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NAFFILIATED
ASSOCIATION

JUNE 2021

SDParalegals.com 

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ANNUAL Social, Seminar & Meeting

JUNE 17-18, 2021
Sioux Falls Convention Center

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President's Message

Dixie A. Bader, CP



Executive Committee

PRESIDENT

Dixie A. Bader, CP

Dixie@BurdAndCarper.com

1ST VICE PRESIDENT

Jessi N. Stucke, ACP

JStucke@rwwsh.com

2ND VICE PRESIDENT

Autumn Nelson, CP

NelsonA@GoosmannLaw.com

SECRETARY

Valerie Winegar, CP

VWinegar@LynnJackson.com

TREASURER

Diane Burns, ACP

Diane@RedstoneLawFirm.com

NALA LIAISON

Janet Miller, ACP

JMiller@SBSlaw.net

All good things must come to an end, so they say. It's hard to believe that this is my last submission as your SDPA President. One of the things I love best about our organization is being part of committees. These professional roles make you grow as a person and build lifetime friendships with paralegals, legal assistants, students, attorneys, and judges. I remember graduating from paralegal school and being somewhat shy in that new role--insert laughter for those who really know me--when "shy" and my name are in the same sentence, they cannot help but laugh. I was a young graduate almost too shy to order a pizza and I remember being asked to call a client or call a judge. I was so fearful of picking up that phone. Little did I know that I would learn to be more outgoing, and that I would grow and learn as time went on. This is a role that is always changing. If you stop growing and learning, then you are doing something wrong.

So whatever juncture you are at in your career, never forget where you came from. Make someone feel welcome at an SDPA luncheon or seminar. When you call to set that hearing or talk to another assistant, get to know them. Provide help to your fellow paralegals and students, and remember--we have all been there--so if you have the resources to help someone, do it. This only comes back to help you when you need help, when you need an extension to answer discovery, when you need that form, or when you are doing something new outside of your wheelhouse. There is no shame in asking for help. Not even attorneys have all the answers. I sometimes get calls from attorneys asking about cases or forms. We can all learn something from just asking.

I am thankful that the SDPA organization exists, has great committees, has CLEs that allow us to continue that growth, and the ability to bring the state together. I cannot wait to see you all at the SDPA Annual Seminar and Meeting on June 18, 2021, held in conjunction with the South Dakota State Bar Convention in Sioux Falls.

The last words from me as your president are: Just have a wonderful summer. I intend to do a lot of camping, hiking, biking, fishing, gardening, and basking in the sun at the lake. The summer months are my favorite time of year, so it's time for me to sign off, and I am on to the next big thing, whatever that may be. With great pride I pass the baton to our incoming president, Jessi Stucke, ACP, with no doubt she will do an amazing job.



NOTICE OF ANNUAL MEETING of the SOUTH DAKOTA PARALEGAL ASSOCIATION, INC.

Pursuant to Article VI, Section I of the Bylaws, notice of the 2021 Annual Meeting was given by President Dixie A. Bader, CP, via email on May 3, 2021. The 2021 Annual Meeting of the South Dakota Paralegal Association, Inc. will be held on Friday, June 18, 2021, commencing at 11:20 a.m. to approximately 12:00 p.m. at the Sioux Falls Convention Center and via GoToMeeting. The purpose of the annual meeting is to hear reports of officers and committee chairpersons and to transact such other business that may come before the membership. Prior to the meeting, members who have registered to attend virtually will receive a GoToMeeting invitation via email.

The slate of officers for the 2021-2022 term is as follows:

- | | | |
|--|---|------------------------------------|
| • Jessi N. Stucke, ACP - President | • Christal Schreiber - 2 nd Vice President | • Clara Kiley, CP - Treasurer |
| • Autumn Nelson, CP - 1 st Vice President | • Valerie Winegar, CP - Secretary | • Cindy Wooten, ACP - NALA Liaison |

NALA Liaison's Report

Janet Miller, ACP



As of April 2021, there are 99 Certified Paralegals (CP) throughout South Dakota, and of those, 35 are Advanced Certified Paralegals (ACP).

The NALA Annual Conference will be virtual this year. It is scheduled for July 22 – July 24, 2021.

The cost is \$149 for SDPA members and \$99 for SDPA student members. Attending the virtual Conference is a great way to earn continuing education credits and hear speakers from different areas of the country. Before the Conference, each person attending will have an opportunity to choose sessions to attend and be provided with information to access printed materials for each session. NALA will be sending Conference@Home care packages to all attendees who registered before May 16, 2021. The care package contains swag to enhance your virtual conference experience.

- NALA is offering a 25% discount on all NALA Active membership fees. NALA offers several free resources to paralegals including a Members Only Collaboration Site and Complimentary Education opportunities. These free resources can be found on the NALA website under the Join tab.
- SDPA offers scholarships to assist in becoming certified or obtaining your ACP credential. Please feel free to contact me and I would be happy to help you or answer any questions you may have about NALA and becoming certified.
- There is a CP Skills Exam testing window from July 1-31, 2021.
- For more information on each of these topics, as well as additional information, log on to your NALA member portal or reach out to me and I will do my best to answer your questions.



LEARN MORE ABOUT THE SESSIONS AT THIS YEAR'S CONFERENCE!

Q&A

If you would like to submit a question to our members on a legal or administrative issue, please email it to the President. The President will email your question to the Membership and ask that members respond directly to you. If anyone else would like to get a copy of any information received, please contact the person who posed the question. Q&A emails go to all members. You can opt out or opt in again at any time by emailing the President.

2021 UPCOMING Live Webinars

Webinars are a fast, convenient, and affordable way to receive the continuing education you need.

[VIEW ALL WEBINARS](#)



CALENDAR

June

- 8 * **Technology Rollouts 2021** 12pm
- 16-17 **State Bar Convention**
Sheraton ~ Sioux Falls
- 17 **SDPA Pre-Seminar Social**..... 6-8pm
Crooked Pint Ale House ~ Sioux Falls
- 18 **SDPA Seminar & Annual Meeting** 8am-4pm
Sheraton ~ Sioux Falls

July

- 22-24 **NALA Conference & Expo** Virtual

August

- 25 * **Legal Time Mastery** 12pm

September

- 1 * **The Raw Truth About Job Searching, Interviewing, and Salary Negotiation** 12pm
- 15 * **Increase Capacity Without Adding People, Money, or Time** 12pm
- 22 * **The Evolving State of Privacy Law** .. 12pm
- 29 * **The Paralegal Role in Preparing for Multi-Day Criminal Jury Trials** 12pm

October

- 13 * **Health Insurance Liens and Medicare Compliance** 12pm
- 14 **SDPA Pre-Seminar Social** TBD
- 15 **SDPA Semi-Annual Seminar & Meeting** TBD

* NALA webinars: CST/CDT
Course info available [here](#).

* SD State Bar webinars: CST/CDT

Sioux Falls Luncheons: Group meets monthly.
For info, email Vicki Blake, CP at Vicki@DDLAWSD.com.



MISSION STATEMENT

The purposes of SDPA are:

To establish good fellowship among association members, NALA, and members of the legal community.

To encourage a high order of ethical and professional attainment.

To further education among members of the profession.

To cooperate with bar associations.

To support and carry out the programs, purposes, aims, and goals of NALA.



