

STENOGRAPHY: THE GOLD STANDARD *(page 6)*

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NEWS FROM U.S. DISTRICT COURT

November 8, 2024

Fraudulent Notices of Electronic Filings (NEFs). The District of South Dakota and courts across the country are reporting fake NEFs being sent to attorneys and law firms. These simulated NEFs are phishing attempts to convince recipients to respond back to the emails. Once a recipient replies, they are sent a follow-up email containing a link to access the document, which leads users to a malicious website. Please exercise caution if you receive NEFs. You should only validate cases and case documentation through CM/ECF—do not download any attachments or click any links from unofficial or questionable sources. [Additional information](#) is available on the Court's website.





President's Message

Jessi Stucke, ACP, CEDS

Welcome to our last issue of 2024!

SDPA and each of us members are lucky to have several new faces in our organization this year—some new to the legal profession, some seasoned with their years of experience. I'm excited to get to know everyone and learn more about the type of work they do! This thought leads me to thinking about how we'll be publishing an abbreviated membership roster in the web portal, which was suggested by a couple of our members this year—thank you! We'll get that online in the web portal soon and I'm sure that will be a great resource for each of us to connect with local colleagues or network with others across the state!

Other things come to mind this time of year, and those are membership renewals and committee signups. You can renew your membership as early as December 1 when we post the link on the web store, and you can sign up to be on one of our 2025 committees any time—the preference form is included in this newsletter.



Executive Committee

PRESIDENT

Jessi Stucke, ACP,
CEDS

1st VICE PRESIDENT

Sara Huber

2nd VICE PRESIDENT

Autumn Nelson, ACP

NALA LIAISON

Clara Kiley, CP

SECRETARY

Jennifer Frederick, CP

TREASURER

Tasha Altmann, ACP

I won't throw in the phrase "many hands make light work," (see what I did there?) but I will say, working on a committee is a rewarding experience in so many ways. You get to be a part of the growth of our organization and its legacy, and you get to know other members better. I joined a couple of committees about a year or so after I joined SDPA and at the time I was still completely green around my legal ears. It changed the trajectory of my career because I got to know others who could help me understand what being a paralegal really was, and I wasn't alone on the learning curve. I will be putting groups together in December, so the sooner you send in the form, the better!

members scattered across the state. Vicki Blake is interested in helping with a group in Sioux Falls, but we're looking for someone to lead. Please reach out to Clara and Vicki if that is something you'd be interested in doing. Aside from those plans, an online-only group may be the best option for other members, and again we would be looking for a study group leader for those people. Another idea would be to have several co-leaders, for example, some people lead the group on chapters that relate to the work they do, and others lead on other chapters. Please give it some thought and then reach out to Clara.

And speaking of groups, we've seen a huge interest in starting a CP exam study group. Clara Kiley, our NALA Liaison, had a few requests out of the October seminar, and she started what has turned out to be an exciting conversation. Many of our members want to get certified and plans for the study group are underway. Jen Frederick is leading a group in the Watertown area (and is willing to share all her leadership materials), we have a handful of people in Sioux Falls, another group in Pierre, and then a few other

I'm looking forward to 2025 and everything SDPA has planned. We'll be advertising more frequently in the bar newsletter, we'll be working on freshening up the Bylaws for 2026, and we'll be working on loading more information into either the web portal or the Google Drive, so that members have access on-demand. If there are other projects you'd like us to take a look at, please reach out with your ideas! I wish everyone a wonderful holiday season (however high-energy or low-key you prefer!) and all the best for the new year!

SDPA's JOB BANK

There are currently 7 job openings listed on SDPA's website.

Click [here](#) for more information.

NALA Liaison's Report

Clara Kiley, CP

CALENDAR

DECEMBER & JANUARY

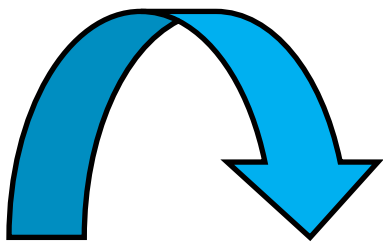
- | | |
|-------|---|
| 12/3 | #Depositions 101: Essential Practical Tips and Techniques for Success |
| 12/6 | *Tort Talks: Part 3—Def's Presentation of Witnesses & Exhibits |
| 12/6 | *Tort Talks Series: Understanding Torts through Case Study |
| 12/11 | #AI for Lawyers: Navigating Ethics & Best Practices |
| 1/16 | *Tort Talks: Part 4—Elements of a NIED Claim |

*NALA Webinars
#Justia Connect (free webinars)

NALA'S mission is to promote the paralegal profession through certification, continuing education opportunities, and advocating for paralegals. SDPA is an affiliated association of NALA and part of the mission of SDPA is "to further education among members of the profession." At the recent October SDPA semi-annual meeting and seminar, several paralegals approached me with questions about NALA and becoming a certified paralegal. Many of these attendees also expressed interest in forming a study group to assist preparing for CP exam. In an effort to facilitate such a study group, I have sent out an email to the in-person and virtual attendees of the seminar to try to connect paralegals interested in preparing for the CP exam with each other and help them find study group facilitators. If you did not attend the October seminar or didn't receive the email, but would like to be part of a study CP group as a facilitator or as a study group participant, please reach out to me by email at pckiley@msn.com.

