



# State Bar of South Dakota

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# January

newsletter



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# State Bar of South Dakota

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## *President's Corner* *Reed A. Rasmussen*

party or rival so you can tear apart their thoughts, writing, ideas, opinions, appearance or personality in an acerbic way.

Although I find South Dakota lawyers, for the most part, to be civil and congenial to each other, that does not always happen. I urge all of you to think before you file a brief and send correspondence. You can take issue with another attorney's position without being demeaning.

I wanted to report to you again on the search for a new Law School Dean. The Search Committee recently spent two days interviewing a number of the applicants. We hope to be able to report in the near future on the identity of the finalists. Those people will be invited to come to the Law School sometime in February to meet with students, faculty and other interested persons.

I hope everyone had a good holiday season and took the opportunity to spend some time with friends and family.

I have previously written about civility but came across a recent article from the October edition of the ABA Journal. I am usually about two months behind in looking at magazines. The article was entitled Civility Reboot. As a young lawyer, the author frequently berated the positions taken by other counsel in briefs and correspondence. We probably have all received or prepared such pleadings or letters in the past. The author emphasized how attorneys should treat each other. She stated:

[W]e are capable of showing a greater level of respect for other human beings, even if they are on the polar opposite side of a legal case, or the political spectrum, from us. Civility means not hiding behind our laptops or our devices to dehumanize an opposing attorney,

The Bar is closely following the developments in the Fleck v. Wetch case. This is the case in which a North Dakota lawyer challenged North Dakota's mandatory bar requirements. The Eighth Circuit found in favor of the North Dakota Bar. Wetch appealed the case to the Supreme Court which recently vacated the decision and remanded the case to the Eighth Circuit for further consideration in light of Janus v. State, County, and Municipal Employees. The ultimate decision in the case could have a significant impact on all states with a mandatory Bar, such as South Dakota.

The State Bar has three sections. They are Real Property, Probate and Trust Section, the Young Lawyers Section, and the Public Sector Lawyers Section. The Real Property and Young Lawyers Sections are very active. The Public Sector Section

has not been very active in recent years. Efforts are being made to revitalize that Section. If any of you have an interest in participating in that revitalization, please contact the State Bar office.

I recently got around to signing up for the Lawyer Referral Service. We are still trying to get as many people into the program as possible. Please sign up and encourage your partners and associates to do so.

Earlier in the year, I gave the State Bar office a number of photographs from which to choose the ones to go in the Newsletter each week. I am not exactly sure why this month's photo was chosen. It shows me styling and profiling as a groomsman in a wedding. That was during a period where I grew a beard to compensate for the ongoing loss of hair on my head.

The advertisement features a futuristic, space-themed background with a dark blue gradient, glowing yellow lights, and a small orange planet with a ring. In the foreground, there is a light blue curved surface resembling a cockpit or a desk. On this surface, there are three computer monitors displaying various data visualizations: a pie chart, a scatter plot of circles, and a bar chart. A joystick is positioned between the monitors. In the bottom left corner, there is a logo for 'fastcase® Smarter legal research.' In the bottom center, the text 'LEARN MORE AT' is followed by the website 'www.statebarofsouthdakota.com'. In the bottom right corner, there is a stylized signature of the word 'SouthDakota'.

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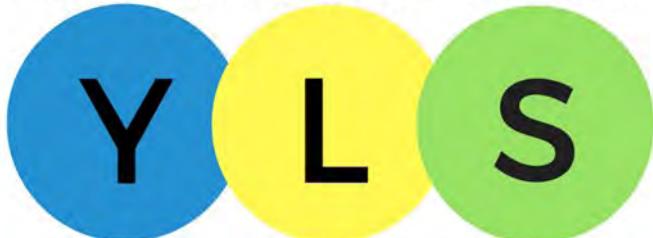
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STATE BAR OF SOUTH DAKOTA



YOUNG LAWYERS SECTION

by: Tamara Nash, YLS President

Happy New Year!

A new year always feels like an opportunity for a new start, personally or professionally. In 2019, I hope each of you have the courage and the enthusiasm to start something new this year. Maybe it is something you have always wanted to try... or maybe it is something you never would have guessed you would do. Either way – I wish you the best!

Recently, I read an article on fresh starts and thought I would share some tips with you:

1. Try new things
2. Don't be afraid to fail
3. Be open (and willing) to change
4. Talk to strangers
5. Write a personal mission statement

6. Don't try to be perfect
7. Celebrate every milestone!
8. Take care of your own needs (be selfish)

What is on the horizon for the #SDYLS? I am glad you asked! We have many exciting things happening in 2019! We will again be sponsoring the VLEG Veteran's legal clinics, which will be held on both Thursday, February 21, 2019, in Watertown at the American Legion Post and Friday February 22, 2019, in Sioux Falls at the DAV. If you are an attorney in the Watertown or Sioux Falls area plea contact USD law student Austin Schafer to volunteer ([Austin.Schaefer@coyotes.usd.edu](mailto:Austin.Schaefer@coyotes.usd.edu)).

We will also host the Annual #SDYLS Bootcamp on March 1, 2019. The Bootcamp will take place in both Sioux Falls (Lumber Exchange Building)

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and Rapid City (Pennington County Courthouse). The Bootcamp agenda will be forthcoming! The Bootcamp will be followed by social mixers in both cities. All attorneys in the area are welcome to register and attend!

We encourage you to reach out to any of our Board members to voice your concerns and ideas. It is important to us that we provide you with quality programming and opportunities. Your 2018-2019 Board of Directors are:

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Kindest regards,  
Tamara P. Nash

# 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, flooding, applied climatology and meteorology, agriculture meteorology, and statistics. More information is provided at <http://npweather.com>, and you can contact Matt at [nrplnsweather@gmail.com](mailto:nrplnsweather@gmail.com) or 605.390.7243.

# Fellows of the South Dakota Bar Foundation

Many South Dakota lawyers have risen to the challenge of making SD Bar Foundation a favorite charity. Such generosity deserves public acknowledgement. Therefore, the Bar of Directors has created a "Fellows" program to not only make such acknowledgement, but also to provide 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.

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# **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 ageing, substance abuse and mental health issues.

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### In Memoriam

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

*Aaron Pilcher*  
Bar Commissioner

Teddy Roosevelt never stopped. A man of word and deed, he published some 35 books and lead expeditions all over the world. He received his Nobel Prize for brokering peace between the Russian and Japanese Empires, but maligned President Wilson as a coward for not warring with Germany after a U-Boat sank the Lusitania.

In 1910, having successfully campaigned for his friend, William Howard Taft, it's easy to think that Roosevelt was taking his victory lap. In Paris, he recited the now infamous paragraph known as the "Man in the Arena." Rather than a victory lap, I think Teddy saw it differently. It was an announcement of his coming unspecified adventures. It was his way of life.

I'm a general practitioner in Huron, with a case load leaning toward transactional work. My family and I occupy a cozy home a block off the nearest park, a short drive from our church, and a day or two's travel from either of our parents. A few years in, my wife and I are happy with our active life and growing family.