South Dakota Paralegal Association

Annual Meeting & Seminar

in conjunction with the South Dakota State Bar Convention

Friday, June 18, 2021 ~ Sheraton Sioux Falls & Convention Center

7:30-8:00am	REGISTRATION • LIGHT BREAKFAST	
8:00-9:00am	<i>Medical Records: Best Practices for Personal Injury Cases</i>	Attorney Lee Schoenbeck & Karen Armstrong, PP, PLS Schoenbeck Law ~ Watertown
9:10-10:10am	<i>Probate Problems, Predicaments, Petitions & Pleas</i>	Thomas E. Simmons, Professor of Law University of South Dakota
10:20am-11:20am	<i>A&N Cases: What You Need to Know</i>	Attorney Melissa Fiksdal Jeff Larson Law ~ Sioux Falls
11:20am-12:00pm	<i>Annual Meeting</i>	Executive Committee
12-12:30pm	LUNCH	
12:30-1:30pm	<i>Introduction to Diversity, Equity & Inclusion</i>	Ms. Heather Hansen, Inclusive Diversity & Equity Consultant Allstate Insurance Company
1:40-2:40pm	<i>eDiscovery</i>	Ms. Colleen Zea Computer Forensic Resources
2:50-3:50pm	<i>Legal Ethics for Paralegals</i>	Speaker TBD
3:50-4:00pm	CLOSING REMARKS	

Registration Form

Seminar Fee* (enclosed): _____ Member \$65 _____ Non-Member \$85 _____ Student \$30

*Includes lunch for in-person attendees

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

Firm/Organization: _____ Email _____

Address: _____

Phone: _____ Thursday Evening Social: _____ Yes _____ No _____ Maybe

*NOTE: If you plan to attend via GoToMeeting, please include any other e-mail by which you can be reached if we experience technical difficulties:

Secondary Email: _____

Mail registration form and payment to Rebekah Mattern, c/o Lynn, Jackson, Shultz & Lebrun, Address, 110 N. Minnesota Avenue, Suite 400, Sioux Falls, SD 57104 **by Friday, June 4, 2021**. Make checks payable to **SDPA**. To cancel your registration, please contact Rebekah at (605) 275-5954 or at RMattern@LynnJackson.com. Cancellations received on or before June 4, 2021, will receive a full refund. There is a block of rooms available at the Sheraton under SDPA at \$159.00 per night. This room rate may not be available after May 18, 2021.

*** Continuing legal education credit from NALA has been requested as follows:
6 hours of CLE credit to include 1-hour of ethics credit and 1-hour non-substantive credit.**



***DISCLAIMER:** Our seminars are also live-streamed through GoToMeeting; however, please note that we cannot guarantee your experience will be equivalent to attending in person. We will try to ensure the best online experience possible; however, audio, visual, and other technical difficulties may be outside our control. If you will be attending virtually, we highly recommend testing your equipment with GoToMeeting prior to the seminar.



SDPA SOCIAL

THURSDAY, JUNE 17, 2021, 6-8PM

2020 West Russell Street, Sioux Falls

R.S.V.P. to Rebekah Mattern by 5pm, 6/16/21 @ RMattern@LynnJackson.com

**One Complimentary
Drink + Appetizers!**

2021 Annual Meeting ~ June 18, 2021

AGENDA

- I. Call to Order.....President
- II. Roll Call..... Secretary
- III. Approval of Minutes of October 9, 2020, Semi-Annual Meeting..... Secretary
- IV. Treasurer's Report/Finance.....Treasurer
- V. NALA Liaison's Report NALA Liaison
- VI. Committee Reports
 - A. Education
 - B. Membership
 - C. Audit
 - D. Ethics
 - E. Public Relations
 - F. Librarian
 - G. Newsletter
 - H. Professional Development
 - I. Job Bank
 - J. Website
 - K. Nominations & Elections
 - L. Special Committee-CLE Luncheons
- VII. Old/Unfinished Business
 - A. Website taking payments for dues and CLEs
 - B. Special committee status--statewide webinar
- VIII. New Business
 - A. Increase of funds for Newsletter software costs that are due yearly to edit software--item of discussion for October, 2021.
 - B. Sending this year's president/NALA Liaison to convention next year rolling over funds to next year already previously budgeted for.
- IX. Announcements
 - A. Acknowledgements
 - B. Committees: If you are on a committee now, that committee continues through December 31, 2021. Preference forms for next year will be sent at the end of 2021.
 - C. Return forms for education committee and lanyards at end of meeting.
- X. Adjourn

RECENT OPINIONS: *South Dakota Supreme Court*

STATE v. EVANS

2021 S.D. 12 – February 25, 2021

Criminal convictions of rape, kidnapping, etc., affirmed

STATE v. MILES

2021 S.D. 13 – February 25, 2021

Criminal sentencing for child porn affirmed

STATE v. RUS

2021 S.D. 14 – March 4, 2021

Intermediate appeal: Charge of 3rd DUI warrants preliminary hearing

WRIGHT v. TEMPLE

2021 S.D. 15 – March 4, 2021

Litigation over damage to airplane

STATE v. SCHUMACHER

2021 S.D. 16 – March 4, 2021

Wife's conviction affirmed for offenses arising out of domestic disturbance

IBRAHIM v. DEP'T OF PUBLIC SAFETY

2021 S.D. 17 – March 11, 2021

Reversed: Felonious possession of marijuana as basis for revocation of commercial driver's license

BILLMAN v. CLARKE MACHINE, INC.

2021 S.D. 18 – March 11, 2021

Amputation of portion of leg as permanent total disability

SENTELL v. FARM MUTUAL INS.

2021 S.D. 19 – March 11, 2021

Attorney fees denied on bad faith claim

ESTATE OF FRENCH

2021 S.D. 20 – March 11, 2021

Perils of contract for deed; equitable tolling doctrine

Individual sought enforcement of a contract for deed for 320 acres against Decedent's estate. The contract was entered into in 1982. Payment of the entire purchase price was disputed. It is clear that \$65,138.01 was paid, with the Estate claiming a balance of \$34,861.99. In regard to the lateness of the claim, the trial court utilized the "doctrine of equitable tolling" denying the Estate's request to discharge the contract on the basis of the 15-year

limitations period. The SD Supreme Court reversed and remanded, "with instructions to discharge the contract pursuant to SDCL 21-51-1." With respect to the equitable tolling concept, the Court stated:

"[¶]20.] At the outset, the availability of equitable tolling within our common law is not a forgone conclusion. We have not officially adopted the equitable tolling doctrine for civil cases, see Anson v. Star Brite Inn Motel, 2010 S.D. 73, ¶ 15 n.2, 788 N.W.2d 822, 825 n.2, and as Justice Konenkamp has noted, there are serious questions about whether it could be incorporated into our decisional law, see *id.* ¶¶ 36-40 (Konenkamp, J., concurring)."

Footnote 8 of the opinion also explains: "8. Our disposition here results only in the discharge of the contract for deed. There is no other question before us, and we express no opinion as to any other potential remedy concerning the circumstances of this case."

This decision is unanimous (5-0) with opinion authored by Justice Salter.

STATE v. ANGLE

2021 S.D. 21 – April 8, 2021

Vehicular homicide and DUI convictions upheld notwithstanding error in failure to sustain Motion to Suppress evidence

STATE v. SHELTON

2021 S.D. 22 – April 15, 2021

Multiples sentences for drug offenses affirmed

METZGER v. METZGER

2021 S.D. 23 – April 15, 2021

Contempt of Court remedy, visitation rights

This is a contempt proceeding with Father seeking relief related to Mother's failure to comply with visitation provisions set forth in the Divorce Decree. In both the contempt proceeding and in the SD Supreme Court, mother proceeded pro se. In the trial court, Mother "testified that her attorney never provided her with any documentation throughout the case." The trial court found for Mother on the basis of lack of knowledge of the terms of the Decree. The SD Supreme Court reversed and remanded, holding, "The circuit court clearly erred when it found that [Mother] did not have knowledge of the contents of the judgment and decree of divorce." This opinion provides a nice review of the elements required for a contempt proceeding. NOTE: This decision is unanimous (5-0), with opinion authored by Justice DeVaney. Justice Myren was the trial judge in this case. Former Chief Justice Gilbertson participated in the SD Supreme Court's ruling.

