alone. For the classes of 2019 and 2020, the Law School's ultimate bar pass rate has been 94 and 87 percent. Our graduates are passing the bar exam.

While bar exam outcomes are very important, so is the bar exam process. Many lawyers have little reason to be familiar with the mechanics of the bar exam, but it is helpful as you consider the results. I want to spend a little time in this month's column talking about that process.

While the National Conference of Bar Examiners prepares most exam materials, each jurisdiction determines the content and grading of their exams. South Dakota requires a scaled score of 133 on the MBE (the 200-question multiple-choice potion) and a cumulative score of 75 percent or higher on the MEE/MPT (the essay and practice activity portions). More than half of states require a higher passing score; three-quarters require a score equal to or higher than South Dakota's. Among neighboring states, only North Dakota sets a lower passing score than South Dakota.

South Dakota does require a separate passing score on each portion of the exam. South Dakota rewards exceptional performance on the MEE/MPT by awarding up to three MBE points based on scores of 80, 85, and 90 respectively. This "bonus point" rule was implemented in 2019 and has made the difference in passing for several applicants since then.

There has been some argument that South Dakota's scoring system places applicants here at a disadvantage. I disagree. Many other jurisdictions use a scaled scoring system to grade the MEE/MPT portion of the exam rather than South Dakota's true percentage scoring approach. In a scaling jurisdiction, all essays are graded by distribution in groups one through six (with one being the lowest score and six the highest). The purpose of this structure is to create a forced distribution of scores on the exams. This is unlike South Dakota, where, in theory, every exam could get a 90%. Once the distribution is made, the mean and standard deviation of scores for both the MBE and MEE/MPT are determined. The MEE/MPT scores are then adjusted so that they have an identical mean and standard deviation. (you can get more detail about scaling from the NCBE here: https://thebarexaminer.ncbex.org/article/equating-and-scaling/the-testing-column-3/). South Dakota's essay scoring system is different, but nothing about it places South Dakota applicants at a disadvantage in comparison to the scoring system used in other jurisdictions. In fact, Mark Albanese, the former Director of Testing and Research for the NCBE has clearly stated, "combining the scaled essay scores with the MBE scores will not have an impact on the percentage of examinees who fail…." (https://thebarexaminer.ncbex.org/article/

equating-and-scaling/the-testing-column-scaling-its-not-just-for-fish-or-mountains/). Having overseen the testing of the test for many years, Mr. Albanese refutes the suggestion that South Dakota's method of scoring the MEE/MPT portion of the exam somehow drives down pass rates.

The reality is also that among applicants who do not pass the exam, they overwhelmingly fail to pass the MBE, not the MEE/MPT. For example, in the February exam administration, 90% of the applicants who did not pass the exam DID pass the MEE/MPT. In the July administration, it was just under 90%. As part of the NextGen Bar initiative, NCBE is moving away from the MBE in the coming years. I continue to believe that the NextGen changes hold real potential to make the bar exam process better across the country. In the interim, when bar pass rates are not where we want, it is not because of the structure of South Dakota's exam. Applicants overwhelmingly succeed on the essay portion of the bar exam.

I have also heard the claim that bar pass rates in South Dakota have "never recovered" from their fall in the middle of the last decade. They have—both for USD graduates and in the jurisdiction as a whole. As I noted above, the pass rates for the Class of 2019 reached 94% and the Class of 2020 reached 87%. The Class of 2021 is currently at 86%. For all South Dakota applicants (USD and other schools), South Dakota's total pass rate has beaten the national average every year since 2018. You can see that data on the NCBE website: https://thebarexaminer.ncbex.org/2021-statistics/ten-year-summary-of-bar-passage-rates-overall-and-first-time-2012-2021/. This graph shows the relationship between South Dakota's pass rates and the national average pretty clearly: https://libguides.law.usd.edu/sd_bar_exam_pass_rates.

Bar exam results are indisputably important. They are extremely important and extremely personal to those applying for admission. It is also indisputably true that it is important to assess results through an evaluation of accurate and complete data over time and not any one administration as well as with an informed and open-minded consideration of the testing process. It remains critical to the mission of the Law School to prepare and support our graduates for bar admission, and that we work with the Court and the Bar to continue make our processes better. It is unlikely that any assessment or outcome will ever be "perfect," but it is entirely possible that working together as a profession, we can continue to refine our admissions process to be fair, protective of the public, and aligned with minimum professional competence.

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.

A2J Presents

THE 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.

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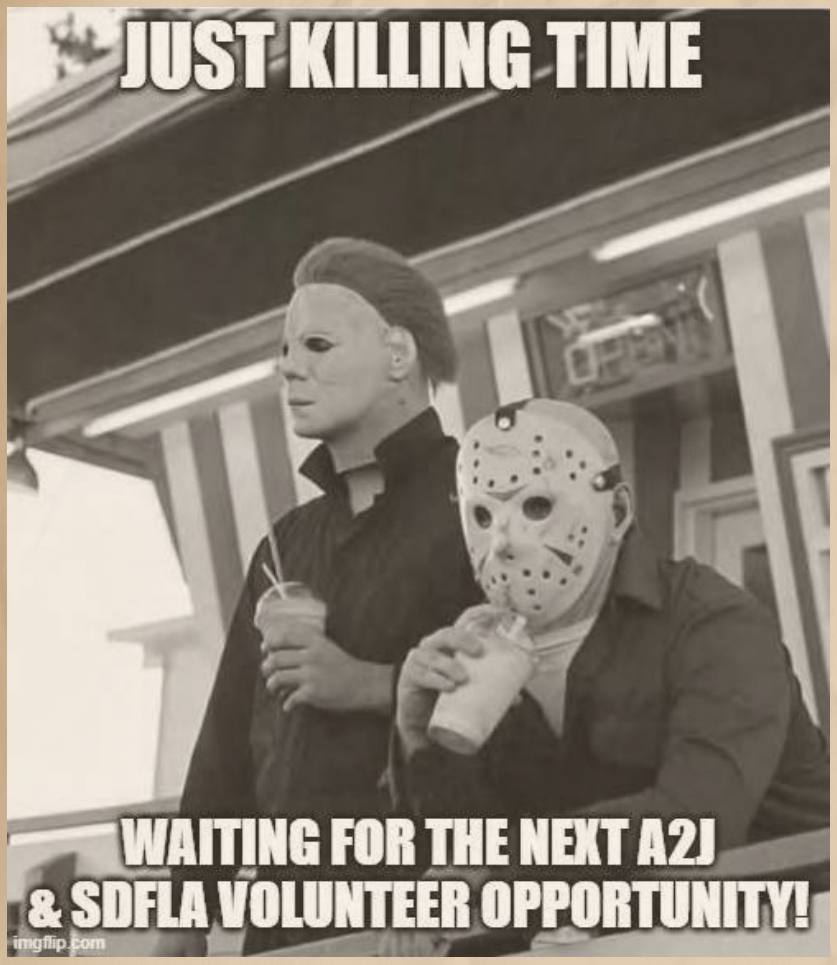
CODY MILLER
TOM SANNES



SPECIAL THANKS TO:

