

# State Bar of South Dakota

JANUARY **2022**  
NEWSLETTER





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# State Bar of South Dakota

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## PRESIDENT'S CORNER

*William C. Garry*

In years past, I am often sad to close out an old year only to begin a new one. Much like last year at this time, however, I am anxious to put 2021 in the rearview mirror. COVID continues to negatively impact our personal and professional lives. The virus dominates the daily news both nationally and locally. Sadly, there are nearly 2,500 COVID related deaths in South Dakota. Despite all the adversity in the world, I remain optimistic that 2022 will bring change and restore hope for a return to life as we use to know it.

The Bar staff once again stepped up to the challenges of another unprecedented year. We committed to an in person Bar Convention, transitioned to a new website, managed guardian and conservator training and implemented a dues increase. All of these accomplishments, of course, were overshadowed by the tragic loss of our friend Terry Westergaard. Thanks to Andy, Nicole, Tracie, Kylee, Beth and Denise for their hard work.

The 97th South Dakota Legislative Sessions opens on January 11, 2022. We are fortunate to have several lawyers serving in the Senate and the House of Representatives. Those lawyers are as follows:

### Senate

Lee Schoenbeck – District 5 – Watertown  
Arthur Rusch – District 17– Vermillion  
Michael Diedrich – District 34 – Rapid City  
Timothy Johns – District 31 – Lead  
David Wheeler – District 22 – Huron

### House

Ryan Cwach – District 18– Yankton  
Jon Hansen – District 25 – Dell Rapids  
Steven Haugaard – District 10 – Sioux Falls  
Will Mortenson – District 24 – Pierre  
Scott Odenbach – District 31 – Spearfish  
Bethany Soye – District 9 – Sioux Falls  
Mike Stevens – District 18 – Yankton

A special thanks goes out to these lawyers for their dedication and service to our State and the Bar.

As we start the New Year, the following is a list of resolutions for you to consider:

- Have lunch with a colleague on a regular basis.
- Communicate in person or by telephone instead of email.
- Mentor a young lawyer.
- Join a State Bar Committee.
- Run for Bar Commissioner.
- Make a contribution to the South Dakota Bar Foundation.
- Plan to attend the Bar Convention in Rapid City.
- Spend more time with your family.
- Turn off your cell phone when you leave the office.
- Have a regular date night with your spouse.
- Visit an elderly friend or family member.
- Smile and laugh often.

Wishing all of you health and happiness in the New Year ahead. Make 2022 an extraordinary one!





WITH WARM WISHES  
**HAPPY NEW YEAR!**



**20  
22**

FROM THE STATE BAR STAFF

# *Fellows of the South Dakota Bar Foundation*

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

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

Fred & Luella Cozad

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

Frank L. Farrar

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

Thomas C. Barnett, Jr.  
Robert E. Hayes

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

Hon. Richard H. Battey  
Chet Groseclose  
Hon. John B. Jones  
Scott C. Moses  
Charles L. Riter  
William Spiry  
Hon. Jack R. Von Wald

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

Renee H. Christensen	P. Daniel Donohue
Richard A. Cutler	Dana J. Frohling
William F. Day, Jr.	Richard L. Kolker

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

Frankianne Elizabeth Coulter  
Kimberley A. Mortenson  
Timothy J. Rensch

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

John P. Blackburn  
Richard D. Casey  
Hon. Michael Day  
Robert B. Frieberg  
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William C. Garry  
David A. Gerdes  
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G. Verne Goodsell  
Robert E. Hayes  
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Stephanie E. Pochop  
Reed A. Rasmussen  
Pamela R. Reiter  
Robert C. Riter, Jr.  
Eric C. Schulte  
Jeffrey T. Sveen  
Charles M. Thompson  
Richard L. Travis  
Thomas J. Welk  
Terry G. Westergaard

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

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

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





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



As the new year approaches, I try to pause and take stock. Staring into my coffee one morning, I realized that the end of 2021 marked 2.5 years at the Law School. We've done a lot of great things together as a community during that time. So as we begin 2022, I wanted to pause and celebrate some of them.

Let's start with students. Two of our last three classes have been among our largest in a couple decades. The Admissions team has grown class sizes while steadily increasing LSAT scores and undergraduate grade point averages. They have drawn students from more South Dakota communities and more out of state students by offering resident tuition to students with LSAT scores at or above 150. These positive trends appear on track to continue in the coming year. We've built an Honors admission program with Northern and started exploring 3+3 admissions programs with several schools. We also implemented a conditional admissions program to provide more resources for academic success to students with potential but imperfect LSAT/UGPA metrics. We recently added an option of deferred admission with additional preparation for both legal study and the bar exam in partnership with Access Lex.

Student success after graduation has also increased. Placement rates have returned to 90%. About 75% of Law School graduates remain in South Dakota. We continue to have one of the highest judicial clerkship placement rates in the nation and almost two students a year have joined Project Rural Practice. Following the precipitous national decline around 2015, bar passage rates have bounced back. First time pass rates for USD graduates have been holding near 80% (beating the

national average) and our bar passage rates two years after graduation are back near 90%. The Law School is recruiting great students, training them well, and sending them into the world to succeed and serve.

The faculty training these students are indispensable to their success. The last 2.5 years have seen the Law School building the next generation of faculty. Laura Rose has taken over evidence and advocacy. Ann Tweedy has succeeded Frank Pommersheim, Greg Brazeal has followed Chris Hutton, Tyler Moore has followed David Day, Associate Dean Steve Macias has replaced Tiffany Graham, and in the fall Shirley Mays will replace Myanna Dellinger. Tamara Nash has returned to the Law School to direct our experiential learning programs. It takes time to recruit faculty committed to teaching, mentorship, and exceptional scholarship, but we have successfully invested that time and it shows in the experiences and successes of students.

We have implemented programs to begin teaching before students even arrive on campus through pre-orientation programming. This is designed to jump start study skills and comprehension of basic legal concepts. We restructured orientation to focus more time on academic skills and connecting with classmates. We have added digital surveys about orientation and career interests to be more efficient and to facilitate one on one career planning sessions.

On campus, our curricular offerings continue to be refined to prepare fundamentally sound lawyers ready to work in a variety of settings. Mike McKey has taken over the Academic Excellence and Bar Support office.