STATE v. KLINETOBE

2021 S.D. 24 – April 15, 2021

Life without parole sentence upheld for guilty plea as to aiding and abetting 1st degree manslaughter

PATTERSON v. PLOWBOY, LLC

2021 S.D. 25 – April 22, 2021

Section-line highway improvement dispute

STATE v. FRIAS

2021 S.D. 26 – April 22, 2021

Convictions affirmed: Drug deal shoot-out

This case relates to a drug deal gone wrong in Sioux Falls that left two men dead: Corey James Zephier, a friend of the defendant who was allegedly participating in robbing the second victim, Samuel Louis Crockett, during the drug deal. A shooting erupted. Crockett shot and killed Zephier, and Crockett was shot by the Defendant, who fled unscathed. Crockett was alive at the time law enforcement arrived, while Zephier was already dead. Frias was indicted for several counts, but only some are relevant on appeal: (1) Second-degree murder with a depraved mind; (2) First-degree murder with a dangerous weapon; and (3) First-degree robbery. The jury found Frias guilty of both second-degree murder with a depraved mind and first-degree murder with a dangerous weapon. The jury acquitted Frias of first-degree robbery, but failed to indicate whether Defendant was guilty or acquitted of an attempted first-degree robbery charge. The Defendant appealed two issues. First, whether the circuit court erred by denying his motion for judgment of acquittal, claiming the State failed to establish he acted with a depraved mind (because Crockett started the altercation, the altercation lasted only seconds, and Crockett posed a legal threat to the Defendant at the time of the shooting). The Supreme Court held the trial court properly denied the motion for judgment of acquittal because the Defendant's acts of firing multiple shots outside an inhabited apartment complex, along with the location of the wounds on Crockett's body, established Defendant's disregard for human life. Crockett's two wounds on his back, viewed in a light favorable to the verdict, established that the victim was retreating or had turned away at the time of the fatal shots. The court also considered that the Defendant failed to render aid to Crockett or call 911 while the victim was laying on the ground dying, which also supported the verdict. Frias also asserted in support of his motion for judgment of acquittal that the State failed to show Defendant's killing of Crockett was unjustified, asserting that because Crockett drew a gun on Defendant, the Defendant held a reasonable

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belief that Crockett would cause great personal injury or death to him or his friend, Zephier. The Supreme Court held that the trial court did not err because the Defendant's self-defense theory and proper jury instructions given on self-defense were presented at trial, and when viewed in a light favorable to the verdict, the jury could have found beyond a reasonable doubt that Defendant unjustifiably killed Crockett. Defendant's second issue on appeal was whether the trial court erred when it denied Defendant's motion to arrest judgment under SDCL 23A-30-1, claiming that the indictment failed to allege attempted robbery, but yet the trial court submitted the charge to the jury. The Court found that the charge of robbery in the indictment necessarily included the charge of attempt to commit robbery, and that a motion to arrest judgment under SDCL 23A-30-1 challenges subject matter jurisdiction, not a procedural error. Regardless, Defendant was not prejudiced by the attempted robbery charge's inclusion in the jury instructions because he was ultimately acquitted of that charge by the trial court. Opinion authored by Justice Myren.

CITY OF ONIDA v. BRANDT & MEYER
2021 S.D. 27 – April 29, 2021
Euthanization order for vicious dogs upheld

SIERRA CLUB v. CLAY COUNTY BOARD OF ADJUSTMENT
2021 S.D. 28 – May 6, 2021
Doctrine of representational standing

The Sierra Club sought to contest an application for a CAFO (Concentrated Animal Feeding Operation) in Clay County, but the trial court held that the Sierra lacked standing. The SD Supreme Court affirmed the lower court's ruling that the Sierra Club lacked standing in its own right under SDCL 11-2-61. But, the matter was reversed and remanded on the basis that the lower court failed to make the proper inquiry into the doctrine of representational standing which could support Sierra Club's interest in the matter. The Court stated in ¶131:

"[T]he correct focus for representational standing inquiry is whether the members must participate as parties in order for Sierra Club to establish the claims raised and obtain the relief sought. Here, Sierra Club does not seek monetary relief on behalf of its members for injuries sustained, and the claims asserted focus on the manner in which the Board exercised its authority. The relief Sierra Club requests (reversal of the permit or a remand to further investigate) would simply "inure to the benefit" of the members. Therefore, although Sierra Club's members might need to provide affidavits or testimony to establish standing as the proceedings before the circuit court progress, their participation as parties to the suit is not required."

This decision is unanimous (5-0) with opinion authored by Justice DeVaney.

STATE v. TOWNSEND
2021 S.D. 29 – May 6, 2021
Rape conviction upheld

DAKOTANS FOR HEALTH v. BARNETT
2021 S.D. 30 – May 6, 2021
Dakotans for Health denied Mandamus against Secretary of State

HUGHES v. DAKOTA MILL & GRAIN
2021 S.D. 31 – May 13, 2021
Back injury compensable under Work Comp notwithstanding preexisting condition

NELSON v. GARBER
2021 S.D. 32 – May 20, 2021
Public road exists despite lack of obligation of maintenance by County or Township

STATE v. KARI
2021 S.D. 33 – May 27, 2021
DUI Court termination unsuccessfully challenged before Sentencing Court

The Defendant in this case was given a chance to improve her life and avoid prison through participation in the DUI Court Program. She did not succeed and was terminated from the program by the DUI Court. When brought back to the original sentencing court, Defendant sought to challenge the basis of the DUI Court's decision to terminate. Ultimately the Sentencing Court heard evidence which was "substantially similar" to the evidence presented to the DUI Court, revoked probation and sentenced Defendant to 10 years, with 5 years suspended. The SD Supreme Court affirmed in a unanimous (4-0) ruling, with opinion authored by Justice DeVaney. Justice Salter did not participate. This decision reviews the law concerning the "reviewability" of a DUI Court's termination decision by the Sentencing Court.

Decisions are available [here](#).

The USDLaw list serve is designed to facilitate discussion of matters of interest to South Dakota lawyers, law students, judges and others as may be permitted by discretion of the moderator, and is made available through the University of South Dakota (USD). Professor Roger Baron, Professor Emeritus, University of South Dakota School of Law, launched USDLaw in 1997 and continues to serve as operator and moderator. Any views expressed are his personal views which do not reflect the views of USD. If you would like to subscribe, email the moderator [here](#).

The following unofficial case summaries were prepared by the clerk's office and/or the USD ListServe as a courtesy. They are not part of the court's opinion.

SD VOICE v. NOEM
USCA 20-1262, 20-1278 – February 16, 2021
D.S.D. Northern Division

Civil case - Election law. The state defendants appeal the district court's decision permanently enjoining as unconstitutional South Dakota House Bill 1094 regulating ballot-petition circulation, and plaintiffs cross-appeal the district court's failure to decide all of their claims. Held: Defendant's appeal must be dismissed for lack of jurisdiction in light of South Dakota's passage of Senate Bill 180 which substantially changed the ballot-petition process; considering the public interest in permitting the district court's decision to stand, defendants are not entitled to vacatur of the district court's judgment; with respect to the cross-appeal, plaintiffs have an issue pending before the district court and the order they appeal from is not final for purposes of appeal; their cross-appeal is dismissed for lack of a final order. Opinion available [here](#).