STEVE HUFF
DENISE LANGLEY
JAMES TAYLOR

ARE YOU INTERESTED IN BECOMING A LEGAL SUPERHERO AND MEMBER OF THE

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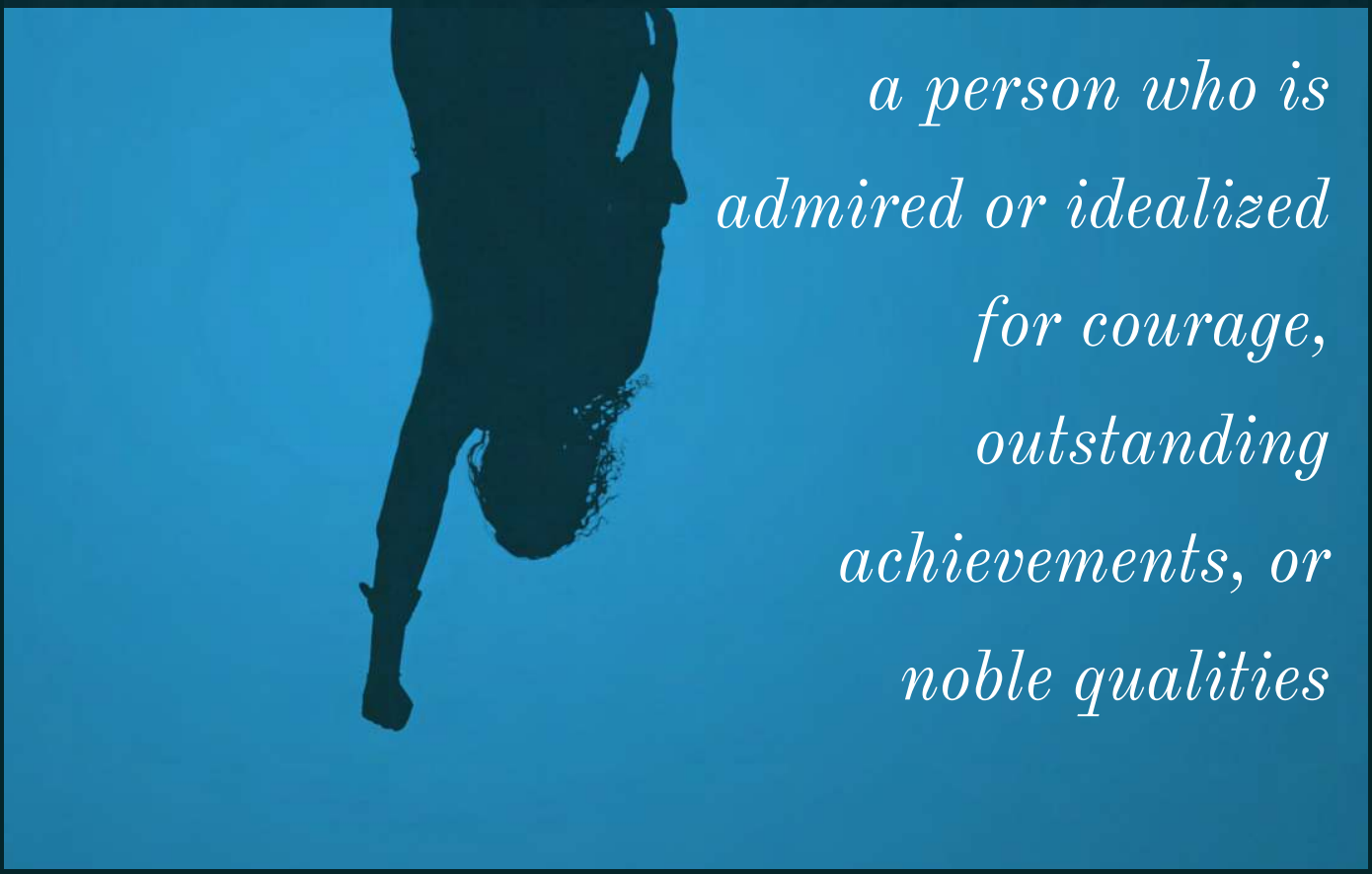

a person who is admired or idealized for courage, outstanding achievements, or noble qualities

ANNOUNCEMENTS

Boyce Law Firm, L.L.P.
is pleased to announce that

Kristin N. Derenge

joined the firm as an associate attorney
in August 2022.

Boyce Law Firm, L.L.P.
300 S. Main Avenue
P.O. Box 5015
Sioux Falls, SD 57117-5015

Telephone: (605) 336-2424
Facsimile: (605) 334-0618

www.boycelaw.com

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.
is pleased to announce the addition of

Connor Donohoe

as an associate attorney in Rapid City.

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

Telephone: (605) 343-1040
Facsimile: (605) 343-1503

cdonohoe@bangsmccullen.com
www.bangsmccullen.com

James D. Taylor, P.C. is pleased to announce that

Ashley K. Anson,

previous solo practitioner of Ashley Anson, Prof. LLC has joined our firm as an Associate Attorney. The law office of Ashley Anson, Prof. LLC will now be a satellite office of James D. Taylor, P.C. out of Wessington Springs, SD effective immediately.

James D. Taylor, P.C.
James D. Taylor
Ashley K. Anson
Attorneys and Counselors at Law

520 N. Lawler, Suite 100
PO Box 6
Mitchell, SD 57301
Telephone: (605) 996-3882
Facsimile: (605) 996-3884

102 Main Street East
PO Box 309
Wessington Springs, SD 57382
Telephone: (605) 539-9006
Facsimile: (605) 996-3884

www.tmlawsd.com

taylor@tmlawsd.com
anson@tmlawsd.com

Robins Kaplan L.L.P.
is pleased to announce that

Thad A. Titze

has joined the firm as an associate attorney.

Robins Kaplan L.L.P.
140 North Phillips Avenue, Suite 307
Sioux Falls, SD 57104

Telephone: (605) 335-1300
Facsimile: (605) 740-7199

TTitze@RobinsKaplan.com

www.RobinsKaplan.com

Farrell, Farrell & Ginsbach
is changing the Firm's name.

Effective October 1, 2022, the Firm's name
will change to

Hustead Law Office, P.C.

The phone number and address will
remain the same.

Hustead Law Office, P.C.
441 N. River Street
Hot Springs, SD 57747

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

whustead@husteadlaw.com
cromey@husteadlaw.com
aschaefer@husteadlaw.com

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

Owen R. Wiese
and
Aidan F. Goetzinger

have joined the firm as associate attorneys.

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

Telephone: (605) 342-1078
Facsimile: (605) 342-9503

www.gpna.com

owiese@gpna.com
agoetzinger@gpna.com

Marlow, Woodward & Huff, Prof. LLC
is pleased to announce that

Joshua M. Anderson
and
Dylan M. Miller

have joined the firm as associate attorneys.

Marlow, Woodward & Huff, Prof. LLC
P.O. Box 667
200 West Third Street
Yankton, SD 57078

Telephone: (605) 665-5009

www.mwhlawyers.com

josh@mwhlawyers.com
dylan@mwhlawyers.com

Siegel, Barnett & Schutz, L.L.P.
is pleased to announce that

Kiera Leddy

has joined the firm as an associate attorney.

Siegel, Barnett & Schutz, L.L.P.
415 South Main Street, Suite 400
Aberdeen, SD 57401

Telephone: (605) 225-5420

kleddy@sbslaw.net

Frieberg, Nelson &Ask, LLP
is pleased to announce that

Austin Felts

has joined the firm as an associate attorney.

Austin will be working mainly out of our
law office located at:

115 N 3rd St.
PO Box 511
Beresford, SD 57004

Telephone: (605) 763-2107

afelts@frieberglaw.com

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.

Effective October 3, 2022,

Baloun Law, PC

is reopening their law firm.

Baloun Law, PC
Beth Baloun
14700 E 57th St, Suite 102
Sioux Falls, SD 57108

Telephone: (605) 368-1196

beth@balounlaw.com

NUTS AND BOLTS

OCTOBER 21, 2022
MISSOURI AVENUE EVENT CENTER
217 W MISSOURI AVE | PIERRE

AGENDA

8:50-9:00
Introduction and Welcome
9:00-10:15
“The Discipline Process and Practical Tips to Avoiding It” - John Burke
10:15 -10:25
Break
10:25-11:10
“What Lawyers Need to Know” - Court Services Officer Charles Frieberg | Clerk of Courts Marci Steven | Interpreter Sadie Stevens | Court Reporter Carla Bachand
11:10 – 11:55
“Practicing Across the Prairie as a Solo or Small Firm” - Bob Morris & Tony Teesdale
11:55 – 12:10
Break
11:55-12:45
LUNCH (provided on-site)
12:10-12:55
Lunch with the Chief Justice Jensen
12:55-1:40
“Federal Court in South Dakota” - Judge Lange
1:40-1:45
Closing and surveys

REGISTER HERE

#NUTSANDBOLTS

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.

