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REPORTER



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The *Paralegal-Client* RELATIONSHIP

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**SEMI-ANNUAL
Social, Seminar
& Meeting**

OCTOBER 14-15, 2021
Deadwood Mountain Grand

**CLE AGENDA &
REGISTRATION**

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**MEETING NOTICE
& AGENDA**

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President's Message

Jessi N. Stucke, ACP



Executive Committee

PRESIDENT

Jessi N. Stucke, ACP

JStucke@rwwsh.com

1st VICE PRESIDENT

Autumn Nelson, CP

NelsonA@GoosmannLaw.com

2nd VICE PRESIDENT

Christal Schreiber

Christal@XtremeJustice.com

SECRETARY

Dixie A. Bader, CP

Dixie@BurdAndCarper.com

TREASURER

Clara Kiley, CP

PCKiley@msn.com

NALA LIAISON

Cindy Wooten, ACP

Cindy.Wooten@Midco.com

Thank you for this opportunity to serve as President of SDPA for the 2021-2022 term. It has been a privilege to serve on the Executive Committee for the previous two years under Vicki Blake, CP, and Dixie Bader, CP. They set great examples of the dedication and diligence it takes to manage our organization, and I hope to do the same. For those of you I don't know as well, let me tell you briefly about myself. I live in Aberdeen, and have worked at Richardson, Wyly, Wise, Sauck & Hieb since November 2014. I joined SDPA and NALA in 2015, and obtained my CP designation in July 2016. I obtained my ACP designation earlier this year in Trial Practice. My husband, Chris, and I have two children. Evin (13), and Adeline (7).

The new Executive Committee went to work following June's annual meeting. Several members were shared their hopes and ideas for increasing our membership and adding value to the benefits we already enjoy as members. We focused first on becoming familiar with our roles, and we're now ready to move forward. We have some ideas of our own, too, and are looking forward to sharing those with you at the upcoming Semi-Annual Seminar & Meeting in Deadwood.

Next, we want to recognize several members who deserve appreciation for the time they've spent on SDPA's behalf. Val Winegar has served as our Secretary for several years and has faithfully done a wonderful job. Due to personal reasons she resigned this summer, and the Executive Committee supports her in her decision. We miss her, but we wish her the best. Dixie Bader (Past President) heard this news and immediately volunteered to fill the position for the remainder of the term. We are very lucky to have her back on board. Jen Frederick (Past President) volunteered to rejoin the Newsletter Committee and handle layout of this newsletter for the next three issues. For those of you who don't know, Jen served as Chair of the Newsletter Committee for several years prior to her term as President. She has been hard at work getting ready to take over for the December issue. Courtney Vanden Berg, our Member of the Year, volunteered to take over the Librarian position for Clara Kiley, now that Clara has begun her two-year term as our Treasurer. Jessica Huyck (Past President) has been working hard on the re-design of our website, which went live this summer. Finally, we thank Cindy Smeins (Past President) and Chris Lillo (Past President) for their securing a new slate of officers for election in October to the 2022-2023 Executive Committee.

Congratulations are also due! Shelly Tyndall obtained her third ACP in Real Estate Principles, and former members Carla Glynn and Christi Weideman (Past President) both received news last week that they passed the bar exam. They'll be sworn in at the Brown County courthouse in a matter of days. These ladies are a testament to the paralegal profession and SDPA in particular.

Finally, as I mentioned earlier, our Semi-Annual Seminar & Meeting is coming up soon. We will be at the Deadwood Mountain Grand! The social will be held on Thursday, October 14, from 6-8pm, and we will provide details on that as we get closer to the date. The seminar and meeting will be held on Friday, October 15. The details are listed below. Registration information is located on page 4, and you'll note that the Education Committee directs you to register on our new website! This was something we've been wanting to offer for some time and the first batch of registrations are in. We hope you'll join us in Deadwood or attend live online!



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

Pursuant to the Bylaws (Article VI, Section 2), notice of the South Dakota Paralegal Association's 2021 Semi-Annual Meeting was given by President Jessi N. Stucke, ACP, via email on September 3, 2021. The 2021 Semi-Annual Meeting will be held on Friday, October 15, 2021, commencing at 11:20 a.m. MST at the Deadwood Mountain Grand in Deadwood, South Dakota, and via GoToMeeting. Prior to the meeting, members who have registered to attend virtually will receive the GoToMeeting login credentials via email. The purpose of the semi-annual meeting is to hear reports of officers and committee chairpersons, to adopt a budget for fiscal year 2022, to elect officers for the 2022-2023 Executive Committee, and to transact such other business that may come before the members.

Pursuant to the Bylaws (Article VIII), the Nominations & Elections Committee has submitted a slate of officers for election at this meeting, as follows:

- Autumn Nelson, CP -- President
- Christal Schreiber -- 1st Vice President
- Cindy Wooten, ACP -- 2nd Vice President
- Sarah Havlin ACP -- NALA Liaison
- Clara Kiley, CP -- Treasurer
- Shelly Tyndall, ACP -- Secretary

Jessi N. Stucke, ACP
SDPA President

CALENDAR

September

- 10 Inaugural SD Land & Lending Conference
Denny Sanford Premier Center, Sioux Falls
[Register here](#)
- 15 * Increase Capacity Without 12pm
Adding People, Money, or Time
- 17 + Estate Planning..... 8:30am-12pm
Ramkota, Sioux Falls [Register here](#)
- 17 + Keep Calm and be Cybersmart 1-4pm
Ramkota, Sioux Falls [Register here](#)
- 22 * The Evolving State of Privacy Law.. 12pm
- 28-29 21st Annual Community 8am-5pm/
Response to Child Abuse 8am-12pm
Conference (Virtual) [Register here](#)
- 29 * The Paralegal Role in Preparing..... 12pm
for Multi-Day Criminal Jury Trials

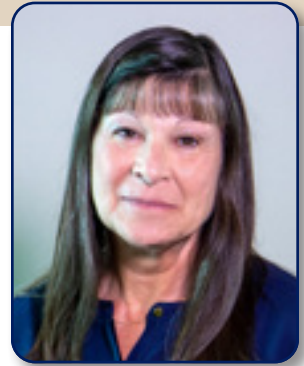
October

- 13 * Health Insurance Liens and..... 12pm
Medicare Compliance
- 14 SDPA Social 6-8pm MDT
TBD, Deadwood
- 15 SDPA Semi-Annual 7:30am-3:30pm MDT
Seminar & Meeting [Register here](#)
Deadwood Mountain Grand, Deadwood
- 22 + State Bar Nuts & Bolts (TBD) TBD
TBD, Pierre

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

NALA Liaison's Report

Cindy Wooten, ACP



The South Dakota Paralegal Association has close to 100% participation in NALA. There are several benefits to being a member of NALA, to name a few.

Members receive:

1. NALA's quarterly magazine, *Facts & Findings*, which features educational and informative articles.
2. NALA's annual *Utilization and Compensation Report*, which can help paralegals negotiate compensation and benefits.
3. Discounted rates on NALA CLE webinars.
4. \$80.00 Gift Certificate toward NALA CLE webinars.
5. Discounts on products and services such as office supplies, car rentals, identity theft protection, and more.

Members have access to:

1. The job board with openings throughout the United States. Currently there are 70 job postings on the board. It also offers career tips.
2. SimpleLaw, an online platform for contract paralegals (or those that wish to be contract paralegals), where they can grow their contract income opportunities.
3. NALA Commons, a private, member-only collaboration site.
4. Complimentary member education, where members have access to select education courses and programs at no cost.

NALA has been offering the Certified Paralegal ("CP") credential since 1979 and the Advanced Certified Paralegal ("ACP") credential since 2006. These credentials are the national professional standard for paralegals. Per the NALA website, the average salary increase with the CP credential is \$4,880. NALA also offers a variety of educational courses including, self-study courses, webinars, and its annual conference. It is a great organization with a plethora of benefits for its members.



MISSION STATEMENT

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.

DID YOU KNOW ?

NHTSA: NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

The NHTSA enforces vehicle performance standards and partners with state and local governments to reduce deaths, injuries, and economic losses.

VEHICLE SAFETY ISSUES & RECALLS

Search using the Vehicle Identification Number (VIN) www.nhtsa.gov/recalls.

VEHICLE SAFETY RATINGS

Search using the year, make, and model: www.nhtsa.gov/ratings

WHERE'S MY VIN?