UNITED STATES v. BURGEE
USCA 19-3034 – February 24, 2021
D.S.D. Central Division

Criminal case - Criminal law. The district court did not err in applying the "circumstance-specific" approach in determining whether defendant's prior sex offense was a qualifying criminal offense against a minor for SORNA purposes; when determining whether defendant's prior offense involves conduct that by its nature is a sex offense against a minor, a district court may admit any reliable evidence; void for vagueness challenge to 34 U.S.C. Sec. 20911(7)(1) rejected. Opinion available [here](#).

UNITED STATES v. ZEPHIER
USCA 19-2262 – February 25, 2021
D.S.D. Southern Division

Criminal case - Criminal law. Even though defendant had invoked his right to counsel, the district court did not err in admitting his jailhouse statements to investigators because he made them voluntarily after the investigator made a limited and focused inquiry attendant to a legitimate police procedure--presenting defendant with a search warrant and telling him that it authorized the investigator to take DNA sample swabs; the district court's two rulings--admitting expert testimony about the typical behaviors of sexual-assault victims and refusing to admit testimony about whether the victim had been sexually assaulted before--improperly prevented defendant from presenting his complete defense and showing an earlier sexual

assault was the source of the victim's trauma; conviction reversed, and the matter remanded for a new trial. Opinion available [here](#).

UNITED STATES v. SHOULDERS

USCA 19-2832 – February 25, 2021
D.S.D. Western Division

Criminal case - Sentencing. The court need not address whether the district court erred by departing under Guidelines Sections 5K2.1 and 5K2.6 because the district court stated it would impose the same sentence by varying upward under Sec. 3553(a); with respect to defendant's claim that the district court relied on a mistake of fact, defendant must show an obvious error that seriously affected the fairness, integrity, or public reputation of judicial proceedings; and he has failed to do so; there is no reasonable probability the court would have arrived at a different sentence if the defense had clarified the identities of the occupants of the victim's vehicle and their family relations; the district court adequately explained its analysis of the 3553(a) factors and the sentence imposed; defendant's sentence is substantively reasonable. Opinion available [here](#).

UNITED STATES v. MUNG

USCA 19-2798 – March 1, 2021
D.S.D. Western Division

Criminal case - Criminal law and sentencing. Defendant did not raise his objection to the indictment in the district court proceedings and had failed to demonstrate good cause for his failure to timely object to the indictment; however, even if the matter was properly preserved for review, neither the indictment nor the instructions were plainly erroneous concerning a mens rea of reckless disregard as to the age of the child being offered for the charged commercial sex act; the language of the applicable statutory section show Congress interpreted it as permitting conviction when a defendant knows or recklessly disregards the age of the minor; the district court did not err by using the label "sex trafficking" when describing the charged crime in a jury instruction; \$5,000 special assessment was properly imposed where defendant failed to show he had the inability to pay the assessment. Opinion available [here](#).

UNITED STATES v. ZUPNIK

USCA 19-1916 – March 2, 2021
D.S.D. Western Division

Criminal case - Criminal law. The evidence was sufficient to support defendant's conviction for attempted enticement of a minor using the internet, in violation of 18 U.S.C. Sec. 2422(b); the government's evidence was sufficient to rebut defendant's defense of entrapment. Opinion available [here](#).

UNITED STATES v. COOPER

USCA 20-1053 – March 2, 2021
D.S.D. Central Division

Criminal case - Criminal law. The evidence was sufficient to support defendant's conviction for distribution of a controlled substance resulting in serious bodily injury and conspiracy to distribute a controlled substance; no error in admitting "prior acts" evidence under FRE 404(b) as the evidence of past drug transactions and defendant's knowledge of a prior drug overdose resulting from his distribution met all of the requirements for admission; no error in admitting evidence of defendant's prior felony aggravated assault conviction under FRE 609 as it went to defendant's credibility as a witness. Opinion available [here](#).

UNITED STATES v. BURNS

USCA 19-3205 – March 8, 2021
D.S.D. Southern Division

Criminal case - Criminal law. In a wire fraud prosecution concerning defendant's representations to investors in an aquaponics operation, the evidence was sufficient for the jury to find defendant had actual knowledge of the fraud or was willfully blind; the district court did not err, on this record, in giving a willful blindness instruction; the wire fraud instruction did not constitute an impermissible variance from the indictment; claim that the district court should have sua sponte given an explicit unanimity instruction rejected; defendant waived the issue of an individual poll of the jurors when his counsel declined the judge's offer to conduct such a poll. Opinion available [here](#).

LORING v. UNITED STATES OF AMERICA

USCA 20-2137 – March 10, 2021
D.S.D. Southern Division

Civil case - Federal Tort Claims Act. Order granting defendant summary judgment affirmed without comment. Opinion available [here](#).

UNITED STATES v. BROECKER

USCA 19-3661, 20-1122 – March 12, 2021
D.S.D. Southern Division

Criminal case - Criminal law and sentencing. The district court did not err in denying defendant's motion to withdraw her guilty plea; defendant's issue concerning her sentence was within the scope of her knowing and voluntary appeal waiver and would not be considered on appeal. Opinion available [here](#).

UNITED STATES v. ADAMS

USCA 19-3543 – March 22, 2021
D.S.D. Central Division

Criminal case - Criminal law and sentencing.

The evidence was sufficient to support defendant's drug conspiracy conviction; in light of the overwhelming evidence of defendant's guilt, his challenge to the admission of certain text messages, letters, and recorded jail phone calls with a co-conspirator is rejected as admission of the materials did not affect defendant's substantial rights or have anything but a slight effect on the verdict; the court did not err in attributing between 1.5 and 5 kilos of methamphetamine to defendant; nor did the court err in imposing a two-level enhancement under Guidelines Sec. 2D1.1(b)(15)(E)(2016) for committing the offense as part of a pattern of criminal conduct engaged in as a livelihood. Opinion available [here](#).

MEIERHENRY SARGENT v. WILLIAMS

USCA 19-3323, 19-3589 – March 24, 2021
D.S.D. Southern Division

Civil case - Arbitration. For the court's prior opinion in the matter, see *Meierhenry Sargent LLP v. Williams*, 915 F.3d 507 (8th Cir. 2019). The district court had authority to clarify its original order to make clear that its restriction on the arbitration of counterclaims applied to a breach-of-contract claim too; the court lacks jurisdiction to consider the other claims raised on appeal. Judge Colloton, concurring. Opinion available [here](#).

UNITED STATES v. BROWN

USCA 19-3793 – March 26, 2021
D.S.D. Northern Division

Criminal case - Criminal law and sentencing.

The evidence was sufficient to establish that defendant was the driver of the vehicle involved in the one-car accident that killed one of his passengers; as to defendant's contention that if the government did prove he was the driver, it failed to prove he acted with wanton or reckless disregard for human life; the government showed defendant was highly intoxicated and that, alone, is sufficient for a jury to find defendant drove in a grossly negligent manner; other facts surrounding the accident also showed defendant drove in a grossly negligent manner, and the district court did not err in denying his motion for a judgment of acquittal; the district court did not err in imposing an upward departure based on under-represented criminal history; the court's decision to reject defendant's plea for leniency based on this record was not a procedural error, much less a plain error; the district court provided a more than adequate explanation of its sentencing decision, and considered the 3553(a) factors; the sentence was not substantively unreasonable. Opinion available [here](#).