CPCM
KNOW | RESPOND | PREVENT
CENTER FOR THE PREVENTION OF CHILD MALTREATMENT

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

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

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How the State Bar

Ethics Committee works

Identifying and responding to ethical issues that arise in practice can be challenging and frightening. The Ethics Committee of the South Dakota Bar is available to help all lawyers in South Dakota through those questions.

It is important to remember that the Ethics Committee is NOT the Disciplinary Board. The Ethics Committee exists not to identify and discipline ethical violations, but to confidentially assist lawyers in achieving compliance with the Rules of Professional Responsibility. As a result, there are some rules about how the Ethics Committee operates that are important to know:

01

Requests are confidential

The Ethics Committee will provide an opinion about concrete ethical questions to lawyers admitted to the State Bar of South Dakota. Action taken in reliance on a formal ethics opinion of the Committee is protected against discipline. Opinion requests are held confidential, and formal written opinions are de-identified to the greatest degree possible.

02

Questions Must relate to Your Own Conduct

The Ethics Committee can only provide an opinion about the conduct of the lawyer making the request or another lawyer with whom that lawyer practices in partnership or similar association. Opinions cannot be sought about the conduct of opposing or unaffiliated lawyers lest they be used as swords rather than shields.

03

No HYPOTHETICALs Please

Requests for opinions need to be presented in concrete situations, with a description of the operative facts involved. Those facts will be assumed true by the Ethics Committee and the opinion limited to them. It is difficult to address hypothetical questions, so requests need to be tied to an actual factual scenario the requesting lawyer presently faces or is likely to.

04

send to chair with deadline

Opinion requests can be directed to the chair via email: Sander.Morehead@woodsfuller.com and are then circulated for discussion within the Ethics Committee. The Committee endeavors to be timely, so it is useful to note any time pressures for the opinion.

05

We are here to help

Lastly, although formal opinions are common, the Committee is always happy to try to brainstorm an ethical issue with lawyers. Feel free to email or call the chair or another Committee member directly.

Opinions of the Committee over the years are collected on the State Bar Website. They make an excellent starting place to research an ethical question. The Committee also can steer lawyers to ethics opinions from the ABA, other states, and other ethics resources that may be helpful. Most importantly, the Ethics Committee exists to be a resource for members of the Bar. Please never hesitate to get in touch with questions or suggestions of how the Committee can best serve you.

THIS MESSAGE IS PROVIDED TO MEMBERS OF THE STATE BAR BY ETHICS COMMITTEE CHAIR, SANDER MOREHEAD. OTHER MEMBERS OF THE COMMITTEE INCLUDE: CAMEO ANDERS, JAMES BILLION, JEFFREY BRATKIEWICZ, JENNIFER BUNKERS, TRACEY DOLLISON DECKER, KIMBERLY DORSETT, DAN FRITZ, ALECIA FULLER, NEIL FULTON, ERIC KELDERMAN, YVETTE LAFRENTZ, CHRIS MADSEN, DONALD MCCARTY, KIMBERLY PEHRSON, MIKE SCHAFFER, THOMAS SIMMONS, RYAN SNELL, CASSIDY STALLEY.

Is It Okay For a Lawyer to Text with Clients?

by: Mark Bassingthwaighte

Is it okay for a lawyer to text with clients? This question is one that keeps coming up. The short answer is yes; but just because you can do something, doesn't mean it's always a good idea. I say this because texting is ubiquitous in our culture. Instead of taking the time to compose an email or pick up a phone, it takes far less time to send a quick text at any time of the day or night regardless of the setting. It's such an easy thing to do without giving it any thought, and therein lies the problem. When a lawyer fails to factor in the associated ethical and risk management concerns, a decision to enter into a text message exchange with a client can in the end prove to be a bad idea.

What are the ethical and risk management concerns with texting?

It all starts with Comment [8] to ABA Model Rule 1.1 Competency, which reminds lawyers that they are to "keep abreast of changes in the law and its practice to include the benefits and risks associated with relevant technology." When lawyers communicate with clients via text messaging, they need to be thinking about the ramifications of doing so.

Speaking personally, I think a decision to provide a cell number to more than a select few clients is a bad idea unless you have established defined boundaries for its use upfront. It's a wellness issue for me. I'm not a fan of 24/7 availability because everyone needs downtime. The problem is when people send a text, they are usually expecting an immediate response, even if it's after their lawyer has gone home for the day. In the absence of predefined boundaries, the ability to manage client expectations and benefit from some well-deserved recuperative time can quickly become a challenge.

The informality of text messaging and the fact that this type of communication often occurs on the fly is also of concern. Short and succinct text messages are problematic if their purpose is to pass along legal advice or if clients are relying on them to facilitate their decision-making process. For example, using text messaging as the way to pass along thoughts on the terms of a settlement offer or having a client discuss key terms that need to be included in a contract would be a bad idea. At a minimum, it's an inefficient use of time that can needlessly result in a larger bill than the client might be expecting all due to the need to send multiple texts to make sure you have all the information you need as well as to confirm the client has correctly understood the exchange. As a risk manager, I strongly believe such substantive discussions are better had in person or over the phone if the circumstances permit.

Compounding the situation is the struggle some lawyers and/or staff have when it comes to capturing and preserving text message exchanges as part of the

client file. Remember, in the context of a malpractice claim or disciplinary matter, what isn't documented can all too quickly become something that didn't happen or wasn't said; and now you've got a new problem. So, if anyone at your firm is unable or unwilling to capture and preserve any and all substantive text messages, then I'd seriously consider limiting their use of texting to informational courtesy exchanges only. For example, a text that confirms an appointment time, lets a client know the lawyer is running late, or explains where to meet at the courthouse would be fine. Anything beyond that would not be.

One concern that is easily overlooked is in not knowing if the text messages being sent are actually being received and then read by the correct party. For example, do you take the time to stop to think about who might have access to the client's cell phone or ever wonder if the client is having their text messages show up on the family computer at home? Making matters worse, how would you know that a client has texted you an urgent message when your phone is off? What might happen if the client assumes you received it and trusts that you will promptly address the matter when you didn't and thus couldn't? Could this be a problem? It already has been for others.

Even if you take steps to make sure every text message is received and only read by the intended recipient, this doesn't mean you have responsibly followed through on your duty to maintain client confidences. For example, messages sent by way of the widely used SMS and MMS messaging methods are unsecured when in transit, which means these messages can be read by anyone who intercepts them. And while iMessages sent to other Apple users are encrypted while in transit, they are unencrypted when set to SMS users.

The final concern I wish to discuss is the BYOD (Bring Your Own Device) problem. In the absence of a policy that proactively addresses using personal devices for texting clients, staff and attorneys can all too easily step out of bounds. For example, the use of free third-party apps such as WeChat or WhatsApp may contain vulnerabilities that cybercriminals can exploit. A much better approach would be to have everyone use a paid for business use enterprise-based solution. Here's another way to think about the BYOD problem. For many firms, allowing staff and attorneys to use personal email for work is strictly prohibited. Why should text messaging be any different? It shouldn't.

I share all the above to underscore the importance of and the whys behind Comment [8] to ABA Model Rule 1.1. In my mind, the benefits of texting are self-evident. It's the risks that aren't; and as a lawyer, how can you ever address any of the risks if you fail to put sufficient energy and time into determining what the risks actually are? There are ways to have a secure instant message exchange and ways to make sure the record of the exchange is captured, preserved, and properly secured. Signal or Kenect are just two examples of how to do so. If you have no idea where to start, or just want a little professional guidance, I suggest you reach out to your IT support because there is no one size fits all solution.

Once you have a handle on the associated risks, I would encourage you to establish written text messaging guidelines, to include an explanation as to the whys behind them and see that all staff and attorneys are properly trained on how to follow them. This can be an effective way to manage the risks that come with text messaging. Of course, this assumes everyone abides by the rules, which means they will need to be enforced. If that's not a hill you wish to climb, then an alternative might be to place significant limitations on what can be shared via text message, when it can be shared, and on what devices. Regardless, don't allow an "anything-goes attitude" to turn into your firm's default text messaging policy. Those kinds of policies rarely play out well over the long term. Just saying…

Authored by: Mark Bassingthwaighte, Risk Manager

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

The Butterfly Effect – How outreach efforts in South Dakota schools can impact the future of our profession.