I've been practicing for about 5 years, and it has been a joy to watch the practice grow. At first, law scared me. Now, I can appreciate justice and the consistency with which it is delivered. I remember the unease I felt the first time I met a client at our local jail, walking in and out, doors buzzing and clacking. I have delivered good news and bad, and I have been able to witness the sigh of relief when our planning efforts paid off. In my practice the adage fits, each day is like drinking water from a firehose.

In addition to the more traditional areas of law, I am a member of our local drug court. In many ways, the research behind the program is alarming. Talking about recidivism, I remember the first time I learned that the efficacy of jail time fell dramatically after only 3 days, and that it actually made the situation worse after a week. After training and experience I can say I understand it, even if it does not make sense. Each applicant brings new stories of trauma, abuse and shame. One person took their first sip of alcohol from a bottle, because a parent was amused by the intoxicated toddler. Others took their first hit with their parents. More still languished for decades without hope, lucky to be alive when they entered our program.

A while back, Josh Wurgler asked me to run for a position on the bar commission. He nominated me and I was elected at our last convention. When I joined, I encountered a fine group of lawyers, passionate and talented. Our meetings are what you would expect from a board, and the level of engagement is among the best I've seen. In some ways, I see this as a critical time for our bar, and I am grateful for the opportunity to serve.

As lawyers, we live and work in Roosevelt's arena. Attending law school, taking the bar exam and starting a practice is our announcement to the world that we are in the fight, the formation, the negotiation, the trial. As a young attorney, I expect my case load to change over time. I expect to encounter new areas of law that may not make sense.

However, I hope I always approach my practice like I'm entering the arena, not as a critic or a spectator, but as the fighter in the ring. I encourage all of you to do the same, and look forward to meeting you, if I haven't already. Happy New Year!

It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short

again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat. – Theodore Roosevelt

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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).

# 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 2019.

I understand that if approved, rather than pay regular dues for the year 2019, I will only be required to tender the sum of \$100 (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 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 2019.

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.

I understand that the Pro Bono Emeritus Status Program will provide me with professional negligence insurance limited to those referral cases of which I accept.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signature\_\_\_\_\_

Printed Name\_\_\_\_\_

Address\_\_\_\_\_

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

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



## YOUNG LAWYERS SECTION STATE BAR OF SOUTH DAKOTA

**PRESIDENT**  
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317 N. Main Street  
Sioux Falls, SD 57104  
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Tamara.Nash@state.sd.us

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Rapid City, SD 57709  
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November 27, 2018  
FOR IMMEDIATE RELEASE

South Dakota State Bar  
University of South Dakota School of Law

### STATEWIDE SWEARING-IN CEREMONY HELD IN PIERRE, SOUTH DAKOTA

Chief Justice Gilbertson presided over the ceremony, which was held in the Capitol Rotunda in Pierre, South Dakota on Friday, October 19, 2018. The Chief also administered the Oath of Attorney to 17 new admits and several other attorneys who will be admitted at a later time. Also in attendance were other esteemed members of the South Dakota State Bar, the Judiciary, and the friends and families of the new admittees. Chief Justice Gilbertson, State Bar President Reed Rasmussen, and Young Lawyer President Tamara Nash each welcomed the new admits and offered several pieces of advice.

The Young Lawyers Board would like to thank everyone who took part in the celebration of this special event. The Board would further extend the Class of 2018 well-wishes as they embark on their journey of the practice of law.



# ANNOUNCEMENTS

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

*Marty Jackley*

is rejoining the firm as Partner in January 2019 at the firm's new Pierre location.

Gunderson, Palmer, Nelson & Ashmore, LLP  
111 West Pierre Street  
2nd Floor  
Pierre, SD 57501

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

*Tyler Wetering*

has become a partner in the firm.

Gunderson, Palmer, Nelson & Ashmore, LLP  
506 Sixth Street, PO Box 8045  
Rapid City, SD 57709

Telephone: (605) 719-3482  
Facsimile: (605) 342-9503

[twetering@gpna.com](mailto:twetering@gpna.com)

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

*Kalen K. Bjord*

has become a partner in the firm effective January 1, 2019.

Davenport, Evans, Hurwitz & Smith, LLP  
206 West 14th Street, P.O. Box 1030  
Sioux Falls, SD 57101-1030

Telephone: (605) 336-2880  
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703 Main St. Suite 203  
Rapid City, SD 57701

Telephone: (605) 939-7936

[ilisja@duffylaw.us](mailto:ilisja@duffylaw.us)  
[conor@duffylaw.us](mailto:conor@duffylaw.us)

YOU ARE CORDIALLY INVITED TO ATTEND  
THE INVESTITURE OF

## SARAH E. MORRISON

AS A MAGISTRATE JUDGE OF THE SEVENTH  
CIRCUIT OF SOUTH DAKOTA

Friday, January 4, 2019 at 4:00 p.m.  
The Rotunda | Pennington County Courthouse

Reception Immediately Following at the Prive Lounge in the Rushmore Hotel





\* CERTIFICATES MUST BE SIGNED, DATED AND MAILED IN.

#### 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.*

## CERTIFICATE OF COMPLIANCE

### INSTRUCTIONS

The certificate of compliance for the year 2018 must be submitted by **January 31, 2019**.

**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, 2019. 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 the 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 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, 2019. Please submit compliance forms after reviewing your December bank statements. If you have questions, please give me a call. ALF

## 2018 CERTIFICATE OF COMPLIANCE

TO: The Secretary-Treasurer, The State Bar of South Dakota, 222 East Capitol Avenue, 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 \_\_\_\_\_, 2019

**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 2018. Enter 0 if none. Total Hours: \_\_\_\_\_.**

Rule 6.1. Voluntary Pro Bono Publico 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)

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6. During the fiscal period ended December 31, 2018, 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)
- 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; or  
b. \_\_\_\_\_ The undersigned lawyer(s) have professional liability insurance, the name of the insurance carrier, policy number and limits are as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(\*An out of state member may strike "South Dakota" and insert the state where his/her trust account is located.)