SDPA STUDY GROUPS

Want to study for NALA's Certified Paralegal Exam? Join one of SDPA's Study Groups.



The Certified Paralegal (CP) designation can be earned by studying for and passing NALA's Certified Paralegal Exam. To be eligible to take the CP® Exam, you must meet one of the following requirements:

- Enrolled in or graduated from a paralegal program that meets our criteria;
- Obtained a bachelor's degree in any field plus one year of experience as a paralegal or at least 15 semester hours of substantive paralegal courses; or
- Have a high school diploma, or equivalent, plus five years of experience as a paralegal and a minimum of 20 hours of substantive continuing legal education completed within the past two years.

For more information about NALA's Certification process, click [here](#).



SOUTH DAKOTA PARALEGAL ASSOCIATION, INC.
(f/k/a South Dakota Legal Assistants Association, Inc.)
Founded in 1989

MEMBERSHIP DUES RENEWAL FORM
January 1, 2025 to December 31, 2025

Name: _____ Designation/Certification, if any: _____

Employer: _____

Supervising Attorney(s): _____

Office Address: _____ City: _____ Zip: _____

Office Phone: _____ Facsimile: _____

Office Email: _____ ; Home Email: _____

Home Address: _____ City: _____ Zip: _____

Home Phone: _____ Cell Phone: _____

Preferred Mailing Address: _____ Office _____ Home

_____ I would like to opt out of having my office contact information included on any roster available to the membership.

ANNUAL FEES:

Please check membership classification: _____ Active (\$75.00)
_____ Student (\$30.00)
_____ Associate (\$45.00)
_____ Sustaining (\$75.00)
_____ Honorary Inactive

Due Date: January 1, 2025

Date Delinquent: February 1, 2025.

\$10 late fee applies to all dues received on or after February 1st.

Forward completed form **via e-mail only** to:

- Autumn Nelson, ACP, at AutumnN@HalbachLawFirm.com
- Tasha Altmann, ACP, at tasha.altmann@mrenergy.com

Forward check payable to **SDPA** to:
South Dakota Paralegal Association
c/o Tasha Altmann
PO Box 88920
Sioux Falls, SD 57109



South Dakota Paralegal Association, Inc.

Founded in 1989

2025 Committee Preference Form

Please mark your first, second, and third choices.

- | | | | |
|--|-------------------------------------|--|---|
| <input type="checkbox"/> Audit | <input type="checkbox"/> Job Bank | <input type="checkbox"/> Nominations
& Elections | <input type="checkbox"/> Public Relations |
| <input type="checkbox"/> CLE Luncheon* | <input type="checkbox"/> Library | <input type="checkbox"/> Professional
Development | <input type="checkbox"/> Website |
| <input type="checkbox"/> Education | <input type="checkbox"/> Membership | | <input type="checkbox"/> <i>no preference</i> |
| <input type="checkbox"/> Ethics | <input type="checkbox"/> Newsletter | | <input type="checkbox"/> <i>same as 2024</i> |

*This committee is made up of one member from each of the other committees (except the Education Committee). Mark this committee if you are interested in being the designee from one of your other committee choices.

NAME: _____ EMAIL: _____

PLEASE EMAIL OR MAIL by Monday, December 1, 2024 to:

Jessi Stucke, ACP, CEDS at JStucke@rwwsh.com

Richardson, Wyly, Wise, Sauck & Hieb, 1 Court St, Aberdeen, SD 57401

Committee Descriptions:

- Audit. Shall be comprised of at least two active members, one of whom is preferably a past Treasurer, whose purpose is to audit the Treasurer's books as of the close of the fiscal year prior to the annual meeting.
- CLE Luncheons. Shall organize lunches and speakers and seek CLE credit through NALA for statewide presentations by one-hour webinar.
- Education. Shall plan seminars and workshops and work with NALA, the State Bar and other organizations, in the event of co-sponsorship of any programs. Responsible for fulfilling the educational requirements under Article VI of the Bylaws and its chairperson shall report such educational meetings to the NALA Liaison.
- Ethics. Shall investigate and report any violations of South Dakota Supreme Court Rule 97-25 or the Code of Ethics adopted by SDPA to the Executive Committee for appropriate action, including a member's censure, expulsion, or discipline.
- Job Bank. Shall maintain a listing of jobs available in South Dakota as provided by prospective employers.
- Membership. Shall be charged with the responsibility of developing programs to encourage membership in the association. The chairperson is responsible for determining if the applicant meets the qualifying criteria for membership and for notifying the prospective applicant of their acceptance/rejection of membership. The chairperson is responsible for keeping a current membership roster in conjunction with the Treasurer.
- Newsletter. Shall publish and distribute SDPA's newsletter at least quarterly, or more often if directed by the Executive Committee.
- Nominations & Elections. Shall present a slate of officers to the membership thirty (30) days prior to election and perform such other duties as are required under these Bylaws. No name shall be on the slate without the consent of the candidate.
- Professional Development. Shall read and report current case law involving legal assistants of the NALA Professional Development Committee. In addition, the committee would promote local professional involvement with the legal community.
- Public Relations. Shall develop programs to promote good relations with the legal community and the public, prepare promotional material for publication, and arrange for radio and television programs or in any other media which would benefit SDPA.
- Website. Shall maintain the website for the association and also respond to any inquiries by members or non-members that are posed through the website.