He has expanded academic support workshops for all three years, with extra support on key doctrinal issues and study skills, and adopted an “early warning” program to identify students who need additional academic support. Writing is becoming more integrated throughout the curriculum with a writing requirement in all three years and more classes with a drafting focus. Experiential learning opportunities have been expanded with implementation of the WORKS Clinic, judicial externships with the South Dakota Supreme Court and circuit courts, a legislative externship, expanded criminal practice clinical opportunities, and more varied externship placements. This spring, the 1Ls will have a one credit experiential class for the first time, focused on simulating the life cycle of a criminal case. We are working on expansions to the business and transactional curriculum, with our most recent faculty searches focused on these areas.

We are fortunate to have a law school building with plenty of functional space, but some of it had become dated since 1981. In the last 2.5 years, we have made a tremendous start on physically updating the Law School. The Courtroom and Williamson Room both have updated carpet and AV equipment. We have updated the IT carts and AV in all the classrooms and State Bar Room. The ADR Room and Classrooms 103 and 104 have been refurnished. We freshened up student commons with new carpet and paint, reoriented the galley kitchen for better access, and added two multi-purpose rooms where the lockers had been. We gutted and rebuilt the main floor bathrooms, tripling the capacity of the women’s bathroom. New decals on the doors and the main floor library stacks as well as new video displays provide some color and guidance

to people entering the building. Most significantly, we will refurbish and refurnish Classrooms 101 and 102 this summer and have engaged an architect for a comprehensive building update plan. Over the next several years, we hope to have a completely refreshed and reconfigured building to meet our current needs.

Although none of us planned on it, we successfully made it through the toughest parts of the COVID-19 pandemic as a community. Faculty and students adjusted on the fly to remote delivery in spring 2020, successfully planned and thrived in a mixed environment last year, and are back to in person instruction this year. We have had relatively small numbers of COVID cases in the community. This was thanks to the careful and patient way that every member of the Law School community came together to meet that moment. It speaks well to our values of excellence, service, and leadership.

Lastly, over the last 2.5 years I’m grateful that the Law School has been able to welcome many of you home to campus. I believe that the Law School is the home of the law in South Dakota and everyone connected to law can always come home. Thanks so much to the many of you who have been able to do so as adjunct professors, speakers, potential employers, fans at sporting events, or just visitors. The Law School is given life by its people. I think our greatest achievement recently has been bringing the school to life through all the work and presence of people who are invested in our success. Thank you for that; the best things we do, we do together.

The last 2.5 years have been amazing for me, Molly, and the boys. I think they’ve been amazing for the Law School. I look forward to all that is yet to come.

The USD Knudson School of Law will be hosting Spring 2022 On Campus Interviews (OCI) on February 3-4 and March 3-4.

Employers are invited to participate in Spring OCI on the date of your choice to interview 1L and 2L students for internship opportunities, and 3L students for post-graduate positions.

Interviews may be conducted either in-person at the law school or virtually.



**SPRING  
2022  
ON CAMPUS  
INTERVIEWS  
(OCI)**

To register, please email [lawcareerservices@usd.edu](mailto:lawcareerservices@usd.edu) with your preferred interview date and a job description for the position(s) you are seeking to fill.

# 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 2022.

I understand that if approved, rather than pay regular dues for the year 2022, 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 2022.

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\_\_\_\_\_

# YOU ARE INVITED TO JOIN!

## Fellows of the South Dakota Bar Foundation

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

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

### In Memoriam

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

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

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

Or you can email this form to:

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

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





# THE JUSTICE SQUAD

Thank you to the following attorneys for accepting, mentoring, closing, or working on an existing case through Access to Justice in 2021! And a big "Thank You" also goes out to our SD Free Legal Answers attorney volunteers! You are our 2021 LEGAL SUPERHEROES!!

<i>Aaron Pilcher</i>	<i>Erika Olson</i>	<i>Kellen Willert</i>	<i>Meghann Joyce</i>	<i>Ryan Kolbech</i>
<i>Alayna Holmstrom</i>	<i>Erin Melling</i>	<i>Kirsten Aasen</i>	<i>Michael Henderson</i>	<i>Sarah Baron Houy</i>
<i>Amy Bartling Jacobsen</i>	<i>Gavin Pochop</i>	<i>Kody Kyriss</i>	<i>Michael O'Leary</i>	<i>Sarah Richardson Larson</i>
<i>Ashley Brost</i>	<i>George Johnson</i>	<i>Koln Fink</i>	<i>Michael Sabers</i>	<i>Sheila Woodward</i>
<i>Barbara Vargo</i>	<i>George Nelson</i>	<i>Kyle Krause</i>	<i>Mindy Werder</i>	<i>Shelly Munson</i>
<i>Beth Roesler</i>	<i>Hannah Purtell</i>	<i>Kylie Riggins</i>	<i>Nathan Chicoine</i>	<i>Stan Anker</i>
<i>Brad Reynolds</i>	<i>Heather LaCroix</i>	<i>Laura Kulm Ask</i>	<i>Nichole Carper</i>	<i>Stephanie Pochop</i>
<i>Casey Eekhoff</i>	<i>Hollie Smith</i>	<i>Linda Lea Viken</i>	<i>Paul Van Olson</i>	<i>Steven Smith</i>
<i>Chet Groseclose</i>	<i>Hope Matchan</i>	<i>Donald Gellhaus</i>	<i>Rachel Hale</i>	<i>Susan Jennan</i>
<i>Chris McClure</i>	<i>Jack Nichols</i>	<i>Lori Rensink</i>	<i>Reece Almond</i>	<i>Terri Williams</i>
<i>David Barari</i>	<i>Jacob Dawson</i>	<i>Lorie Melone</i>	<i>Richard Ericsson</i>	<i>Terry Wieczorek</i>
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<i>Elizabeth Hertz</i>	<i>Joel Arends</i>	<i>Mary Akkerman</i>	<i>Ron Frauenshuh</i>	<i>Timothy Dougherty</i>
<i>Emily Maurice</i>	<i>John Hughes</i>	<i>Mary Ash</i>	<i>Ron Volesky</i>	<i>Tom Keller</i>
<i>Eric Hardy</i>	<i>Jordyn Bangasser</i>	<i>Mary Burd</i>	<i>Ronda Miller</i>	<i>Tyler Haigh</i>
<i>Eric Schlimgen</i>	<i>Joshua Zellmer</i>	<i>Mary Keller</i>	<i>Rory King</i>	<i>Wesley Schmidt</i>
<i>Eric Schulte</i>	<i>Katie Johnson</i>	<i>McLean Kerver</i>	<i>Rose Ann Wendell</i>	<i>William Garry</i>