WALKER v. BARNETT

USCA 20-2870 – April 2, 2021
D.S.D. Southern Division

Civil Case - election law. Adverse grant of summary judgment in challenge to South Dakota election laws is summarily affirmed without comment. Opinion available [here](#).

ENGESSER v. FOX

USCA 19-3232 – April 7, 2021
D.S.D. Western Division

Civil case - Civil rights. In action alleging defendants had violated plaintiff's civil rights by recklessly investigating a fatal one-car accident and prosecuting him as the driver, there was no evidence to show defendant Trooper Fox recklessly or purposefully ignored two eyewitnesses which indicated the passenger in the vehicle may have been driving as the statements did not fit with the evidence at the scene of the crime and any failure to undertake further questioning or investigation was at most negligence and did not shock the conscience; defendant officers' decision to leave the car at an impound lot did not rise to the level of reckless or purposeful misconduct and their actions did not demonstrate that the officers recklessly or purposefully destroyed evidence; because plaintiff cannot establish a constitutional violation on the part of the officers, his claim for supervisory liability fails, as does his conspiracy claim. Judge Colloton, concurring in part and concurring in the judgment. Opinion available [here](#).

UNITED STATES v. WHITE MOUNTAIN

USCA 20-1081 – April 7, 2021
D.S.D. Northern Division

Criminal case - Criminal law. The evidence was sufficient to support defendant's convictions for sex offenses; no error in admitting defendant's Facebook communications; Speedy Trial Act claim rejected; no error in denying defendant's motion for a bill of particulars. Opinion available [here](#).

UNITED STATES v. OAKIE

USCA 20-1118 – April 12, 2021
D.S.D. Central Division

Criminal case - Criminal law and sentencing. In this prosecution for abusive sexual contact with a child, where the government introduced evidence of a prior sexual assault accusation against the defendant, the district court did not err in refusing to admit evidence that defendant had been acquitted of the charge as the evidence of acquittal was irrelevant, violated the hearsay rule and was not admissible as impeachment evidence; nor did the court err at sentencing in treating the prior abuse incident as part of a pattern of activity

involving prohibited sexual conduct for purposes of Guidelines Sec. 4B1.5(b); the court could consider the incident once it found that it had been established by a preponderance of the evidence. Opinion available [here](#).

WALKER v. BARNETT

USCA 20-3199 – April 12, 2021
D.S.D. Southern Division

Civil case - Civil rights. Dismissal affirmed without comment. Opinion available [here](#).

UNITED STATES v. JANIS

USCA 20-1077 – April 27, 2021
D.S.D. Western Division

Criminal case - Criminal law and sentencing. The district court did not abuse its discretion or improperly vouch for witnesses by explaining Criminal Rule 35 after defense counsel made several references to it while cross-examining the government's witnesses; the district court did not clearly err by relying on trial testimony in calculating the drug quantity attributable to defendant for sentencing; the district court did not err in imposing the standard condition of supervised release which requires a supervised person, when directed by the probation officer, to notify a person that defendant may present a risk to that person, as this standard condition is neither unconstitutionally vague nor an impermissible delegation of power. Opinion available [here](#).

UNITED STATES v. ARREDONDO

USCA 20-1382 – May 10, 2021
D.S.D. Western Division

Criminal case - Criminal law. The plain view exceptions did not apply to an officer's warrantless seizure of pill vials as the incriminating character of the vials was not immediately apparent; the district court did not err in granting defendant's motion to suppress the vials. Judge Gruender, dissenting. Opinion available [here](#).

EAST v. DOOLEY

USCA 20-3113, 20-3144 – May 10, 2021
D.S.D. Southern Division

Prisoner case - Prisoner civil rights. Orders granting one defendant's motion to dismiss and the other defendants' motion for summary judgment affirmed without comment. Opinion available [here](#).

UNITED STATES v. CATHEY

USCA 20-1421, 20-1519 – May 18, 2021
D.S.D. Southern Division

Criminal case - Criminal law. The evidence was sufficient to show beyond a reasonable doubt

that the drugs defendant Phillips distributed were the sole cause of serious bodily injury to two subsequent users; evidence was sufficient to support Cathey's convictions for conspiracy and distribution of drugs resulting in serious injury or death; no error in admitting hearsay statement from co-conspirator; court's remedy to correct any possible violation of the sequestration order was not an abuse of its discretion; the district court did not abuse its discretion in determining that the NCIC records admitted to establish Cathey's prior convictions were sufficient to prove the convictions for sentencing purposes. Opinion available [here](#).

ZOKAITES v. CITY OF SIOUX FALLS

USCA 20-3338 – May 20, 2021
D.S.D. Southern Division

Civil case - Civil rights. The district court did not err in granting the City's motion for summary judgment as plaintiff failed to establish a genuine issue of material fact as to whether the City of Sioux Falls had a policy or custom that caused the alleged constitutional violations, as required to hold the City liable. Opinion available [here](#).

UNITED STATES v. LOPEZ

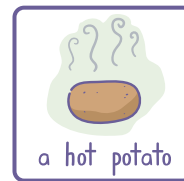
USCA 19-50305 – May 21, 2021
** Southern District of California **

Criminal case - Criminal law and sentencing. The panel affirmed the district court's imposition of a sentence pursuant to the safety valve set forth in 18 U.S.C. § 3553(f), which allows a district court to sentence a criminal defendant below the mandatory minimum for certain drug offenses if the defendant meets the criteria in § 3553(f)(1) through (f)(5). In the First Step Act of 2018, Congress amended § 3553(f)(1), which focuses only on a criminal defendant's prior criminal history as determined under the United States Sentencing Guidelines. As amended, § 3553(f)(1) requires a defendant to prove that he or she "does not have" the following: "(A) more than 4 criminal history points... (B) a prior 3-point offense... and (C) a prior 2-point violent offense." Applying the tools of statutory construction—including § 3553(f)(1)'s plain meaning, the Senate's own legislative drafting manual, § 3553(f)(1)'s structure as a conjunctive negative proof, and the canon of consistent usage—the panel held that § 3553(f)(1)'s "and" is unambiguously conjunctive. Concurring in part, dissenting in part, and concurring in the judgment, Judge M. Smith joined the majority in holding that a defendant's criminal history must satisfy all three subsections of § 3553(f)(1) for that individual to be ineligible for safety valve relief. Disagreeing with the majority's interpretation of § 3553(f)(1)(C), he wrote that reading a "prior 2-point violent offense" as "a prior violent offense of at least 2 points" is not faithful to the plain text of that provision. Opinion available [here](#).



GRAMMAR CHECK: Do You Know Your Animals?

by Karen J. Armstrong, PP, PLS



This isn't really a grammar "lesson," but it's more of a fun little quiz about "idioms." I don't know about you, but I don't remember learning about "idioms" in grade school. My little 8-year-old grandson came home one night and told me he had learned about idioms in school that week—he is in second grade. (Maybe that's why I don't remember—second grade was a long, LONG time ago!) For those of you who don't remember, like me, an "idiom" is a commonly used expression, the meaning of which you would not be able to figure out from the meanings of the individual words contained in the expression.