STENOGRAPHY: THE GOLD STANDARD

by Cheri M. Wittler, RPR, CRR

President South Dakota Court Reporters Association

Stenography is a critical element of the legal profession, and it has a long and distinguished history dating back to ancient Rome. The modernization of stenography has evolved into state-of-the-art equipment, yet other inferior methods of capturing the record continue to threaten the accuracy and integrity of legal proceedings.

Stenographers are highly trained professionals who undergo extensive, specialized training and complete courses in court and deposition procedures, English grammar and punctuation, and legal and medical terminology. Stenographers achieve advanced professional certifications, such as the RPR, RMR, RDR, and CRR, and engage in continuing education training to keep current with the latest technology and industry standards.

Stenographers make a live record of the proceedings from start to finish. To ensure that the record is verbatim and accurate, which is crucial for legal proceedings, stenographers continuously monitor and manage situations like multiple speakers, overlapping speech, and soft-spoken individuals. We know immediately if we need to interrupt to clarify the record. Stenographers provide instantaneous readbacks, realtime translation, rough drafts, and expedited transcripts. We are vigilant in handling off-the-record discussions, a critical aspect for maintaining the integrity of the legal process. We are bound by confidentiality requirements. We adhere to a Code of Professional Ethics.

Alternative methods of capturing spoken words, such as digital reporting, have limitations which impact their reliability. The integrity and accuracy of the transcript completely depends on the quality of the recorded audio. Technical issues and glitches affect digital recordings, and the ability to accurately capture multiple speakers, overlapping speech, and strong accents presents challenges. There are lower standards for certification, and many digital reporters are not certified. When a digital reporter appears for your deposition, he or she is making notes along the way to be referenced by a transcriptionist. The audio files are frequently broken up and outsourced to individuals who were not present at the proceedings to produce the transcript, thereby jeopardizing the security of your clients' names, birth dates, phone numbers, banking, and other sensitive information.

There are many compelling reasons why stenography remains the gold standard for court reporting. While alternative capture methods may have their place, the trained stenographer is irreplaceable for ensuring the accuracy and integrity of legal proceedings. Don't be caught off guard by a notice allowing a digital audio recorder to appear for your proceedings when you and your clients deserve a stenographic reporter.

Test Your Appeal Knowledge

1. Conclusions of Law are reviewed by the standard of _____.
() clearly erroneous or () de novo
2. Does a material breach of a contract excuse the non-breaching party from further performance?
() Yes or () No
3. Whether a party's conduct is a material breach is a question of _____.
() Law or () Fact
4. Decisions about whether to pierce the corporate veil must be decided _____.
() by a universal standard or () by underlying facts of each case
5. Factual findings are reviewed _____.
() clearly erroneous or () de novo

Answers on page 16.

COURT OPINION SUMMARIES

Special Edition

The following is a reprint of a summary of an important ruling in *Rodriguez v. Vanlperen*, 2024 WL 2831837 (D.S.D. 2024) posted on the SD State Bar Listserv by the USD School of Law and Cutler Law Firm, LLC.

U.S. District Court Rules Punitive Damages Are Recoverable in Wrongful Death Cases Under South Dakota Law, Changing Its Prior Position

“After carefully considering the new arguments presented today, the court finds it appropriate to change its mind from *Sheesley* and respectfully disagree with *Bethel*. In short, South Dakota law authorizes punitive damages for wrongful death claims.”—the Honorable Karen Schreier, U.S. District Court, District of South Dakota, Southern Division, June 4, 2024.

We would like to make the South Dakota bar aware, particularly attorneys currently representing or advising clients and potential clients in wrongful death cases, of a favorable decision our client received from Judge Schreier in June of this year. Specifically, the court changed its position from a prior prediction it made in a 2006 case and held that punitive damages are recoverable in wrongful death cases under South Dakota law.

The facts of the case are exceptionally tragic. Kelley Rodriguez, a young wife and mother of four living in Lincoln, Nebraska, was traveling to Fargo for work on the morning of November 16, 2022. She was driving a rental vehicle which became disabled and stalled on Interstate 90 near the Brookings, South Dakota exit. Kelley was able to maneuver the car partially onto the shoulder but was mostly in the driving lane.

Kelley was in her vehicle on a call with AAA when the driver of a Mack truck loaded with 50,000 pounds of fuel crashed into the back of her vehicle, killing her. Evidence showed the driver was using his cell phone extensively before the crash, viewing TikTok and making online purchases. At the time of impact, evidence showed he was using his cell phone to play a video game. The driver was in the driving lane when he hit Kelley. He made no effort to move over, and he did not brake, slow down, or swerve prior to impact.