## SDFLA VOLUNTEERS

<i>Alex Halbach</i>	<i>Elizabeth Overmoe</i>	<i>Marwin Smith</i>
<i>Alison Ramsdell</i>	<i>James D Taylor</i>	<i>Paul Tschetter</i>
<i>Beth Baloun</i>	<i>Joseph Hogue</i>	<i>Sarah Bouwman</i>
<i>Bob Morris</i>	<i>Kelly Collinsworth</i>	<i>Steve Huff</i>
<i>Brandy Rhead</i>	<i>Kyle Krause</i>	<i>Timothy James</i>
<i>Denise Langley</i>	<i>Linda Lea Viken</i>	<i>Tom Simmons</i>

Are you interested in becoming a legal superhero and member of the A2J Justice Squad? Please send a message to Denise Langley at:

- [access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net) -





# A2J

## HERO



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

# ANNOUNCEMENTS

Evans Haigh & Arndt LLP  
is pleased to announce that

*Ryan W.W. Redd*  
*and*  
*Tyler W. Haigh*  
have become partners in the firm  
effective January 1, 2022.

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

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

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

[rredd@ehalawyers.com](mailto:rredd@ehalawyers.com)  
[thaigh@ehalawyers.com](mailto:thaigh@ehalawyers.com)

The Law Firm of Jeff Larson Law, P.C.  
is pleased to announce that effective  
January 1, 2022 it will now be known as

*Resolute Law Firm, P.C.*

Resolute Law Firm, P.C.  
400 N Main Avenue, #207  
Sioux Falls, SD 57104

Phone:: (605) 275-4529  
Website: [resolutelaw.org](http://resolutelaw.org)

Resolute Law Firm, P.C. is also pleased to  
announce that

*Alex Braun*  
will join the firm as an associate effective  
January 3, 2022.

*Congratulations on your retirement  
after 55 years of service and  
bar membership, Mike Braley!*

Ann & Larry Smith



Woods, Fuller, Shultz & Smith P.C.  
is pleased to announce that

*Heath R. Oberloh*

has become a shareholder in the firm  
effective January 1, 2022.

Woods, Fuller, Shultz & Smith P.C.  
300 S. Phillips Avenue, Suite 300  
Sioux Falls, SD 57104

Telephone: (605) 336-3890

[heath.oberloh@woodsfuller.com](mailto:heath.oberloh@woodsfuller.com)  
[www.woodsfuller.com](http://www.woodsfuller.com)

Woods, Fuller, Shultz & Smith P.C.  
is pleased to announce that

*Jordan D. Veurink*

has become a shareholder in the firm  
effective January 1, 2022.

Woods, Fuller, Shultz & Smith P.C.  
300 S. Phillips Avenue, Suite 300  
Sioux Falls, SD 57104

Telephone: (605) 336-3890

[jordan.veurink@woodsfuller.com](mailto:jordan.veurink@woodsfuller.com)  
[www.woodsfuller.com](http://www.woodsfuller.com)

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

*Michael L. Snyder*

has become a partner in the firm  
effective January 1, 2022.

Davenport, Evans, Hurwitz & Smith, LLP  
206 West 14th Street  
Sioux Falls, SD 57104

Telephone: (605) 357-1294  
Facsimile: (605) 335-3639

[www.dehs.com](http://www.dehs.com)  
[msnyder@dehs.com](mailto:msnyder@dehs.com)

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

*Justin A. DiBona*

has become a partner in the firm  
effective January 1, 2022.

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

Telephone: (605) 342-1078

[jdibona@gpna.com](mailto:jdibona@gpna.com)  
[www.gpna.com](http://www.gpna.com)

## The Department of Human Service's Establishment Fund Program

is looking for attorneys across South Dakota willing to handle cases establishing guardianships for a flat fee.

*The goal is to increase access for those needing to create guardianships for individuals with disabilities.*

If interested, please contact Jenna Howell at 605-773-5946 or [Jenna.Howell@state.sd.us](mailto:Jenna.Howell@state.sd.us).

## NORTHERN PLAINS WEATHER SERVICES, LLC

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

## Looking for more information on the Involuntary Commitment Process for Substance Abuse Disorder?

The Department of Social Services, Division of Behavioral Health and the Unified Judicial System created a short video and workbook outlining the role and responsibilities of attorneys in the substance use disorder involuntary commitment process, including the procedures to be followed. View the video and download a copy of the workbook on the DSS Behavioral Health website under the Substance Use Disorder Involuntary Commitment Criteria Tab.

<https://dss.sd.gov/behavioralhealth/services.aspx>



South Dakota  
Department of  
**Social Services**

*Strong Families - South Dakota's Foundation and Our Future*

**JANUARY LAW FOR LUNCH:**

# **TAX UPDATE**

# **JOIN**

**KETEL THORSTENSON'S**

**CARRIE CHRISTENSEN**

**AS SHE PROVIDES INSIGHT INTO ANY  
TAX RULE OR PROCESS CHANGES TO  
PAY ATTENTION TO IN 2022.**

**January 20**

**12:30 PM CST | Zoom**

**Register Here**



*South Dakota Law Review* cordially invites you to

# *Wine Review*

Saturday, January 29th - 6:00 p.m.

Drifters Event Center - Fort Pierre, South Dakota

Tickets: \$50

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Join us for a wonderful evening of wine, food, and celebration as we present the Distinguished Alumni Award to **Robert C. Riter, Jr.**

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Special thanks to our sponsors: Cutler Law Firm, LLP;  
Boyce Law Firm LLP; and Lynn Jackson

Contact Madison Jons for additional sponsorship opportunities.

Please RSVP by January 7th to [Madison.Jons@coyotes.usd.edu](mailto:Madison.Jons@coyotes.usd.edu) and mail a check to:  
University of South Dakota Knudson School of Law, Attn: Madison Jons,  
414 E Clark St, Vermillion, SD 57069

Checks should be made out to "South Dakota Law Review" with  
"Wine Review 2022" in the memo line.



# CERTIFICATE

## OF COMPLIANCE

For the year of 2021, your certificate of compliance must be submitted to the State Bar of South Dakota by January 31, 2022.

Go green. Save the planet!  
Email your Certificate of Compliance to:

[kylee.hoffman@sdbar.net](mailto:kylee.hoffman@sdbar.net)



# GOOD COVERAGE. REASONABLE RATES.

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

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

Learn more about how ALPS can benefit your firm at

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

Endorsed by



4.8 / 5



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



# Law for Lunch

*February 17, 2022 11:30am CST*

To register for this webinar,  
click the registration link below.