South Dakota Bar member Tamara Nash had the opportunity to sit down with ALPS risk manager Mark Bassingthwaighte to discuss her journey to become a lawyer, and how she is using her experience to reach other young people.

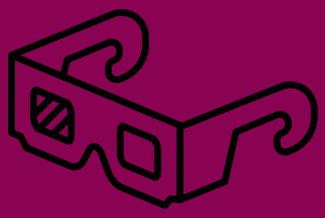
"My desire was to hear the back story to Project Destination, a passion project from the Young Lawyer's Section of the South Dakota Bar. If you would enjoy learning about a program that strives to inspire Native American children to pursue a law degree, I encourage you to give this a listen."

- Mark Bassingthwaighte

TAMARA NASH

Episode 64:
Project Destination

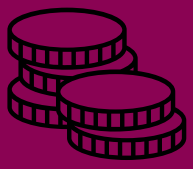
Play



Please join us at the

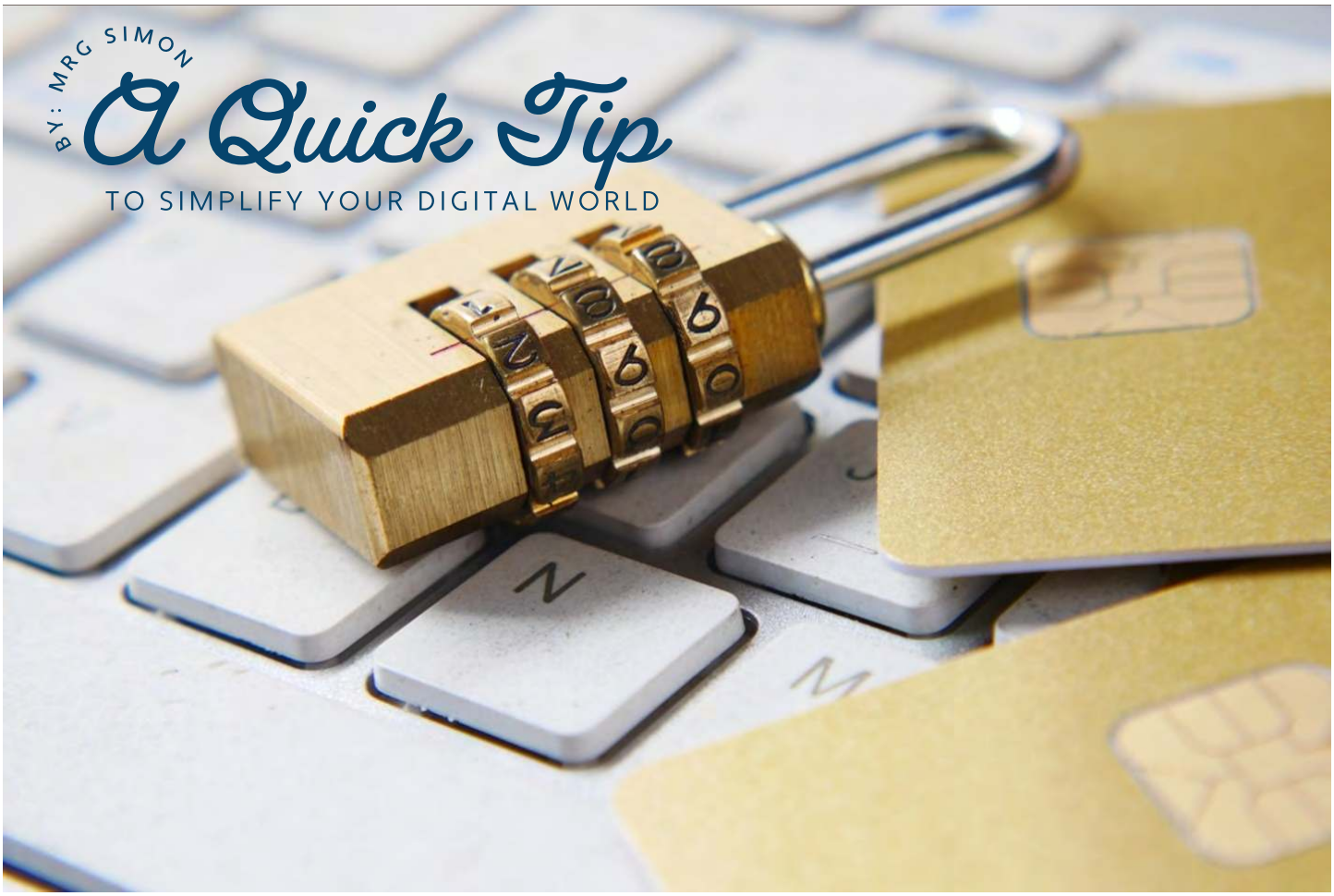
RETROCADE

on November 1, 2022
from 5:30 pm – 7:30 pm
for the 5th Circuit
Young Lawyer Mixer



Please RSVP by October 25th
to rebecca@ronaynelawoffice.com

RETROCADE
117 S. Main Street
Aberdeen, South Dakota



BY: MRG SIMON

A Quick Tip

TO SIMPLIFY YOUR DIGITAL WORLD

Organizing your professional life can be done in small bits and pieces. A good place to start will allow you to easily manage the digital noise and distraction in your life and your practice. For example, do you ever find yourself sitting at a computer, trying to access a website, only to get the dreaded message that your password is incorrect? Do you want to stop wasting time searching for passwords, logins, account information, and countless other bits of private information? If you don't have one already, let me tell you about one of the most powerful and simple tools at your disposal: password managers.

Organizing your digital world will streamline your personal and professional life, not to mention save you time and money. For example, according to Scott Sonnenschein, co-author of the book "Joy at Work," the average person has about 130 online accounts per email address, and forgetting the right username and password is a major source of frustration. If you've ever forgotten your password, you've gone through the gauntlet of trying different combinations of user IDs and passwords only to eventually give up and simply change your password. And it's not just you. The loss in productivity from lost things adds up to about one week per year per employee of lost time, and the time related to lost passwords alone amounts to at least $420 per employee per year. Id.

Some of you might already be using a password manager, and I suspect a good number of you are not. While helping lawyers organize their offices, I've seen lots of random pieces of paper, notebooks, and sticky notes with password information on them and found them in all corners of a single office. With the ever-increasing technology tools we are required to use in our practices, as well as those that are a good idea to use, you need a secure and reliable system to protect your information and your client information.

Password managers are apps that secure and sync passwords within your "vault" across any browser, device, or desktop. They can initially scan your devices for usernames and passwords, save new passwords as you browse, and create complex passwords for your use. Many will alert you to security breaches related to internet sites you use, autofill forms, and allow secure sharing.

Even if you have an assistant who typically handles all the electronic filing and service, the billing, trust account, and tax information and payments, you still need to prepare for the day when that person is unexpectedly unavailable for an extended time. Having secure shareable office-related passwords for your operational systems is crucial. Password managers can be a powerful tool to help ensure you stay "on top of" all the technology used in your office.

I use the app Dashlane for my business and personal passwords. It's got a free version which is robust enough to address all of the features described. Other top-rated password manager apps include NordPass, Keeper, 1Password, RoboForm, Bitwarden, and Norton, to name just a few. (I have no affiliation with any of the apps identified here and do not receive any income from recommending them to you.) Whichever you choose, choose one now – before you experience a catastrophic loss – and be sure it is installed on all your devices.

The speed at which technology changes and new websites become a "must," makes the use of relevant technology an essential part of every law practice. Before closing, I would be remiss in not reminding the reader that the South Dakota Rules of Professional Conduct, begin with the obligation to provide "competent representation" which "requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Rule 1.1. Although our state is one of a handful that have not adopted ABA Comment 8, [1] we each have an obligation to take all necessary steps to maintain the security of client information, documents, and discovery.