Look on the lower left of your car's windshield for your 17-character Vehicle Identification Number. Your VIN is also located on your car's registration card, and it may be shown on your insurance card.



**South Dakota
PARALEGAL
Association**

2021 Semi-Annual Seminar & Meeting OCTOBER 14-15, 2021



SOCIAL: Thursday, October 14 ~ 6-8pm

SEMINAR & MEETING

Friday, October 15 ~ 8am-3:30pm

- Continental Breakfast @ 7:30am
- Semi-Annual Meeting & Luncheon

Attend in person or online via GoToMeeting!

SEMINAR & MEETING SCHEDULE

Friday		
7:30-8:00am	<i>Registration & Continental Breakfast</i>	
8:00-9:30am	Family Law: <i>Trends & Statutory Updates for Shared Parenting & Child Support</i>	Attorney Kylie Riggins , Riggins Family Law
9:40-11:10am	Topic Pending	
11:20am-12:00pm	<i>Semi-Annual Meeting</i>	Executive Committee
12:00-1:00pm	<i>Lunch</i>	
1:00-2:00pm	Demands of the Legal Profession: <i>Maintaining Wellbeing and Work-Life Balance</i>	Attorney Rebecca Porter , Lawyers Concerned for Lawyers
2:10-3:10pm	South Dakota Cannabis Legislation: <i>Ethical Considerations</i>	Attorney Cassie Wendt , Butte County State's Attorney
3:10-3:30pm	<i>Closing Announcements</i>	Education Committee

Cost: \$30 Students
\$65 Members
\$85 Non-Members

REGISTER ONLINE:
SDParalegals.com/Store

NALA CLE CREDITS: Continuing legal education credits have been requested: 1 Ethics, 3 Substantive, 1 Non-Substantive.

REGISTRATION DEADLINE: Online: Wednesday, October 13. By mail:* Postmark by Friday, October 8.

LATE REGISTRATIONS: As of October 14 rates will be \$40 for Students, \$75 for Members, and \$95 for Non-Members.

***REGISTRATION BY MAIL:** If you need to make your registration payment by mail with a check, or by cash in-person on the day of the seminar, email the Education Committee Chair, Rebekah Mattern, for a registration form at RMattern@LynnJackson.com.

VIRTUAL ATTENDEES: Our seminars are live-streamed through GoToMeeting. The times listed above are MST. We cannot guarantee your experience will be equivalent to attending in person. We will ensure the best online experience possible; however, audio, visual, and other technical difficulties may be outside our control. We highly recommend testing GoToMeeting on your device prior to the seminar.

ROOMS: SDPA has a limited number of rooms available under "South Dakota Paralegal Association" at \$79.00 for Thursday, October 14 only. The block will be released on September 15.

CANCELLATIONS: SDPA will provide full refunds for registrations cancelled on or before October 1, 2021 (registrations made through the website will be refunded to your card, less the online processing fee (approximately 5%). Contact the Education Committee Chair, Rebekah Mattern, at RMattern@LynnJackson.com if you need to cancel your registration.



2021 Semi-Annual Meeting

Friday, October 15, 2021: 11:20am MST / 12:20pm CST
Deadwood Mountain Grand & via GoToMeeting

AGENDA (tentative)

- Call to Order President ~ Jessi N. Stucke, ACP
- Roll Call Secretary ~ Dixie Bader, CP
- Approval of Minutes of June 18, 2021, Annual Meeting. Secretary ~ Dixie Bader, CP
- Treasurer’s Report..... Treasurer ~ Clara Kiley, CP
- NALA Liaison’s Report NALA Liaison ~ Cindy Wooten, ACP
- Committee Reports
- Old Business President ~ Jessi N. Stucke, ACP
 1. New website
 2. CLE Luncheon Committee
- New Business..... President ~ Jessi N. Stucke, ACP
 1. 2022 Proposed Budget
 2. Election of Officers for 2022-2023 Executive Committee
- Acknowledgements President ~ Jessi N. Stucke, ACP
- Announcements..... Education Committee Chair ~ Rebekah Mattern

Absentee/Virtual Attendee BALLOT

If you cannot attend the SDPA Semi-Annual Meeting or will be attending via GoToMeeting, please complete this Absentee Ballot for the 2022-2023 Executive Committee nominations and return it to Nominations & Elections Committee Co-Chair, Cindy Smeins, ACP, at 5605 E. Eastbridge Place, Sioux Falls, SD 57110, or CindySmeins@gmail.com by October 8, 2021.

Circle Nominee: or Write In:

Nominees (votes not necessary)

1st Vice President .. Christal Schreiber _____

President ... Autumn Nelson, CP

2nd Vice President .. Cindy Wooten, ACP _____

Treasurer ... Clara Kiley, CP

NALA Liaison..... Sarah Havlin, ACP _____

Secretary Michelle Tyndall, ACP _____

MEMBER NAME: _____ SIGNATURE: _____

2022-2023 Executive Committee Nominations



Christal Schreiber
1st Vice President

Christal Schreiber was born and raised in Selby prior to attending college at National American University where she pursued a Paralegal Degree. Upon graduation, she relocated to St. Louis, Missouri, where she worked for a law firm for 8 ½ years before returning to South Dakota to raise her family. She has 21 years of experience in the paralegal field and also owns her own business, a personal training studio, which she has done for 32 years. She loves both professions and enjoys spending time every day between the two places.

She recently renewed her paralegal certificate through the University of Colorado and is glad to be back in this profession after spending five years in the banking industry. She is currently employed at Schreiber Law Firm, Prof. LLC in Pierre, and works with her husband, Brad Schreiber. They have five children, all of whom are grown and gone from home. When she and Brad aren't working, they enjoy spending time in the Hills, riding their motorcycles, and spending time with family.



Cindy Wooten, ACP
2nd Vice President

Cindy Wooten, ACP, is a military veteran and member of the Samish Indian Nation. She has an Associate of Arts degree from the University of Maryland and is currently working toward her bachelor's degree in Legal Studies. Cindy is an Advanced Certified Paralegal obtaining her certifications through the National Association of Legal Assistants (NALA).

Her career has taken her from Washington D.C., where her military career ended and paralegal career began, to Texas, where she specialized in bankruptcy and litigation, and taught continuing legal education night courses (for the CP exam) at Midwestern State University. After a brief hiatus to McClellan AFB, California, she went back to Texas for a short period of time. She then moved to Ohio where she worked at a mid-size law firm as its bankruptcy paralegal and assisted the energy, labor & employment, healthcare, and litigation groups. Changing gears for a short time, Cindy assisted military veterans at the Veterans Service Office in Morrow County, Ohio. Then, getting back into the legal arena, Cindy went in-house and began working in the healthcare sector for a major medical device and pharmaceutical distributor. Cindy also worked as an assistant to a prosecuting attorney in Columbus, Ohio. After a tragic loss in 2018, Cindy moved to South Dakota and began working as a paralegal for Midcontinent Communications ("Midco"). Cindy's focus at Midco is contracts but she also assists with FCC filings,

litigation, and corporate matters. She now also has the pleasure of serving as NALA liaison to the South Dakota Paralegal Association.

Sarah Havlin, ACP, earned her Associate's Degree in Paralegal Studies from Colorado Technical University in 2012. Following graduation, she began working at Murphy, Goldammer & Prendergast, LLP (now known as Redstone Law Firm LLP) as a legal assistant. She continues to work at Redstone Law Firm, primarily with Lisa Prostrollo, in the areas of litigation, business law, estate planning, and trust and estate administration. Sarah joined the South Dakota Paralegal Association in 2015. She became a Certified Paralegal in 2016 and obtained her Advanced Certified Paralegal credential in Discovery in 2017. She has been a NALA member since 2016. Sarah currently serves as the SDPA's Parliamentarian and has served on the Education and Public Relations Committees.

Outside of work, Sarah enjoys spending time with her husband, children, and two dogs. She also enjoys exploring new hiking trails, biking the Sioux Falls bike trail, traveling, and reading a good book outside on her deck when the weather is nice.



Sarah Havlin, ACP
NALA Liaison

Shelly Tyndall, ACP, Michelle (Shelly) Tyndall graduated from Moorhead State University with a Bachelor of Science degree, as a Legal Assistant major, in 1994. Upon graduation, she began her career working as a paralegal at a law firm in Belle Fourche, South Dakota. She's remained there since that time, although the firm has changed over the years, working primarily in the area of civil litigation. She's worked exclusively for Robert L. Morris, Morris Law Firm, since 2013.