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)

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\_\_\_\_\_, 2019  
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:

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\_\_\_\_\_, 2019  
Date

**\*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.**

## **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.

# **January 2019**

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)

### ***Board of Bar Commissioners:***

*President* – Reed A. Rasmussen, Aberdeen

*President Elect* – Steven K. Huff, Yankton

*Executive Director & Secretary/Treasurer* –

Andrew L. Fergel, Pierre

*1st Circuit* - Dennis Duncan, Parker

*2nd Circuit* - Jason Sutton, Sioux Falls

*3rd Circuit* - Arthur Monte Hopper, Watertown

*4th Circuit* - Kellen Willert, Belle Fourche

*5th Circuit* - Rodrick Tobin, Aberdeen

*6th Circuit* - Rich Williams, Pierre

*7th Circuit* - McLean Thompson Kerver, Rapid City

*At Large* - Dusty Ginsbach, Buffalo

Jennifer Williams, Rapid City

Joshua Wurgler, Aberdeen

Edward S. Hruska III, Pierre

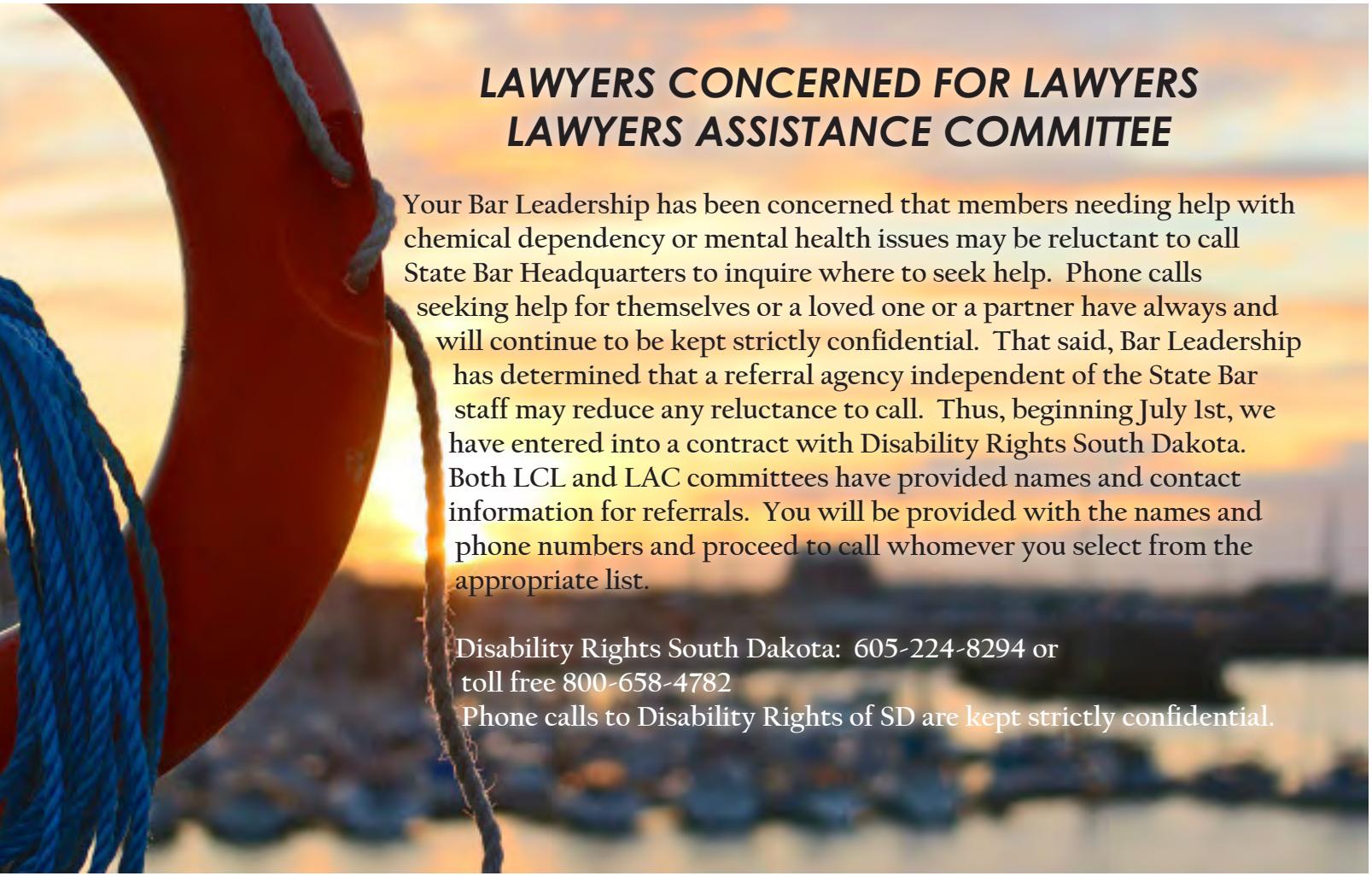
Aaron Pilcher, Huron

Colleen Zea, Sioux Falls



# HERO

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



## LAWYERS CONCERNED FOR LAWYERS LAWYERS ASSISTANCE COMMITTEE

Your Bar Leadership has been concerned that members needing help with chemical dependency or mental health issues may be reluctant to call State Bar Headquarters to inquire where to seek help. Phone calls seeking help for themselves or a loved one or a partner have always and will continue to be kept strictly confidential. That said, Bar Leadership has determined that a referral agency independent of the State Bar staff may reduce any reluctance to call. Thus, beginning July 1st, we have entered into a contract with Disability Rights South Dakota. Both LCL and LAC committees have provided names and contact information for referrals. You will be provided with the names and phone numbers and proceed to call whomever you select from the appropriate list.

Disability Rights South Dakota: 605-224-8294 or toll free 800-658-4782

Phone calls to Disability Rights of SD are kept strictly confidential.

### Caribou Coffee Club

A group of Sioux Falls and Rapid City area attorneys are holding informal peer-led meetings of lawyers who have faced or are dealing with depression, anxiety and/or similar issues.

Attendance is limited to lawyers.

The groups generally meet twice a month and have confidentiality policies.

For more information or to receive blind copies of group announcements, send an email to:  
[cariboucoffeeclub@gmail.com](mailto:cariboucoffeeclub@gmail.com)



\*\*The Caribou Coffee Club is not affiliated with The State Bar of South Dakota, the Second Circuit Bar Association, or the Pennington County Bar Association.

# 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 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.*



# ***Trust the Experts***

## **Meet the KTLLP Business Valuation Team**

*Certified Business Appraisals*

### **A QUESTION OF VALUE: Missing Something??**

If you are still trying to determine value of your client's business using the "back of the napkin" style, make sure you aren't missing a step. Within the various methodologies are necessary steps to ensure an appropriate value is calculated. For example, when employing the capitalization of earnings approach it is imperative to account for average annual equipment replacement costs. If this step is missed, the calculated value might not just be overstated, it could be flat out wrong. Why take the chance of missing something?

*Contact us for your valuation needs.*



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)

## **Ketel Thorstenson, LLP**

Certified Public Accountants/Business & Personal Consultants

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123 East Jackson Boulevard, Suite 2 | Spearfish | 642-7676 • 305 S. Garner Lake Rd., Ste. A | Gillette | 307-685-4433

# *In Memoriam*

## Dale Roger Hansen

Dale Roger Hansen, 72, Sturgis, passed away Sunday, December 2, 2018, at the Lippold Hospice Suite at Sturgis Regional Hospital after a short illness.

Dale was born June 24, 1946, to Edmund and Irene (Gilson) Hansen in Sioux Falls, SD. He was raised in Sioux Falls and graduated from Washington High School in 1964. He then attended the University of South Dakota, graduating with a BS in Business Administration in 1968 and graduating from USD School of Law in 1971. He married Lee Flynn on December 23, 1967.

