



# State Bar of South Dakota

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February  
2020

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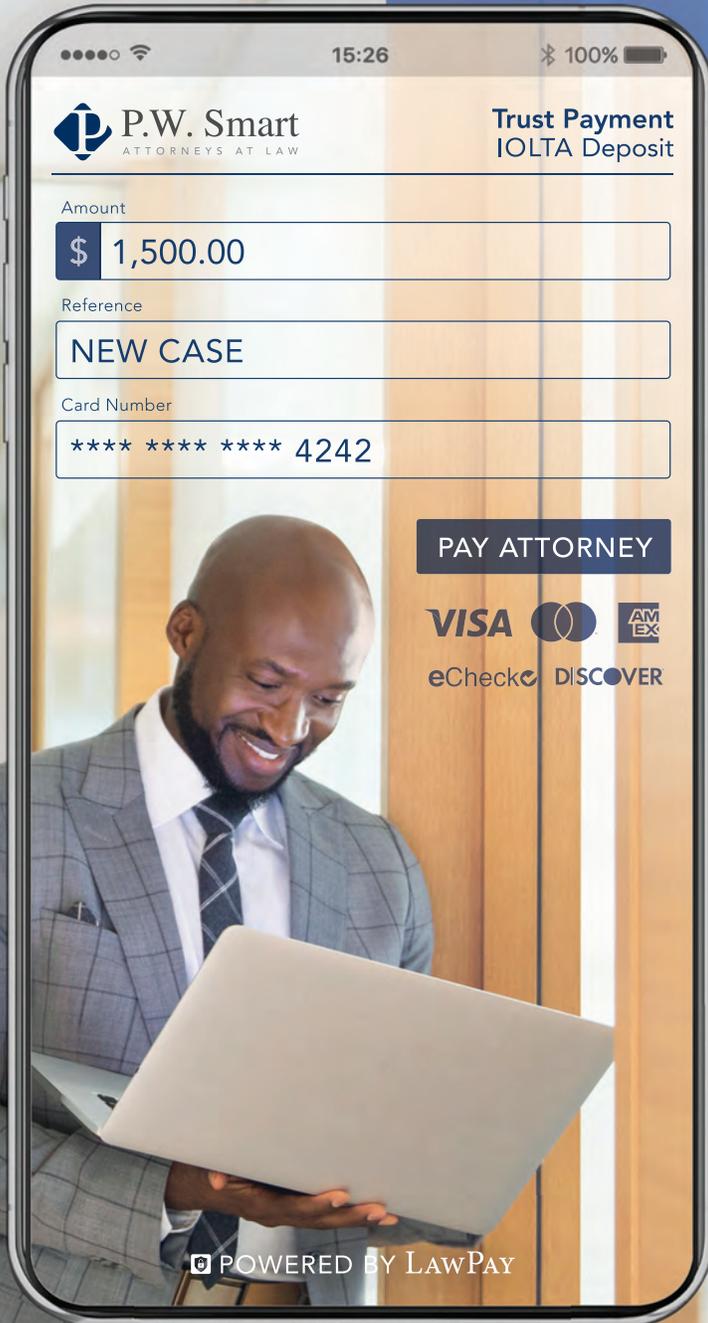
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# State Bar of South Dakota

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## President's Corner

Steven K. Huff

### A Presidential Suggestion.

On a long, foggy drive to Watertown that began around 6 am this last Thursday morning, I asked myself, "Steve, why do you agree to mediations that require this kind of drive?" Shortly thereafter, when Pink Floyd began to play on my Sirius radio, I began to question everything.

Instead of coming up with good answers, I thought of a topic that would be unusual but something I think every bar member could actually agree with. Given these trying times and our current political and social climates, I realize and appreciate it is hard to come up with a topic that even a portion of members can find commonality let alone unity.

As some of you may know already, I fell in love with my wife Tracy (in part) because we both love

all things food. Our first date was a road trip over an hour's drive each way from the town where we met to a small Italian restaurant in downtown Des Moines. Our second date involved me cooking my first meal for her (a Dijon mustard and jalapeno jelly glazed chicken with matchstick carrots and celery - a meal we still fix periodically).

Over a period of decades, I grew to love the different food cultures between larger urban areas like Chicago, Minneapolis, Des Moines, Kansas City, and much smaller ones like Yankton and the smaller towns in which we all practice. I wondered what gems many of us know but have not been shared with our fellow attorneys.

While getting ready for an expedited cash collateral hearing in Iowa this afternoon, I was communicating with some bank counsel from out of state. When I explained my Watertown and back trip to her, along with a somewhat regular pit stop in Vermillion so I could bring some Silk Road home for my hungry teenagers, I was surprised that this Sioux City based attorney had not ever heard of Silk Road. This inspired me too.

I moved to Yankton in September 1999 from Des Moines. In so doing, I picked up many a recommendation from fellow attorneys, paralegals, judges, court reporters, clerks and court security.



# Eat Good Feel Good

Those recommendations would not just be about restaurant choices, but about good groceries and farmers markets, fun spots to entertain and picnic and the like. Most of the time, word of mouth recommendations led to excellent results.

So, I have decided for this month's newsletter to make sure that the restaurant and food gems that I have become acquainted with over the years are shared with others. I am most certainly not receiving any endorsements. Rather, as a way to get attorneys to communicate better with one another about a topic I would think interests most, I thought I would simply roll out some suggestions and hope that a few of the same would be news to some. I do not pretend to know all or even most of the great choices which exist; I just wanted to prompt some dialogue so that people new to our legal community would have the benefit of others who have better knowledge and information.

To begin with, many of you are likely familiar with restaurants in Vermillion since our sole state law school is located there. Silk Road, Red's, Café Brule are all stellar choices and favorites of my family. A new addition to the community will open on February 5 in the old Little Italy's location, called El Fredos, which is an old school Sioux City, Iowa pizza and Italian food mainstay. I am confident it will meet if not exceed the expectations of most.

Many others are familiar with Pierre because it is the state capital and many bar activities (including our upcoming annual convention) have been and will be held there. Places such as La Minestra, Red Rossa, Cattleman's and Mad Mary's are all excellent.

Rather than talk about all the great choices in larger places like Rapid City or Sioux Falls, I will target the remainder of my recommendations to my bailiwick. Yankton has some great and offbeat choices. Most may already be familiar with Charlie's Pizza. Our local Minerva's is really solid and their specialty menus, particularly for things like Mardi Gras, are really stellar. We have several great Mexican places with El Tapito, Mexican Viejo and River City Burrito. Café Louisiana is a very good Cajun restaurant. One

of my lesser known favorites is the legendary Black Steer (full disclosure - my son Nathan bussess tables there on a part time basis). Other gems include Willa'Bs and Backroad BBQ which is in South Yankton, Nebraska (the old Bruno's). For some good wings, burgers and sandwiches, Fleeg's, Rock Bottom, Phinney's and the Upper Deck have great offerings. Czeckers is right across from our courthouse and Cheer's is one block south from there and has great New York style pizza and a seafood boil that is well worth it. Tastee's, the Dam Fish Shack and Dairy Dock are also local favorite with great sandwiches and ice cream offerings. Most of our local chains are very well run.

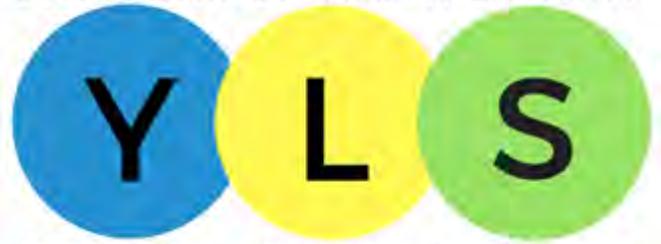
Two other considerations merit mention. I also highly recommend that when possible, cook at home. Two trusted tools for good meals at home are meat lockers and, when available, farmer's markets. I also recommend grilling and smoking at home. With just a little bit of practice, you can be grilling or smoking full meals, ranging from meats, veggies, fruits, deserts and even carrot cakes. If you ever want to have a discussion on this potentially life changing topic, please email or call as I would love to learn more from anyone so inclined.