Michelle obtained her Certified Legal Assistant (CLA) designation in 1995, and has obtained her Advanced Certified Paralegal (ACP) designation in the areas of Civil Litigation, Trial Practice and Real Estate Principles.

Michelle has been a member of the South Dakota Paralegal Association since 1994, serving as NALA Liaison and on various committees. She has been active in her community, serving as a volunteer for United Way, CASA, Parents Who Care (Post Prom) and Bronc Gridiron Club.

Michelle and her husband, Mike, have two teenage sons, Jackson and Logan. In her spare time, she enjoys attending sporting events and spending time outdoors in the Black Hills.



Shelly Tyndall, ACP
Secretary



Second Judicial Circuit *Jennifer Mammenga*

Governor Kristi Noem announced on August 9 that she will appoint Jennifer Mammenga to serve on the South Dakota 2nd Circuit Court.

"Jennifer has worked hard to build an impactful career, both as an Assistant US Attorney in the federal courts and

in the state Attorney General's office," said Governor Kristi Noem. "She understands that the role of a judge is to interpret the law as written, and I know she will make an excellent addition to the bench."

Jennifer has been an Assistant U.S. Attorney for the District of South Dakota United States Attorney's Office since 2016, where she serves as the district's Opioid Coordinator. Prior to that role, she served as a Special Assistant United States Attorney and Assistant Attorney General for the South Dakota Attorney General's Office.

Mammenga stated: "I am honored to accept Governor Noem's appointment and I look forward to serving the people of South Dakota in this role."

Jennifer is a native of Sioux Falls. She graduated from the University of South Dakota with bachelor's degrees in English and journalism. She received her law degree from the University of Nebraska College of Law in 2010. Jennifer was named the Midwest High Intensity Drug Task Force Outstanding Prosecutor in 2015. She lives in Sioux Falls with her husband and two children.



Fifth Judicial Circuit *Cullen McNeece, Magistrate*

Fifth Judicial Circuit Presiding Judge Jon S. Flemmer announced earlier this summer that the South Dakota Supreme Court approved the appointment of Attorney Cullen Parker McNeece as Magistrate Judge for the Fifth Judicial

Circuit. McNeece filled the vacancy left by Judge Gregg Magera, who was promoted from magistrate to circuit judge earlier this year.

McNeece was born and raised in Burlington, Iowa. He graduated from Iowa State University with a degree in History and earned his Juris Doctorate from the University of South Dakota Knudson School of Law. McNeece began his law career as a Law Clerk for the Fifth Judicial Circuit and has also been employed with the South Dakota Attorney General's Office and Bantz, Gosch & Cremer in Aberdeen. Most recently he served as a Deputy State's Attorney for Pennington County.

Judge McNeece took the bench on Monday, June 21, 2021.

2020-2021 *Past President*



Dixie A. Bader, CP

Dixie earned her Associate's Degree in Paralegal Studies from Nettleton Community College in 1997, and obtained her Bachelor's Degree in Paralegal Studies in 2002 from National American University in Sioux Falls. She became a Certified Paralegal through NALA in September, 2004.

Dixie has worked as a paralegal since 1998 in the areas of immigration, family law, personal injury, employment law, and probate. In 2006, Dixie began working for Mary H. Burd, Burd and Carper Law Office, in Sioux Falls, in the area of family law. She became a member of SDPA in 2002 and has served on the following committees: Charge Up (2003-2007); Education (Co-Chair 2015-2016); and Membership (Co-Chair 2003-2004, Chair 2005-2007 and 2013-2014). She has served in the following roles: NALA Liaison (2005-2006 and 2014-2015); 2nd Vice President (2006-2007); and President (2008-2009).

Dixie has been a NALA member since 2004, and has been a member of the Bar Association's Second Circuit Women in Law since 2014. When Dixie is not working, she enjoys spending time with her husband, Mike, and their daughter, Alexis. She also enjoys camping, gardening, and fishing, as well as volunteering in Sioux Falls for the Children's Inn, Habitat for Humanity, and The Banquet.

Thank You, Dixie, for your time and dedication on behalf of SDPA, its members, and the legal profession in South Dakota!

2020-2021

Member of the Year



Courtney Vanden Berg, CP

"I worked with Courtney last year in my role as President of SDPA and also as a member of the Education Committee in years past. Courtney has always given of her time and efforts in providing our members with great CLE experiences, and she's done so while working full-time and having small children at home. She helped to initiate many positive changes in SDPA seminars and conferences, including providing the seminars online to our members. Her efforts have not gone unnoticed and I believe she deserves the Member of the Year award for her efforts and dedication to SDPA. Thank you, Courtney, for all of your work."

~ Nomination by Vicki Blake, CP ~

Courtney L. Vanden Berg, CP, is a South Dakota native, raised in Pierre. She obtained her Bachelor of Science degree in Paralegal Studies from National American University (NAU) in January 2005. Upon completing her degree, she was hired by Alvine & King, where she worked until 2012. In 2012 she took a position with Sanford Health, followed by a position at Avera Health before returning to private practice at Johnson, Janklow, Abdallah, Reiter & Parsons in 2015.

In January 2016, she earned her Certified Paralegal (CP) designation from NALA. Despite Courtney's lengthy personal injury experience, she always knew her true legal passion was in family law. In October of 2019 she was able to fulfill her dreams of working in family law when she accepted a position with Strange, Farrell, Johnson & Brewers. She currently works with attorneys Gregory T. Brewers, Eric A. Lovro, and Amber J. Eggert.

Courtney and her husband, Danny, met in Sioux Falls in 2008 and have been together ever since. Most would think they have known each other their whole lives. They have a son, Daryl (11), and a daughter, Emma (8), who both attend Sioux Falls Christian Elementary School. In her spare time she loves to ride her motorcycle, read a good book, watch *Law & Order*, or take photos of her family. As a family, the Vanden Bergs spend most of their time together making lasting memories during a mini-adventure to somewhere new or on a family motorcycle ride around the Sioux Falls area, and they are always up for a good movie.

Congratulations, Courtney, and THANK YOU!

Careers

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

Contract Paralegal REMOTE

Ganje Law Offices
Posted 8-31-2021

• • •

Legal Receptionist RAPID CITY, SD

Whiting, Hagg, Hagg, Dorsey & Hagg
Posted 8-30-2021

• • •

Bookkeeper/Legal Secretary RAPID CITY, SD

Johnson, Eiesland & Rohl
Posted 8-27-2021

• • •

Paralegal/Legal Assistant YANKTON, SD

Marlow, Woodward & Huff
Posted 8-23-2021

• • •

Legal Assistant/Paralegal FARGO, ND

Federal Public Defender (Districts of ND & SD)
Posted 8-19-2021

• • •

Assistant Trust Officer SIOUX FALLS, SD / RAPID CITY, SD

South Dakota Trust Company
Posted 8-16-2021

• • •

Paralegal/Legal Assistant RAPID CITY, SD

Bangs McCullen
Posted 8-10-2021

• • •

Legal Assistant/Receptionist RAPID CITY, SD

Zephier & LaFleur
Posted 7-20-2021

• • •

Legal Assistant/Paralegal (2) RAPID CITY, SD / PIERRE, SD

Gunderson, Palmer, Nelson & Ashmore
Posted 7-6-2021 / 7-7-2021

• • •

Operations Clerk SIOUX FALLS, SD

U.S. Bankruptcy Court
Posted 6-1-2021

• • •

Legal Assistant/Paralegal SIOUX FALLS, SD

Alvine Weidenaar
Posted 12-9-2020

• • •

Paralegal/Legal Assistant/Tribal Advocate PINE RIDGE, SD

Dakota Plains Legal Services
Posted 4-16-2020



The Paralegal-Client Relationship: An Often-Overlooked Part of the Legal Process

Written by N'Keesia Vaughn-James

Reprinted with permission of N'Keesia Vaughn-James and the National Association of Legal Assistants, Inc. This article originally appeared in the Q1 2021 issue of *FACTS & FINDINGS*, the quarterly journal of NALA. Inquiries should be directed to NALA, 6450 S. Lewis Avenue, Suite 250, Tulsa, OK 74136, or by e-mail to nalanet@nala.org.