Our law firm brought a wrongful death lawsuit in federal court against the driver and trucking company on behalf of Matthew and his and Kelley’s four young children, seeking damages for the “pecuniary injury” each suffered, pursuant to SDCL § 21-5-7. We also requested punitive damages as provided for in SDCL § 21-3-2. The defendants moved for summary judgment on their affirmative defenses of assumption of the risk and contributory negligence (asking that the court find Kelley was contributorily negligent more than slight as a matter of law). They also asked the court to rule punitive damages were not recoverable in the case.

The Supreme Court of South Dakota has not yet decided the issue of whether punitive damages can be recovered in wrongful death cases under South Dakota’s current statutory scheme. However, two prior federal court decisions, one in 1984 (*Bethel v. Janis*) and one in 2006 (*Sheesley v. Cessna*), considered the issue and predicted the Supreme Court of South Dakota would not allow punitive damages under South Dakota’s wrongful death statutes.

We asked the court to certify the punitive damages question to the South Dakota Supreme Court for a ruling or, in the alternative, to reexamine the issue and reconsider. We did a comprehensive analysis of the punitive damages issue, presenting evidence and arguments that included a comparison of the 1877 and 1887 Territory Codes, unearthing flaws which misinterpreted pre and early statehood statutes.

The court was ultimately swayed, however, by the in-depth discussion of the interplay of South Dakota’s wrongful death and punitive damages statutes in their present form and how the Supreme Court of South Dakota has construed and applied them in the twenty years since the court’s last decision:

For the reasons explained above, the court finds that SDCL §§ 21-1-4, 21-5-1, 21-5-7, and 21-3-2, collectively interpreted, unambiguously authorize punitive damages in wrongful death claims, and predicts the South Dakota Supreme Court would do the same.

The court also acknowledges that two previous federal courts, including this court back in 2006, predicted that South Dakota does not authorize punitive damages in wrongful death claims. See *Sheesley*, 2006 WL 1084103, at *27; *Bethel*, 597 F. Supp. at 58-59. But neither of these decisions bind the court, nor did either of them discuss the interplay between SDCL §§ 21-1-4, 21-5-1, 21-5-7, 21-3-2, and the Supreme Court decisions in *Groseth*, *Stabler*, and *Till*. **After carefully considering the new arguments presented today, the court finds it appropriate to change its mind from *Sheesley* and respectfully disagree with *Bethel*. In short, South Dakota law authorizes punitive damages for wrongful death claims.**

The court denied defendants’ motion for summary judgment on the affirmative defenses, held punitive damages are recoverable, when the requisite conduct is present, under South Dakota’s current wrongful death statutes, and deemed it unnecessary to certify the punitive damages issue to the South Dakota Supreme Court given the court’s level of certainty as to its prediction given the information now before it.

The decision marks a significant change in the law, critical for those seeking compensation under the South Dakota wrongful death statutes for the loss of a loved one killed by conduct triggering application of the punitive damages statute set out at SDCL § 21-3-2. The ruling makes available to wrongful death litigants an additional, separate class of damages which South Dakota attorneys presumed, for the past forty years, were categorically

excluded in wrongful death cases.

The holding also erases a legal distinction which caused a very inequitable and illogical result, allowing recovery of punitive damages if the injured party survived for any amount of time, while disallowing recovery of punitive damages *for the same exact conduct* if the death it caused was immediate.

The current citation for the case is *Rodriguez v. Vanlperen*, 2024 WL 2831837 (D.S.D. 2024). Westlaw has chosen the case for publication in the Federal Supplement. The court’s prior prediction with a contrary conclusion was in *Sheesley v. The Cessna Aircraft Co.*, 2006 WL 1084103 (D.S.D. 2006). The same prediction was made in *dicta* in *Bethel v. Janis*, 597 F.Supp. 56 (D.C.S.D. 1984), which Judge Schreier also references.

SDPA’s New Members:

Barbara Brosvik Paulson

–Wilkinson & Schumacher, DeSmet

Amber Woldt

–Boyce Law Firm, Sioux Falls

Welcome to our Paralegal Team!



Basic Charcuterie Board

By Jen Frederick, CP



Charcuterie boards are one of my favorite “date night” meals. I only follow a few basic rules on ingredients: 2 meats, 3 cheeses (usually one spreadable cheese), bread/cracker, and something sweet, briny, and nutty. Within those categories, you can mix and match till you find your faves.

MEAT:	CHEESE:	CRACKER:
Salami	Gouda	Baguette (slice/toast)
Prosciutto	Manchego	Wheat Crackers
Pepperoni	Gruyere	Wafers
Capricola	Cheddar	Artisan Crips
Soppressata	Havarti	Cracker Sticks
Summer Sausage	Goat	Herb Crackers
	Blue	

SWEET:	BRINY & NUTTY:	
Grapes	Olives	<i>Once you have your ingredients, you can use almost any board, platter, or tray to arrange your main items—meat, cheese, & crackers. Cut your cheese in slices or cubes, roll or fold your meat, and put a little here and there. Use small bowls for your condiments or put piles of them between your main items. Finish it off with some cute charcuterie utensils and your favorite bottle of wine or craft beers—and you’re ready to enjoy! Cheers.</i>
Raspberries	Pickled Asparagus	
Apple slices	Pepperoncini	
Chocolate	Banana Peppers	
Dried fruit	Pecans	
Candied Nuts	Pistachios	

GRAMMAR CHECK

by Karen J. Armstrong, PP, PLS

I mentioned in the last article that I am a dinosaur. It's true—my eyes are fading, my bones are creaking and cracking, my arthritis is arthritising (hey—I think I may have just invented a new word!), and my walk is getting slower and slower all the time. The chemo I underwent last year truly took its toll on my brain. Therefore, I have decided that this will be my last “Grammar Check” article. I wanted to give you a recap of what I feel are the most important things I have tried to impart to you over these past six years.