## STATE BAR OF SOUTH DAKOTA YOUNG LAWYERS SECTION

by: Nathan Chicoine  
YLS President



In today's practice, a law school education is not enough. Lawyers need to educate themselves constantly to keep pace. The batch of CLEs offered at the annual meeting are excellent, but we can't attend all of them, and they only come once a year. We are about halfway through the bar year and often looking for something to break the monotony of winter, so this is the perfect time to attend a CLE. To fill the void, the state bar CLE committee offers programs year-round, and the Young Lawyers Section supplements with semi-annual live programs geared toward members who have been in practice less than 10 years. Based on some basic research and reflection, here is a list of reasons to attend continuing education programs:

1. Stay fresh. Legal authority is always changing. Hear the updates and analysis from a qualified presenter to ensure your legal skills and knowledge remain relevant. Whether you are filling in gaps in an area you already know or expanding your knowledge to a new area, you are fulfilling your professional responsibility to maintain competence.
2. Demonstrate ambition. Legal matters are becoming more complex. Clients are expecting more skill, sophistication, and specialization. Experience combined with knowledge demonstrates your motivation and drive to succeed. Show your clients you're able to handle the matter if it takes an unexpected turn.
3. Edge out the competition. The legal profession is hyper competitive, and as more lawyers continue their practice, the competition for valuable, stable clients will increase. The client you're striving to

obtain may not require you to be better educated, but the client is looking for the most qualified advocate. Be that person. Specialization and versatility will help separate you from the pack.

4. Earn more money. Even if more education does not lead to a promotion according to your letterhead or signature block, increasing your skill set increases your value. Your earnings should follow. People with broader skill sets also tend to have better job security. CLE is an investment in yourself that stays with you for life.

6. Gain inspiration and confidence. CLEs provide exposure to a variety of topics and cutting-edge theory that will help you expand your horizons. When you leave a CLE, you feel more comfortable with an unfamiliar topic. This comfort translates to confidence and inspires you to put your newfound knowledge into practice.

7. Network. CLE programs bring you together with colleagues where you can connect with lawyers who have a similar practice and similar goals. You might have a new friend or a sounding board for the next matter relating to the topic. You'll always have Paris, or at least that Friday seminar in February.

Young Lawyers will be hosting the annual Bootcamp CLE in Sioux Falls and Rapid City on February 28 followed by a social mixer. It's a great way to spend a Friday. See the agenda in the Newsletter for more details. Please RSVP to Anthony Sutton at [anthony@janklowabdallah.com](mailto:anthony@janklowabdallah.com) (Sioux Falls) and Mariah Bloom at [mariah@aspenlegacyplanning.com](mailto:mariah@aspenlegacyplanning.com) (Rapid City). Come join your peers and stay connected with the developments in the profession.

**PSA**

The Deadline was Jan. 31st!  
 If you haven't sent this in please do so now!

**GOOD NEWS!**  
 You can now email in your Certificate of Compliance!

Go green. Save the planet!  
 Email your Certificate of Compliance to:  
[tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net)

## Northern Plains Weather Services

Dr. Matthew Bunkers of Northern Plains Weather Services is a certified consulting meteorologist (CCM) and forensic meteorologist with over 25 years of weather analysis and forecasting experience. He can provide reports, depositions, and testimony in the areas of weather and forecasting, severe summer and winter storms, rain and snow estimates, fire weather, flooding, applied climatology and meteorology, agriculture meteorology, and statistics. More information is provided at <http://npweather.com>. Contact Matt at [rrnplnsweather@gmail.com](mailto:rrnplnsweather@gmail.com) or 605.390.7243.



# *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 and charities the Foundation supports.

*Thank you!*

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

Cumulative, including Pledges & Testamentary Gifts

🏆 Frank L. Farrar

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

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🌻 Fred & Luella Cozad

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

Cumulative, including Pledges & Testamentary Gifts

💎 Thomas C. Barnett Jr.    💎 Robert E. Hayes

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

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🏆 Hon. Richard H. Battey    🏆 Charles L. Riter

🏆 Hon. John B. Jones    🏆 William Spiry

🏆 Scott C. Moses    🏆 Hon. Jack R. Von Wald

## *Fellows: \$500 per year*

Hon. John Bastian

Hon. John L. Brown

Mary Jane Cleary

Edwin Evans

Andrew L. Fergel

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★ P. Daniel Donohue

★ Dana J. Frohling

★ Richard L. Kolker

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🌟 Kimberley A. Mortenson

🌟 Timothy J. Rensch

🌟 Robert C. Riter Jr.

🌟 James E. Smith

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

★★ John P. Blackburn    ★★ Robert E. Hayes    ★★ Pamela R. Reiter

★★ Richard D. Casey    ★★ Terry L. Hofer    ★★ Eric C. Schulte

★★ Hon. Michael Day    ★★ Steven K. Huff    ★★ Jeffrey T. Sveen

★★ Robert B. Frieberg    ★★ Hon. Charles B. Kornmann

★★ Thomas H. Frieberg    ★★ Bob Morris    ★★ Charles M. Thompson

★★ David A. Gerdes    ★★ Thomas J. Nicholson    ★★ Richard L. Travis

★★ Hon. David R. Gienapp    ★★ Gary J. Pashby    ★★ Thomas J. Welk

★★ Patrick G. Goetzinger    ★★ Stephanie E. Pochop

★★ G. Verne Goodsell    ★★ Reed A. Rasmussen

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

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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  
222 E. Capitol Ave., #3  
Pierre, SD 57501

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

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

## Dean's List: News from the Law School



by: *Neil Fulton*  
*Dean*  
*USD School of Law*

One of the most enjoyable parts of being dean so far has been the opportunity to welcome speakers to the Law School. We are very fortunate that many wonderful people are willing and able to come home to the Law School to share their insight with students, faculty, and the entire USD Community. It is tremendously appreciated. I wanted to use this column to tell you a little bit about the speakers who have come and will be coming this year. All are welcome at our events, so hopefully some of you will be able to attend.

The speakers for our established lectures this year have been great. Professor Greg Magarian of Washington University Law School delivered the Constitution Day Lecture this fall. He discussed the development of free speech doctrine in recent decades. In a timely fashion, he also discussed the campus intellectual diversity bills that South Dakota and other states have considered. His speech triggered a respectful but spirited give and take with students and professors from across the political spectrum.

In October, Heidi Heitkamp gave the Thurgood Marshall lecture. She talked about missing and murdered indigenous women and efforts at more effective law enforcement in Indian Country. She also took the time to have lunch with leaders of several student groups and encouraged them to consider opportunities for public service in their communities. Days later, our Native American Law Students Association held a public screening of the movie *Wind River*. They followed the screening with a panel of people who have worked on Indian County law enforcement. NALSA will cap its year with the Indian Law Symposium this spring. The

symposium will also be a bit of a transition between Professor Frank Pommersheim and his successor as Indian Law professor and NALSA advisor, Ann Tweedy. We could not be more excited or fortunate to welcome Ann to the Law School.

Former Governor Dennis Daugaard gave the Gunderson Lecture in late January. The Gunderson had been dormant for a few years, and I'm excited to revive it. Particularly with Dennis. He is South Dakota to the core and always upbeat. Nobody could inspire Law School students to the ideals of excellence, service, and leadership better than Dennis. We were thrilled to have him back on campus.

We have had a series of great panels and student organization guests. Right before the Legislative Session began, Speaker of the House Haugaard, Senator Craig Kennedy, Representative Jon Hansen, and lobbyists Brett Koenecke and Justin Bell hosted a heavily attended panel about legislation and lobbying. We look forward to making a discussion of legislation an annual event. Students hear too little about the legislative process; hopefully a few will be inspired to increase the number of lawyers in the Legislature in coming years.