Dale's law career began when he arrived in Sturgis in 1971. He quickly became a cornerstone in the Sturgis community, contributing in many ways over the years. It was important to him to donate to the community whatever skills and abilities he had that would make a difference.

Dale's professional associations and contributions to the Sturgis Community and surrounding areas are numerous. He was Sturgis City Attorney from 1979-1989. He served on the Board of Directors for the Sturgis Community Hospital Association / North Central Health Services / Lutheran Health Systems, cumulatively from 1975 – 1999.

He was very active in industrial development and business creation in Sturgis and was one of the incorporators of Sturgis Economic Development Corporation in 1973, serving as Co-chairman of that organization for 17 years. In 1999, he received the Sturgis Key City Award for his work with the Corporation. In 1984, he helped organize Heritage Acres, Inc., a non-profit corporation which provides low income housing for the elderly and disabled. In



2004, he was awarded Black Hills Volunteer of the Year from Black Hills Community Economic Development. In 2005, he was honored for Excellence in Economic Development from the South Dakota's Governor's Office.

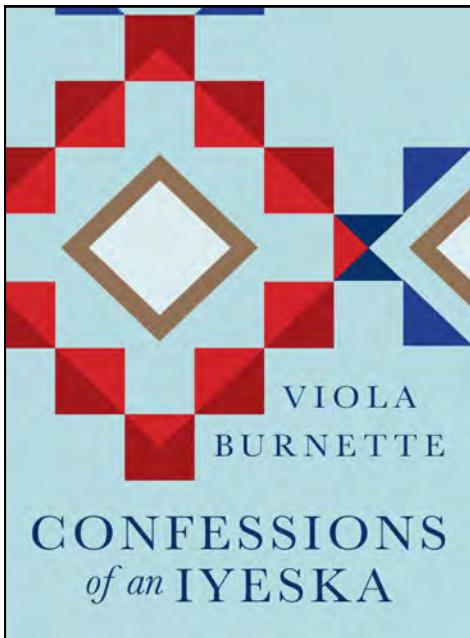
His most recent recognition was from South Dakota Community Foundation, naming him as a member of the South Dakota Community Foundation Key Club, recognizing his efforts to support the Foundation in their vision to help citizens and organizations in their local communities throughout the state.

Dale's passion for hunting and fishing were also well known in the community. He spent many hours fishing on local lakes and dams, and his favorite saying once the boat was launched in the water was "Let's get organized!" He shared his love of hunting with many local youth over the years, including providing support to the South Dakota Youth Hunting Association.



The advertisement features a dark background with a blurred image of books or papers in the background. At the top, the text "Helping Grow & Protect Client Business" is displayed in white and orange. Below this, the services offered are listed in large white text: "Data Privacy", "Licensing", "Copyrights", and "Trademarks". Further down, the name "SUSAN JENNEN" is in large white capital letters, followed by "SD, MN & NY Licensed" and "Certified Information Privacy Professional (CIPP/US)". Contact information includes "Clark, SD 605-532-3300" and the website "www.JENNENLAW.com". At the bottom, the text "Working With Firms & Clients For Over 20 Years" is shown in white.

"Judge Burnette was a hard-working, determined woman and her autobiography is inspiring. Her family has generously arranged for the proceeds of this book to support a scholarship for Native American women attending the University of South Dakota School of Law. We look forward to celebrating the achievements of the scholarship's recipients as they carry on Judge Burnette's legacy." - Dean Geu



"Viola Burnette was a strong Lakota woman with a deep and abiding commitment to her family, to her tribe, and to the importance of law in advancing the future and preserving the values of the past. This is her stirring story in her own words of testimony and witness."

—Frank Pommersheim, author of *Broken Landscape: Indians, Indian Tribes, and the Constitution*

"While other historical volumes review and analyze the intellectual impacts of government policies on Native American reservation communities, this autobiographical account puts these policies in a personal and integrated context that makes them understandable in a richer and more nuanced way."

—Kathleen Pickering Sherman, author of *Lakota Culture, World Economy*

## Confessions of an Iyeska

### Viola Burnette

"I am an *Iyeska* and I am assimilated, but on my own terms. I choose when, where, and how I use the knowledge and skills I have learned. As long as we continue to teach our children and grandchildren the language, values, and traditions of the Lakota people, we will survive."  
—from the book

In her autobiography, Viola Burnette braids the history of the Lakota people with the story of her own life as an *Iyeska*, or mixed-race Indian. Bringing together her years growing up on a reservation, her work as a lawyer and legal advocate for Native peoples, and her woman's perspective, she draws the reader into an intelligent and intimate conversation.

The Fort Laramie treaties of 1851 and 1868 changed everything for the Sioux. When Burnette was born on the Rosebud Indian Reservation in the late 1930s, her people were still striving to make sense of how to live under the impoverished conditions created by the imposed land restrictions. Like most Native children at that time, she was forced by federal law to attend boarding school and assimilate into white culture. Her story reveals the resulting internal conflicts that she and her people faced in embracing their own identity in a world where those in authority taught that speaking Lakota and being Indian were wrong. After a difficult jump into adulthood, Burnette emerged from an abusive marriage and, while raising four children, went on to become an advocate for women subjected to domestic violence and, later, the first attorney general for the Rosebud Sioux Tribe.

**Viola A. Burnette** (1938–2016) was born and raised in South Dakota on the Rosebud Reservation. A graduate of the University of New Mexico School of Law, she provided legal services to the Flandreau Santee Sioux Tribe, the Sioux Tribe, and others. Burnette was the first attorney general for Rosebud Sioux Tribe and was part of the South Dakota Coalition against Domestic Violence.

288 pp., 6 x 9, 17 illustrations • ISBN 978-1-60781-639-3 • Paper \$24.95



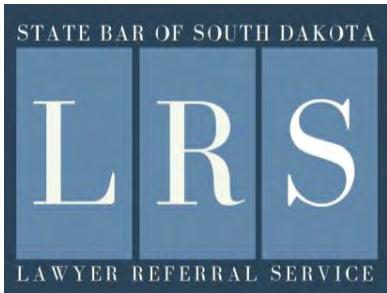
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[www.UofUPress.com](http://www.UofUPress.com)



## South Dakota Lawyer Referral Service ENROLLMENT AGREEMENT

Mail completed form and payment to:  
State Bar of South Dakota - SDLRS  
222 East Capitol Avenue, #3  
Pierre, SD 57501

Or pay online at: [www.findalawyerinsd.com](http://www.findalawyerinsd.com)  
If you pay online, scan and email this completed form to: [findalawyer@sdbar.net](mailto:findalawyer@sdbar.net)

1. I am an active member in good standing of the State Bar of South Dakota.
2. I wish to be a member of the South Dakota Lawyer Referral Service ("SDLRS") and agree to pay a \$50 service fee on an annual basis.
3. Once I receive notice that my payment to SDLRS was received and processed, I will create my referral profile at [www.findalawyerinsd.com](http://www.findalawyerinsd.com).
4. The service fee is invoiced to participating attorneys in August. I understand that failure to pay the \$50 fee within 30 days will result in a suspension of referrals until the fee is received.
5. In the event I am suspended from the SDLRS for nonpayment of the invoiced amount, I agree that in order to be reinstated to the SDLRS I will pay the balance owed.
6. My practice is covered by Errors and Omissions Insurance totaling at least \$100,000/\$300,000. My policy is issued through:

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

Dates of coverage: \_\_\_\_\_.