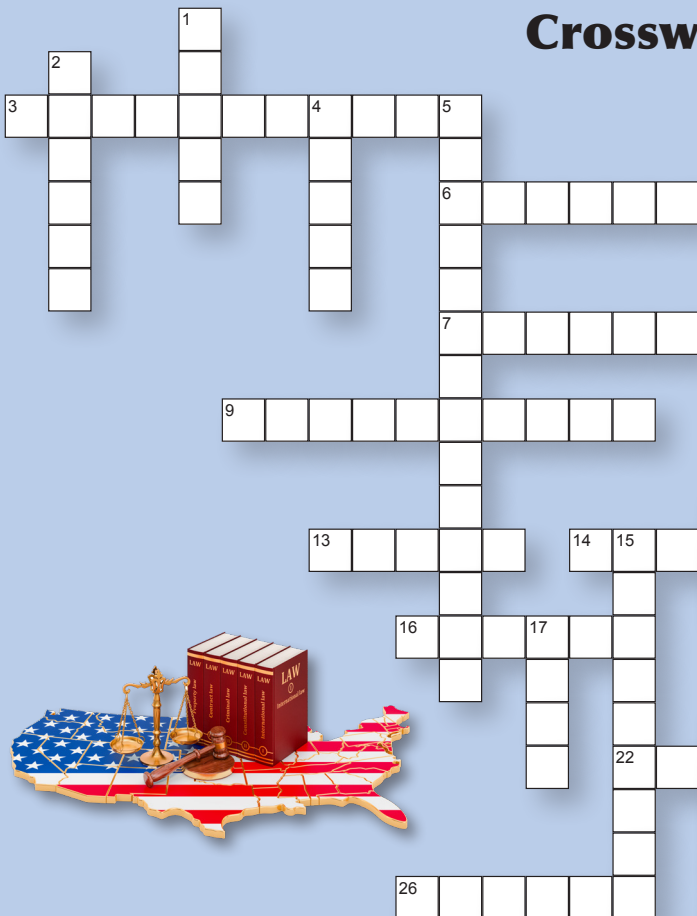
I recently thought about how many of our English phrases or "idioms" that we commonly use contain references to animals. See how many you can name.

All the answers contain a definition of the phrase. Some also contain an interesting description of how the phrase came to be.

1. a wild _____ chase
2. a _____ in the ointment
3. a _____ can't change its spots
4. a _____ in sheep's clothing
5. a woman needs a man like a _____ needs a bicycle
6. as fine as _____'s hair
7. shed _____ tears
8. don't look a gift _____ in the mouth
9. _____ in the room
10. has the _____ got your tongue?
11. _____ court
12. the _____ has turned
13. eat _____
14. the world is your _____
15. mad as a _____
16. watching like a _____
17. _____ eyes
18. _____ around your neck
19. lower than a _____'s belly in a wagon rut
20. scarce as _____'s teeth

How many did you know? I intentionally included some I had never heard before that I thought were humorous. Answers are on page [11](#). If you have any suggestions for future articles, please let me know @ Karen@SchoenbeckLaw.com.

Crossword: U.S. CONSTITUTION



ACROSS

3. _____ of rights
6. Article 2, Sec 2, Clause 2
7. _____ and Consent
9. Privileges and _____
10. _____ Article VI, Section 2
13. Full _____ and credit
14. _____ of powers
16. _____ Jeopardy
18. Amount of due process clauses
20. Article I, Sec 9, Clause 8
22. Article _____, Judicial Branch
23. _____ Commerce
25. 30 years minimum age for
26. We the _____

DOWN

1. _____ Amendment (freedom of assembly)
2. _____ Amendment (right to bear arms)
4. _____ Amendment (quartering of troops)
5. Article 1, Sec 8, Clause 4
8. Article _____ (how to amend)
11. Equal _____
12. _____ Powers
15. _____ branch
17. _____ of Rights
19. 19th Amendment (right of _____)
21. _____ and unusual punishment
24. 18th amendment prohibits

Answers on page [11](#).



Fifth Judicial Circuit *Gregg Magera appointed to replace Justice Myren*

Governor Kristi Noem announced on March 8, 2021, her appointment of Gregg Magera to serve as judge for the Fifth Judicial Circuit. "Gregg has spent his life in the pursuit of justice, first in private practice and then as a magistrate

judge," said Governor Noem. "I appreciate his willingness to serve the public and I know he will be an excellent circuit judge." "I am humbled and honored for the opportunity to serve as a Circuit Court Judge," said Judge Magera.

Magera served previously as a magistrate judge in the Fifth Circuit. A Yankton native, Magera earned his bachelor's degree and his law degree from the University of South Dakota. Following service as a law clerk, he joined Siegel, Barnett & Schulz in Aberdeen in 1991, where he became a partner and practiced until his appointment as magistrate judge in 2019.

Magera enjoys tennis, hunting, fishing, and playing violin in the Aberdeen University Civic Symphony. He and his wife, Barbara, have two daughters, Katie and Emily.

The Fifth Judicial Circuit Court is served by four circuit judges and one magistrate and covers Brown, Campbell, Day, Edmunds, Faulk, Marshall, McPherson, Roberts, Spink, and Walworth counties. Magera succeeds Scott P. Myren, whom Governor Noem appointed to the South Dakota Supreme Court in January.



Second Judicial Circuit *Wade E. Warntjes appointed as Magistrate*

Presiding Judge Robin J. Houwman is pleased to announce that the South Dakota Supreme Court has approved the appointment of Attorney Wade E. Warntjes as Magistrate Judge for the Second Judicial Circuit, Lincoln and

Minnehaha Counties. Attorney Warntjes will fill the seat vacated by the upcoming retirement of Magistrate Judge Patrick Schroeder.

Warntjes was born and raised in Rock Rapids, Iowa, and has resided in Sioux Falls for the last 23 years. Warntjes graduated from the University of South Dakota with a degree in Finance and earned his JD/MBA joint degree from USD Law School and the Beacom School of Business. Warntjes began his legal career working for the Minnehaha County Public Defender's Office. He then transitioned to private practice with Lynn, Jackson, Shultz & Lebrun, and most recently served as the Senior Staff Attorney for the South Dakota State Penitentiary's five adult campuses.

Warntjes and his wife have three adult sons and are currently raising their niece in Sioux Falls. Judge Warntjes will take the bench on Wednesday, June 9, 2021, with a formal swearing-in ceremony to follow sometime thereafter at the Minnehaha County Courthouse in Sioux Falls.