Dean Charles Rose from Ohio Northern University came and talked about storytelling in trial advocacy. Dean Rose is a master advocate and gave a fantastic and practical presentation for our future litigators. John Dillard was hosted by the Ag Law committee to talk about the ongoing discrimination lawsuit by Indian farmers against the USDA. The St. Thomas More Society and others cooperated to host Sr. Teresa Ann Wolf, who spoke about her experiences ministering to immigrants and the Mexican border. The Family Law Society had a panel of practitioners featuring Craig Thompson, Elizabeth Rosenbaum, and Amber Walter to talk about issues for family law practitioners. The Federalist Society hosted Marieke Tuthill Beck-Coon to discuss free speech issues on campus and Ilya Shapiro to talk about federalism issues surrounding states legalizing marijuana use. Cassandra Kirsch was a guest of

the Internet and Cyber Law Society. She litigates cases involving revenge porn and cyber bullying and gave a fascinating talk about this cutting-edge issue.

The South Dakota Law Review was also on the cutting edge this year, hosting its symposium in Sioux Falls in cooperation with DSU. The symposium focused on cybersecurity from legal and technical perspectives. It was a great cross-disciplinary event and featured two great programs in South Dakota. Carol Goforth came to campus the next day and talked about regulating crypto currency. It was a scary enough topic to convince many of us to just pay cash.

This doesn't even touch on the Supreme Court sitting at the Law School in October, a panel of municipal lawyers in March, or all the student group speakers coming this spring. Not many days go by without an interesting speaker being at the

Law School. We work carefully to coordinate with other programs at USD so that undergraduates can come hear our speakers, or that they can go and present in other departments as well. I really hope to make the Law School the center of public affairs on campus and the home of the law in South Dakota. Speakers like these investing their time in our students is tremendous.

The Law School hosts a variety of speakers from a wide variety of viewpoints. I am happy to say that we are a place for respectful and productive engagement. Learning how to consider different perspectives and disagree collegially is central to our mission of preparing leaders for South Dakota and beyond. That happens daily at the Law School. It is a vibrant and engaging community. I hope many of you can join us in coming months as speakers or in the audience. We are always happy to welcome you home.

## 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.*

# A2J JUSTICE SQUAD

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

- **AARON PILCHER**
- **GAVIN POCHOP**
- **STEPHANIE POCHOP**
- **ERIKA OLSON**
- **ROSEANN WENDELL**
- **KIRSTEN AASEN**
- **KATIE JOHNSON**
- **TOM GRASLIE**

AND MUCH THANKS TO:

Scott Moses

Kyle Krause

Beth Baloun

Margaret Bad Warrior

Sarah Bouwman

Joseph Hogue

FOR THEIR HELP ON  
SD FREE LEGAL ANSWERS!

Are you interested in becoming a legal superhero  
and member of the A2J Justice Squad?

PLEASE SEND A MESSAGE TO DENISE LANGLEY AT:  
[ACCESS.TO.JUSTICE@SDBAR.NET](mailto:ACCESS.TO.JUSTICE@SDBAR.NET)



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I THINK  
A HERO  
IS ANY  
PERSON  
REALLY  
INTENT  
ON  
MAKING  
THIS A  
BETTER  
PLACE  
FOR  
ALL  
PEOPLE.  
”

- MAYA  
ANGELOU

# A2J, INC. 2019

## Year in Review

thousands of dollars in pro bono legal assistance has been provided by volunteer attorneys

**217K** 

**PRO BONO DOLLARS**



**PRO BONO HOURS 1,057**

over one thousand hours in free legal assistance given by the program volunteers

cases receiving pro bono assistance from a volunteer attorney

**176**



**PRO BONO CASES**



**PRO BONO VOLUNTEERS**

**135**

number of volunteer attorneys who worked on a case

questions answered online by volunteer attorneys through SD Free Legal Answers

**248**



**SDFLA QUESTIONS**

**APPLICANTS**

accepted applicants who meet the priority processing

**34**

Individuals with Disabilities

Veterans

**77**

Victims of Violence

**49**

Elderly

**62**

**116**

Family

**22**

Bankruptcy/Consumer

**9**

Housing

Miscellaneous

**5**

Estate Planning

**24**

**AREA OF LAW**

type of legal situation the applicant needed assistance with

**10 SPECIAL PROJECTS**

ongoing projects and collaborations to improve access to justice in South Dakota



DLS Hotlines



SDLawHelp



SD Gives



CEAC



DV Summit



Veterans Clinics



Social Media



Wills for Heroes



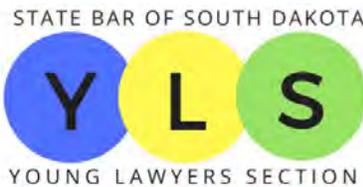
We moved!



Guardianship Project

**WANT TO LEARN MORE OR DONATE TO A2J**

Visit [www.statebarofsouthdakota/page/access-to-justice](http://www.statebarofsouthdakota/page/access-to-justice) OR email us at [access.to.justice@sdbar.net](mailto:access.to.justice@sdbar.net)



## **Young Lawyers Section 2020 Bootcamp Agenda**

Friday, February 28, 2020

Pennington County Courthouse, C-7

10:30-10:50: Registration

10:50: Welcome

11:00-12:00: Connecting with a Jury (Mark Vargo, State's Attorney).

### **Lunch**

12:00-12:55: Sponsored Lunch – Judges Panel – (Judge Robert Gusinsky, Judge Craig Pfeifle, Judge Jane Wipf Pfeifle, Judge Heidi Linngren, Judge Joshua Hendrickson and Judge Francy Foral)

### **Afternoon Agenda**

12:55-1:00: Break

1:00-1:30: Writing Tips (Cullen McNeece; Quincy Kjerstad)

1:30-2:00: Mindfulness (Hon. Francy Foral)

2:15-3:15: Ethical Considerations in Estate Planning and Elder Law (Stephen Wesolick and Mariah Bloom)

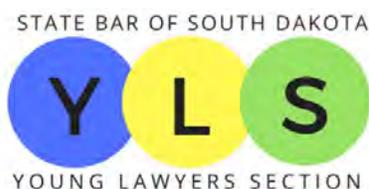
3:15-3:30: #Fit2PracticeSD (Kelsey Parker)

3:30-4:45: Panel Discussion: Alternative Use of Your J.D. (Frances Becker, Timothy Becker, Allison Creelman, Jennifer Trucano and Mitch LaFleur)

### **Circuit Mixer to Follow Bootcamp – All Attorneys are Invited!**

TBD

*Rapid City CLE RSVP to Mariah Bloom, [mariah@aspenlegacyplanning.com](mailto:mariah@aspenlegacyplanning.com)*



## **Young Lawyers Section 2020 Bootcamp Agenda**

Friday, February 28, 2020

Sioux Falls Location: Lumber Exchange Building, 101 S. Reid Street

### **Morning Agenda**

- 9:00-9:15: Registration
- 9:15: Welcome
- 9:20-10:20: Panel Discussion: Other Jobs Available for Lawyers (Chris Madsen – Claims Associates; Mary Schaeftbauer – BTC Trust Co.; Eric Hanson – Dakota Homestead Title Insurance Co.; Graham Oey – SD Department of Labor & Regulation; Ashlee Wendt – Sanford Health)
- 10:20-10:35: #Fit2PracticeSD (Tamara Nash, SD Attorney General’s Office/US Attorney’s Office)
- 10:35-10:45: Break
- 10:45-11:45: Ethics in Review: Obligations for Lawyers (Neil Fulton, Dean of USD School of Law)

### **Lunch**

- 12:00-12:55: Sponsored Lunch – Judges Panel – (Justice Steven Jensen, Judge Robin Houwman, Justice Glen Severson)