Limits of coverage: \$\_\_\_\_\_ \$\_\_\_\_\_.

I will maintain such insurance at all times while participating in SDLRS. (You will be required to upload a pdf copy of your insurance declaration page to the SDLRS website to begin receiving referrals.)

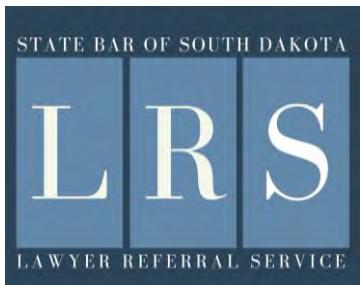
7. I will promptly inform the State Bar of South Dakota Bar of any change in my address or phone number.

8. Enclosed is the total amount of \$50, to cover the registration fee for the following Practice Panels:
  1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_
9. I would like to add the following Practice Panels at the rate of an additional \$20 per panel:
  1. \_\_\_\_\_ (add \$20)
  2. \_\_\_\_\_ (add \$20)
  3. \_\_\_\_\_ (add \$20)
10. If any of the following occur, I hereby agree to a suspension of referrals until final resolution of the matter:
  - a. My license to practice law is suspended for any reason;
  - b. I transfer to inactive status for any reason;
  - c. Formal disciplinary proceedings are initiated against me; or
  - d. A criminal complaint is filed or an indictment returned against me alleging a serious crime as defined in SDCL 16-19-37.
11. In the event I receive a referral through the SDLRS that results in attorney fees, I understand it is strongly encouraged I contribute 7% of those fees to the SD Bar Foundation.

I have read the foregoing and hereby certify that the answers are complete and true to the best of my knowledge.

Name: \_\_\_\_\_  
(Signature) (Print or Type)

Date: \_\_\_\_\_ Member No.: \_\_\_\_\_ Amount Enclosed: \_\_\_\_\_



# South Dakota Lawyer Referral Service **PANEL & SUB-PANEL LIST**

## **BANKRUPTCY**

- Business  
Bankruptcy(Creditor)
- Business Bankruptcy  
(Debtor)
- Personal Bankruptcy  
(Creditor)
- Personal Bankruptcy  
(Debtor)

## **BENEFITS & ADMINISTRATION**

- Medicaid/Medicare
- Municipal or Local  
Government
- Professional Licensing
- Social Security
- State Government
- Unemployment
- Utilities
- Veterans Benefits

## **BUSINESS**

- Antitrust litigation
- Business dissolution
- Business formation
- Business litigation or dispute
- Buy-sell agreements
- Compliance
- Contracts
- Franchise Agreements or  
purchase of franchise
- Gaming Law
- Non-profit formation
- Online business law
- Partnership agreements
- Securities
- Trade regulation
- Business mediation

## **CONSUMER & DEBT**

- Collection Practices &  
Creditor Harassment
- Car repair/lemon law
- Credit Reports
- Debt Collections (Creditor)
- Debt Collection (Debtor)
- Identity Theft
- Predatory Lending Practices
- Small Claims Court
- Unfair and Deceptive Sales  
and Practices

## **CRIMINAL**

- Appeals
- Criminal Record
- DWI/DUI
- Drugs
- Federal Criminal Defense
- Felony (non-homicide)
- Homicide
- Juvenile Delinquency
- Misdemeanor
- Probation Violation
- Property Forfeiture
- Traffic

## **DISPUTE RESOLUTION**

- Arbitration
- Mediation

## **EDUCATION**

- Academics
- Access (including bilingual  
and testing)
- Bullying
- Discipline (including  
Expulsion and Suspension)
- Special Education &  
Learning Disabilities
- Teachers and Other  
Educational Professionals

## **EMPLOYMENT**

- Civil Service
- Employee Benefits
- Employer Representation
- Employment Contracts
- Employment Discrimination
- Medical Leave
- Non-compete/Non-disclosure  
Agreements
- Professional Licensing
- Safe Working Conditions
- Separation Agreement
- Sexual Harassment
- Wage and Labor Standards
- Whistleblower
- Wrongful Termination

## **FAMILY**

- Adoption
- Alimony/Marital Support
- Annulment
- Child Abuse and Neglect
- Child Support and Custody
- Divorce (complex/contested)
- Divorce (simple/uncontested)
- Domestic  
Violence/Protection Order  
(Petitioner)
- Domestic  
Violence/Protection Order  
(respondent)
- Emancipation
- Family Mediation
- Guardianship
- Conservatorship
- Interstate/International
- Name Change
- Parental Rights Termination
- Paternity
- Post-nuptial Agreement
- Pre-nuptial Agreement
- Separation
- Visitation

## HOUSING & APARTMENT

- Home Construction/Improvement
- Housing Discrimination
- Landlord Representation
- Mortgage Foreclosures (Not Predatory Lending)
- Predatory Mortgage Lending Practices
- Tenant Representation

## IMMIGRATION

- Asylum
- Consular Practices
- Criminal Issues
- Employer Sanctions
- Employment-based immigration
- Family-based immigration
- Investors
- Naturalization
- Juvenile Status
- Removal Defense

## INDIAN LAW

- Business
- Family Law
- Federal Government
- Housing
- Land
- Probate/Will
- Tribal Court
- Tribal Enrollment/Status
- Tribal Government

## INSURANCE

- Automobile/Property Insurance
- Bad Faith
- Employer-provided insurance (disability, health, life, accident)
- Health Insurance
- Homeowner Insurance
- Life Insurance

## INTELLECTUAL PROPERTY

- Copyrights
- Patents
- Trademarks

## LOBBYING

- Federal
- State

## PERSONAL INJURY & RIGHTS VIOLATIONS

- Accountant Malpractice (Defendant)
- Accountant Malpractice (Plaintiff)
- Animals
- Assault and Battery (Defendant)
- Assault and Battery (Plaintiff)
- Auto Collision (Defendant)
- Auto Collision (Plaintiff)
- Civil Rights
- Discrimination
- False Arrest/false imprisonment
- Jail/Prison Injuries
- Legal Malpractice (Defendant)
- Legal Malpractice (Plaintiff)
- Libel, Slander, or harassment (Defendant)
- Libel, Slander, or harassment (Plaintiff)
- Medical Malpractice (Defendant)
- Medical Malpractice (Plaintiff)
- Negligence (Defendant)
- Negligence (Plaintiff)
- Police misconduct
- Product liability (Defendant)
- Product liability (Plaintiff)
- Property Damage (Defendant)
- Property Damage (Plaintiff)
- Slip, trip and fall (Defendant)
- Slip, trip and fall (Plaintiff)
- Toxic tort (Defendant)
- Toxic tort (Plaintiff)
- Wrongful death or catastrophic injuries (Defendant)
- Wrongful death or catastrophic injuries (Plaintiff)