**REGISTER  
HERE**

The speaker will discuss who has standing to appeal certain zoning issues, and recent cases surrounding this. He will also discuss other common land use issues and provide a checklist for responding to zoning appeals.

JACK HIEB PRESENTS:  
**LAND USE  
SUE SUIT  
SOUTH  
DAKOTA**





## COURT IMPROVED PROGRAM TRAINING

The Center for the Prevention of Child Maltreatment and the South Dakota Unified Judicial System are hosting monthly Court Improvement Program (CIP) trainings for attorneys, judges, and other multidisciplinary professionals working with families involved in abuse and neglect cases.

The goal of these trainings is to provide relevant and up-to-date information on the South Dakota child welfare system, while offering unique approaches and standards for best practices when working with children throughout the court process.

Future CIP training sessions:

----

Use the linked session titles below to register.

WED JAN 26 – IMPLICIT BIAS

WED FEB 23 – FAMILY TIME AND SIBLING/RELATIVE PLACEMENT PREFERENCES

WED MAR 30 – CONVERSATION WITH A FOSTER FAMILY

WED APR 27 – BEST PRACTICES ON ABUSE/NEGLECT CASES IN CONJUNCTION WITH STATE BAR

Court Improvement Program sessions sponsored by UJS and CPCM

# CERTIFICATE OF COMPLIANCE

## INSTRUCTIONS

The certificate of compliance for the year 2021 must be submitted to the State Bar of South Dakota by **January 31, 2022**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All attorneys who were **ACTIVE members of the State Bar of South Dakota in 2021 must file the compliance form** with the State Bar no later than January 31, 2022. **This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc.** This reporting requirement does NOT include those who were inactive lawyers in 2021, nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients.

Andrew L. Fergel  
Secretary-Treasurer

## TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

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

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

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

- 5 - state the name, address, and account number of trust account financial institution
  - 6 - the blanks should be completed with the most recent monthly trust account reconciliation.
- Keep in mind monthly reconciliations are required. For example, if this form were completed on 12-15-10, you would insert the closing date of the most recent bank statement (i.e. 11-30-10).
- 6(a)-(h), and 7 - type or print yes or no in space provided. If you can answer "yes" to each of these questions, you are in compliance with Supreme Court Rule 91-10. If you must answer any of these in the negative, you need to make changes in your trust accounting system. A negative answer will result in further inquiry.
- 8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain the same. I remind you that the effective date of this rule was July 1, 1991. It is not too late to perform the monthly reconciliations from and after July 1, 1991, through the date of completion of this form; however, monthly reconciliations must be performed prospectively.
- I have heard from a number of lawyers who have said that their trust account has an odd amount, such as \$4.54, which has been in the account for ages and the client has disappeared. The compliance report should so note the amount and reason (lawyer unable to disperse the sum of \$4.54 belonging to a client because client is not able to be located).
- Thereafter, if the amount remains constant (\$4.54 as in this example), no further explanation is necessary in subsequent compliance forms.

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

All lawyers must submit the compliance form no later than January 31, 2021. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give me a call. ALF

## 2021 CERTIFICATE OF COMPLIANCE

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

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

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

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

\_\_\_\_ (a) a sole practitioner;

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

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

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

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

\_\_\_\_ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) \_\_\_\_\_

and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).

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

\_\_\_\_ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_

and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Full Name (Print or Type)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip

Date \_\_\_\_\_, 2022

**Please state the total number of hours of pro bono service, as defined by the South Dakota Rules of Professional Conduct 6.1, that you (or the whole firm) provided in 2021. Enter 0 if none. Total Hours: \_\_\_\_\_.**

Rule 6.1. Voluntary Pro Bono Public Service

A lawyer should render public interest legal service.

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



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

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

(and bears the following name(s) and number(s) \_\_\_\_\_

6. During the fiscal period ended December 31, 2021, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

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

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

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

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

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

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

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

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

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

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

(Signatures)

(Printed Name)

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

\_\_\_\_\_, 2022

Date

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

All Responding Lawyer Signatures:

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

\_\_\_\_\_, 2022

Date



## *Supreme Court*

STATE OF SOUTH DAKOTA

*Steven R. Jensen*  
CHIEF JUSTICE

December 16, 2021

### Re: Release of Opinions

Historically, the South Dakota Supreme Court has publicly released its opinions on Thursday morning at 8 a.m. (CST) by placing the published opinion on the Unified Judicial System website. In special circumstances, or due to a holiday, the opinions are at times publicly released before Thursday. A copy of the opinion is mailed to counsel of record and the judge involved in the case on the day before its release. This often results in counsel of record receiving the opinion after it has been released publicly.

Effective January 1, 2022, the Court will be changing its opinion release procedure. Opinions will no longer be delivered to counsel of record or the judge involved in the case by postal mail. Instead, an opinion will be emailed electronically to the attorneys and judge involved in the case at 8:00 a.m. (CST) on the day of its release. Counsel of record may notify their clients of the Court's decision, but the participants in the case are otherwise expected to embargo the pre-released opinion until 10:00 a.m. (CST). At 10:00 a.m. (CST) the opinion will be publicly available on the UJS website. South Dakota judges will also continue to receive an email with the released opinions at 10:00 a.m. Generally, opinions will continue to be released on Thursdays.

In addition, effective January 1, 2022, the Court will notify counsel of record and the judge involved in a case of any orders entered, including orders for summary disposition, by electronic email. Orders will no longer be delivered to counsel of record or the judge involved in the case by postal mail. Summary disposition orders will be placed on the UJS website at the time the orders are emailed to counsel of record and the judge.

The Court will continue to deliver opinions and orders to pro se litigants by postal mail unless an email address is provided.

These changes are intended as a courtesy for the attorneys and parties involved in a case to receive notice and an opportunity to review the Court's opinion before it is released. The changes will also provide the parties with more immediate notice of orders entered by the Court.

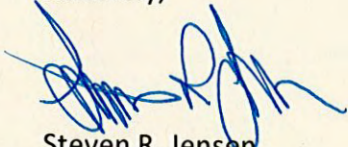


In view of these changes, it will be imperative for counsel of record to include an email address on briefs and submissions to the Court. Counsel of record will also be expected to notify the Supreme Court Clerk of Court in writing of any changes to an email address while a case is pending with the Court.

Finally, the Court anticipates that during the calendar year 2022 it will expand the Odyssey File and Serve System to include filings and service of documents with the Court, including briefs. This will result in additional changes to the filing and service of documents. The Court will provide further updates to the Bar as it draws closer to the Appellate Odyssey implementation.