When an individual seeks an attorney, it is often in response to an unanticipated circumstance or crisis—and without insight into how the legal system operates. Paralegals, under the supervision of an attorney, play a significant role in helping clients navigate the legal system. They perform tasks requiring knowledge of the law and legal procedures. By definition a paralegal is an individual qualified through education who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity to perform delegated substantive legal work for which a lawyer is responsible.

The Benefits of a Paralegal

Paralegals wear multiple hats. They manage the many details involved in preparing a case from its inception through trial. The paralegal serves as a liaison between insurance adjusters, clients, investigators, witnesses, and court officials. Paralegals review and organize client files, conduct factual and legal research, and prepare documents for legal transactions. Paralegals also listen attentively to clients and guide them through anticipated and unforeseen situations as they arise. As such, it is extremely important for the paralegal to develop a good rapport with the client.

Establishing an ongoing relationship with the client enables the paralegal to actively engage with the client, anticipate the client's needs, obtain invaluable information to help defend or build a claim and/or lawsuit, ease the client's stress in dealing with the impact of the legal process, and help the attorney(s) prepare the case for settlement or trial. In essence, paralegals are the behind-the-scenes navigators, often acting as buffers or shock absorbers when handling clients' personal concerns. It is the paralegal who often acts as counselor and confidant by lending an ear and giving clients needed encouragement and reassurance during the trying process.

Situations could include a heartbroken spouse filing for a divorce, an emotionally traumatized individual trying to reduce the consequences of involvement in a crime, an incapacitated person filing a personal injury claim, or a family member calling on behalf of a loved one who suffered abuse at the hands of another. It could be elder care abuse from different facilities or in-home abuse, or an employee that suffered injuries because of a defective product in the work environment. Simply put, paralegals help people. They also play a critical role in helping their employers be more efficient by providing all applicable information needed to support their cases. This can be easily translated into increased revenue for the firm. They also help clients every step of the way, which can have a significant impact in their clients' lives.

Paralegal-Client Communication

Paralegals typically have frequent contact with clients. They are often called upon to communicate with them at every stage of the process, which includes the initial interview, the discovery process, and trial preparation. If the paralegal can gain the client's trust, then it makes the process of gathering information from the client much easier. Sometimes, clients withhold information because of fear that it may negatively affect and jeopardize their case, they feel embarrassed about something that occurred in the past, or simply feel it is insignificant to the circumstances of their case. A good paralegal-client relationship will enable the paralegal to obtain any information the client wishes to withhold. Additionally, ongoing paralegal-client communication allows

IT IS THE
Paralegal
WHO OFTEN ACTS AS
counselor & confidant
BY **lending an ear &**
giving CLIENTS
NEEDED **encouragement**
& **reassurance**
DURING THE
TRYING PROCESS.



the paralegal to guide the client on how to best navigate the process while involved in the legal system, answer discovery requests, complete legal documents, and maintain an open dialogue about care, treatment, and any other aspect of the case.

Clients come to the law firm with a multitude of issues, including, but not limited to, fear due to loss of income and/or employment, recently developed disabilities due to accidents or other negligence, and family dynamics, including stress and anxiety over what may be.

Paralegals have the ability to explain the legal process in simple terms to make it easier for the client to understand, help the client center his or her focus on doing what is most helpful for the situation, and help both the client and the firm achieve their mutual goals.

The Litigation Paralegal

Because the paralegal may not be in the courtroom, the paralegal's involvement during the litigation process is often unseen and therefore not fully understood. Paralegals are usually charged with providing support and guidance to the client as the case proceeds to trial or resolution. This is accomplished by ongoing communication with the client, to help ensure the client is calm, prepared, available, and satisfied with the firm's representation.

The paralegal will also have ongoing communication with experts and lay witnesses on the client's behalf. During the course of litigation, the paralegal will engage with experts from various fields (i.e., neurologists, vocationalists, life care planners, material handling experts, and accident reconstructionists) in order to facilitate a good outcome for the client.

The paralegal will also work with the client to ensure that these experts have all the necessary information needed to properly evaluate claims, and if necessary, arrange for the client to personally meet with the experts. Developing a relationship with a client enables the paralegal to fully understand the process from the client's perspective and motivates the paralegal to work tirelessly to achieve the optimal outcome on the client's behalf.

Continuing Education

Continuing education courses can facilitate the paralegal-client relationship by helping to generate empathy while learning about the experiences, feelings, and other psychosocial dynamics during client interactions. These can include, but are not limited to, concurrent and historical events, such as post-traumatic stress disorder (PTSD) resulting from personal traumas, the effects of a traumatic divorce altering family dynamics, traumatic brain injury resulting from accidents, or the loss of a loved one due to another's negligence. A paralegal's comprehension of these dynamics will certainly help them be responsive and have compassion for clients.

Conclusion

The paralegal-client relationship is vital to any firm and can make a major difference in the handling of a case. The smallest detail can change an outcome of a case and forever transform the lives of everyone involved. The paralegal's ability to answer client questions, maintain and document the file, obtain information from the client while assisting the attorney in coming up with solutions for a case, and walking the client through the legal process is invaluable and can be quite rewarding.

THE SMALLEST
detail CAN
CHANGE AN **outcome**
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In reality, it is the paralegal-client relationship that provides the foundation for an attorney's success, although the attorney gets the credit for his or her contributions. The paralegal's ability to bring all the pieces of the puzzle together is crucial to the success of cases, court proceedings, and the personal lives of clients. Additionally, these skills increase the likelihood of potential client referrals. Without the paralegal-client relationship, the legal profession simply would not be the same. Paralegals are the backbone to every successful attorney.

About the Author



N'Keesia Vaughn-James is a Paralegal Case Manager with Caputo & Mariotti Law Offices, a general practice law firm in Moosic, Pennsylvania. She specializes in Plaintiff's Personal Injury. She has been a paralegal for 25 years and has gained experience in New York and Pennsylvania.

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RECENT OPINIONS: *South Dakota Supreme Court*

STATE v. NOVAHA

2021 S.D. 34 – June 3, 2021

Defendant loses to "open-door doctrine," notwithstanding a change in the law

SAPIENZA v. LIBERTY MUTUAL INSURANCE

2021 S.D. 35 – June 3, 2021

Certified question on insurance coverage answered with 3-2 ruling

This dispute revolves around the seemingly simple question as to whether or not damages incurred as a result of the insured's compliance with a state court injunction constitutes compensable damages under the insured's Homeowners Policy and the insured's Personal Liability Policy. The facts in (involving the new construction of a home and its impact on a neighbor's home) trace back to 2014 and include litigation in South Dakota state court, with a prior opinion by the SD Supreme Court in 2018.

Thereafter the insureds "filed suit in federal district court against [their insurer] alleging a number of claims, including breach of contract based on [their insurer's] failure to provide coverage for the costs the [insureds] incurred to tear down their newly constructed home." The Federal Court certified the issue ("Do the costs incurred by the [insureds] to comply with the injunction constitute covered 'damages' under the Policies such that Liberty Mutual must indemnify the [insureds] for these costs?") to the SD Supreme Court.

The case was orally argued in the SD Supreme Court before the pandemic, on November 5, 2019.

Authorship of the Court's opinion was re-assigned some 17 months later, April 9, 2021.

Today's decision answers the question in the affirmative, holding yes (there is insurance coverage for these damages). The Court split 3-2, with Justice DeVaney authoring the majority decision (by virtue of the re-assignment). Justice Salter filed a dissenting opinion, as to which Chief Justice Jensen joins.

STATE v. LANGEN

2021 S.D. 36 – June 17, 2021

Application of 180 speedy trial issue resolved for State

WILSON v. MAYNARD

2021 S.D. 37 – June 17, 2021

Restrictive covenants in Deadwood resolved in favor of short-term rentals during Sturgis Rally

STATE v. LITTLE LONG

2021 S.D. 38 – June 24, 2021

LWOP on jury conviction of 2nd degree murder upheld

IN RE INTEREST OF I.T.B.

2021 S.D. 39 – July 8, 2021

Adjudication of "delinquent child" reversed

High school student was adjudicated to be a "delinquent child" on the basis that he made a terroristic threat under SDCL 22-8-13(1). The facts occurred around a lunch period in January, 2020, and were dealt with by the high school principal, assistant principal and school resource officer. The school's administrative assistant provided the following testimony in the trial court:

"One of the things I heard as [the student] was walking in and out, one of the words was bomb. And I'm not sure what he said, I just heard the word bomb. Another of the words that he used was killing someone. And at that time, he had already come back in and grabbed the scissors that we have in the office and he said I could just kill someone. And he was laughing and he sa[id] I'm just kidding. And he set them back down and he went and sat back down. And he got up again and he was back out again. And then he came back and he was laying on the floor again. It was just continual."