GRAMMAR CHECK *Answers*

1. Goose. An undertaking most likely to prove fruitless. 2. Fly. A small but irritating flaw that spoils the whole container of ointment. This phrase comes from the book of Ecclesiastes in the Bible. 3. Leopard. Suggests that people or things cannot change or disguise their innate nature. This also comes from the Bible, in the book of Jeremiah. 4. Wolf. Someone or something appearing kind or harmless, but that is really dangerous and out to harm you. This phrase is found in both the Bible in the book of Matthew, and also in Aesop's Fables. 5. Fish. A feminist slogan expressing that a woman can live her life perfectly well without a man. 6. Frog. This phrase means "extremely fine" or "delicate and slender." It is used most often to describe a person's own excellent physical or mental state. (By the way, if you ever see hair on a frog, please take a picture of it and send it to me!) 7. Crocodile. A false or insincere show of sorrow or regret. It comes from the legend that crocodiles weep while devouring their prey. (Those don't sound like remorseful tears to me!) Crocodiles apparently blow out large quantities of air while eating and that can cause their eyes to tear up. 8. Horse. This old phrase means you shouldn't find fault with or be ungrateful when you receive a gift. A horse's age can be determined by inspecting its teeth. They grow over time, so the longer a horse's teeth are, the older the horse is. So by looking a gift horse in the mouth, it could be considered rude because the recipient is examining the horse to see how old it is, and it might be so old that they don't even want it. (This is also where the phrase "long in the tooth" comes from!) 9. Elephant. Something obvious and important is being ignored by everyone present because to discuss it would be awkward or uncomfortable. 10. Cat. Someone is being quiet when they are expected to speak, or the person is at a loss for words. Its origin is apparently from the 18th century when the English Royal Navy had a practice of whipping misbehaving sailors with a whip that had nine endings. After receiving a beating, the sailor would lay in a corner and the other shipmates would tease him by saying, "Did the cat get your tongue?" (referring to the whip with nine endings). Another possible origin comes from ancient Egyptians who worshiped cats. Liars and blasphemers who spoke out of turn, lied, or said something against the government or established religion were punished by having their tongues cut out and fed to the cats! Those people obviously never lied or blasphemed again, and the religious elite and royalty maintained their power. (I'm sure glad I didn't live back then! That's a drastic way to silence someone! There would be a lot of "tongueless" people today if that's how people were punished!) 11. Kangaroo. An unauthorized, bogus court held by a group of people in order to try someone who is thought of, especially without good evidence, as being guilty of a crime. This self-appointed or mob-operated tribunal is set up to give the impression of a fair legal process, but it disregards existing principles of law or human rights so that a fair trial is impossible. It is thought that the origin of the phrase came from Australia, but no one seems to know for sure. 12. Worm. The situation has been turned around or reversed. 13. Crow. It means you are humiliated by having to admit you were wrong. 14. Oyster. This phrase means you have many good opportunities in front of you. 15. Hornet. If someone is as "mad as a hornet," they are furious. Look out! 16. Hawk. If someone is watching you like a hawk, you are being watched very, very closely. 17. Eagle. If you have "eagle eyes," it means you are very focused on details, and nothing gets past you. 18. Albatross. An albatross is a large sea bird. There is an old poem about a sailor who shoots a friendly albatross, and as punishment, he is forced to wear its carcass around his neck. It means that you carry a heavy burden for something you did wrong. 19. Snake. You can't get much lower than a snake's belly! A snake's belly in a wagon rut is even lower! This phrase describes someone who has very low morals, or something that is extremely low. 20. Hen. Hens don't have teeth! So if you find something as scarce as hen's teeth, you have found something exceptionally rare. The phrase can also be used to suggest that something is nonexistent.

CROSSWORD *Answers*

ACROSS

3. Reservation
6. Treaty
7. Advice
9. Immunities
10. Supremacy
13. Faith
14. Separation
16. Double
18. Two
20. Emoluments
22. Three
23. Interstate
25. Senator
26. People

DOWN

1. Second
2. First
4. Third
5. Naturalization
8. Five
11. Protection
12. War
15. Executive
17. Bill
19. Women
21. Cruel
24. Alcohol

AUDIT

Chair: Paula Newman
PNewman@AustinLawSD.com
Member: Dixie A. Bader, CP
Cindy Schmit, ACP

The committee has reviewed the credit card and bank statements from CorTrust Bank through April 30, 2021, and found them to be without error.

CLE LUNCHEON

Chair: Jessi Stucke, ACP
JStucke@rwwsh.com
Members: Clara Kiley, CP
Cindy Smeins, ACP
Nicole Mayer, CP
Laura Stewart
Janet Miller, ACP
Courtney Vanden Berg, CP
Paula Newman
Val Winegar, CP
Jackie Schad, ACP

The committee will be determining dates for two CLE lunches this year, probably late in the summer and after the October seminar. We will be looking for speakers who are willing to present either in person or through GoToMeeting. If you are interested in presenting or have someone to recommend, please talk to a committee member.

EDUCATION

Chair: Rebekah M. Mattern
RMattern@LynnJackson.com
Members: Dixie A. Bader, CP
Stephanie Bentzen
Autumn Nelson, CP
Susan Rasmussen, ACP
Jessi Stucke, ACP
Courtney Vanden Berg, CP

The Education Committee has been busy planning the June 2021 Annual Meeting and Seminar, which is set to take place at the Sioux Falls Convention Center on June 18, 2021. You can find the Registration Form on page 4, and the Agenda on page 5 of this newsletter. As in years past, we have set up Facebook events for the seminar and social, so please be on the lookout for those. As a reminder, you do not have to be a member of the SDPA to attend the seminar, so please feel free to circulate the registration form to any individuals you know who may want to attend. We will be requesting 6 hours of CLE credits (including 1 hour of ethics credit) from NALA for the seminar. The committee is always on the lookout for new training topics and ideas, so if you have any recommendations on topics, speakers, or ways to improve our seminars, feel free to reach out to Education Committee Chair Rebekah Mattern.

FINANCE

Diane Burns, ACP
Diane@RedstoneLawFirm.com

Committee report to be provided at the Annual Meeting on June 18.

ETHICS

Co-Chairs: Jennifer Frederick, CP
Jen@SchoenbeckLaw.com
Vikki Kelner, ACP
vlk@CostelloPorter.com
Janet Miller, ACP
JMiller@sbsLaw.net
Member: Dixie A. Bader, CP

Nothing to report.

JOB BANK

Chair: Laura Stewart
LStewart@FullerAndWilliamson.com
Members: Kayne Larimer, ACP
Ashly Luke
Jackie Schad, ACP
Jessi Stucke, ACP

Abbreviated job listings are on page 13. The actual postings are available on our website [here](#). If you are an employer or know of an employer seeking legal staff, please contact Laura.

LIBRARY

Clara Kiley, CP
PKiley@msn.com

The library has had one member and one non-member check out a seminar recording since the last report.

Both the October 2019 seminar and the October 2020 webinar recordings are now available to check out. A recording of the June 2021 seminar should be available soon after the first of July. Recordings of these and other previous seminars can be checked out by SDPA members for \$35 or \$50 for non-members, plus postage. If there are seminars you were not able to attend but would like to view for CLE credit, contact the SDPA librarian so we can get the DVDs out to you.

MEMBERSHIP

Chair: Jackie Schad, ACP
Jackie.Schad@JohnsonEiesland.com
Members: Autumn Nelson, CP
Jessi Stucke, ACP

Committee report to be provided at the Annual Meeting on June 18.

PROFESSIONAL DEVELOPMENT

Chair: Nicole Mayer, CP
NicoleMayer74@outlook.com
Members: Janet Miller, ACP
Autumn Nelson, CP

Committee report to be provided at the Annual Meeting on June 18

NEWSLETTER

Chair: Jessi Stucke, ACP
JStucke@rwwsh.com
Members: Karen Armstrong, PP, PLS
Amanda Bain, CP
Jennifer X. Frederick, CP
Jessica Huyck, ACP
Val Winegar, CP

We hope you enjoyed this edition of SDPA's *Reporter*. If you are interested in contributing information or articles for future issues, please contact us! We welcome tips and suggestions so that we can continue to provide you information to help you in your daily work and for your career.

NOMINATIONS & ELECTIONS

Chair: Cindy Schmit, ACP
CindySmeinsSchmit@gmail.com
Member: Chris Lillo, ACP

The officers elected to begin their term following the Annual Meeting in June of 2021, are:

Jessi Stucke, ACP – President
Autumn Nelson, CP – 1st Vice President
Christal Schreiber – 2nd Vice President
Valerie Winegar, CP – Secretary
Clara Kiley, CP – Treasurer
Cindy Wooten, ACP – NALA Liaison

PUBLIC RELATIONS

Chair: Vicki Blake, CP
Vicki@ddLawSD.com
Members: Jennifer Frederick, CP
Val Winegar, CP

The committee ended up not being able to deliver cookies to the Lincoln and Minnehaha county clerks this year due to Covid protocols. The committee hopes to resume this service next year. The committee also thanks everyone who helps us with our activities.