### **Afternoon Agenda**

- 12:45-12:55: Registration
- 12:55: Welcome
- 1:00-1:30: Courtroom Conduct, Courtroom Appearance, and Networking for Young Lawyers (Pamela Reiter – Johnson, Janklow, Abdallah, & Reiter, LLP and Derek Nelsen – Fuller, Williamson, Nelsen & Preheim, LLP)
- 1:30-1:45: #Fit2PracticeSD (Gregg Greenfield, Greenfield Law Office)
- 1:45-1:55: Break
- 1:55-2:40: Financial Wellness for Young Lawyers (Mary & Megan Howard, The Howard Group – Barid Financial Advisors)
- 2:40-3:25: Legal Aid: Litigating Protection Orders from Start to Finish (Meghan McCauley, Minnehaha County States Attorney’s Office)

### **Circuit Mixer to Follow Bootcamp – All Attorneys are Invited!**

Sioux Falls: Monks House of Ale, 420 E. 8th Street, Sioux Falls

Sioux Falls CLE RSVP to Anthony Sutton, [anthony@janklowabdallah.com](mailto:anthony@janklowabdallah.com)

## Members of the Bar:

At its meeting on January 10, 2020, the Board of Bar Commissioners voted to discontinue printing and mailing the State Bar of South Dakota Membership Directory. However, the State Bar will continue to make the Directory available in a PDF format to download and print from the membership side of the State Bar's Website at your convenience. To make available the most up-to-date product for download, the Bar will need members to provide changes to their contact information on or before March 20, 2020. Name, address, email, telephone, and fax number changes may be emailed to Tracie Bradford at [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net).

The decision to stop printing the directory was not made in haste. The topic has been under discussion for several years. After thoughtful consideration, the Bar Commission made the decision to discontinue printing the membership directory to more productively use the resources it took to produce and mail it. In recent years, the cost to print and mail each member a copy of the directory was \$25,000.00 to \$30,000.00. Since the State Bar's website has a searchable membership directory for members' use and a downloadable PDF, the Commission felt those dollars could be better used in other areas such as member wellness.

The Commission and Bar Staff understand that this change may not be pleasant for some; therefore, if you prefer using a paper directory and find yourself having difficulty finding, downloading, or printing the PDF file please contact the Bar office. We will be happy to assist you.

Andrew L. Fergel  
Executive Director  
State Bar of South Dakota

# Membership Directory Updates

can be emailed to

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

The subject of your email should be "Directory Updates" and include:

- Firm Name
- Address
- City
- State
- Zip Code
- Phone
- Fax
- Public Email

**MARCH**

**DUE BY**

**20<sup>th</sup>**

# ANNOUNCEMENTS

Cutler Law Firm, LLP  
is pleased to announce that

*Joseph P. Hogue*

has become a partner of the firm  
effective January 1, 2020.

Cutler Law Firm, LLP  
140 N. Phillips Ave., 4th Floor  
P.O. Box 1400  
Sioux Falls, SD 57101-1400

Telephone: (605) 335-4950  
Facsimile: (605) 335-4961

[joeh@cutlerlawfirm.com](mailto:joeh@cutlerlawfirm.com)

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

Clayborne, Loos & Sabers, LLC  
is pleased to announce that

*Hollie L. Smith*

has joined the firm as an associate  
effective January 1, 2020.

Clayborne, Loos & Sabers, LLC  
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Delaney, Nielsen & Sannes, P.C.  
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*Jennifer Jorgenson*

has become an associate with the firm.

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Telephone: (605) 345-3321

[jenny@delaneylawfirm.com](mailto:jenny@delaneylawfirm.com)

Goosmann Law Firm, PLC  
is pleased to announce that

*Beth Roesler*

has become Managing Partner at the firm's  
Sioux Falls Office Location.

Goosmann Law Firm, PLC  
2101 W. 69th Street, Suite 200  
Sioux Falls, SD 57108

Telephone: (605) 275-7995

[RoeslerB@Goosmannlaw.com](mailto:RoeslerB@Goosmannlaw.com)

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

Beardsley Jensen & Lee  
is pleased to announce that

*Matthew J. McIntosh*

has become a partner of the firm  
effective January 1, 2020.

Beardsley Jensen & Lee  
4200 Beach Drive, Suite #3  
PO Box 9579  
Rapid City, SD 57702

Telephone: (605) 721-2800  
Facsimile: (605) 721-2801

[mmcintosh@blackhillslaw.com](mailto:mmcintosh@blackhillslaw.com)



SEARCHING FOR A WILL FOR  
**ROB ROY JAMES** FROM  
RENNER, SD.

If anyone has any information,  
please call Mindy at 808-333-7000.  
Thank you!

2020 JACKRABBIT BAR MEETING

Folks:

Dianne Minnich, Executive Director of the Idaho State Bar has informed me that the 2020 Jackrabbit Bar meeting will be held June 11-13, 2020 at the Best Western Edgewater Resort in Sandpoint, Idaho; <https://www.bestwesternedgewater.com/>. Sandpoint is located on Lake Pend Oreille and is an hour north of Coeur d'Alene, Idaho, and about an hour and a half from the Spokane, Washington airport.

More information and details will follow but I wanted to get this information to those that attended last year's conference so that you can save the dates if you plan to go again this year. Please forward this email on to anyone you think may also have interest in attending. Thanks.

Andy Fergel  
Executive Director  
State Bar of South Dakota





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*This program is funded, in part, by the State Bar of South Dakota Veterans Committee and Young Lawyers Section*

### **For more information contact:**

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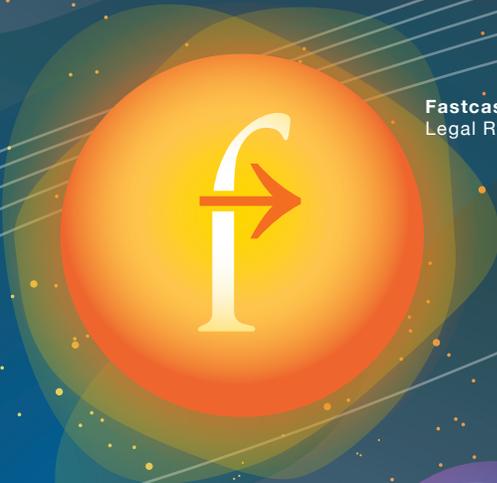
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# Value Tip

## What is a Step-Up in Basis and Why Does Value Matter

With the drastic increase to the estate tax exemption in 2018, far fewer Estates have been required to file Form 706, the Internal Revenue Service's estate tax return. As such, one would think there is no need to have the decedent's business interest valued. However, a business valuation can still benefit the transferee because of a step-up in basis as outlined in IRC 1014(a). For calculations of value as of the date of death and to learn more about step-up in basis, call us!



**Ericka Heiser,**  
MBA, CVA, Director  
[ericka@ktllp.com](mailto:ericka@ktllp.com)

**Paul Thorstenson,**  
CPA/ABV, CVA, Partner  
[paul@ktllp.com](mailto:paul@ktllp.com)



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## STRESS and DEPRESSION HELP

Contact information for the regional mental health centers in South Dakota is located at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com) ("For SDBAR Members" Under the Health & Wellness tab, click on the Stress/Depression/Addiction link. We have reached an understanding with all these centers and all will honor our agreement. If you are stressed out or you believe that you may be suffering from depression, the State Bar encourages you to seek a professional evaluation. If you don't have insurance or otherwise lack the financial resources, the State Bar project, funded by ALPS and the SD Bar Foundation, will cover the evaluation and several follow-up counseling sessions if indicated. You need only schedule the appointment and show them your 2018 active membership card. This is a confidential project. Counseling records are not, repeat, are not made available to the State Bar. We just pay the bill for those who can't afford it, up to the limit of \$500 per lawyer.

If you have a law partner or lawyer friend that you believe may be suffering from stress and depression, visit with them. Encourage this lawyer to consider having an evaluation. Depression caught at the early stages prior to becoming chronic is much, much easier to address. In just a few counseling sessions, you/your friend can learn techniques to deal with the stress more effectively in our lives, whether personal or professional.