1. **Commas and periods** that are part of the overall sentence **always, always, always** go inside the quotation marks, even though they aren't part of the original quotation. Unless they are part of the original quotation, all punctuation other than commas or periods are placed outside the quotation marks.
2. **Never say “me and Becky.”** Think about going to a store with your best friend. You reach the door at the same time. Do you grab the door handle, go in first and let the door slam shut, leaving your friend outside? No, of course you don't. You open the door for her and let her go in first. Think about that the next time you're tempted to say “me and Becky.” **Always put others first.** If you don't know whether to say “Becky and I” or “Becky and me,” try leaving out the “Becky and” from the sentence. “Becky and I are going to the mall.” “Mom said she will leave the lights on for Becky and me.” You would say “I am going to the mall,” or “Mom said she will leave the lights on for me.” That should help you determine whether you should use “I” or “me.”
3. **Your nouns must agree with your verbs.** Remember—a noun is a person, place, thing, or idea. A verb is an action word, used to describe an action, state, or occurrence. In most cases, you need both a noun and a verb to make a complete sentence. Be sure to check your noun/verb agreement in your sentences when you are proofreading. **Be especially aware of this in the first sentence of your pleadings.**
4. Never let “**I seen**” or “**I done**” pass your lips. Instead, say “I saw” or “I did.” In our profession, we need to seriously pay attention to our grammar and the way we speak. You only get one chance to make a good first impression. Our clients are less likely to have confidence in us if we speak like we are high school dropouts.
5. **Its** is a possessive pronoun. **It's** is a contraction and is short for “it is” or “it has.” They sound the same when you are talking, but be sure to use the right version in your writing.
6. **Their** is a possessive pronoun. **They're** is a contraction and is short for “they are.” **There** is an adverb that means “in, at, or to that place or position.” Again, they all sound the same when you are talking, but be sure to use the right version in your writing.
7. **Your** is a possessive pronoun. **You're** is a contraction and is short for “you are.” They sound the same when you are talking, but make sure you are using the proper version in your writing.

continued on page 10



GRAMMAR CHECK, continued from page 9.

8. **A possessive pronoun is a pronoun that shows ownership or possession.** Their meaning is already possessive, so they don't contain an apostrophe (its, your, their). They do not need an apostrophe to show ownership (unlike nouns, which do need an apostrophe to show ownership (girl's dress, students' classes)).

The best way to figure out which word is the correct word for your sentence is to use a simple substitution test. If you can substitute *it is* or *it has*, *they are*, *there is* or *there has*, *you are*, or *who is* or *who has*, and it makes sense, use the contraction. If the substitution doesn't make sense, use the possessive form.

9. The "**Oxford comma**," also known as the "serial comma," is the comma before the word "and" at the end of a list in a sentence. It is known as the Oxford comma because it was traditionally used by printers, readers, and editors at Oxford University Press. Some writers—especially those in journalism—say it isn't necessary and don't use it, but I am still a big fan of the Oxford comma, and believe it may be necessary for clarification. In some cases, it may not make much of a difference, but then again, in your sentence, it may make a huge difference!
10. **Microsoft Word can help you with your writing if you pay attention.** A green wavy line under a word or words means you may have a grammatical error. A red wavy line under a word means you may have a misspelled word. Double blue lines under a word or words mean that there may be an inconsistency in the format of your text that you may want to look at and correct. Instead of thinking of these lines as a nuisance, think of how they can help you.

I have enjoyed writing these articles for the newsletter. My best wishes to all of you as you continue to learn and grow in SDPA.

~ Karen Armstrong ~

SDPA extends heartfelt appreciation to

Karen Armstrong

for her time on the Newsletter Committee and for authoring the "Grammar Check" all these years. Your service to our Association and your example of leadership and teamwork has made a difference!

THANK YOU!

Thank You . . .

for being a paralegal superstar!



MINUTES
Semi-Annual Meeting
October 11, 2024

CALL TO ORDER: The Semi-Annual Meeting of the South Dakota Paralegal Association was called to order by President Jessi Stucke, on October 11, 2024, at the Underground, in Sioux Falls, South Dakota. President Stucke welcomed those in attendance and those attending virtually via Zoom. President Stucke then introduced the other members of the Executive Committee, which included Sara Huber (First Vice President), Autumn Nelson, ACP (Second Vice President), Clara Kiley, CP (NALA Liaison), Tasha Altmann, ACP (Interim Treasurer) and Jennifer Frederick, CP (Secretary).