## REAL ESTATE

- Commercial real estate litigation
- Commercial real estate transactions
- Condemnation, eminent domain & annexation
- Land Use & Zoning
- Natural Resources
- Neighborhood, Coop & Condominium Associations
- Residential real estate litigation
- Residential real estate transactions

## TAX

- Business
- Personal
- Estate Tax
- Tax Litigation/Audits

## WILLS, TRUSTS, ELDER

- Conservatorship
- Elder Abuse/Neglect
- Estate Administration
- Estate Court/Probate
- Estate Planning
- Estate Tax
- Guardianship
- Living Will/Advanced Directive
- Medicaid/Medicare/Nursing Home Planning
- Power of Attorney
- Simple Will
- Specialty Trusts
- Estate Dispute (Petitioner)
- Estate Dispute (Respondent)
- Trust Dispute (Petitioner)
- Trust Dispute (Respondent)

## WORKERS COMPENSATION

- Federal Employee
- Private Employee
- Private Employer
- State Employee

## IS THE LAWYER REFERRAL SERVICE RIGHT FOR ME?

LRS Committee

**Are you looking for new clients?** If so, the Lawyer Referral Service is right for you! The Lawyer Referral Service is not a free or reduced-fee legal service program. We are simply the right website for clients to find the right lawyer.

In the past, potential clients seeking legal representation were encouraged to call the State Bar Office for a referral. We have replaced that outdated system. Now, potential clients will be directed to our new website at [www.findalawyerinsd.com](http://www.findalawyerinsd.com).

Since launching the website in late June, thirty-two lawyers have enrolled. And while we have not yet released our public media campaign (this is coming soon), potential clients are already using our website and have been matched with enrolled lawyers in their area.

Ready to give it a try? Enrolling is easy:

- Send your completed enrollment form to the State Bar Office along with a \$50 payment for the annual service fee
- Create your referral profile on our website at [www.findalawyerinsd.com](http://www.findalawyerinsd.com)
- Choose up to three practice panels, and an unlimited number of subpanels within your practice panel group (additional practice panels may be added for \$20 per panel)
- Begin receiving matches in your area

Enrollment in the Lawyer Referral Service is a great way to grow your practice, help potential clients seeking legal representation, and support the mission of the State Bar.



# CAREER CENTER

## LOWER BRULE SIOUX TRIBAL COURT

*Lorrie A. Miner, Chief Judge  
Lower Brule, South Dakota 57548  
Phone: (605) 473-5528  
[lorrieminer@lowerbrule.net](mailto:lorrieminer@lowerbrule.net)*

### Request for Proposal for Tribal Code Revision

#### SCOPE OF WORK

The Lower Brule Tribal Court (LBTC) completed a court assessment recommending comprehensive review and update of the Tribes' Codes (criminal, civil, juvenile). The LBTC seeks to contract with a firm or attorney to assist in reviewing, editing, amending, and organizing existing codes. LBTC is also seeking code recommendations for implementation of VAWA and TLOA, upon Council approval. Much of the drafting work can be completed remotely. However, the successful candidate will need to be available to travel to the Lower Brule Reservation in Lower Brule, South Dakota to meet with the Tribal Council, judges, attorneys, and other stakeholders throughout the drafting process.

#### QUALIFICATIONS

Applicants must have a JD from an ABA-accredited law school, be an active member in good standing of a state bar association, and have a minimum of three years general practice experience in Indian Country. Code drafting experience and familiarity with tribal courts, tribal laws and federal Indian law is strongly preferred.

#### TIMEFRAME

This project will begin in spring 2019 and be completed within 6 months. The pace of the project will be driven by a number of factors including the time required for stakeholder input and review. The successful applicant will meet with the LBTC to develop a code review timeline for stakeholder input, drafting, and presentation to the Lower Brule Tribal Council.

#### COST

Compensation will be as negotiated, not to exceed \$50,000. Applicants are requested to provide a compensation proposal that includes their hourly rate and any anticipated costs. The Lower Brule Sioux Tribe will not be responsible for any expenses incurred in preparing and submitting a proposal.

#### PROPOSAL PREPARATION AND SUBMISSION

All proposals should include a letter of interest, resume, and references. Proposals will be accepted until January 31, 2019 and should be submitted via email to Chief Judge Lorrie Miner at [lorrieminer@lowerbrule.net](mailto:lorrieminer@lowerbrule.net).

**Judicial Qualifications Commission  
State of South Dakota  
500 East Capitol Avenue  
Pierre, SD 57501  
Telephone: (605) 773-2099  
Fax: (605) 773-8437  
Email: [lori.grode@ujs.state.sd.us](mailto:lori.grode@ujs.state.sd.us)**

**Kimberley A. Mortenson, Chair**

**Mark S. Roby, Vice Chair  
Hon. Robin J. Houwman  
Mark Haigh**

**Hon. Bruce V. Anderson, Secretary  
Timothy M. Engel  
Rebecca A. Porter**

**Lori Grode, Executive Assistant**

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***Notice of Judicial Vacancy***

TO: All Active Members of the State Bar of South Dakota

FROM: Bruce V. Anderson, Secretary, Judicial Qualifications Commission

Due to the upcoming retirement of the Hon. John L. Brown on June 8, 2019, a vacancy will be created for a Circuit Court Judge position, (Position C), in the Sixth Judicial Circuit Court for the State of South Dakota. The **duty station** for this position shall be located in Pierre, SD. The Judicial Qualifications Commission is now taking applications for this position.

All lawyers and judges interested in applying should obtain the application form at <http://ujs.sd.gov/>, or contact Lori Grode at the State Court Administrator's Office. The application must be returned to the Administrator's Office and must be postmarked no later than **5:00 PM on February 8, 2019**. **Applicants should make sure the application submitted is the 2018 revision.**

You may also obtain the application form by writing or telephoning:

Lori Grode  
State Court Administrator's Office  
500 East Capitol Avenue  
Pierre, SD 57501  
Telephone: 605-773-2099  
Email: [lori.grode@ujs.state.sd.us](mailto:lori.grode@ujs.state.sd.us)

Or, visit <http://ujs.sd.gov/> for current job openings.

The Sixth Circuit is comprised of the following counties: Potter, Sully, Hyde, Hughes, Stanley, Haakon, Lyman, Jones, Jackson, Mellette, Gregory, Tripp, Todd and Bennett.