1 The ABA Comment now reads: "To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject." SD is one of 10 states that has not formally adopted this comment to Rule 1.1, as of March 2022. "Lawyer's Duty of Technology Competence by State in 2022 [Infographic]," Percipient (https://percipient.co/lawyers-duty-of-technology-competence-by-state-infographic/).

Requiring and using a password manager is one quick step you can take to help manage those security risks.

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

For confidential organizational solutions from an attorney you can trust, contact me today!

In-person and virtual sessions available.

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

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

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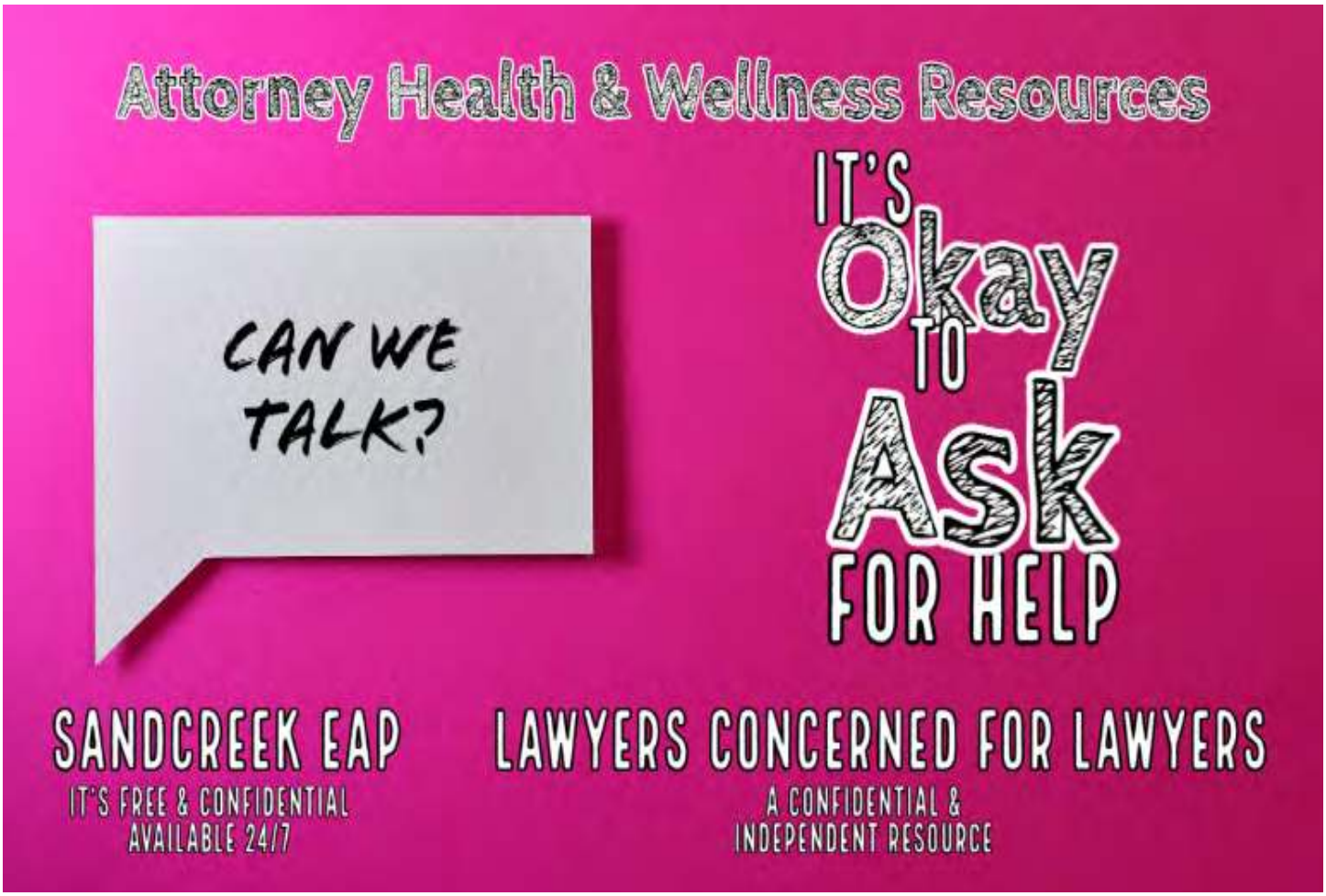
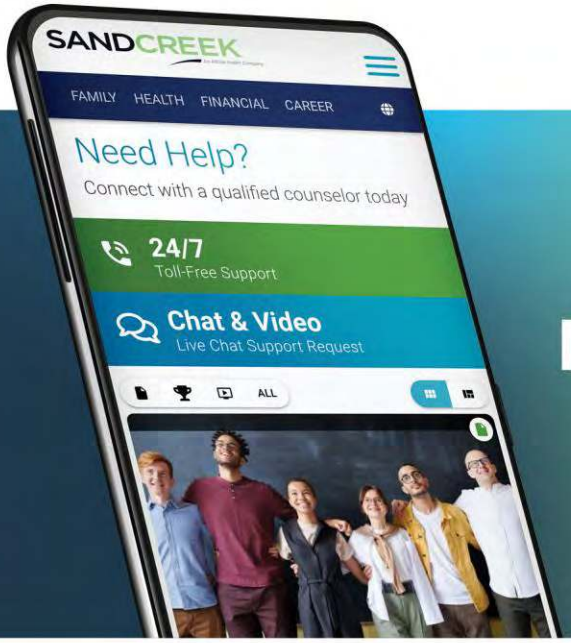
Attorneys - Oath of Attorney

I do solemnly swear, or affirm, that:
I will support the Constitution of the United States and the Constitution of the State of South Dakota;
I will maintain the respect due to courts of justice and judicial officers;
I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;
I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;
I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with a client's business except from that client or with the client's knowledge or approval;
I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;
I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.





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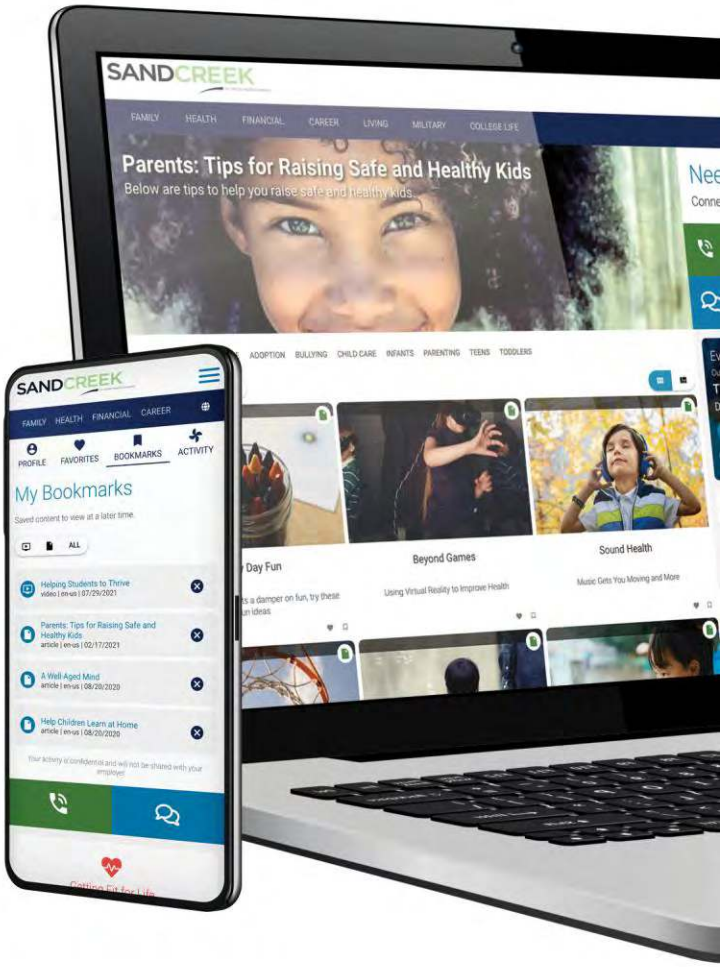