## SOLACE PROGRAM

If you are aware of anyone within in the South Dakota Legal Community (lawyers, law office personnel, judges, courthouse employees, or law students) who have suffered a sudden and/or catastrophic loss due to an unexpected event, illness, or injury, the South Dakota SOLACE Program may be able to assist. Please contact [solace@sdbar.net](mailto:solace@sdbar.net) if you, or someone you know, could benefit from this program.

We have a statewide (and beyond) network of generous South Dakota attorneys willing to get involved and help. We do not solicit cash but can assist with contributions of clothing, housing, transportation, medical community contacts, and a myriad of other possible solutions through the thousands of contacts available through the State Bar of South Dakota and its membership.

# February 2020

Official Publication of the State Bar of South Dakota

If you wish to advertise in our publication or post job opportunities, please contact:

Tracie at [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net).

The deadline for submissions in the newsletter is the 26<sup>th</sup> of each month, excluding December and February when it is the 23<sup>rd</sup> of the month. If the deadline falls on a weekend, the deadline is the Friday prior.

### Address Changes:

email [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) or log in to your profile at [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com)

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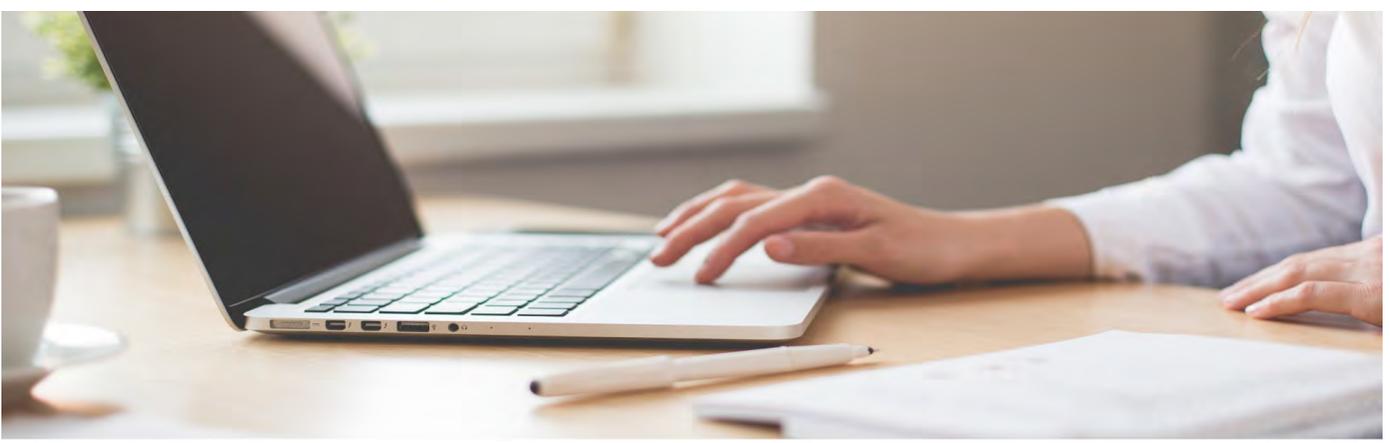
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## *Co-Counsel Relationship Hazards*

Mark Bassingthwaighe, Esq.  
Risk Manager, ALPS  
[mbass@alpsnet.com](mailto:mbass@alpsnet.com)

Co-counsel relationships are sometimes formed “on the fly” meaning that no thorough discussion as to who will be responsible for whatever occurs. This can be disastrous if both attorneys assume the other will meet a critical deadline and then neither actually files suit. Oops! It can get even messier if one of those two attorneys happens to be uninsured. Heaven forbid if the one who is uninsured is an out-of-state attorney who got you involved solely to act as local counsel. And here you thought you were just along for the ride with your assumed duties limited to serving as the mail drop. This is just one example of the hazards that can arise in co-counsel relationships.

Here’s another. Local counsel had worked with an out-of-state firm on a number of matters over the years and the work done by this out-of-state firm was consistently of high quality. As a result, local counsel became less and less vigilant in staying on top of active matters being handled by the out of-state firm, eventually getting to the point where he just signed documents or made an appearance with out-of-state counsel when necessary. Eventually one of these matters ended up going to trial. When the judge entered the courtroom he unexpectedly informed the out-of-state attorney that certain documents were not in order and as a result the out-of-state attorney was not going to be able to try the case. The judge then turned to local counsel and said “you’re up.” Due to his total dependence on the efforts of the out-of-state firm, local counsel was completely unprepared; but with no other options he had to step up and try the case. It was apparent to everyone in the courtroom, including the client, just what had happened. While the local attorney reported that this experience was the most horrific experience of his career, he was able to acknowledge that his own assumptions helped create that nightmare.

Perhaps there was a time when, out of professional courtesy, we could assume that everything would be fine and that our professional colleagues were all competent. Sadly, those days are long gone. Consider that in an ABA report released in 2016, 53.8% of all malpractice claims during the period of 2012-2015 were the result of a substantive legal error.\* Running with assumptions about the competency or reliability of any attorney you are about to co-counsel with can lead to serious malpractice and ethical trouble should something go terribly wrong. Understand that if you and your co-counsel share joint responsibility and/or are splitting the fee on the matter at hand, then you both owe undivided loyalty to your mutual client. This means that your client will look to hold you both accountable for all that happens should anything go wrong. With all this in mind, here are a few practice pointers that can significantly reduce your exposure to these kinds of problems if taken to heart.

- ◆ When considering entering into a co-counsel relationship with an attorney about whom little is known, investigate the attorney before committing to the relationship. At a minimum, confirm the lawyer is admitted to practice in the jurisdiction and conduct an Internet search of the attorney’s name. You might also ask for recommendations or references, conduct a background check, interview the attorney, and/or contact area judges or attorneys who practice in the same field in order to ask about prospective co-counsel’s qualifications and reliability.
- ◆ Have a formal written co-counsel agreement that documents the roles and responsibilities of each attorney. This agreement should address issues such as who will do what, how disagreements will be resolved, who gets paid what and when, who will hold client funds, who will bill the client, how will expenses be paid, who discusses expense decisions

with the client, how will monies be split if the client only partially pays, etc. How the negotiation over the co-counsel agreement proceeds may help you decide whether the two of you can work well together. Consider also documenting your roles and responsibilities with the client if for no other reason than to avoid having assumptions in play there as well. Written documentation of roles should always be given to the client if one of you is going to have a very limited role in the matter.

◆ Commit to tracking all critical deadline dates on all co-counsel matters regardless of your level of involvement and follow up with your co-counsel to either confirm you will meet your specific deadline or to make certain that your co-counsel will meet hers. This is particularly important on those matters where your involvement is going to be limited to nothing more than your serving as a local contact who will eventually receive some type of referral fee. Again, remember that as co-counsel you are jointly responsible and liable for the client's matter. There really isn't any halfway with this. If lead co-counsel misses a deadline, you've got a problem. This is why attorneys who decide to exit a co-counsel relationship exit completely to include forfeiting any referral fee. Responsibility and liability does come with the money.

◆ Finally, make certain that your prospective co-counsel is adequately insured and do not accept a verbal assurance. I have had attorneys tell me that they will say they are insured to get work when in fact they are practicing without any coverage. Financial pressures in competitive markets can result in certain attorneys being forced to take financial risks. This means you do need to get written proof that the co-counsel is adequately covered. A simple

swap of a copy of everyone's declaration page to their malpractice policy would suffice. If you find it hard to have this conversation, place the responsibility on your malpractice carrier. A request framed as "my malpractice carrier has advised that I obtain written verification of your coverage" can help.