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
Pierre, South Dakota 57501-8501

Phone (605) 773-3215  
Fax (605) 773-4106  
TTY (605) 773-6585  
<http://atg.sd.gov/>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**CHARLES D. McGUIGAN**  
CHIEF DEPUTY ATTORNEY GENERAL

December 17, 2018

Mr. Andrew Fergel  
Secretary-Treasurer  
State Bar of South Dakota  
222 E. Capitol  
Pierre, SD 57501

**RE: Vacancy on the Board of Pardons and Paroles**

Dear Mr. Fergel,

As of January 31, 2019, there will be a vacancy on the Board of Pardons and Paroles.

Accordingly, the Office of Attorney General takes this opportunity to announce that any attorney interested in serving as a member of the Board of Pardons and Paroles is invited to indicate that interest by advising the Attorney General.

Letters should be directed to:

Chief Deputy Attorney General Charles D. McGuigan  
Office of Attorney General  
1302 E. Highway 14, Suite 1  
Pierre, SD 57501

Sincerely,

A handwritten signature in black ink that reads "Charlie D. McGuigan".

Charles D. McGuigan  
Chief Deputy Attorney General

CDM/lde

## **OFFICE OF ATTORNEY GENERAL APPELLATE POSITION**

**DETAILS:** The Office of Attorney General seeks an attorney for an appellate position in the Pierre office. An appellate attorney is responsible for representing the state in criminal and civil appeals and for providing legal advice to many state agencies, boards and commissions. Assistant Attorneys General are required to maintain high moral character; have strong legal advocacy skills; have effective research and writing capabilities; and be able to communicate with clients and the courts.

**OFFICE LOCATION:** This position will be stationed in Pierre.

**STARTING SALARY:** Entry level salary is \$ 63,259.09 annually or greater, depending upon experience and funding availability. The State of South Dakota has an excellent benefit package including retirement, employee insurance coverage and paid leave.

**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 appellate 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 March 1, 2019**, to the following:

**JASON RAVNSBORG, OFFICE OF ATTORNEY GENERAL, 1302 E. HIGHWAY 14, SUITE 1, PIERRE, SOUTH DAKOTA 57501.**



DeRouchey Agriculture  
Legal Consulting

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

- 34 years Farm Business Instructor at Mitchell Tech
- 3 years of Ag Lending
- 9 years Researching, Deposition, Testifying
- Expert witness on agriculture issues

[www.deroucheyagricultureallegalconsulting.com/services.html](http://www.deroucheyagricultureallegalconsulting.com/services.html)

## **OFFICE OF ATTORNEY GENERAL CIVIL LITIGATION POSITION**

**DETAILS:** The Office of Attorney General seeks an attorney for a position with the Civil Litigation Division. The Civil Litigation Division is responsible for representing the State including many administrative licensing and regulatory cases. Division attorneys practice in both state and federal courts and are involved in constitutional, natural resource, and environmental litigation. The Civil Division also provides legal advice to state officials, agencies, boards and commissions.

**OFFICE LOCATION:** This position will be stationed in Pierre.

**STARTING SALARY:** Entry level salary is \$63,259.09 annually or greater, depending upon experience and funding availability. The State of South Dakota has an excellent benefit package including retirement, employee insurance coverage and paid leave.

**QUALIFICATIONS:** Applicants must have a JD degree and be licensed to practice law in South Dakota. The person eligible for this position must be a motivated self-starter, have strong research and writing capabilities, be able to communicate well to clients and the courts, and have strong legal advocacy skills. Prior litigation experience is preferred but not required.

**APPLICATION PROCESS AND DEADLINE DATE:** Interested persons should send a resume containing three references, a writing sample and a letter describing their qualifications by March 1, 2019, to the following:

**JASON RAVNSBORG, OFFICE OF ATTORNEY GENERAL, 1302 E. HIGHWAY 14, SUITE 1, PIERRE, SOUTH DAKOTA 57501.**

# CAREER CENTER

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

## ATTORNEYS

### Attorney: Gettysburg

Neumayr & Smith law office in Gettysburg, South Dakota, is seeking an Attorney. The attorney will focus on the general practice of law, including Agriculture and Business Law, Real Estate Law, Probates and Wills, Trusts and Estate Law. The law office was established in 1905. Competitive salary with transition of ownership. Interested applicants should send a cover letter and resume to Craig Smith, PO Box 205, Gettysburg, South Dakota 57442, or to [csmith@venturecomm.net](mailto:csmith@venturecomm.net) or may contact Craig at (605) 765-2494. All applications will be kept confidential.

### Financial Institution Examiner: South Dakota Division of Banking

The Division of Banking is seeking inquisitive and analytical applicants with excellent communication skills to join our team of professional Financial Institution Examiners in Pierre or Sioux Falls. The Division regulates the state's banking, trust, and financial services industries to assure confidence in financial markets and services. Examiners determine the condition of state-chartered banks, trust companies, and other licensed financial institutions; evaluate adequacy of internal control procedures; determine compliance with State and Federal statutes related to banking, trust, licensing, and consumer protection; evaluate trust and loan administration and corresponding investment portfolios for prudence, quality, and suitability; make recommendations on findings; and investigate consumer complaints related to supervised financial institutions.

Bachelor's degree in banking, finance, accounting, business, economics, or a related field, and advanced degrees (JD, MBA, etc.) preferred.

Starting salary: \$40,000 - \$45,000 annually, depending on experience. Excellent training and salary advancement opportunities.

No previous examination experience necessary.

Overnight travel is required. For more information visit <http://bhr.sd.gov/workforus/workbenefits.aspx> Apply at: <http://tinyurl.com/yaqb8327>. "An Equal Opportunity Employer"

To be considered, please attach a letter of interest, post-secondary transcripts, and a writing sample. The State of South Dakota offers paid employee health insurance, ten paid holidays, generous vacation leave accrual, plus medical, dental, vision, and other benefits.

### Associate Attorney: Sioux City, IA

Rawlings, Ellwanger, Mohrhauser, Nelson & Roe, L.L.P., an established "AV" rated law firm in Sioux City is seeking to hire an attorney to work in the areas of business, real estate, probate and estate planning. Candidates will be organized and possess excellent writing and oral skills. We offer competitive salary, 401(k), health insurance, CLE and bar dues. Membership in Nebraska and/or South Dakota bars a plus. Confidential inquiries, including resume, should be sent to Kathleen Roe, 522 4th Street, Suite 300, Sioux City, Iowa, 51101, or [kroe@rawlings-law.com](mailto:kroe@rawlings-law.com).

### Deputy State's Attorney I: Brookings County

The Brookings County State's Attorney's Office has an immediate opening for a Deputy State's Attorney I to perform routine professional legal work in the prosecution of civil and criminal crimes, juvenile crimes, and juvenile abuse and neglect cases in Brookings County. Responsibilities of the Deputy State's Attorney I vary and may include reviewing offenses and evidence to make determination on charges and prosecuting violations of state law; reviewing requests for petitions and determining appropriate course of action; making recommendations for child custody and parental rights; and attending legal proceedings. Annualized compensation for appointment as a Deputy State's Attorney will be \$65,068.00.