ROLL CALL: Roll call was taken by Jennifer Frederick, CP, Secretary. There were 27 members present, including those attending via Zoom. President Stucke declared there was a quorum present to proceed.

APPROVAL OF MINUTES, June 14, 2024, Annual Meeting: Minutes were published in the August 2024 SDPA Reporter. A motion was made and seconded to waive reading of the minutes (Vicki Blake and Dixie Bader). Motion carried. A motion was made and seconded to approve the minutes (Dixie Bader and Bonnie Woolam). Motion carried.

TREASURER'S REPORT: Tasha Altmann, ACP, presented the Treasurer's Report.

As several non-SDPA members were present, a motion to discuss financial numbers was made and seconded (Courtney Vanden Berg and Clara Kiley). Motion approved. The balances of SDPA's savings account, checking account, and the total received for seminar registrations was provided, with notation of the credit card payment due. A motion was made and seconded to approve the Treasurer's Report (Rebecca Goeken and Carrie Reider). The motion carried and the Treasurer's Report was approved.

NALA LIAISON'S REPORT: Clara Kiley, CP presented the NALA Liaison's Report: Since taking office as the NALA Liaison in June 2024, I attended the NALA Convention in Louisville, KY with President Jessi Stucke in July. This was an action-packed 3-1/2 days full of learning and networking. Since then, we have paid our NALA affiliated association annual dues and requested and received approval for CLE credits for today's seminar. I attended a virtual town hall where NALA affiliates from multiple associations brainstormed about finding great speakers for CLEs. In addition, I was able to obtain some free swag from NALA for distribution at today's seminar and an \$80 NALA voucher to use as a door prize. I would also like to submit a request to NALA to have a NALA Board Member or representative attend and speak at our annual meeting and seminar in June 2025, in Rapid City. In an effort to cut expenses, the Executive Committee has decided not to participate in the NALA Affiliate Showcase at the 2025 NALA Conference in Atlantic City, NJ. Whether or not we should submit a proposal to present a CLE during the NALA Affiliate Exchange during the 2025 NALA Conference

has not yet been decided. The deadline for the submission of a proposal is December 31. NALA's mission is to promote the paralegal profession through certification, continuing education opportunities, and advocating for paralegals. NALA offers paralegal certification and advanced certification, as well as resources to assist in obtaining certification. If you would like more information on these programs, please feel free to ask me about them today or reach out to me by email at pckiley@msn.com. I will be more than happy to answer any questions you might have.

A motion was made and seconded to approve the report (Vicki Blake and Courtney Vanden Berg). The motion carried and the report was approved.

COMMITTEE REPORTS:

Audit: Report was presented by Vicki Blake: I have reviewed the SDPA Savings and Checking statements for July thru September, 2024, and credit card statements through September 13, 2024. Savings: As of September 30, 2024, the SDPA Savings account balance is \$xxx. Checking: As of September 12, 2024, the SDPA Checking account balance is \$xxx. Credit Card: I have not received the October credit card statement as of this writing, so this report is only for May through September statements. As of September 13, 2024, the SDPA credit card had a balance of \$xxx, which amount was paid on October 10, 2024. The Treasurer and President have provided me with all appropriate receipts and I find the accounts to be in order.

CLE Luncheons: No report.

Education: Report presented by Courtney Vanden Berg: The Committee has worked hard over the last few months to make arrangements for the October seminar, which you are all attending today. This seminar has been approved for 5 CLE credits, and between the June and October seminars, the SDPA Education Committee has offered 11 CLE credits this calendar year. We really enjoy the opportunity to put on these great seminars; however, we cannot do it without the generous help from our sponsors. If you, your firm, or anyone you know would like to sponsor an upcoming seminar, please complete a Sponsor Confirmation Form. The form can be found on the SDPA website. Please keep in mind, the Education Committee always welcomes recommendations on topics, speakers, and ways to improve our educational seminars and ourselves within this amazing career. So, do not hesitate to share your thoughts or ideas with us and we will work on implementing them in our upcoming seminars. Please email any recommendations for upcoming seminars to Rebecca at goekenr@goosmannlaw.com and Courtney at courtney@strangelaw.com. Also, there is a lot of work that goes into planning these events; if you want to help or be a part of the Education Committee, please consider completing the Committee Preference forms that are included with the Program. We would love to have you on the Education Committee! Hope to see you all in Rapid City for the June Annual Meeting and Seminar!!

Ethics: No report.

Job Bank: No report.

Librarian: No report.

Membership: Report presented by Autumn Nelson: As of September 30, 2024, we have 88 members. If you work with or know any paralegals or legal assistants who are interested in joining SDPA, please have them contact Autumn at autumn@halbachlawfirm.com. 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 Autumn. We are starting discussions on events the Membership Committee could execute for 2025. If you have any ideas or are interested in hosting a mixer or any other type of event that would promote memberships in the SDPA, please contact Autumn.

Newsletter: No report.