WEBSITE

Chair: Jessica Huyck, ACP
jessica.huyck@SDstate.edu
Member: Jessi Stucke, ACP

The Website Committee submitted a proposal to the Executive Committee for the rebuild of SDPA's website and received its approval. We hope to have an option for online payment in place prior to the annual seminar, so please watch for more details on this.

Job Bank

Complete postings are listed on our [website](#). If you are aware of open positions, please contact Job Bank Chair, Laura Stewart, at LStewart@FullerAndWilliamson.com



Trust Administrative Specialist RAPID CITY

WEALTH ADVISORS TRUST COMPANY is hiring a specialist to assist with the administration of trust accounts.

...

Paralegal/Legal Assistant RAPID CITY

WILLIAMS LAW is seeking a full-time, experienced individual for a law firm that specializes in divorce and custody cases. Needs to be self-motivated.

...

Receptionist/Secretary RAPID CITY

ANKER LAW GROUP is seeking a part-time individual. This position could turn into full-time. Needs to have Microsoft and Windows experience.

...

Paralegal RAPID CITY

WILLIAMS LAW is seeking a full-time, experienced individual for a law firm that specializes in divorce and custody cases. Needs to be self-motivated.

...

Paralegal RAPID CITY

MONUMENT HEALTH HOSPITAL is hiring for their legal department.

...

Legal Assistant/Paralegal SIOUX FALLS

ALVINE & WEIDENAAR is seeking an experienced legal assistant/paralegal to work directly with attorneys in a fun, fast-paced environment. This successful and growing law firm specializes in personal injury and workers' compensation claims.

...

Transactional Paralegal SIOUX FALLS

GOOSMAN LAW is hiring an experienced full-time paralegal for the transaction practice area and trust law counsel group.

...

Paralegal/Legal Assistant ABERDEEN

BANTZ, GOSCH & CREMER has a full-time opening. Legal experience is preferred.

...

Paralegal/Legal Assistant/Advocate PINE RIDGE

DAKOTA PLAINS LEGAL SERVICES (DPLS), a non-profit legal services program, has an opening for a paralegal (tribal advocate) position in their Pine Ridge office. This location serves the Pine Ridge Indian Reservation and Oglala Lakota, Bennett, and Jackson counties.

Homemade Instant Oatmeal

by Autumn Nelson, CP

I love having oatmeal for breakfast, but I found that the instant packets bought in the store most often have a lot of added sugar. I decided to make my own version of instant oatmeal, and this is what I came up with! This recipe is super easy to customize and is very easy to prep ahead of time.

Ingredients

- 1/2 c. oats
- 1/2 c. fruit, frozen
- 1 tsp. brown sugar
(more or less, to your liking)
- 1 tbsp. nuts
(your choice)



Instructions

The containers I use are 1 cup glass bowls. I prep each bowl with the ingredients listed above and keep them in the fridge. When it is time to eat them, I do one of two things:

1. If I cook the oatmeal, I add water up to about the halfway mark on the bowl and microwave for 45 seconds. Let sit for a minute to soak up the water. I then fill the cup up with milk and stir it all together. I like mine a bit more liquid-y than dry, so you can also adjust this to your liking. If you do not like milk, you can do the same with water and just adjust it accordingly.
2. If I'm crunched on time, I do not microwave. I just fill the cup with milk to the top and have cold oats.

Notes

It may take a few tries to get the liquid to dry ratio the way you like, so don't despair if the method above doesn't work for you. You can also add in different things like raisins, flax and/or chia seeds, etc. Keep playing with the recipe and you will get it exactly how you like it!

GOOD FOR YOU

Shelli L. Gust ACP

Shelli recently obtained her Advanced Certified Paralegal credential in Criminal Litigation.

Jessi N. Stucke ACP

Jessi recently obtained her Advanced Certified Paralegal credential in Trial Practice.

SUBMISSIONS

The Reporter is published quarterly. Submissions are due to ReporterSubmissions@gmail.com by:

January 31 March
July 31 September
April 30 June
October 31 December

ADVERTISING

Rates are per issue and include sales tax:

Full Page \$53.²⁵
Half Page \$31.⁹⁵
Quarter Page \$21.³⁰
Business Card \$15.⁹⁸

Inquiries: Jessi N. Stucke, ACP
[@JStucke@rwwsh.com](mailto:JStucke@rwwsh.com)



[CLICK HERE for COMPLETE INFORMATION](#)

NALA released new editions of the CP study materials to correspond with the current testing format.

Part 1	KNOWLEDGE Exam
Available year-round at PSI testing centers. Contact your chosen testing center for availability.	

- Administered on-demand, year-round at testing centers with preliminary results upon completion.
- 120* multiple-choice questions covering the topics listed in Appendix A online. *Only 100 questions will be scored.*
- Subjects addressed:
 - Corporate/Commercial Law
 - Criminal Law & Procedure
 - Estate Planning & Probate
 - Real Estate & Property
 - Professional & Ethical Responsibility
 - U.S. Legal System
 - Civil Litigation
 - Contract Law
 - Torts

Candidates must successfully complete the Knowledge Exam in order to be eligible to take the Skills Exam.

- Candidates must wait at least two weeks after passing the Knowledge Exam to take the Skills Exam.

Part 2	SKILLS Exam
Candidates are eligible two weeks after passing the Knowledge Exam.	

- Administered four times each year: February, April, July, and October.
- Written assignment (see Appendix A online).
- Written submissions will be evaluated according to the following criteria:

WRITING

- Grammar, Spelling & Punctuation
- Clarity of Expression

CRITICAL THINKING

- Reading Comprehension
- Analysis of Information
- Decision Making

Re-Testing

Candidates who do not pass the Knowledge Exam must wait 90 days before re-taking it. Candidates must pass each exam within the first three attempts at each exam during a 365-day period or wait 365 days before trying again.



[CLICK HERE for COMPLETE INFORMATION](#)

ACP certification is available for Certified Paralegals and is focused on mastery of any of the following law specialties.

Courses are self-study, web-based modules. The courses include presentations(s), detailed exercises, and a final assessment exam. Courses average 20 hours to complete.

Self-Study / Web-Based
Online course module, detailed exercises and assessment.

NALA has converted some ACP courses to its new online platform. The following focus areas are available at this time:

BUSINESS ORGANIZATIONS: Incorporated Entities

CRIMINAL LITIGATION

DISCOVERY

E-DISCOVERY

FAMILY LAW:

- Adoption & Assisted Reproduction
- Child Custody, Child Support, Visitation
- Dissolution Case Management
- Division of Property & Spousal Support

LAND USE

REAL ESTATE PRINCIPLES

TRIAL PRACTICE

Returning Soon:

BUSINESS ORGANIZATIONS: Non-Corporate Entities

COMMERCIAL BANKRUPTCY

CONTRACTS MANAGEMENT

ESTATE PLANNING

PERSONAL INJURY

- Automobile Accidents
- Entity Medical Liability
- Individual Medical Liability
- Intentional Torts
- Premises Liability
- Product Liability
- Worker's Compensation
- Wrongful Death

TRADEMARKS