\*Profile of Legal Malpractice Claims 2012-2015, ABA Standing Committee on Lawyer's Professional Liability 2016



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**United States Bankruptcy Court  
District of South Dakota**



**Frederick M. Entwistle  
Clerk**

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January 13, 2020

Andrew Fergel, Executive Director  
State Bar of South Dakota  
111 W. Capitol Avenue, #1  
Pierre, SD 57501

Subject: Proposed Amendments to Local Bankruptcy Rules and Appendices

Dear Mr. Fergel:

In response to the Small Business Reorganization Act of 2019 and some recent amendments to the Federal Rules of Bankruptcy Procedure and to address some other issues, the Local Bankruptcy Rules Committee has proposed amendments to a number of local bankruptcy rules and appendices. To assist the committee in soliciting public comment regarding the proposed amendments, please publish this letter in your next newsletter.

The full text of the proposed amendments to the local bankruptcy rules and appendices are posted on the Court's website at [www.sdb.uscourts.gov](http://www.sdb.uscourts.gov), and interested parties are encouraged to review and comment on the amendments.

Written comments should be submitted on or before February 11, 2020, to either Dale A. Wein, Chairman, Local Bankruptcy Rules Committee, at [dalewein@rw-law.net](mailto:dalewein@rw-law.net) or P.O. Box 1329, Aberdeen, SD 57402, or to Frederick M. Entwistle, Bankruptcy Clerk, at [Rick\\_Entwistle@sdb.uscourts.gov](mailto:Rick_Entwistle@sdb.uscourts.gov) or 400 South Phillips Avenue, Room 104, Sioux Falls, SD 57104.

Thank you.

Sincerely,

*Frederick M. Entwistle*

Frederick M. Entwistle  
Clerk, U.S. Bankruptcy Court

# CROSSROADS OF PARENTING & DIVORCE™



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*Crossroads of Parenting & Divorce* is a five-step seminar designed to prevent divorce abuse—a specific type of emotional abuse that divorcing parents inflict when, in their anger and bitterness, they lose sight of their child's needs.



The *Crossroads* seminar employs video, discussion, small group interaction, skill practice, and other proven techniques to provide guidance for a successful journey through divorce for both you and your child. It will help you become aware of how your actions may inadvertently harm your child while providing you with the skills to maintain a child-focused relationship with your co-parent and minimize poor choices amidst conflict and loss.

## You will learn 5 Steps:

- STEP 1** Keep Your Child Out of the Middle
- STEP 2** Allow Your Child to Love Both Parents
- STEP 3** Work On Your Own Recovery
- STEP 4** Develop New Communication Patterns
- STEP 5** Create a New Relationship as Co-Parents

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**Cost:** \$100.00 per participant

**Questions:** Call 370-4871 or 680-5066

Or Email [shanna@sdresolutions.com](mailto:shanna@sdresolutions.com) / [melanievanderpolbailey@gmail.com](mailto:melanievanderpolbailey@gmail.com)

The logo features a stylized, light blue infinity symbol or knot-like shape on the left side. To its right, the text "CROSSROADS OF PARENTING & DIVORCE" is written in a white, serif font. The word "CROSSROADS" is on the top line, "OF PARENTING" is on the second line, and "& DIVORCE" is on the third line. A small "TM" trademark symbol is located at the end of the word "DIVORCE".

# CROSSROADS OF PARENTING & DIVORCE™

Dear Legal Professionals:

As you are well aware, parents struggle to restructure their family during the separation and divorce process. Parenting skills are compromised, children's needs are overlooked, and the parents' personal issues become blurred with their children's. Effective parenting during and after divorce is difficult for most parents to achieve on their own. Their struggle has become our mission.

Currently in South Dakota we have very few choices for divorce education seminars, most are limited in their ability to address the issue of separating parents' impaired communication and conflict-resolution skills. In addition, seminars have minimized the fact that parents' negative response to separation can emotionally damage their children. Every day, children are still being harmed by their parents' decisions and behaviors.

We feel compelled to meet this obvious community need. Divorcing parents need tools to understand and recognize the emotional impact of their behaviors on their children. The *Crossroads of Parenting & Divorce: 5 Steps to Prevent Divorce Abuse* seminar exposes the underlying problem and attacks it head-on. The title of this seminar itself speaks to the seriousness of the problem. However, it also gives parents the skills and encouragement they need to make changes in their lives that will prevent unnecessary damage to their child. *Crossroads* is a positive and hopeful seminar that emphasizes:

***It is not the divorce itself that will harm your child;  
it's the choices you make and the actions you take in response to your divorce  
that will either damage your child or help him or her successfully adjust.***

Through five important prevention steps, parents will learn how to shield their child from conflict and avoid damaging behaviors.

- STEP 1. Keep your child out of the middle.
- STEP 2. Allow your child to love both parents.
- STEP 3. Work on your own recovery.
- STEP 4. Develop new communication skills.
- STEP 5. Create a new role as co-parents.

*Crossroads of Parenting & Divorce* is a unique video-based, psycho-educational, six-hour seminar focusing on the enhancement of the child's functioning by challenging parents to take the necessary steps to shield their child from the emotional damage of divorce or separation. This seminar encourages parents to step up and do the right thing by making child-focused choices. The *Crossroads* seminar incorporates video, discussion, role-play, group interaction, demonstration, and much more.

The program facilitators are Shanna Moke, MA, CFLE and Melanie VanderPol-Bailey, MSW, CSW-PIP. Shanna Moke is a Certified Family Life Educator. She is a qualified Custody and Parenting Time Mediator and has been certified to conduct Custody Evaluations/Home Studies and Parenting Coordination. Shanna has worked for Hennepin County Family Court Services in Minneapolis, Minnesota for six years. She has been in private practice conducting custody-related services in South Dakota and Southwest Minnesota since 2010. Shanna owns and operates Resolutions Counseling and Mediation which offers services to divorcing and never-married parents.

Melanie VanderPol-Bailey is Forensic Clinical Social Worker, who has returned home to South Dakota with over 15 years experience working with children and families as a Child Forensic Interviewer with the Colorado Springs Police Department and Child Protection Caseworker, working on the Domestic Violence Enhanced Response Team (DVERT). Melanie has experience facilitating groups and has presented at national conferences on child welfare and domestic violence issues. Melanie currently works at River Counseling Services, a satellite clinic of Sioux Falls Psychological Services in Platte. Melanie provides therapy, forensic services and consultation.

Enclosed you will find some materials highlighting the unique aspects of the *Crossroads of Parenting & Divorce: 5 Steps to Prevent Divorce Abuse* seminar and outlining its structure, content, and objectives. Feel free to contact either Shanna or Melanie to request additional information. It is our hope that you will join our efforts to make this most extensive and promising seminar available to divorcing parents in our community.

Respectfully,

*Shanna Moke*

Shanna Moke, MA, CFLE  
(605) 370-4871  
[shanna@sdresolutions.com](mailto:shanna@sdresolutions.com)

Respectfully,

*Melanie VanderPol-Bailey*

Melanie VanderPol-Bailey, MSW, CSW-PIP  
(605) 680-5066  
[melanievanderpolbailey@gmail.com](mailto:melanievanderpolbailey@gmail.com)

Attachments: *Crossroads* Overview  
How *Crossroads* Differs from Other Divorce Seminars  
*Crossroads* Learning Objectives

# CERTIFICATE OF COMPLIANCE

## INSTRUCTIONS

The certificate of compliance for the year 2019 must be submitted to the State Bar of South Dakota by **January 31, 2020**.

IMPORTANT INFORMATION concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All ACTIVE members of the State Bar of South Dakota must file the compliance form with the State Bar not later than January 31, 2020. This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc. This reporting requirement does NOT include inactive lawyers 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, 2020. **Please submit compliance forms after reviewing your December bank statements.** If you have questions, please give me a call. ALF

**2019 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 \_\_\_\_\_, 2020

**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 2019. 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, 2019\_\_\_\_\_, 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 practitioner 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.)