The SD Supreme Court conducted an extensive review of the record, concluding:

"Because the evidence in the record is insufficient to support a determination that either of I.T.B.'s statements constitute a terroristic threat, we reverse the circuit court's adjudication of I.T.B. as a delinquent child."

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

SMITH ANGUS RANCH v. HURST

2021 S.D. 40 – July 15, 2021

Extrinsic oral evidence by Attorney in Fact permitted

IN RE INTEREST OF C.H.

2021 S.D. 41 – July 15, 2021

Termination of parental rights to Native American child reversed

Mother's parental rights to Indian Child were terminated by the trial court. The SD Supreme Court reversed and remanded because the evidence was insufficient to establish that "active efforts were made to reunify Mother and [child]" as required by the Indian Child Welfare Act (ICWA), as well as by SD law. This decision is unanimous, with opinion authored by Justice DeVaney.

INTEREST OF C.R.W.

2021 S.D. 42 – July 22, 2021

ICWA case affirming termination of parental rights and denial of motion to transfer to tribe

STATE v. SLEPIKAS

2021 S.D. 43 – July 22, 2021

DUI conviction upheld, blood draw found to be consensual

BOGGS v. PEARSON

2021 S.D. 44 – July 29, 2021

\$ 1983 claim against City of Sioux Falls analyzed

ESTATE OF CALVIN

2021 S.D. 45 – July 29, 2021

Challenge to disbursements from Trust rejected

STATE v. MITCHELL

2021 S.D. 46 – August 5, 2021

Sentence of 124 years to manslaughter 1st Degree reversed; "imperfect self-defense" concept addressed for the first time in South Dakota jurisprudence

Defendant, originally charged with 1st Degree Murder, pled guilty to reduced charge of 1st Degree Manslaughter. State recommended sentence of 60 years. Victim's family requested sentence of life imprisonment. Trial Court sentenced Defendant to 124 years. The SD Supreme Court reversed and remanded, stating that, "in order to accurately assess the nature of [Defendant's] conduct, the [trial] court must consider the fact that he was reacting to a threat posed by [the Victim's] own assaultive conduct." This opinion discusses, for the first time in South Dakota jurisprudence, the notion of an "imperfect self-defense," which is described in ¶36 as follows:

Contrasted from a "perfect" self-defense claim where the defendant is "free from fault in bringing about difficulty with his adversary" and "reasonably believe[d]" he needed to respond to an adversary's threat with deadly force, an imperfect self-defense presents manslaughter as a different option for criminal liability, short of murder and without the potential of an outright acquittal. Wayne R. LaFave, *Substantive Criminal Law*, § 15.3(a) (2020). The reason for the "imperfection" can either be "the defendant's own fault in bringing on the difficulty or the unreasonableness of [his] honest but erroneous belief[]" that he is in



RECENT OPINIONS: *South Dakota Supreme Court*

danger of serious or fatal injury which he can prevent only by killing the victim. Id.

The Court states, also in ¶36, that the imperfect self-defense concept is fostered in SDCL 22-16-15(4) which is the operative statutory provision to which Defendant pled guilty.

The incident resulting in the shooting death of the victim was capture by video recording which was reviewed by the trial court and the SD Supreme Court. The basic facts, as described in the opening paragraph of the Court's opinion are as follows:

[¶1.] After a brief confrontation with Lucas Smith at a local bar, Jameson Mitchell armed himself with a handgun and encountered Smith in a nearby alley. Smith ran toward Mitchell, shouting for Mitchell to shoot him. After taking a few steps back, Mitchell fired at the charging Smith, fatally wounding him.

The Court's opinion is authored by Justice Salter, with all five justices participating. (Note: Retired Chief Justice Gilbertson participated, not Justice Myren, who was not on the bench at the time case was submitted.)

Justice DeVaney filed a concurring opinion in order to "further expound on why such a harsh sentence constitutes an abuse of discretion."

Justice DeVaney further states:

[¶48.] There is also no question that a sentencing court is free to disregard the recommendations of the parties, as well as those of the PSI author if, in the #29194 -19- court's judgment, a much higher sentence is warranted. But in this case, after watching the video and reviewing the PSI, it is apparent that a 124-year sentence—more than

twice that recommended by those most familiar with the parties and the facts of the case—was not a choice within "the range of permissible choices[.]" See *MacKaben*, 2015 S.D. 86, ¶ 9, 871 N.W.2d at 622 (citation omitted) (explaining what constitutes an abuse of discretion).

NELSON v. CAMPBELL

2021 S.D. 47 – August 12, 2021

Appeal from partial summary judgment dismissed

MAY v. SPEARFISH PELLETT CO., LLC

2021 S.D. 48 – August 19, 2021

Letter to work comp insurer did not constitute Petition for Review

ESTATE OF PETRIK

2021 S.D. 49 – August 19, 2021

Termination of Joint Tenancy without notice and hearing reversed

ANDERSON v. TRI STATE CONSTRUCTION

2021 S.D. 00 – August 26, 2021

SD authorized to entertain work comp claim for accident occurring in Wyoming notwithstanding previous claim in Wyoming

This is an attempt to file a work comp claim in South Dakota in connection with an injury that

occurred in Wyoming. Employer is a corporation formed and headquartered in SD. After initially filing a claim in Wyoming and receiving benefits there, employee realized that SD's law were more favorable than Wyoming's law. (Employee "discovered that Wyoming law limited her eligibility to collect total disability benefits to 80 months, whereas in South Dakota, she could be eligible to receive permanent total disability benefits.") The DOL dismissed the claim for lack of jurisdiction and the Circuit Court affirmed. The SD Supreme Court reversed and remanded, stating:

"[W]e hold that South Dakota has a substantial connection to Anderson and Tri State's employment relationship sufficient to provide the Department with authority to adjudicate Anderson's claim. Accordingly, Anderson's claim for workers' compensation benefits does not offend principles of due process. *Martin*, 2011 S.D. 57, ¶ 9, 804 N.W.2d at 67."

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

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](#).

A note about simple appreciation!

by Past President Vicki Blake, CP & Public Relations Committee Chair

One morning as I went to pick up certified copies of documents from our local Clerk of Courts to deliver them to the Civil Division of the Sheriff's Department, I thought about how seldom the deputy clerks are recognized for the job they do. In past years, SDPA has sponsored a Valentine's Day cookie delivery to show our appreciation. With COVID still on the forefront, we asked about doing the project again, but weren't allowed to deliver cookies this year.

That being said, I know our law office, our attorneys, and our support staff still appreciate the extra effort of some of our local clerks. I made a quick stop at the local Walgreen's, purchased two packages of Lindt chocolates, and headed to the courthouse. When I went through security at the courthouse, the Sheriff's deputies jokingly asked if they were getting chocolate for breakfast. I walked into the clerk's office and asked for my documents. The deputy who walked up to the counter wasn't really friendly, and she slowly pushed the documents under to me under the now-common plexiglass. I said my thanks, and then I put the two bags of chocolate on the top of the counter and pushed them back across. I told her that the chocolates were to thank them for all extra things they do, and I made an off-handed remark that I didn't know anyone who didn't like chocolate. Amazingly enough, the mood in the office changed immediately. Each of the ladies looked up and smiled. Surprisingly, \$10.00 worth of chocolate made a difference in the day for those who work in a sometimes thankless job.

Don't forget to appreciate those who can either make our work easier, or more difficult. Appreciation shown by members of our profession reflects well on all of us. We all like to be appreciated for the efforts we make, and too often negative things are pointed out instead of positive things. If someone goes the extra mile for you, or makes your job easier, be sure to acknowledge them and don't hesitate to tell his or her supervisor, too. A simple compliment will go a long way!



RECENT OPINIONS: 8th Circuit U.S. Court of Appeals

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.