As we end the year, the Court wishes to express its appreciation for the professionalism and effective advocacy demonstrated in our courts every day by the members of the South Dakota State Bar. Best wishes to all of you as we enter 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steven R. Jensen', with a stylized flourish at the end.

Steven R. Jensen  
Chief Justice

## **Diversity and Inclusion Award**

### **Purpose**

The Diversity and Inclusion Award serves to recognize members of the State Bar of South Dakota who actively promote diversity and inclusion in the legal profession. Recipients of the award contribute to and enhance the environment of inclusions in the legal profession, particularly in South Dakota.

### **Eligibility Criteria**

To be eligible to receive the Diversity and Inclusion Award, an individual must be a member in good standing of the State Bar of South Dakota and must demonstrate an exceptional understanding of diversity and inclusion beyond the call of duty as represented by the following criteria:

- Enhances inclusion through positive communication between persons of different backgrounds
- Demonstrates a commitment to the values of diversity and inclusion through documented efforts that are above and beyond the routine expectations
- Develops innovative methods for increasing and valuing diversity through wide-ranging activities
- Demonstrates outstanding efforts to promote an environment free from bias and discrimination
- Organizes, creates, and facilitates various professional or community events promoting diversity, respect, and inclusion
- Shows efforts to recruit and retain individuals who increase the diversity of the State Bar of South Dakota
- Promotes the sponsorship of, or active participation in, programs, initiatives, or projects in the area of diversity and inclusion

### **Nomination Process and Presentation of Award**

Every year in the spring, the Lawyers Committee on Diversity and Inclusion (LCDI) will publish an invitation in the South Dakota State Bar Newsletter soliciting nominations for the Award. To be considered, nominations must be received by LCDI no later than March 1, 2022. Each nomination should include a brief synopsis of the nominee's commitment to diversity, inclusion, and equal participation in the legal profession. Each nominee's materials will then be reviewed by a subcommittee of the LCDI. The LCDI will then, by a majority vote, select one or more recipients who best exemplify the eligibility criteria. All recipients of the Award will be notified no later than May. The Award will be presented during the State Bar annual meeting in June. The Awards will be presented by a representative of the LCDI.

**2021 Diversity and Inclusion Award  
Nomination Form**

**1. Nominee Information**

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

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

\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**2. Nominator's Information:**

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

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

\_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

*How do you know the Nominee:* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3. Synopsis**

***A one-page synopsis must be attached to this nomination form. The synopsis should clearly identify the qualifications & attributes of the nominee.***

Completed nomination forms, and attachments thereto, are to be emailed to:

[access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net)

Or mailed to:

**Diversity & Inclusion Award Committee  
C/O Access to Justice, Inc.  
111 W. Capitol Ave. #1  
Pierre, SD 57501**



# 2021

## John R. Justice Student Loan Repayment Program

<https://atg.sd.gov/OurOffice/JohnJusticeProgram.aspx>

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, 2022. 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.

2021 John R. Justice (JRJ) Grant Application

2021 JRJ Grant Service Agreements: Please select one of the 3 agreements that best fits your situation.

**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



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## A Tale of Two Calls – Insuring Past and Future Exposures

Two calls that came in almost back-to-back really surprised me. The first came from an attorney who was retiring in another month or so. He had a few general malpractice insurance questions. The second was from an associate attorney with a small firm that was on the verge of dissolving. This associate was quite concerned about some decisions the partners were making regarding the firm's malpractice coverage. What struck me was the attorney decisionmaker's at both firms really didn't understand what the terms "tail" and "prior acts" actually mean.

Even if you have no plans to retire anytime soon and your firm continues to rock it, you still need to

understand what a tail is and what prior acts coverage does. I'll explain why shortly; but first let's start with the call from the associate. Here's the short version of the story. Two firm partners apparently had quite the falling out. As a result, one was going to call it quits and the other was going off on his own hoping to take as many of the firm's client's as he could. While I have my suspicions as to why, these two partners decided to forgo the purchase of a tail policy, which would leave their two associates and the partner going off on his own without coverage for all prior acts. From a liability perspective, the decision makes no sense.

The attorney who was in the process of winding down



his own practice also caught me off guard when I asked if he was planning to obtain a tail. His reply was it really wasn't a necessary expense. His reasoning was he felt confident in his belief that no claims would ever arise in retirement because he was a competent attorney. I just shook my head at that one because he had actually reported another, and yes, I said another, claim just a few months back. Making matters worse, he seemed a bit confused about how malpractice policies work. I eventually realized that he didn't see a need to purchase a tail because in his mind a tail is a new policy; and since he would no longer be in practice, buying a new policy would be pointless.

These two calls are not as unusual as you might expect. More than a few attorneys in practice have some confusion over what a tail is and how prior acts coverage works. Here's the gist of it. A tail does not provide any additional coverage. It simply extends the time in which a claim may be reported. That's it. Consider the retiring attorney situation discussed above. If a claim happened to arise 15 months after he retired, there would be no available coverage because his final policy would have expired when he stopped practicing. Had he purchased a tail, an extended reporting endorsement would have been added to his final policy that extended the time he could report a claim in accordance with the policy provisions of the final policy that was in force. Problem solved.

In contrast, prior acts coverage is really about making sure you have retroactive coverage for any missteps that occurred in prior policy years. Think about it this way. Malpractice policies are claims made and reported policies, which at a most basic level means they provide coverage for claims that arise and are reported during the policy year. However, there's a problem, is there not? Malpractice claims often don't arise in the same year the

actual alleged misstep occurred. Prior acts coverage solves this problem by establishing a retroactive coverage date that defines how far the back coverage goes under your current policy. Here's a really simple way to look at this. In essence, tails extend coverage for a defined period into the future and prior acts extends coverage for a defined period into the past, which brings me to my final story.

Sometime ago, I had a conversation with an attorney who proudly proclaimed that he had figured out the game insurers play and was saving tons of premium dollars as a result. His approach was to buy a new policy every year from whatever carrier offered the lowest premium for his desired limits. The cheapest policy also always came without prior acts coverage; and crazy as it sounds, in his mind that wasn't a problem. It wasn't too much further into the conversation that I understood his reasoning. Having never read the policy language of any of his policies, he incorrectly assumed his malpractice policy works like his homeowners and auto policy do. Of course, because a malpractice policy isn't an occurrence-based policy, it doesn't; but that's a conversation for another day.