(Signatures)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, 2020  
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:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, 2020  
Date

# Sand Creek

## WORKPLACE WELLNESS

To: All Members of  
The State Bar of South Dakota  
From: The State Bar of South Dakota

We all have problems. And, most often, we manage to solve them ourselves, but sometimes we can't handle them alone. Recognizing that attorneys can develop personal problems that may jeopardize their health, family structure or employment, the State Bar of South Dakota provides members with the Sand Creek Member Assistance Program.

Sand Creek is a confidential telephonic counseling service that can help members solve personal and work related problems before they grow into serious and costly crises.

Employee Assistance Services (EAP) are provided by a staff of professional counselors, clinical psychologists, and social workers skilled at helping you identify and hand handle problems such as marital and family issues, chemical dependency, mental and emotional disorders and educational or career problems.

Free confidential telephonic services provided to you by Sand Creek include: problem assessment, action planning, and follow up along with 24-hour crisis telephone services. To access these services - see the box to your right.

The Sand Creek website, [www.sandcreekeap.com](http://www.sandcreekeap.com), is a useful resource designed to help make your life easier. On the website you will find: Child care and elder care referrals; hundreds of articles on important mental and emotional health issues; work-related resources to help manage stress, cope with job changes or deal with a difficult boss; wellness resources including a comprehensive exercise, nutrition and healthy living portal that has hundreds of articles, recipes and tips for healthy living.

Confidentiality is the bedrock of a Member Assistance Program. All discussions and services are kept strictly confidential. The State Bar of South Dakota will not know that you are using the services. We encourage you to use this valuable benefit.

Sand Creek is a HIPPA compliant service.

Go to [www.sandcreekeap.com](http://www.sandcreekeap.com)  
Click the Work Life Wellness Login Link  
Our Company ID is sbsd1  
Or call 800-632-7643  
Monday-Friday, 7:30am-5pm CT

Immediate, Confidential Support  
24 hours a day/7 days a week:  
888-243-5744

All discussions and services are kept  
strictly confidential.



THE STATE BAR OF SOUTH DAKOTA WILL NOT KNOW YOU ARE USING THE SERVICE.  
THESE SERVICES ARE FREE. YOU ARE ENCOURAGED TO USE THIS VALUABLE BENEFIT.

# In Memoriam



Robert D. Hofer

Robert D Hofer, 87, of Pierre, SD, died Thursday, January 9, 2020, at Avera Maryhouse in Pierre.

Online condolences may be written at:

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

Robert D Hofer (Bob) was born in Mitchell, SD, on February 16, 1932, to Lydia M. (Walter) Hofer and Joseph W Hofer.

Bob was an All-State Guard on Emery High School's 1950 state "B" Basketball Championship team. Following his high school graduation, he played basketball and baseball at the University of South Dakota. He was called into the army in 1956 and was sent to US Army Missile Command in Huntsville, AL. He was Hanson County States Attorney before moving to Pierre to work under the State Attorney General. He met his wife while working at the Attorney General's office in 1961.

In June of 1962, Bob married Roberta Hartley. Three daughters were born to them; Katherine Hofer, Nanette (Greg) Wittenberg and Ann Marie (Matt) Petersen.

In 1961 Bob joined the law firm of Stephens, Riter and Mayer where he practiced law for 39 years and where he made lifelong friends.

He was a school board attorney for over twenty years. He served as an Assistant and a City Attorney for over 30 years. He served as the attorney for the South Dakota High School

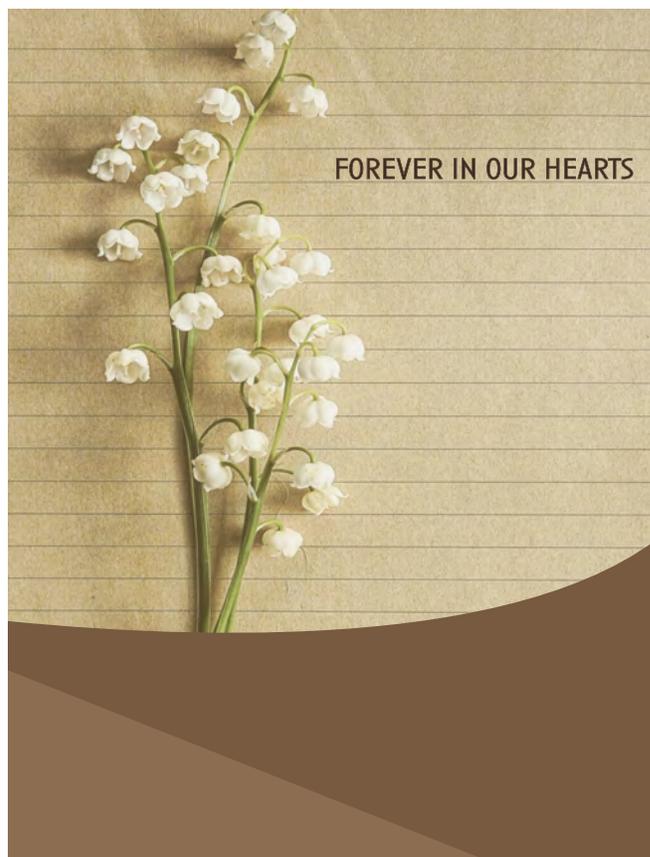
Activities Association from July, 1993 until his retirement in December, 1999.

He was president of the State Bar of South Dakota. He held memberships in the American Board of Trial Advocates and the American College of Trial Lawyers.

He is a four time State Senior Sporting Clay Champion. He has been an active referee in football and basketball and a lifetime fan of athletics.

His greatest joy in life were his three daughters, two sons-in-law and most especially his four granddaughters, Sophia, Grace and Vanessa Wittenberg and Morgan Petersen.

Grateful for sharing his life are his wife Bobbi of 57 years, daughters Katie, Nan and Ann, sons-in-law Greg Wittenberg and Matt Petersen and most especially his four granddaughters Sophie, Grace, and Vanessa Wittenberg and Morgan Petersen.



# CAREER CENTER

*CLASSIFIEDS Contact | Email your employment announcement to [tracie.bradford@sdbar.net](mailto:tracie.bradford@sdbar.net) by February 26th to have it included in the March Newsletter. Please be sure to include a closing date. To see more jobs listings, visit [www.statebarofsouthdakota.com](http://www.statebarofsouthdakota.com).*

## ATTORNEYS

### Associate Attorney - Rapid City

Frederick Peebles & Patterson LLP is a national law firm dedicated to the representation of American Indian tribes and organizations. We represent tribes and tribal entities in a wide spectrum of services including business transactions, litigation, and governmental affairs in many forums, including state, federal and tribal courts.

We are seeking an experienced Associate Attorney with 1-5 years of tribal and federal Indian law practice for our Rapid City, South Dakota office.

Minimum qualifications include:

- Juris Doctorate degree from an ABA accredited law school;
- Status as an active member in good standing of the bar of SD or other state jurisdiction;
- One to five years of experience working with Indian tribes or tribal entities on a wide array of legal issues such as business transitions, housing, education, finance, gaming, government affairs, litigation, energy, natural resources and taxation;
- Familiarity with tribal and federal Indian law;
- Excellent analytical, research, and writing abilities;
- Ability to work well independently and as a team in a fast-paced environment;
- Willingness and ability to travel frequently to attend client meetings and court or administrative hearings at locations throughout South Dakota and North Dakota and the region; and
- Proven skills in effectively communicating with Tribal clients, and federal, state or tribal agency representatives.

Duties and Responsibilities include: (other duties may be assigned)

- Provide counsel and legal services to new and existing clients as well as represent clients in a

professional and expedient manner;

- Participate in business development functions (conferences, seminars, etc.) as requested to maintain and build client relationships as well as expand business opportunities;
- Apply knowledge of legal procedures and previous cases to effectively counsel clients;
- Conduct legal research by preparing legal memoranda and necessary pleadings required in all aspects of tribal, federal, and state litigation matters;
- Appear at hearings and trials including hearings in tribal courts;
- Draft agreements and analyze legal documents; and
- Comply with all court, state bar and inter-office policies and procedures.
- The Rapid City Office handles substantial work for tribal clients in the areas of education, housing, and tax as well as general tribal legal counsel services.