UNITED STATES v. ERICKSON

USCA 20-1861 – June 2, 2021
D.S.D. Central Division

Criminal Case - conviction. Erickson appeals his conviction for conspiring to distribute 500 grams or more of a mixture containing methamphetamine. Erickson, a Native American, had no Native Americans on his jury. He moved for a new trial, claiming he was denied his Sixth Amendment right to a cross section of the community. Because he failed to show the number of Native Americans in the jury pool, as opposed to those that showed up, he failed to show their representation was "not fair and reasonable" or that underrepresentation was due to systematic exclusion. Use of voter registration rolls is expressly permitted and there is no requirement that the petit jury actually chosen must mirror the community. He sought new trial in a different venue based on the disproportionate number of potential Native Americans were stricken for cause; Erickson, however agreed to the for-cause strikes and did not contest the reasons for the peremptory challenge offered by the government. The district court did not abuse its discretion in denying the motion for new trial. There was sufficient evidence to convict him based on witness testimony. The district court did not abuse its discretion in allowing counsel to question whether another witness had been under the influence of drugs during his testimony. The district court did not abuse its discretion in denying a new trial based on newly discovered evidence of actual recorded witness interviews, when the recordings did not contain material or exculpatory information. Opinion available [here](#).

UNITED STATES v. MAST

USCA 20-2497 – June 7, 2021
D.S.D. Southern Division

Criminal case - criminal law. For the court's prior opinion vacating defendant's conviction for draining wetlands because of instructional error, see *U.S. v. Mast*, 938 F.3d 973 (8th Cir. 2019). On remand, defendant was convicted of violating 16 U.S.C. Sec 668dd(c), (F)(2); challenges to admission of testimony from government witnesses rejected; the government proved beyond a reasonable doubt that the wetlands area defendant drained were identifiable wetlands covered by the wetland easement acquired by the Fish and Wildlife Service; defendant's request to modify the Wetlands Restoration Plan ordered as restitution rejected as the district court found beyond a reasonable

doubt that defendant's actions indirectly damaged a particular plot even though he did not install a prohibited drain on the plot. Opinion available [here](#).

WEIBEL v. UNITED STATES

USCA 20-1832 – July 6, 2021
D.S.D. Western Division

Prisoner case - habeas. The district court's finding that Weibel's attorney had testified credibly at the Section 2255 hearing on Weibel's ineffective assistance of counsel claims, and that Weibel had not, is virtually unreviewable on appeal, and the denial of habeas relief is affirmed. Opinion available [here](#).

UNITED STATES v. STRICKER

USCA 20-1904 – July 9, 2021
D.S.D. Central Division

Criminal case - criminal law. Defendant waived his challenge to the court's decision to give a lesser-included instruction on simple assault; even if the challenge was not waived, simple assault is a lesser-included offense of assault by strangulation, and the court did not err in giving the instruction. Opinion available [here](#).

UNITED STATES v. AUNGIE

USCA 19-2486 – July 12, 2021
D.S.D. Southern Division

Criminal case - criminal law. The evidence was sufficient to support defendant's convictions for aggravated sexual abuse of a child; no error under Rule 404(b)(1) in admitting prior bad acts evidence regarding defendant's intoxication and violence as it provided a context for the sexual abuse allegations and a cogent explanation for the victim's failure to report the abuse earlier; the district court did not err in determining a Daubert hearing was not necessary, and the government's experts were qualified by virtue of the experience, training and education to testify regarding the characteristics of sexually abused children; the text messages between defendant and the victim were hearsay and did not constitute present sense impressions, and the district court did not abuse its discretion by refusing to admit them; as evidence of the victim's behavior leading to her decision to disclose the past abuse was admitted, any error in excluding specific details of the misbehavior on relevancy grounds was harmless. Opinion available [here](#).

GIESE v. UNITED STATES

USCA 19-3728 – July 13, 2021
D.S.D. Southern Division

Criminal case - habeas. The appeal is dismissed as Giese's claim has been mooted by his release from prison. Opinion available [here](#).

UNITED STATES v. SMITH

USCA 20-1245 – July 20, 2021
D.S.D. Central Division

Criminal case - criminal law. The evidence was sufficient to support defendant's conviction for conspiracy to distribute a controlled substance, and the district court did not err in denying defendant's motion for a judgment of acquittal. Opinion available [here](#).

UNITED STATES v. STANDS ALONE

USCA 20-2822 – July 20, 2021
D.S.D. Northern Division

Criminal case - sentencing. Defendant's challenge to the length of his sentence was mooted by his release from custody. Opinion available [here](#).

UNITED STATES v. FLYING HORSE

USCA 20-2832 – July 20, 2021
D.S.D. Northern Division

Criminal case - sentencing. The sentence imposed upon the revocation of defendant's second term of supervised release was not substantively unreasonable. Opinion available [here](#).

SPARKS v. SHAVER

USCA 20-2752 – July 23, 2021
D.S.D. Central Division

Civil case - civil rights. In this action plaintiff sued the City of Pierre, South Dakota and one of its police officers under Section 1983 alleging a search warrant compelling his forced catheterization violated his Fourth Amendment rights; in the state criminal case which followed the search, plaintiff unsuccessfully challenged the admission of the evidence obtained under the warrant, and his motion to suppress was denied; plaintiff later pleaded nolo contendere to the criminal charges and did not appeal the suppression ruling. Held: the district court did not err in holding that plaintiff was collaterally estopped from re-litigating his claim because he had already litigated the Fourth Amendment issue before the South Dakota trial court in the criminal proceeding against him. Opinion available [here](#).

UNITED STATES v. LAMM

USCA 20-1128 – July 29, 2021
D.S.D. Southern Division

Criminal case - criminal law. The government may authenticate social media evidence with circumstantial evidence linking the defendant to the social media account, and the evidence the government produced, such as linking defendant's cell phone to both accounts and showing that images from defendant's Facebook account appeared



in the false identity Facebook account, provided a rational basis for the district court to pass the question of authentication to the jury; Facebook messages between defendant's accounts and other participants in the creation and distribution of the child pornography were admissible even though neither of the senders testified at trial; the messages were admitted to show context for defendant's responses and not for the truth of the matters asserted or to show defendant received child pornography; the district court did not abuse its discretion by refusing defendant's request for hybrid representation. Opinion available [here](#).

UNITED STATES v. WALKING BULL
USCA 20-2378 – August 10, 2021
D.S.D. Western Division

Criminal case - criminal law. The district court did not err in admitting recordings of jail house calls as the government promptly provided defendant with the evidence as soon as it became aware of its existence and obtained the calls; no error in refusing to admit testimony from defendant's proposed expert witness on matters of law; no error in rejecting defendant's two instructions on his South Dakota sentences; in this felon-in-possession-of-a-firearm prosecution, the evidence was sufficient to support the jury's finding that defendant knew at the time he possessed a firearm that he was a prohibited person - i.e., that he was previously convicted of a crime punishable by over a year imprisonment. Opinion available [here](#).

UNITED STATES v. BURNING BREAST
USCA 20-1450 – August 11, 2021
D.S.D. Central Division

Criminal case - criminal law. It was immaterial in this case whether there was proof that the upper receiver of the assault rifle traveled in interstate commerce when the evidence established that a

completed rifle capable of being shot traveled in interstate commerce prior to defendant's possession of the weapon; the evidence was sufficient for the jury to find defendant's finished rifle meets the first part of the definition of a firearm as set forth in 18 U.S.C. Sec. 921(a)(3); the jury was properly instructed that the interstate commerce element of the offense is satisfied if the firearm was transported in interstate commerce at some time during or before defendant's possession of it; *Rehaif* does not alter the well-known maxim that ignorance of the law or mistake of the law is no excuse, and defendant's mistaken belief that he is no longer a prohibited person because his gun rights were restored under tribal law is unavailing; the district court's instructions on the interstate nexus element of the offense were not erroneous. Judge Kobes, dissenting. Opinion available [here](#).

MILLER v. HONKAMP KRUEGER FINANCIAL
USCA 20-3061, 20-3081, 20-3400
August 24, 2021
D.S.D. Western Division

Civil case - contracts. The district court erred in granting defendant's motion for a preliminary injunction enforcing the non-competition provisions in plaintiff's employment contract; when plaintiff terminated the parties' Employment Agreement, the non-competition provision became inoperable; as defendant is unlikely to prevail on the merits of its breach of contract claims with respect to the non-competition provision, the district court erred in enjoining plaintiff from violating that provision; with respect to the non-solicitation provision in plaintiff's contract, South Dakota law applies under the agreement's choice-of-law provision, and South Dakota prohibits such provisions in so far as they prevent a former employee from accepting unsolicited business; the district court erred in entering an injunction enforcing the provision. Opinion available [here](#).