For me, there are two takeaways here. First, one should always have prior acts coverage in place, which means a malpractice policy that includes coverage for prior acts will need to be purchased year after year in order to maintain a retroactive coverage date that goes all the way back to the inception date of the first policy you had coverage under. And second, if and when a transition of any type appears on your horizon and you find that coverage for your prior acts may not be available on a going forward basis, it's time to think about getting a tail.



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.

# In Memoriam



Bruce A. Hubbard

STURGIS | Bruce A. Hubbard, 71, of Sturgis, South Dakota, died November 25, 2021.

Bruce was born April 28, 1950, in Watertown, SD, to Ralph and Mary (Shelton) Hubbard. After graduating from Watertown High School in 1968, he attended the University of Arizona in Tucson where he was on the debate team. He graduated in 1972, with a bachelor's degree in government. Bruce earned a law degree from the University of South Dakota Law School, Vermillion, in 1975. He was then selected to clerk for the chief justice of the South Dakota Supreme Court, where he worked for a year.

Bruce moved to Sturgis in 1976, to practice as an associate attorney with Morrill and Hansen Law Firm. One year later he became a full partner, and the firm was renamed Hansen and Hubbard Law Firm. His areas of practice included civil and criminal litigation, probate and estate planning, family law, real estate and contracts, and appeals. He retired from the law firm in 2012.

Bruce was a member of the Meade School Board from 1980-83, serving as president his last year. He was a member of the Sturgis Area Chamber of Commerce board of directors, and was president of the Black Hills Motor Classic Board from 1989-91, presiding over the 50th motorcycle rally. He was Meade School District school board attorney for more than 30 years, and also served as Whitewood City attorney.

His community involvement also included serving as a board member for several organizations, including the Northern Hills Alcohol and Drug Services/ Compass Point, Badlands Head Start, Old Fort Meade Museum, Northern Hills CASA, and Sturgis Lifecare Foundation.

For the past 14 years, Bruce's passion and purpose in life had been serving as the defense attorney for the

Northern Hills Drug Court. He firmly believed that individuals fighting drug addiction should be treated rather than incarcerated, and that Drug Court could help turn their lives around and enable them to be productive citizens.

Bruce, aka the Beatles fanatic, is survived by his wife Kris of Sturgis; daughter Brittony (Steve) Maag, Las Vegas, NV; sister Jean (Craig) Evans, Powell, WY; brother Bob (Jo) Hubbard, Lincoln, NE, and their children Steve and Jane, New York City, Scott and Helen, Wichita, KS, Chris and Gail, Omaha, NE, and Susan and Chris Chaney, Olathe, KS; brother-in-law Patrick (Nancy) Lyons, Brookings, SD, and their children Mandy and Bill deBlonk, Brookings, and Meghan and Joji Calabro, Prairie Village, KS; sister-in-law Frani (Kevin) Pilgrim, Gravette, AR, and their children Delaney Willard and Thomas Phalen.

A memorial gathering will be held at a later date.



## Tips for De-Stressing

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

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

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Substance Abuse



Work/Life Balance



Stress



Depression/Anxiety



Grief



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**Company Code:** sbsd1

**Toll-Free:** 1-888-243-5744



## 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.*

**Attorney Health & Wellness Resources**

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**LAWYERS CONCERNED FOR LAWYERS**  
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# *Career Center*

STATE BAR OF SOUTH DAKOTA CLASSIFIEDS

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



## **OFFICE OF UNITED STATES ATTORNEY/ OFFICE OF ATTORNEY GENERAL HIDTA PROSECUTOR**

**DETAILS:** The Office of the United States Attorney and the Office of Attorney General seek an attorney for the High Intensity Drug Trafficking Area (HIDTA) program. The attorney will be an employee of the South Dakota Attorney General's Office who will be cross designated as a Special Assistant United States Attorney (SAUSA). This position will be stationed at the United States Attorney's Office in Sioux Falls. The attorney will prosecute controlled substance cases in federal and state court and accordingly litigation experience is preferred. The individual must also have strong research and writing capabilities. Currently this position is funded for a two year period, through an allocation from the Office of National Drug Policy which is subject to annual appropriations from Congress and the position is also subject to annual approval by the South Dakota Legislature. The successful applicant must be able to start within reasonable notice.

**OFFICE LOCATION:** This position will be stationed in Sioux Falls South Dakota.

**STARTING SALARY:** Salary negotiable, depending on experience. There is an excellent benefit package including leave and employee insurance coverage.

**QUALIFICATIONS:** Applicants must have a JD degree and be licensed to practice law in South Dakota; must be a motivated self-starter and be prepared to assume immediate responsibilities.

**APPLICATION PROCESS AND DEADLINE DATE:** Interested persons should send a resume containing three references, a writing sample and a letter describing their qualifications by January 18, 2022, to the following e-mail address: [Tim.Bormann@state.sd.us](mailto:Tim.Bormann@state.sd.us)

Or mailing address:

SD Attorney General's Office  
Attn: Tim Bormann  
1302 E Hwy 14 Suite 1  
Pierre, SD 57501



**MAGISTRATE JUDGE  
Third Judicial Circuit**

**Requisition #:** J22-09

**Agency:** Unified Judicial System

**Salary:** \$111,796.79 annually

**Closing Date:** January 17, 2022

**Position Purpose:** Position performs highly responsible legal work in the disposition of certain types of cases in magistrate court in the Third Judicial Circuit. This position will require travel. **Chambers for this position may be located in Codington, Lake or Moody County, depending on applicant preference.**

Work involves responsibility for hearing and ruling on certain civil and criminal cases. Work is supervised by the Presiding Judge of the judicial circuit. Position includes a generous benefits program: including retirement, health, life, vacation and sick leave, plus so much more.

Duties may include:

- conduct jury trials on misdemeanor cases and city ordinance violations;
- conduct court trials related to civil actions or small claims up to a specific jurisdictional amount;
- participate and assist with Drug Court and/or DUI court;
- issue warrants of arrest and search and seizure warrants;
- administer oaths and take acknowledgements;
- set bond and fix conditions of release;
- review and conduct protection order hearings pursuant to jurisdictional authority;
- conduct arraignments and other hearings;
- proficient computer skills including, but not limited to, Microsoft Office, jury management system, phone system and email;
- effective communication with court staff, attorneys and litigants;
- occasional work on nights, weekends and holidays.

**Comments:** Applicants must have graduated from an accredited law school, be licensed to practice law in South Dakota and have experience in the practice of law. Applicants must meet the State of South Dakota Constitutional requirements set forth in Article V Section 6 upon appointment. This position is appointed by the Presiding Judge of the judicial circuit, subject to approval by the Supreme Court, for a four-year term subject to potential renewal. The applicant recommended for appointment will undergo an intensive background investigation.