Your total compensation package will include a competitive salary, bonus potential, participation in the firm 401(K) retirement plan, and a benefits package that includes health, dental, vision, life and disability insurance programs.

Send your resume and cover letter, writing sample, professional references and law school transcripts (if graduated less than 5 years ago) to:

Solveig Monson, Chief Operating Officer

[smonson@ndnlaw.com](mailto:smonson@ndnlaw.com)

2020 L Street, Suite 250

Sacramento, CA 95811

Position open until filled.

## **Deputy State's Attorney - Lincoln County**

Lincoln County State's Attorney's Office

Lincoln County invites applications for a Deputy State's Attorney. The Deputy State's Attorney performs routine professional legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Lincoln County. Minimum Qualifications: Graduation from a college of law, attainment of a Juris Doctorate degree from an accredited law school, and 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. Comparable combination of education and experience may be considered. \$2,840.00 - \$3,135.20 bi-weekly. To view a full listing of qualifications and to apply visit: <http://www.lincolncountysd.org> then click on the Employment tab. Application deadline: March 9th. Contact Human Resources with questions at 605-764-6609. Equal Opportunity Employer.

## **Staff Attorney - Sioux Falls**

South Dakota Voices for Peace (SDVFP) seeks a Staff Attorney to carry out direct legal services to children in immigration court, and families impacted by separation policies at the southern border, who are living in South Dakota. The Staff Attorney will work on a team with a case manager and be supervised by the Executive Director, an immigration attorney. The Staff Attorney must be a self-motivated advocate with a passion for justice and equality and experienced in working with multilingual, vulnerable clients. This position is based in Sioux Falls, SD. The Staff Attorney will represent children and families through the immigration process, including immigration court work. The Staff Attorney will have opportunities to conduct community presentation, develop educational material and attend community meetings around these issues. Immigration Court

is in Fort Snelling, MN.

Primary Responsibilities:

- Conduct intakes, legal research, fact development, work with multilingual clients, draft and file immigration filings, affidavits, briefs, prepare clients for interviews and court proceedings.
- Represent clients through immigration court proceedings and understand EOIR practices and procedures.
- Stay abreast of all policy and rule changes in immigration law.
- Work with case manager to develop sound strategies in case management.
- Work with SDVFP team to develop public education materials and communication strategies.
- Conduct presentations in multilingual communities by articulating the interests and position of SDVFP.
- Work with SD Voices for Justice lobbyists to advance the goals of SD Voices and coalition partners on goals of immigration. Support legislative advocacy with legal and policy analysis.
- Demonstrate a commitment to diversity, equity and inclusion in the workplace using a personal approach that values all individuals and respects differences in race, ethnicity, age, gender identity and expression, sexual orientation, religion, ability, and socio-economic circumstance.
- Commit to work collaboratively and respectfully toward resolving obstacles and/or conflicts.
- Travel as required.

This is a full-time position with salary commensurate with experience. Health benefits; generous paid holidays; flexible schedule an option; AILA membership, malpractice insurance and SD Bar dues included.

To Apply:

Email a one page cover letter with salary requirements, resume and one writing sample (1000 word max) in one PDF file to Executive Director, Taneeza Islam [taneeza@southdakotavoicesforepeace.org](mailto:taneeza@southdakotavoicesforepeace.org) Applications will be accepted until the position is filled.

Qualifications:

- Demonstrated commitment to the mission and

goals of SD Voices for Peace and SD Voices for Justice.

- J.D. degree and 1-3 year experience in the legal field.
- Licensed to practice law in any U.S. jurisdiction with the ability to join the South Dakota Bar (willing to take the next bar examination or waive in).
- Passionate commitment to and familiarity with immigrants' rights, racial and social justice, and state issues around immigration.
- Demonstrated ability to work with vulnerable clients.
- Demonstrated ability to work with multilingual clients and interpreters.
- Fluency in Spanish (written and spoken) preferred but not necessary.
- Proven ability to work independently as well as within a team.
- Excellent interpersonal and verbal communication skills.

### **Staff Attorney - Mitchell**

MorganTheeler LLP seeks a staff 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 candidate should have a demonstrated interest and/or experience in practicing health law and the ability to communicate effectively with physicians. Base salary plus bonus. 401(k), profit sharing, group health insurance, cell phone allowance, and paid vacation are provided. Please submit applications to 1718 N. Sanborn Blvd, Mitchell, SD 57301 or [kclaussen@morgantheeler.com](mailto:kclaussen@morgantheeler.com). No calls please.

### **Request for Proposal - Attorney Services for DSS - Division of Child Support**

The South Dakota Department of Social Services' Division of Child Support is soliciting proposals for an attorney or law firm to provide legal services within the State of South Dakota. The legal services include representing the Division of Child Support in civil and/or criminal court proceedings to establish paternity and child support orders, and the enforcement of support orders within Butte, Meade and Lawrence counties. The RFP for this procurement will be published in February 2020. Those interested may obtain a copy of the RFP through the Office of Procurement Management's Mercury Commerce System at <https://www.mercurycommerce.com/app/jumppage/esmsvendorlogin.aspx> or on the Department of Social Services website at <http://dss.sd.gov/keyresources/rfp.aspx> upon publication.

### **STAFF ATTORNEY – SIOUX FALLS**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Sioux Falls, South Dakota, office. The Sioux Falls office serves primarily Native Americans in the vicinity of Sioux Falls and in the eastern half of South Dakota. This job requires at least two days of travel every week.

#### **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, 1000 Northwest Ave Suite 250, Sioux Falls, SD 57104, (605) 301-8060, [dpls@venturecomm.net](mailto:dpls@venturecomm.net).

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

### **STAFF ATTORNEY - PINE RIDGE**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Pine Ridge, South Dakota, branch office. The Pine Ridge office serves the Pine Ridge Indian Reservation in South Dakota and Oglala Lakota, Jackson and Bennett 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; must demonstrate an interest in poverty law and working with Native American and low income clients. Applicant must have at least one-year experience in the practice of poverty law or Indian law, with trial and appellate experience in state and federal courts or two years' experience in the general practice of law.

SALARY: Competitive, depending on experience. DPLS has an excellent fringe benefits package 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, [dpls@venturecomm.net](mailto:dpls@venturecomm.net).

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

### **STAFF ATTORNEY - MISSION**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Staff Attorney position in our Mission, South Dakota, office. The Mission office serves the Rosebud Sioux Indian Reservation and Gregory, Jones, Mellette, Todd and Tripp 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, [dpls@venturecomm.net](mailto:dpls@venturecomm.net).

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

# FEBRUARY

2020



|                                 |                   |                       |
|---------------------------------|-------------------|-----------------------|
| Bar Commission Teleconference   | February 20, 2020 |                       |
| Law for Lunch                   | February 20, 2020 |                       |
| Veterans Clinic                 | March 6, 2020     | DAV, Sioux Falls      |
| Veterans Clinic                 | March 7, 2020     | VFW, Brookings        |
| Disciplinary Board              | April 2-3, 2020   | Hotel on Phillips, SF |
| Bar Commission Meeting          | April 30, 2020    | The Lodge at Deadwood |
| Strategic planning Retreat      | May 1, 2020       | The Lodge at Deadwood |
| May Family Law/Criminal Law CLE | May 8, 2020       | TBD, Sioux Falls      |
| Bar Commission Teleconference   | May 21, 2020      |                       |
| Jackrabbit Bar Meeting          | June 11-13, 2020  | Sandpoint, ID         |
| Annual Meeting                  | June 17-19, 2020  | Ramkota Hotel, Pierre |
| Disciplinary Board              | June 15-16 2020   | Red Rossa, Pierre     |