Nominations & Elections: Report presented by Jessi Stucke: We still continue to search for a member who is willing and/or able to accept the nomination for Treasurer, so that position is vacant. Please let us know if you have any questions or are interested in learning more about this position. The nominations for the 2025-2026 Executive Committee are:

- President – Sara Huber
- 1st Vice President – Autumn Nelson, ACP
- 2nd Vice President – Rebecca Goeken
- Secretary – Jennifer Frederick, CP
- Treasurer – nomination needed
- NALA Liaison – Vicki Blake, ACP

Professional Development: No report.

Public Relations: Report presented by Jennifer Frederick: Our committee is undergoing some changes. We hope to expand our duties and add some new ones in an effort to “promote good relations with the legal community and the public [and] prepare promotional materials for publication” as envisioned by our Bylaws. To that end, if anyone would like to join our committee with new ideas and fresh perspectives —please do! We will be preparing ads and promotional materials for publication to law firms, in an effort to promote SDPA and the greater use of paralegals. If you are interested in helping us or have experience with advertising, please join.

Website: Report presented by Jessi Stucke: The Website Committee continues to keep the website updated with current information, including upcoming events, current officers and committees, and current Bylaws. The website’s domain was renewed over the summer and is now good through 2029. If you have any questions, please do not hesitate to contact our committee. Thank you.

OLD BUSINESS: No old business to discuss.

NEW BUSINESS:

- 1. Election of Officers:** The officers up for election in June are Second Vice President Rebecca Goeken, NALA Liaison Vicki Blake, and Treasurer—vacant. President Stucke then requested nominations from the floor for the position of Treasurer—no nominations were received. President Stucke explained the process for obtaining a nomination for Treasurer, which will require a special meeting prior to the Annual Seminar in June to approve the nomination. The Nominations and Elections Committee will seek a nomination for Treasurer. A motion was then made and seconded to approve the nomination of officers and the process for nominating a Treasurer (Courtney Vanden Berg and Paula Haight). Motion approved.

- 2. Bylaws Amendment:** President Stucke explained the Executive Committee is reviewing and will suggest amendments to the Bylaws of minor updates. In addition, the Executive Committee is considering combining committees, re-naming committees, and removing committees to match the number of volunteers available to perform the various tasks and to update our committees with the actual work being done by the committees. A report by all committee chairs was requested by the Executive Committee to share their thoughts and discuss the goals and activities of each committee, which will be reviewed and considered. President Stucke then explained the process of amending the Bylaws, which will require a red-lined version to be provided to the members, and a 30-day notice prior to being voted on in two separate meetings, which will take approximately one year to accomplish. No motion was required.
- 3. Roster Sharing:** President Stucke discussed the request by several members to share the Association's Roster of members, and some concerns also have been raised in the past about sharing contact information. An abbreviated version of the Roster is already in effect by the Membership Committee, which only lists name, employer, and city. The abbreviated version will be made available to all members, but an "opt out" option will be provided to all members on the Membership Renewal form in the event a member does not want their information included in the abbreviated Roster. No motion was required.
- 4. Committees:** President Stucke discussed the need for more Association members to join and participate in the committees. No motion was required.
- 5. Budget:** President Stucke went over the changes from last year's budget. Discussion was held regarding the NALA Conference budget that went over by double. President Stucke shared that the NALA Conference budget should have been increased last year, and that expenses are only estimated at the time the budget is presented and approved. To save costs, the swag used for the NALA Conference in the amount of \$750 will be removed. The estimated travel costs for the 2025 NALA Conference is \$2,000 per person, not counting the other conference costs, which includes approximately \$1,000 in registration fees. The President and NALA Liaison will provide a breakdown of costs and, if necessary, a special meeting to do a budget adjustment prior to the NALA Conference. An increase to \$6,000 for the NALA Conference is being requested. A motion was made and seconded to approve the budget as presented with the condition to revise the NALA Conference budget as needed when more accurate costs are available (Courtney Vanden Berg and Paula Haight). Motion approved.

ACKNOWLEDGEMENTS: President Stucke thanked the members in attendance in person and via Zoom, thanked the non-members for joining us, and thanked the Education Committee for their work on the seminar.