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SEMI-ANNUAL MEETING & SEMINAR - FRIDAY, OCTOBER 21, 2022
WILBERT SQUARE EVENT CENTER – BROOKINGS, SD

Time	*Agenda*	*Speakers*
7:30-8:00 AM	Registration & Breakfast	
8:00-9:30 AM	Bankruptcy 101	Tim Hogan, Ribstein & Hogan Law Firm
9:30-9:40 AM	Break	
9:40-11:10 AM	Criminal Trials: Preparation Methods and Trial Methodology	Ryan Kolbeck, Kolbeck Law Firm
11:10-11:20 AM	Break	
11:20-12:00 PM	SDPA Semi-Annual Meeting	SDPA Executive Committee
12:00-1:00 PM	Lunch	
1:00-2:00 PM	Legal Ethics for Paralegals (Trust Accounts: Must know/Dos and Don'ts)	Thomas H. Frieberg, Frieberg, Nelson & Ask, L.L.P.
2:00-2:10 PM	Break	
2:10-3:10 PM	Wills v. Trusts and the Paralegal's Role in Estate Planning	Stefan Szwarc, Goosmann Law Firm
3:10-3:30 PM	Announcements and Adjournment	

REGISTRATION FORM

(Online Registration available at SDParalegals.com/Store)

****NOTE: If planning to attend via webinar, please include the e-mail with which you can be reached if we experience technical difficulties** Email: _____**

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

Name: _____ Designation (CP/ACP/RP/PLS/PP)_____

Firm: _____ Email: _____

Address: _____

Telephone: _____ **Thursday Social: ____ Yes ____ No ____ Maybe**

REGISTRATION DEADLINE: Online: Wednesday, October 19. By mail: Postmark by Friday, October 14.
LATE REGISTRATIONS: As of October 17, rates will be $40 for Students, $75 for Members, and $95 for Non-Members.
***REGISTRATION BY MAIL:** Registration forms with check can be mailed to Clara Kiley, SDPA Treasurer at 11158 Valley 1 Road, Belle Fourche, SD 57717, with a copy to the Education Committee Chair, Rebekah Mattern, via email at RMattern@LynnJackson.com.
VIRTUAL ATTENDEES: Our seminars are live-streamed through GoToMeeting. The times listed above are CST. We cannot guarantee your experience will be equivalent to attending in person. We will ensure the best online experience possible; however, audio, visual, and other technical difficulties may be outside our control. We highly recommend testing GoToMeeting on your device prior to the seminar.
HOTEL ROOMS: SDPA has a limited number of rooms available at the Comfort Suites University (605-937-5867) under "South Dakota Paralegal Association" at $149.00 plus tax for Thursday, October 20 only. The deadline to reserve rooms under this group is October 10, 2022.
CANCELLATIONS: SDPA will provide full refunds for registrations cancelled on or before October 14, 2022 (registrations made through the website will be refunded to your card, less the online processing fee (approximately 5%)). Contact the Education Committee Chair, Rebekah Mattern, at RMattern@LynnJackson.com if you need to cancel your registration.

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

BOARD OF BAR COMMISSIONERS

Minutes, August 17, 2022
Meeting Via Zoom

President Lisa Marso called the meeting to order at 9:00 a.m. Central Time on Wednesday, August 17, 2022. Present at the meeting were Marso, President Elect Heather Bogard, Commissioners Dougherty, Foral, Johnson, King, Matson, Olson, Richter, Srstka, Strait, and Tiede. Executive Director/Secretary-Treasurer Andrew Fergel, Strategic Plan Coordinator Elizabeth Overmoe, and A2J, Inc. Coordinator Denise Langley were also present during the meeting.

Minutes of July 22, 2022 Meeting: President Elect Bogard moved to approve the minutes of the July 22, 2022 meeting. Commissioner Olson seconded the motion. Motion passed.

President's Remarks: President Marso updated the Commission on the Committee Chair Orientation meetings held in Sioux Falls and Rapid City on August 10th and 11th. As part of her remarks, President Marso also mentioned a meeting she had concerning the budget process for the State Bar, an upcoming tour, panel presentation, and mock trial at the Cheyenne-Eagle Butte schools on September 30th to continue Project Destination, and some thoughts concerning the Lawyers Assistance Program and the problem of secondary trauma that some of our members face as a result of the type of law they practice.

Executive Director's Report: Fergel gave a report on what Bar staff has been working on since the July 2022 Bar Commission Meeting. In addition, Fergel listed some of the items that will be on the agenda of the October 21, 2022, in-person Bar Commission Meeting in Pierre.

Commissioner Input: Commissioner Richter provided information on the Leadership Summit to be hosted by the Public Sector Section in Sioux Falls on September 28, 2022. Commissioner Strait announced that the Codington County Bar Social hosted by Lee Schoenbeck will be September 1, 2022. Stacy Johnson announced that the Glacial Lakes Bar Social will be August 30th at Pickerel Lake, and President Marso reported on Commissioner Skjoldal's plans for a golf outing and social for the Fourth Circuit.

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

Respectfully submitted,

Andrew L. Fergel
Executive Director/Secretary-Treasurer

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

Staff Attorney's-Sioux Falls

East River Legal Services (ERLS) is seeking to hire several Staff Attorney's. These positions are 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

Managing Attorney-Sioux Falls

East River Legal Services (ERLS) is seeking to hire a Managing 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 Executive Director, the Managing Attorney provides high quality legal services to low-income individuals. The Managing Attorney will supervise, evaluate, and handle personnel-related matters for staff in the legal department. They also manage and monitor progress on implementing the program's mission, priorities, principles of advocacy, and various work plans. The Managing Attorney also maintains an active caseload and/or other advocacy.

Duties and Responsibilities:
Client Representation and Advocacy:
• Provide and ensure high quality legal representation to individuals and groups in accordance with East River Legal Services (ERLS) standards of practice and supervision and the Rules of Professional Conduct. This includes interviewing clients, conducting research, performing factual investigation, preparing pleadings, negotiating case resolutions, executing discovery and motion practice, and representing clients in court and administrative hearings;
• Provide counseling, advice, and other brief services and referrals, as appropriate;
• Co-counsel with other Attorneys and work with Paralegals;
• Represent clients and client groups in litigation, administrative advocacy, and other advocacy forums;
• Engage in appellate work, complex and major litigation, and other special projects;
• Develop and implement litigation and/or advocacy strategies to address systemic legal problems;
• Analyze and comment on pending legislation and regulations consistent with the requirements of all funding sources.

Leadership:
• Manage legal work in the office, including monitoring and regulating workloads;
• Supervise employees with ongoing feedback and performance reviews;
• Manage office systems such as conflict checks, filing, and workflow;
• Foster positive work relationships and promote cooperation within the program;
• Monitor case work of Attorneys to ensure that staff are operating efficiently and producing quality legal work;
• Monitor the balance of time spent by Attorneys on cases involving direct services to individual clients and to cases involving law reform, policy advocacy, or other legal work benefiting the larger population of low-income clients;
• Participate in management and administrative decision-making at ERLS involving personnel issues and program policy and help to implement such decisions;
• Provide supervision and evaluation of support staff assigned to the legal department, in coordination with the Executive Director;
• Supervise and enforce ERLS policies and procedures;
• Convey staff concerns about relevant office issues to management staff;
• Keep program staff apprised of important issues and new developments in the community;
• Keep program staff apprised of new developments within the substantive legal areas in which the Attorney practices (updates via written communication and/or training);

• Engage in local, state, regional and/or national legal services and the advocacy community.
Community Work:
• Participate in other activities related to poverty law including community education, outreach, writing of publishable materials, and permissible legislative and administrative advocacy, in accordance with Legal Aid policy and applicable laws and regulations;
• Participate in Legal Aid and state-wide task forces and work groups;
• Participate in bar activities and establish effective working relationships with the bar;
• Ensure Legal Aid develops and maintains relationships with partner organizations, including the private bar and judiciary, other non-profits, grass roots organizations, government agencies and elected officials.