SAMPSON v. RENVILLE
USCA 20-3708 – August 24, 2021
D.S.D. Northern Division

Civil case. The district court properly enforced the clear terms of the parties' settlement agreement, and did not abuse its discretion in imposing sanctions under Rule 11 and its inherent powers based on its findings that defendant's claim to all of the proceeds of a land sale was frivolous; that he had presented claims for the improper purpose of attempting to force plaintiffs to abandon the settlement to avoid legal fees and costs, that he made false representations, and that he advanced arguments not warranted by existing law. Opinion available [here](#).

ROSEBUD SIOUX TRIBE v. USA
USCA 20-2062 – August 25, 2021
D.S.D. Central Division

Civil case - Indian law. The district court did not err in declaring the United States has a duty to provide "competent physician-led healthcare" to the Rosebud Sioux Tribe and its members. In light of the promises the United States made to the Tribe more than 150 years ago in the Fort Laramie Treaty, and relevant legislation since that time, such as the Snyder Act and the Indian Health Care Improvement Act, the district court correctly articulated the existence and scope of the duty, and the declaratory judgment entered by the district court is affirmed. Judge Kobes, dissenting. Opinion available [here](#).

LUNDAHL v. GROSS
USCA 20-2172 – August 27, 2021
D.S.D. Western Division

Civil case. Orders striking plaintiff's first amended complaint, dismissing her civil action related to a USDA home loan program, and denying plaintiff's post-judgment motions affirmed without comment. Opinion available [here](#).

WORD SCRAMBLE: *Bygone Technology*



Answers on page 17.

- | | |
|--------------------------------|------------------------|
| 1. FCMLIAIES _____ | 7. CBRNOA PRPEA _____ |
| 2. TRTPEWRIYE _____ | 8. RPHOSIGAR _____ |
| 3. RTYAOR EHONP _____ | 9. ELDYNCOICEPA _____ |
| 4. DTO MTIAXR
PENTRIR _____ | 10. DTIPHCNOAE _____ |
| 5. FPLOPY KISD _____ | 11. IKENLLW _____ |
| 6. TLRGEEMA _____ | 12. IMB CPTREOUM _____ |

GRAMMAR CHECK!

Frequently Misused Phrases

This quiz will test your knowledge on some of the most frequently misused phrases and expressions in the English language.

1. I _____ known better than to go to that part of town at night!

should of OR **should have**

2. If you think you're going to get your money back from him, you've got _____.

another thing coming OR
another think coming

3. I ate breakfast way too early and I skipped lunch, so now I have _____.

hunger pangs OR **hunger pains**

4. _____ what you think about my decision.

I could care less OR **I couldn't care less**

5. After accepting my job offer last week, she did a complete _____ and decided to move to California!

360 OR **180**

6. I'm sitting on the street outside his office _____, waiting for him to come outside.

biding my time OR **biting my time**

7. Accepting this full-time job, with three kids, a husband, and a house to take care of has turned into a _____.

vicious circle OR **vicious cycle**

8. He inherited a tough _____ when he married her with all her baggage from her previous marriages.

row to hoe OR **road to hoe**

9. Speak now or forever hold your _____.

peace OR **piece**

10. I dropped my glass and spilled milk all over the table at the restaurant, but it was totally _____.

by accident OR **on accident**

11. For all _____, this matter should have been decided years ago.

intensive purposes OR
intents and purposes

12. I've heard it's a _____ in the realtor profession in this town.

doggy-dog world OR
dog-eat-dog world

13. I have a _____ belief that most people in this world are good.

deep-seated OR **deep-seeded**

14. They are just looking for a _____ to take the blame for this horrible mess.

escaped goat OR **scapegoat**

15. _____ of what you say, I know what the truth is.

Irregardless OR **Regardless**

16. I hope he gets his _____ for pulling that little stunt!

just deserts OR **just desserts**

If you have any questions or grammar subjects you would like discussed in future articles, please contact Karen Armstrong, PP, PLS @ Karen@SchoenbeckLaw.com.

ANSWERS: 1. should have 2. another thing coming 3. hunger pangs 4. I couldn't care less 5. 180 (360 is a complete circle) 6. biding my time 7. vicious circle 8. row to hoe 9. peace 10. by accident 11. intents and purposes 12. dog-eat-dog world 13. deep-seated 14. scapegoat 15. Regardless 16. just deserts

2021 Semi-Annual Meeting

MINUTES OF THE ANNUAL MEETING: June 18, 2021

Welcome: President Dixie Bader, CP called the 2021 Annual Meeting to order and welcomed all who were attending in person and via webinar.

Roll Call: Attendance was taken by Secretary Valerie Winegar, CP. Forty-seven (47) SDPA members were in attendance in person or via webinar.

Minutes of October 9, 2020, Semi-Annual Meeting: A motion was presented and seconded to waive the reading of the October 9, 2020 Semi-Annual Meeting minutes and to approve the minutes as written. No discussion. Motion carried and minutes were approved as written.

Treasurer's Report: A motion was presented and seconded to approve the Treasurer's Report. No discussion. Motion carried and Treasurer's Report was approved.

NALA Liaison's Report: Report was read by Valerie Winegar for NALA Liaison Janet Miller, ACP. As of June 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 again 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 continues to offer a 25% discount on all NALA Active membership fees. NALA offers several free resources to paralegals including a Member 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 CP or ACP. Information regarding the scholarships is

located on the SDPA website. There is a CP Skills Exam testing window from July 1-31, 2021. The next CP Skills Exam testing window is from October 1-31, 2021.

COMMITTEE REPORTS

Education Committee: Report was given by Chair Rebekah Mattern. The Committee has worked hard over the last few months to make arrangements for the June seminar, which you are all attending today, and is in the beginning stages of planning for the October seminar. Our June seminar was approved by NALA for six (6) credits, including one (1) legal ethics credit and one (1) non-substantive credit. If you are interested in serving on the Education Committee, please let the Education Chair or one of the Executive Committee members know. As always, the Committee welcomes any recommendations on topics, speakers and ways to improve our seminars, and look forward to working with new committee members. Please email any recommendations to Rebekah at rmattern@lynnjackson.com.

Membership Committee: Report was given by Membership Committee member Autumn Nelson, CP. As of May 30, 2021, SDPA had 105 members on its roster. If you work with or know any paralegals or legal assistants that are interested in joining SPDA, please have them contact any one of the membership committee members. Also, please remember to update any changes in your employment, home or work contact information and email address so that you receive timely notices, newsletters, and other important emails. All changes can be sent to Jackie Schad at jackie.schad@johnsoneiesland.com.

Audit Committee: Report was given by Dixie Bader for the Audit Committee. The Audit Committee has received and reviewed the credit card and bank statements from Cor-Trust Bank through April 30, 2021 and find them to be without error.

Ethics Committee: Nothing to report.

Public Relations Committee: Nothing to report.

Library Committee: Report was read by Librarian Clara Kiley, CP. In the last fiscal year, seminar recordings were checked out a total of six (6) times. Since the last quarterly report in April, one (1) seminar DVD was checked out and returned. Since the last annual meeting that was held virtually, flash drives have been purchased on which seminar recordings can be loaded. The October 2019 seminar and the June 2020 virtual seminars are on flash drives rather than DVDs. Recording of previous seminars can be checked out by SDPA members for \$35 plus postage or \$50 for non-members. Let me know what seminars you were not able to attend but would like to view, and I can get the DVDs out to you. At the recommendation of SDPA members, the book "The Indispensable Paralegal" by Candace Zona-Mendola was also purchased for the library for the benefit of the members. The book has three sections 1) You, Paralegal; 2) Practice Pointers; and 3) Taking Your Practice to the Next Level. This is a great book for someone new to the field, but also has great tips for those who have been working with the law for a while. It is available to check out by any SDPA member at no cost, except the postage to mail it to them. The library also has two copies of the NALA Certified Paralegal Exam Fundamentals Manual available for members to check out if you are thinking now is the time to get certified. Members are allowed to use the manual for three months to study for the exam after paying a \$100 deposit. The manual is an excellent resource for anyone studying for the CP exam. If you have any questions or would like to check out any of the library materials, please email Clara Kiley, CP at pckiley@msn.com.