*To qualify for Veterans' Preference, a veteran must have been separated or discharged honorably or under honorable conditions. To be considered for Veterans' Preference, please attach a copy of the DD214, DD214R or NGB22 indicating qualifications per SDCL 33A-2-1.*

**To Apply:** Applicants must complete a letter of interest and a magistrate judge applicant/personal data questionnaire. This document can be obtained by accessing the following link <http://ujs.sd.gov/uploads/hr/MagistratePDQ.pdf> or contacting the Human Resources office. If the applicant has completed a circuit court judge judicial application/personal data questionnaire within the last six months, it may be submitted in lieu of the magistrate application, provided it is updated to the date of application. All personal data questionnaires must be submitted by the closing date to:

PMB 2713-000  
Director of Human Resources  
Unified Judicial System  
500 East Capitol Avenue  
Pierre, SD 57501  
Phone: (605) 773-4867; Fax: (605) 773-8437  
[Lisa.Mammenga@ujs.state.sd.us](mailto:Lisa.Mammenga@ujs.state.sd.us)  
An Equal Opportunity Employer





# UNITED STATES BANKRUPTCY COURT

## DISTRICT OF SOUTH DAKOTA

<b>POSITION TITLE</b>	<b>Operations Clerk</b>
<b>LOCATION</b>	<b>Sioux Falls, South Dakota</b>
<b>TYPE OF APPOINTMENT</b>	<b>Full-time</b>
<b>CLASSIFICATION LEVEL (SALARY)</b>	<b>CL 24 (\$43,132.00 to \$45,957.00)</b>
<b>CLOSING DATE</b>	<b>January 24, 2022 or until filled</b>

## CAREER OPPORTUNITY

The United States Bankruptcy Court for the District of South Dakota is accepting applications for the position of Operations Clerk.

### POSITION OVERVIEW:

An Operations Clerk performs intake and case administration duties and manages the progression of bankruptcy cases and related adversary proceedings from case opening to final disposition by maintaining official case records, monitoring for completion of required procedural steps, and performing various functions in accordance with internal controls, procedures, and rules. An Operations Clerk serves as a records and reproduction clerk, receives and reviews incoming court documents, is proficient in all facets of customer service, and performs other duties as assigned.

### REPRESENTATIVE DUTIES:

- Monitor the progress of bankruptcy cases and related adversary proceedings from opening to closing to ensure their orderly and efficient movement through the bankruptcy court system.
- Perform front counter duties, including processing documents, performing financial transactions, and collecting appropriate fees.
- Monitor case records for conformity with appropriate rules, practices and/or court requirements.
- Review and ensure the accuracy, timeliness, and quality of data entered into the Case Management/Electronic Case Files (CM/ECF) database.
- Prepare, analyze, and ensure the accuracy of various case management reports.
- Generate notices related to bankruptcy case events.
- Provide appropriate case information to the public, attorneys, and other parties involved in bankruptcy cases over the telephone, in writing, or at the front counter.
- Other duties as assigned.

**MINIMUM QUALIFICATIONS:**

A bachelor's degree from an accredited four-year college or university is preferred. Experience in a court or legal field may be substituted for the educational requirement. The applicant must have the ability to follow detailed instructions and must have skill and accuracy in data entry. The applicant must have the ability to effectively communicate with judges, attorneys, other court employees, and the public. Excellent oral and written communication skills are required. Proficiency in using word processing, email, and PDF processing applications is required. The ability to become proficient in using the CM/ECF electronic filing system is required.

**BENEFITS:**

Paid annual and sick leave; retirement benefits under the Federal Employees Retirement System (FERS); Thrift Savings Plan (401K styled) with employer matching contributions; health benefits under the Federal Employees Health Benefits Program (FEHB); supplemental dental and vision benefits under the Federal Employees Vision and Dental Plan (FEDVIP); life insurance benefits under the Federal Employees Group Life Insurance Program (FEGLI); long-term care insurance; eleven (11) paid holidays per year; and Flexible Benefits Program for medical/dependent care.

**ADDITIONAL INFORMATION AND CONDITIONS OF EMPLOYMENT:**

Applicant must be a U.S. citizen or eligible to work in the United States.

Applicant must be fully vaccinated against COVID-19.

The successful candidate will be subject to a background and fingerprint check as a condition of employment. The court requires employees to adhere to a code of conduct, which is available upon request.

All employees of the court are "excepted service" appointments. Excepted service appointments are "at will" and serve at the pleasure of the court.

This position is subject to mandatory electronic funds transfer (direct deposit) of federal wages for court employees.

The court has a right to modify the conditions of this announcement, withdraw the announcement, or fill the position at any time before the closing date, any of which may occur without prior written notice.

Some travel may be required.

**HOW TO APPLY:**

Qualified applicants should submit the following to [rick\\_entwistle@sdb.uscourts.gov](mailto:rick_entwistle@sdb.uscourts.gov). All documents should be in PDF format.

- Cover letter
- Resume including three professional references (letters not required)
- Completed [Federal Judicial Branch Application for Employment \(AO 78\)](#)

## Deputy State's Attorney - Yankton

Department: Yankton County State's Attorney

Reports to: Yankton County State's Attorney

FLSA Status: Exempt

Grade: 13

Probationary Period: 180 days

### Position Description

- The Deputy State's Attorney performs routine legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Yankton County as well as representing the State in mental illness proceedings.

### Key Responsibilities (may not include all of the functions performed)

- Reviewing offenses and evidence to make determination on charges and prosecuting violations of state law.
- Reviewing requests for subpoenas, petitions and other legal documents.
- Advising county offices and commissions on legal issues.
- Attending legal proceedings.

### Supervisory Responsibilities

- Supervise support staff and interns.
- Represent the State's Attorney Office at public, private, and inter-governmental programs and events.
- Train and educate volunteers, law enforcement, and social workers on their roles and duties on legal issues and the court process duties.

### Qualifications

#### Required Knowledge, Skills and Abilities

- Working knowledge of civil and criminal law and methods and practices of pleadings, court procedures, and rules of evidence.
- Working knowledge of principles, methods, materials, and practices utilized in legal research.
- Working knowledge of general law and established precedents.
- Ability to prosecute cases.
- Ability to speak and write effectively in the preparation and presentation of legal matters.
- Ability to establish and maintain effective working relationships with coworkers, other agencies, and the public.
- Ability to maintain professional appearance and demeanor.