Other:
• Compliance with LSC, VOCA, and other funding agencies' rules and regulations;
• Participate in training activities as trainee or trainer for professional growth;
• Report to Legal Aid management any bar association grievances, disciplinary proceedings, or malpractice claims involving their practice and cooperate with Legal Aid's liability insurers;
• Attend program meetings and ensure office meetings are effective.
Knowledge, Skills, & Abilities:
• Juris Doctor (JD);
• License to practice law in South Dakota;
• Experience in a legal services/non-profit environment is preferred, but not required;
• Working knowledge of recent developments in state and federal case, statutory, and regulatory law related to the interests of Legal Aid's clients;
•Excellent organizational, cross-cultural communication skills;
• Proficient at the use of technology including, but not limited to: word processing, spreadsheets, internet-based programs, and computer-based legal research;
• Excellent written and communication skills;
• Ability to work constructively with others;
• Excellent management and leadership skills.
• Ability to work effectively as part of a team and independently;
• Able to establish effective working relationships with a variety of individuals;
• Organized, able to prioritize work, plan and problem-solve, meet deadlines and work well under pressure;
• Skills and experience in interacting with persons of various social, racial, cultural, economic, and educational backgrounds;
• The ability to speak more than one language is a plus, but not required.

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.

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

Deputy State's Attorney-Butte County

Job Title: Butte County Deputy State's Attorney
Opening Date: September 9, 2022
Closing Date: When Filled
Salary: Depending on Experience

Position Summary:
The Deputy State's Attorney performs routine professional legal work in the prosecution of civil and criminal cases, juvenile crimes, and juvenile abuse and neglect cases in Butte County, South Dakota. Actual responsibilities of the Deputy State's Attorney may vary depending on need but may include working with law enforcement in the investigation of criminal cases, reviewing offenses and evidence to make charging decisions in criminal and juvenile cases, reviewing requests for petitions and determining appropriate courses of action, making recommendations for child custody and parental rights, and attending legal proceedings. Duties may also include advising County elected and appointed officials on various civil law issues, to include contracts, labor law, taxation, and other civil matters.

Position Requirements:
Applicants must be a graduate of an accredited College of Law with a Juris Doctorate degree. Applicants must also be: licensed to practice law by the Supreme Court of South Dakota, or licensed in any other state and able to take the next available South Dakota Bar Examination, or a recent or imminent law school graduate, eligible to take the next available South Dakota Bar Examination Applicants must also successfully complete a pre-employment background process.

Preferred Qualifications:
Strong research and writing skills, strong oral advocacy skills, ability to work well in a group, and ability to use a computer in a standard office setting.

Knowledge, Skills, and Abilities:

A successful applicant will have a working knowledge of criminal and civil law, to include criminal and civil procedure, court pleadings, and rules of evidence. A successful applicant will also be able to review, research, and prosecute criminal and juvenile cases, and communicate effectively in writing and orally. A successful applicant will also be able to maintain effective working relationships with coworkers, other agencies and the public. Finally, a successful applicant will be able to maintain a professional appearance and demeanor.

Apply by submitting a resume and cover letter to:
LeEllen McCartney
Butte County State's Attorney
839 Fifth Avenue
Belle Fourche, SD 57717
Leellen.mccartney@buttesd.org
605-892-3337 FAX: 605-892-6768

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 Jennifer Bunkers, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to jebunkers@boycelaw.com. For more information about Boyce Law Firm, please visit www.boycelaw.com.

Legislative Attorney - Pierre

South Dakota Legislative Research Council—Pierre, South Dakota

The Legislative Research Council, which is the nonpartisan research and support staff to the South Dakota State Legislature, is accepting applications for a permanent, full-time Legislative Attorney. An applicant must have an interest in the legislative process and be results oriented, honest, discrete, trustworthy, and articulate.

Duties and Responsibilities: A Legislative Attorney will assist legislators by providing accurate, objective, and relevant research information, informed by a professional understanding of the law. The significant duties include the following:

1) Compile data and conduct general and legal research for legislative committees and individual legislators and present alternative solutions for their consideration;
2) Confer with and advise legislators on legislative legal questions;
3) Draft and edit bills, resolutions, and amendments to implement legislators' ideas;
4) Staff standing committees of the South Dakota Legislature during legislative sessions, consult with committee chairs to develop agendas and obtain testimony, prepare committee reports, and draft amendments to bills;
5) Staff interim committees of the Legislative Research Council, consult with committee chairs to develop agendas, assist with meeting arrangements, prepare background materials, and prepare final reports;
6) Review administrative rules for form, style, clarity, and compliance with statutory authority;
7) Research and write issue memoranda and develop

other resources on selected topics for review and use by the Legislature, Legislative Research Council staff, and the public; and
8) Help develop prison and jail population cost estimates for legislation impacting prison and jail populations.

Minimum Qualifications:
1) A Juris Doctorate from an ABA-accredited law school; and
2) An active license in good standing with the State Bar of South Dakota, or the ability to become eligible for and become admitted to the State Bar of South Dakota within one (1) year after employment.

Preferred Qualifications:
1) Very strong writing skills;
2) Strong research and analytical skills;
3) A willingness to expand expertise into various subject areas;
4) The ability to communicate, both orally and in writing, in a manner which can clearly and efficiently convey information to legislators and the public;
5) Proficiency in word processing and spreadsheet development; and
6) The ability to work under tight deadlines and extended hours during the legislative session.

Salary Range: For an entry level Legislative Attorney, the annual salary will range from $61,114 to $91,670, with a midpoint goal of $76,392. For a Senior Legislative Attorney with previous related experience, the annual salary will range from $74,262 to $111,394, with a midpoint goal of $92,828. Actual starting salary will depend on qualifications and experience.

Application Process: This position will remain open until filled. This position is exempt from the Career Service Act and is employed at will. Any application or resume submitted for consideration will be kept confidential. Applications (consisting of a letter of interest and resume) should be submitted via hard copy or e-mail to:
Reed Holwegner, Director
South Dakota Legislative Research Council
500 East Capitol Avenue, Pierre, SD 57501
E-Mail: Legis.Resume@sdlegislature.gov | Phone: 605-773-3251

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Remote/Hybrid – Health Law - Mitchell

MorganTheeler LLP seeks an attorney to join its Health/Employment Law Practice Group. The ideal candidate would have experience in physician employment arrangements, provider licensure, anti-kickback laws, and self-referral laws. Additional experience with corporate and transactional matters for health care providers is preferred. The c andidate s hould h ave a demonstrated interest and/or experience in practicing health law and the ability to communicate effectively with physicians.

Hybrid (remote and in office) wo rk en vironment. Base salary plus performance bonus. Benefits and compensation vary based on FTE status. Please submit applications to 1718 N. Sanborn Blvd, Mitchell, SD 57301 or kclaussen@morgantheeler.com. No calls please.

Deputy State's Attorney - Watertown

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

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

Salary: Starting salary $73,434.00. Codington County also offers a comprehensive benefits package i

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

Opening and Closing dates: May 24, 2022 – July 30, 2022, or until filled.

Attorney – Rapid City

Bangs McCullen Law Firm has an immediate opening for a LITIGATION ATTORNEY in its Rapid City office. Candidates should have three to five years of legal experience. Excellent academic credentials and writing skills are required. Confidential inquires, including a resume and cover letter should be directed to Barb Dreyer, Bangs McCullen Law Firm, P.O. Box 2670, Rapid City, SD 57709 or bdreyer@bangsmccullen.com. We offer a competitive salary and benefit package. For more information please visit www.bangsmccullen.com.

Attorney – Pierre

Gunderson, Palmer, Nelson & Ashmore, LLP, an AV-Rated 20+ lawyer firm located in Rapid City and Pierre, South Dakota, has an attorney opening in the firm's Pierre office. The ideal candidate will have a minimum of 3-5 years of experience and must be in good standing with the South Dakota State Bar.

The firm offers a comprehensive benefit plan, a competitive salary structure and the opportunity for professional development. Learn more about our firm and practice areas by visiting gpna.com.