To apply: Interested applicants should submit a cover

letter, resume, law school transcript and writing sample to: Brookings County Human Resources, 520 3rd St., Suite 210, Brookings, SD 57006 or electronically at hr@brookingscountysd.gov. Deadline for applications is 1/2/19. Brookings County is an Equal Opportunity Employer.

### **Associate Attorney: Aberdeen**

Richardson, Wyly, Wise, Sauck & Hieb, LLP, Aberdeen, SD is seeking to hire an associate attorney with 1-5 years of experience. An ideal candidate will possess strong oral and written skills as well as courtroom experience. Confidential inquiries, including resume, cover letter, and academic transcript, should be sent to Stacy M. Johnson, Richardson, Wyly, Wise, Sauck and Hieb, LLP, P.O. Box 1030, Aberdeen, SD 57402-1030 or sjohnson@rwwsh.com.

### **Coverage Attorney**

Great West Casualty Company has a Coverage Attorney position open with our Corporate Legal team that affords you the ability to achieve just that! As a Coverage Attorney for Great West, you will focus on the motor carrier policy, providing counsel, training, and assistance to the regions' claims departments to foster consistent, efficient, and appropriate claims practices. You will prepare coverage opinions and memoranda on claims legal topics as well as oversee litigation and declaratory judgment action while supervising outside counsel. This position qualifies for relocation assistance. To learn more about Great West and our office locations, please visit our website [www.gwccnet.com](http://www.gwccnet.com).

### **MANAGING ATTORNEY: EAGLE BUTTE**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a Managing Attorney position in our Eagle Butte, South Dakota, branch office. The Eagle Butte office serves Cheyenne River Indian Reservation in South Dakota and Dewey, Haakon, Potter and Ziebach 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's 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. If Applicant does not possess this experience we would consider Applicant for a staff attorney position until qualified to be a Managing Attorney.

**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: John J. Buchy, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, dpls1@gwtc.net

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

### **EXECUTIVE DIRECTOR: MISSION**

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, is accepting applications for the Executive Director position in our Mission, South Dakota, office.

**GENERAL RESPONSIBILITIES:** The Executive Director has overall responsibility for the operation of Dakota Plains Legal Services, including general administration of the program, its fiscal affairs, the securing of funds and the maintaining of funding levels sufficient to meet programmatic needs, personnel management, working with the organized Bar throughout the state, implementing programmatic policies, and providing necessary litigation support.

**QUALIFICATIONS:** Applicants must be admitted to practice in any jurisdiction for a minimum of four years; must be admitted to practice law or applying for admission to practice law in South Dakota; must have a minimum of two years administrative experience at a policy making level in legal services or a legal services program; and must be bondable.

**SALARY:** Competitive and negotiable depending on

experience. DPLS has an excellent fringe benefits package including generous leave benefits and employee insurance coverage (medical, dental, life, disability).

CLOSING DATE: January 31, 2019.

APPLICATION/INFORMATION: Persons interested in being considered for this position should submit a letter of introduction along with a resume and references to: Dalene Bettelyoun, Administrator, Dakota Plains Legal Services, P.O. Box 727, Mission, SD 57555 or to [dpls2@gwtc.net](mailto:dpls2@gwtc.net). For further information, or to request a copy of the full job description for this position, please contact Dalene Bettelyoun at (605) 856-4444.

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: John J. Buchy, Executive Director, Dakota Plains Legal Services, PO Box 727, Mission, SD 57555, (605) 856-4444, [dpls1@gwtc.net](mailto:dpls1@gwtc.net).

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

### **LEGAL ASSISTANT**

#### **Legal Assistant: Custer**

This Legal Assistant position is for a dynamic person hoping to join a growing Custer law Firm.

We are looking to fill the position with a talented individual with ambition and passion for the legal field. Experience in a legal setting preferred, but we are willing to train the right person!

Qualified candidates must be able to multi-task and have a do all attitude and be willing to learn new things and take on new responsibilities as they arise. Candidates should have excellent written and verbal communication skills along with strong attention to detail and organization. Additionally, candidates should have strong Microsoft Office; Word, Excel and Outlook skills along with a typing speed of 65+ wpm. Accounting knowledge also preferred with a working knowledge of QuickBooks a plus.

Major responsibilities – assist attorney in all aspects of running and maintaining a successful law firm, answer the phone and interact with clients, other attorneys, and the court, maintain calendar by planning and scheduling client interactions and court dates, maintain billing sheets and draft invoices, maintain company accounting and work with the firm's accountant in maintaining the books, file monthly state sales tax, learn and employ specialized knowledge of legal procedures, draft, edit, and efile various legal documents, aid attorney in the resolution of files in an effective and efficient manner.

This is a full-time year-round position and we are looking for someone work and grow with us for years to come. Salary doe. To apply, stop by 428 Mt. Rushmore Rd., Custer, SD 57730 and fill out an application and submit it along with a resume or mail to the address above or email your resume to [garlandgoff@custerattorney.com](mailto:garlandgoff@custerattorney.com)

## **Legal Assistance/Secretary or Paralegal: Sioux Falls**

Ronke Law, PLLC is currently seeking a Legal Assistant/Secretary or a Paralegal with Bankruptcy experience who is highly motivated, friendly, has great attention to detail, and is a quick learner. Duties include fielding telephone calls, greeting and working directly with clients, word processing, data entry and filing, along with much more. Extensive computer and software skills, internet research abilities and strong communication skills are required. Preference will be given to a candidate that has experience working in a Bankruptcy law firm setting. This position will begin in January 2019.

Pay based on experience. Please email cover letter, resume and salary requirements to [wendy@ronkelaw.com](mailto:wendy@ronkelaw.com).

Job type: Part-Time, approx. 28 hours per week, with the possibility of transitioning to Full-Time.

PARALEGAL

## **Paralegal Position: Sioux Falls**

Legacy Law Firm, P.C. is seeking a paralegal to add to our team. One or more years of experience is preferred, along with strong academic credentials and excellent communication skills. Qualified applicants interested in this opportunity should send a cover letter and resume to Felan Link at [felan@legacylawfirmpc.com](mailto:felan@legacylawfirmpc.com). All applications will be kept confidential. For more information, visit our website [www.LegacyLawFirmPC.com](http://www.LegacyLawFirmPC.com).





Bar Commission Meeting.....	January 4.....	Dakota Event Center, Aberdeen
Disciplinary Board.....	January 10-11.....	Drifters, Ft. Pierre
East River Veterans Clinics .....	February 21.....	American Legion Post, Watertown
East River Veterans Clinics .....	February 22.....	DAV, Sioux Falls
YLS BootCamp.....	March 1.....	Rapid City & Sioux Falls
Disciplinary Board.....	April 4-5.....	Clubhouse, Sioux Falls
Bar Commission Meeting.....	April 11.....	Ramkota, Rapid City
CLE TBA.....	April 12.....	Ramkota, Rapid City
Strategic Planning Meeting.....	May 9-10.....	Sioux Falls
2019 Annual Meeting.....	June 19-21.....	Ramkota, Rapid City