Newsletter Committee: Report was given by Newsletter Committee Chair, Jessi Stucke, ACP. The committee continues to publish SDPA's quarterly newsletter, the Reporter. Thank you to each of the committee members for their work throughout the year! The newsletter is distributed electronically to the members, is published on SDPA's website, and is published on NALA's Affiliated Associations page. We are in need of volunteers to write a brief paralog for upcoming issues. On occasion, we republish content from other sources, but we would prefer something from one of our members, or from other colleagues or attorneys in South Dakota. If you know of a recent publication from someone or could provide us with recommendations, we would appreciate it. Our main priority is to provide meaningful information to our members, and we also want to represent SDPA and South Dakota well among NALA members and the legal community. If you have any comments,



2021 Semi-Annual Meeting

« MINUTES OF THE ANNUAL MEETING: June 18, 2021

suggestions, or ideas for what you would like to see in the newsletter, please let me know or contact any member of the committee.

Professional Development Committee:
No report.

Job Bank Committee: Report was given by Job Bank Committee Chair Laura Stewart. Currently, there are ten (10) positions available on the SDPA Job Bank. We have four (4) in Sioux Falls, four (4) in Rapid City; one (1) in Pine Ridge; and one (1) in Aberdeen. For specific details on these positions, please check out the SDPA website. The Job Bank changes frequently so please check the website for the latest updates and available positions throughout the state. If you are an employer or know of any employer seeking paralegals and/or legal staff, please contact us.

Website Committee: Report was given by Dixie Bader for the Website Committee. The Website Committee submitted a proposal to the Executive Committee for the rebuild of SDPA's website, which was approved. The committee is working with the web designer on the new website, and we cannot wait to share it with you. Please watch for more details in the near future!

Nominations & Elections Committee: Report was given by Nominations and Elections Committee Chair Cindy Smeins, 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.

Special Committee: Report was given by Jessi Stucke, ACP. Now that COVID restrictions are relaxed, we are ready to get to work on scheduling statewide webinars. The Executive Committee's intent is to have 2-4 CLEs per year while working around our annual and semi-annual seminars, so

the goal would be to hold two (2) webinars before the end of the year. The CLE is to be held in person while being broadcast via GoToMeeting to the rest of the members. The committee itself is made up of the chairs of all of the other standing committees, however, if someone else from the committee is willing, they can be substitute. This committee is also open to any other volunteers. The intent is to have a large committee in order to share ideas, time, and locations throughout the state, and also maintain some separation from the Education Committee to avoid volunteer overload. We will begin planning according to the survey responses we received at the end of 2020, but if you have a particular interest, speaker suggestion, or would like to offer to host a CLE, please let me know.

A motion to accept all committee reports, including the NALA Liaison report, was made and seconded. Motion carried.

OLD BUSINESS

President Dixie Bader, CP, announced that the SDPA website will soon be capable of taking payments for dues on-line. Also, the Special Committee will begin planning statewide webinars now that COVID restrictions have relaxed.

NEW BUSINESS

There was no new business to discuss.

ANNOUNCEMENTS

President Dixie Bader announced that Courtney VandenBerg was SDPA's Member of the Year. She was nominated by Vicki Blake, CP. Dixie reminded everyone to complete the Evaluation Form. If you are currently on a committee, your term runs through December 31, 2021. Committee Preference Forms for next year will be send at the end of this year. Compliments were given to the Education Committee for doing an excellent job on this year's seminar.

ADJOURNMENT

There being no further business, a motion was made, seconded, and passed to adjourn the meeting.

Submitted by Valerie Winegar, CP, Secretary.

The Best Hard-Boiled Breakfast

by Autumn Nelson, CP

When I need a quick, healthy but delicious, and filling breakfast that I can prepare ahead of time for the week this is my go-to. I prepare enough ahead of time to last me the week, do a quick chop at work, and it easily gets me through to lunch.



For each individual serving:

- 2 Hard-Boiled Eggs
- 1/4 Avocado
- 8 Cherry Tomatoes

Instructions

Chop them up so you can have one of each in every bite, and the combo is delicious!

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

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.

WORD SCRAMBLE ANSWERS: 1. facsimile 2. typewriter 3. rotary phone 4. dot matrix printer 5. floppy disk 6. telegram 7. carbon paper 8. risograph 9. encyclopedia 10. dictaphone 11. inkwell 12. IBM computer.

AUDIT

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

Report to be given at Semi-Annual Meeting.

CLE LUNCHEON

Chair: Jessi Stucke, ACP
JStucke@rwwsh.com

Members:
Vicki Blake, CP Janet Miller, ACP
Jennifer Frederick, CP Paula Newman
Jessica Huyck, ACP Jackie Schad, ACP
Clara Kiley, CP Cindy Smeins, ACP
Rebekah M. Mattern Laura Stewart
Nicole Mayer, CP Courtney Vanden Berg, CP

No report.

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

Report to be given at Semi-Annual Meeting.

FINANCE

Clara Kiley, CP
PCKiley@msn.com

As the new treasurer, I am still trying to familiarize myself with the duties of the treasurer and the ins and outs of the office. I am excited to become more involved in SDPA by having joined the Executive Committee. As of June 30, 2021, there was \$22,347.77 in the savings account and \$29,664.95 in the checking account. Since then, we have paid outstanding expenses for the seminar, some of which were on the credit card bill that was paid. We have also paid sales tax for the first six months of 2021. (I've learned since taking this position that our association has to pay sales tax on merchandise, advertising, and seminar registrations for non-certified attendees.) Those payable amounts have brought our checking account balance to \$25,255.56 as of August 1, 2021.

JOB BANK

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

Open positions are listed on page 8. The job information is 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
PCKiley@msn.com

Since our annual meeting held in June, 2021, the library has been pretty quiet; everyone is enjoying time out of their houses in the sunshine. I have had one request to check out a recording from the library. The recording of the June 2021 seminar is currently on its way to me and should be available to check out soon. Recordings of previous seminars can be checked out by SDPA members for \$35 plus postage or \$50 for nonmembers. Let me know what seminars you were not able to attend but would like to view, and I can get them out to you. The library also has two copies of the NALA Certified Paralegal Exam Fundamentals manual available for members to check out if you are thinking now is the time to get certified. Members are allowed to use the manual for three months to study for the exam after paying a \$100 deposit. The manual is an excellent resource for anyone studying for the CP exam. If you have questions or would like to check out any of the library materials, please email Clara Kiley, CP.

MEMBERSHIP

Chair: Jackie Schad, ACP
Jackie.Schad@JohnsonEiesland.com

Members: Autumn Nelson, CP
Jessi Stucke, ACP

Report to be given at Semi-Annual Meeting.

PROFESSIONAL DEVELOPMENT

Chair: Nicole Mayer, CP
NicoleMayer74@outlook.com

Members: Janet Miller, ACP
Autumn Nelson, CP

SDPA has four scholarships available. The applications can be found on our website. We encourage our members who are not certified to sit for the CP exam, and for our Certified Paralegal members to register for an ACP course. If you have any questions, please contact a member of our committee.

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.

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 Smeins, ACP
CindySmeins@gmail.com

Member: Chris Lillo, ACP

The nominations for the 2022-2023 Executive Committee are:

Autumn Nelson, CP – President
Christal Schreiber – 1st Vice President
Cindy Wooten, ACP – 2nd Vice President
Sarah Havlin, ACP – NALA Liaison
Shelly Tyndall, ACP – Secretary
Clara Kiley, CP – Treasurer

If you are unable to attend the Semi-Annual Meeting or will be attending virtually, please send your ballot (page 5) to Cindy Smeins, ACP, on or by October 8, 2021.

PUBLIC RELATIONS

Chair: Vicki Blake, CP
Vicki@ddLawSD.com

Members: Jennifer X. Frederick, CP
Val Winegar, CP

Report to be given at Semi-Annual Meeting.

WEBSITE

Chair: Jessica Huyck, ACP
Jessica.Huyck@SDstate.edu

Member: Jessi Stucke, ACP

Report to be given at Semi-Annual Meeting.



You are cordially invited to the
125 year celebration of the
Sioux Falls U.S. Courthouse

Friday, September 17, 2021
3:00 p.m.

Northside courtyard
400 S Phillips Avenue
Sioux Falls, SD

**Celebrate the remarkable history of the
U.S. Courthouse in Sioux Falls and its incredible
legacy to the territory and state of South Dakota.**

*Following the event there will be an
open house to explore the history of the building.*





[CLICK HERE for COMPLETE INFORMATION](#)

NALA released new editions of the CP study materials in 2018 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