### Education

- Graduation from a college of law.
- Attainment of a Juris Doctorate degree from an accredited law school.
- Admission by the Supreme Court of South Dakota to practice law in the state of South Dakota; or be licensed to practice law in any other state and able to take the next available South Dakota bar examination; or be a recent or imminent law school graduate, eligible to sit for the next available South Dakota bar examination.

### Experience

- 0-1 year

### Other Requirements

- Ability to draft and use computer programs

Interested applicants can send a cover letter and resume to Rob Klimisch at [rob@co.yankton.sd.us](mailto:rob@co.yankton.sd.us) or Yankton County State's Attorney 410 Walnut #100 Yankton, SD 57078.

## Staff Attorney's - Sioux Falls

East River Legal Services (ERLS) is seeking to hire several Staff Attorney's. The positions are in our Sioux Falls, South Dakota office, but will require travel throughout eastern South Dakota on occasion. 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+), the disabled, victims of crime, and all those facing financial insecurity.

### Summary of Position:

This specific position requires the representation of 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 position requires preparing and delivering client training and other community education, conducting intake and outreach, appearing in administrative and judicial forums, active bar participation, and special legal and community projects. The Staff Attorney shall perform any other responsibilities under the supervision



of the Executive Director and/or Managing Attorney as may be necessary for the day-to-day operation of the Program.

**Qualifications:**

Applicants must be licensed to practice law in South Dakota or be eligible for admission by motion. Previous experience in poverty law or with crime victims is preferred, but not required. Demonstrable awareness and sensitivity to the needs of the populations we serve is necessary. Strong organizational skills, ability to work independently, excellent written and communication skills, ability to work constructively with others, and ability and willingness to work hard are all necessary qualifications for this position. The ability to speak more than one language is a plus. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.

East River Legal Services is an Equal Opportunity Employer.

**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: Brent Thompson  
335 N. Main Ave., Suite 200  
Sioux Falls, SD 57104-6038

Or Email to:

[Brent@erlservices.org](mailto:Brent@erlservices.org)

Closing Date: Open Until Filled

**DeRouchey Agricultural & Legal Consulting, LLC**

Roger DeRouchey  
700 Broad Street Alexandria, SD 57311  
605-770-8080  
[derouchey.agconsulting@triotel.net](mailto:derouchey.agconsulting@triotel.net)

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

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

**Staff Attorney - Aberdeen**

East River Legal Services (ERLS) is seeking to hire a Staff Attorney in its new Aberdeen, 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+), the disabled, victims of crime, and all those facing financial insecurity.

**Summary of Position:**

This specific position requires the representation of 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 position requires preparing and delivering client training and other community education, conducting intake and outreach, appearing in administrative and judicial forums, active bar participation, and special legal and community projects. The Staff Attorney shall perform any other responsibilities under the supervision of the Executive Director and/or Managing Attorney as may be necessary for the day-to-day operation of the Program.

**Qualifications:**

Applicants must be licensed to practice law in South Dakota or be eligible for admission by motion. Previous

experience in poverty law or with crime victims is preferred, but not required. Demonstrable awareness and sensitivity to the needs of the populations we serve is necessary. Strong organizational skills, ability to work independently, excellent written and communication skills, ability to work constructively with others, and ability and willingness to work hard are all necessary qualifications for this position. The ability to speak more than one language is a plus. Persons of color, veterans, persons with disabilities, and persons from other traditionally underrepresented communities are strongly encouraged to apply.

East River Legal Services is an Equal Opportunity Employer.

#### 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: Brent Thompson  
335 N. Main Ave., Suite 200  
Sioux Falls, SD 57104-6038

Or Email to:

Brent@erlservices.org

Closing Date: Open Until Filled

#### Staff Attorney – Rapid City

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

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

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

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

**CLOSING DATE:** Open until filled.

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

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

#### Corporate Counsel – Sioux Falls or Helena, MT

NorthWestern Energy is seeking applicants for a Corporate Counsel position based in Sioux Falls, South Dakota or Helena, Montana. The selected attorney will provide support to NorthWestern Energy's Legal Department, with responsibility for drafting and negotiating contracts, reviewing transactional matters, resolving disputes, researching issues and assisting as part of a team in developing and implementing various strategies within the energy industry.

To review a summary of the position, salary range (\$82,000 to \$135,500 based on experience) and to apply, visit <http://www.northwesternenergy.com>. NorthWestern Energy is an equal opportunity employer.

## Attorney - Statewide

Job ID: 18027

Agency: Department of Human Services, Office of the Secretary

Location: Statewide

Salary: \$67,087.44 - \$82,183.68 annually

Pay Grade: L2

Closing Date: 01/14/2022

This is a full-time position with the Department of Human Services. For more information on the Department of Human Services, please visit <http://dhs.sd.gov>.

This position is exempt from the Civil Service Act.

The Department of Human Services is looking for an attorney excited to work with people and make a difference. Job duties include representing the Department in various types of hearings, providing legal advice to all Divisions, assisting with guardianship and conservatorship matters, and researching and writing on issues of importance to the Department.

### Licenses and Certifications:

Licensed to practice law in South Dakota

### The Ideal Candidate Will Have:

- 1-5 years of experience; knowledge of disability laws, guardianship laws, and Medicaid; and a strong desire to serve individuals with disabilities.

### Knowledge, Skills, and Abilities:

- strong legal research and writing skills;
- ability to assess situations for potential legal issues;
- ability to explain legal principles without legalize;
- knowledge of intellectual and developmental disabilities law, guardianship law, and/or Medicaid is helpful, but not required.

### Additional Requirements:

To be considered, attach your Resume and Writing Sample.

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/lmgbr/xmlhttp/shorturl.do?key=GEZ>

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

South Dakota Bureau of Human Resources

Telephone: 605.773.3148 Email: [careers@state.sd.us](mailto:careers@state.sd.us)

<http://bhr.sd.gov/workforus>

"An Equal Opportunity Employer"







## Upcoming Events

*January 6 | Bar Foundation Meeting | DEHS Conference Room | Sioux Falls*

*January 7 | Bar Commission Meeting | Hotel on Phillips, Sioux Falls*

*January 13-14 | Disciplinary Board Meeting | Sioux Falls*

*January 20 | Law for Lunch - Tax Update | Zoom*

*February 16 | Bar Commission Meeting | Teleconference*

*February 17 | Law for Lunch - Land Use Issues in SD | Zoom*

*March 16 | Bar Commission Meeting | Teleconference*