All inquiries will be kept confidential. Please send cover letter and resume to solsen@gpna.com or 506 6th Street, Rapid City, SD 57701. Position open until filled.

Attorney - Rapid City

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

Requirements include:

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

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

To apply, please submit a resume and cover letter by email to meganbrandriet@ccbinet.com Ability to conduct legal research and summarize findings concisely.
package.

Senior Associate Attorney - Sioux Falls

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

Salary and Benefits: Competitive, depending upon experience.

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

Walworth County State's Attorney - Selby

WALWORTH COUNTY
BOX 199
SELBY SD 57472
605-649-7878
dkahl@walworthco.org

Due to the recent resignation of the Walworth County

State's Attorney, the Walworth County Commission is accepting applications for the position of State's Attorney. Successful applicant will be appointed until the next election cycle. The position may be full or part time. This is a salaried position and the salary depends on experience. The salary will be set by the Walworth County Commission. Posting will remain open until filled. Must have a Juris Doctorate Degree from an accredited University. Must be licensed to practice as an attorney and counselor at law by the Supreme Court of South Dakota. Must be a member of the SD State Bar. Must be able to carry files to court on the third floor. Must be able to communicate effectively orally and in writing both electronically and face to face. You will be responsible to provide opinions and advice to the Board of County Commissioners and other civil officers in the county on all matters, develop and maintain a budget, appear in court on behalf of the state or county in all actions or proceedings, civil or criminal in which the state or county is an interested party, make bond arguments before the courts, attend and advise the grand jury, abide by all victims' rights and assist victims through the criminal justice system, prepare officers, witnesses and victims for courtroom testimony plus any other duties that come before the office.

Please submit a cover letter and resume to Debbie Kahl, Walworth County Auditor, PO Box 199, Selby SD 57472. You may also call 605-649-7878 for further information

Litigation Attorney - Dickinson, ND

Ebeltoft . Sickler . Lawyers, a well-established and progressive regional law firm located in Dickinson, North Dakota, is seeking to expand its Litigation Solutions and Alternatives to Litigation practice groups. The ideal applicant will have at least two years of experience in representing individual, corporate, and/or institutional clients in state and federal courts or judicial clerkship experience. In addition, the ideal applicant will have a strong academic background and exceptional analytical and writing skills. A successful applicant will work in the firm's Litigation Solutions and Alternatives to Litigation practice groups, and will receive a regionally competitive compensation package that will encourage a long-term relationship with the firm.

Many of the firm's members began with the firm as new lawyers, and some even law clerks, a testament to the firm's commitment to our associates and the development of their careers. Our attorneys are regularly selected as SuperLawyers™, and serve a variety of non-profit organizations as board members. The firm is also the only North Dakota firm that is a member of USLAW Network, an organization of law firms in the United States and Canada devoted to client services. Our lawyers are licensed in North Dakota, South Dakota, Minnesota, and Montana, and we represent clients on a variety of legal issues, ranging from the defense of general liability matters to complex construction and commercial litigation.

who we are:

- We originate from different parts of the country and educational backgrounds, and chose to take advantage of the high quality of life afforded by making western North Dakota our home, while at the same time enjoying a practice that regularly takes us throughout the country.
- We are young, progressive, entrepreneurial in our thinking and reject traditional constraints.
- We are leaders in our profession and in our community.
- We have a multifaceted, significant and satisfying career tempered with a work life balance.

what we do:

- We work every day in board rooms and courtrooms throughout the upper Midwest on issues that are critical to our clients.
- We represent small businesses to publicly traded companies in "bet–the–company" litigation which, at times, threatens their very existence.
- We practice in the heart of the Bakken oil field, including complex litigation, detailed contract negotiations, multi-million dollar mergers and acquisitions, energy and mineral development and regulation, and real estate transactions.
- We assist individuals in planning for today and their future.
- and much more.

To learn more, please visit our website at https://ndlaw.com. Please submit your letter of application and resume to Ebeltoft . Sickler . Lawyers, Attn: Nicholas C. Grant, 2272 8th Street West, Dickinson, ND 58601, or to ngrant@ndlaw.com. https://ndlaw.com

Paralegal - Sioux Falls

BOYCE LAW FIRM, LLP, in Sioux Falls, South Dakota has an opening for a full-time paralegal to assist with its litigation practice with emphasis in working in the employment and workers' compensation practice area. Candidates should possess strong organizational, multitasking, and computer skills and be able to maintain a heavy workload. Excellent grammar, spelling, punctuation, and attention to detail are also required.

The firm offers a competitive compensation. Benefits include generous 401K, profit sharing, health insurance, life insurance, professional dues, memberships and paid attendance and expenses for continuing legal education. Confidential inquiries, including resume, cover letter should be directed to Michele Benson, Boyce Law Firm, LLP, PO Box 5015, Sioux Falls, SD 57117-5015 or to mlbenson@boycelaw.com. For more information about Boyce Law Firm, please visit www.boycelaw.com.

UPCOMING EVENTS

October 21 | Bar Commission Meeting | Pierre

October 21 | Nuts and Bolts CLE | Pierre

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

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 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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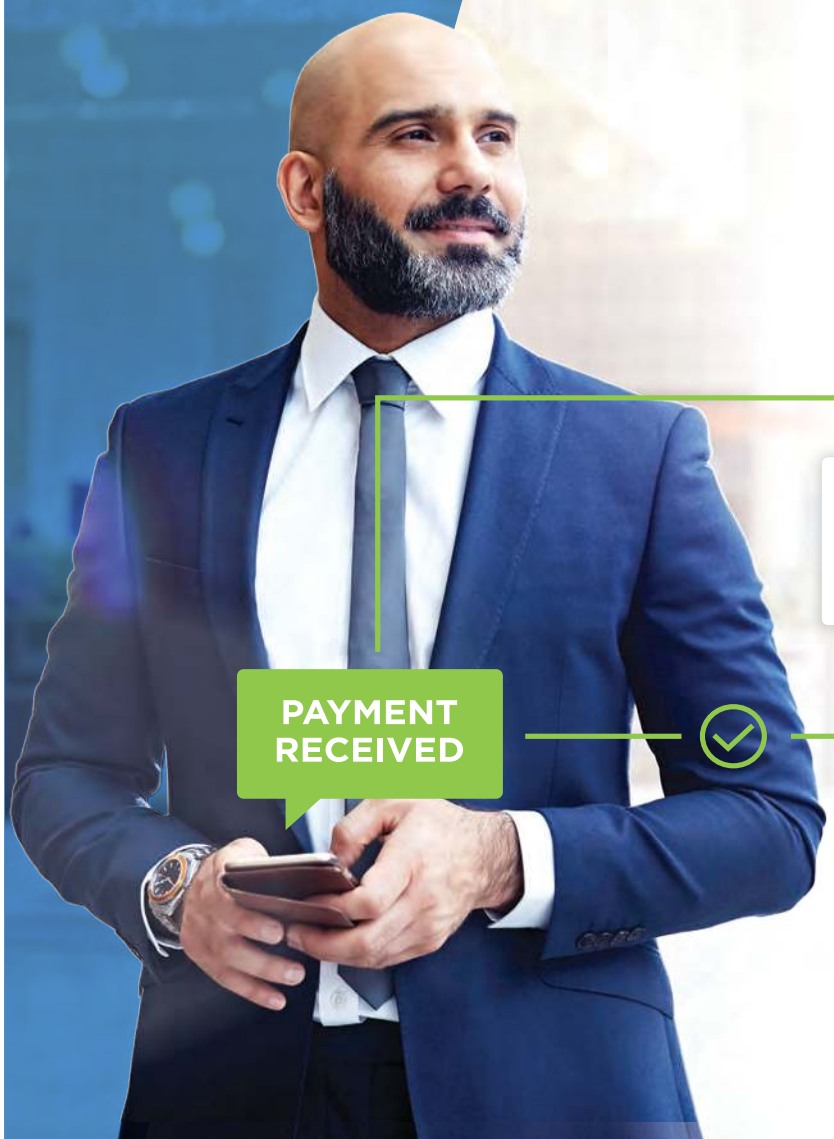

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