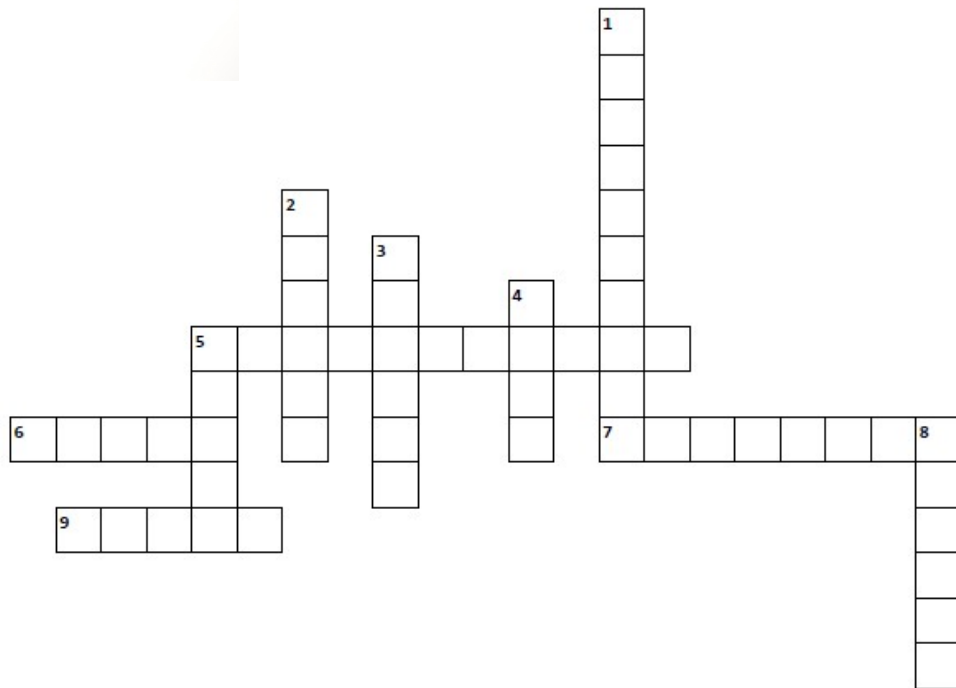
ANNOUNCEMENTS: Reminded members to complete the Seminar Evaluation forms and Committee Preference forms.

There being no further business, a motion was made and seconded to adjourn the meeting (Vicki Blake and Dixie Bader). Motion approved, and the meeting was adjourned.

Submitted by Jennifer Frederick, CP
Secretary



Answers in this Issue



Across

- 5. method of live record
- 6. always inside quotation mark
- 7. damages recoverable in wrongful death
- 9. has ACP and CEDS credentials

Down

- 1. committee with SDPA's roster
- 2. need 3 for your board
- 3. who sent "greetings"
- 4. affiliated association of
- 5. topic of District Court news
- 8. CLE hours offered this year

SDPA Committee Reports

A complete list of SDPA's Committees can be found on our website by clicking [here](#).

LIBRARY: The library is up to date on all CLE materials including the luncheon CLEs. All CLE materials are ready for anyone looking to stay up on their CLE requirements for NALA. If you or someone you know is in need of CLE credits, please keep the library in mind. We have the library catalog available online at <https://www.sdparalegals.com/news-resources>, and all materials can be checked out through the SDPA store making checking materials out easy. If you have any recommendations for additional materials, please let me know.

As a reminder, recordings of previous seminars can be checked out by SDPA members for \$45.00 or \$60.00 for nonmembers (pricing includes postage). 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.

The library also has two (2) copies of the most recent NALA Certified Paralegal Exam 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 \$100.00 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 Courtney L. Vanden Berg, CP, at courtlyn@hotmail.com or courtney@strangelaw.com

NEWSLETTER: If anyone would like to write an article for the Newsletter or be in charge of adding a new section to the Newsletter, please join our committee! We would love to explore new ideas.

NOMINATIONS: We still continue to search for a member who is willing and able to accept the nomination for Treasurer so that position remains vacant. Please let us know if you have any questions or are interested in learning more about this position.

PUBLIC RELATIONS: Our committee has our first of many SDPA ads coming out in the State Bar Newsletter's December issue. Check it out! Our goal is to promote our association and the vital use of paralegals to the attorneys, so they will see the value we bring to their law firms. If anyone is interested in helping us with this endeavor, please join our committee!

DID YOU KNOW?

1. CONVERTING LEGAL-SIZED PAPER TO LETTER-SIZED AFTER SCANNING TO PDF:

- ⇒ Scan in as original size of legal paper.
- ⇒ Rotate the pages and save it.
- ⇒ Print it to "Adobe PDF" and checkmark "Fit" option in printer properties.
- ⇒ It should automatically convert to a letter-sized PDF.

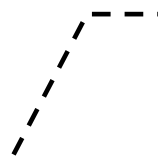
2. FLATTENING PDF FILES BEFORE E-FILING:

When using a PDF fillable form that will be filed in CM/ECF, you must "flatten the file."

Flattening the file decreases the file size and keeps the integrity of the data entered on the form. Documents filed in CM/ECF that were created using a fillable form, but was not flattened makes the information in the fields not show up unless you hover over the field. Also, filed PDFs with fields that are still fillable allows the content in the field to be modified by anyone who opens the form.

To flatten the fillable PDF file:

- ⇒ Simply select "print to PDF" instead of "save" or "save as" once you are ready to file the PDF.



EMOTIONS

are real,
but they are
NOT
the boss of you.



*Greetings
from the
North Pole!
- Frosty*

Answers to "Test Your Appeal Knowledge"

1. De novo.
2. Yes.
3. Fact.
4. Underlying facts of each case.
5. Clearly erroneous

See *FDJ, LLC v. Determan*, 2024 S.D. 42.

Ethics Corner

by Ethics Committee



Reprinted with permission of Attorney Sander Morehead.

Attorney Sander Morehead presented ethics at our Semi-Annual Seminar in October. These portions of his presentation are being reprinted for the benefit of our members.

Unauthorized Practice of Law (UPL)

- ▶ One of the primary ethical complaints filed against lawyers and paralegals related to paralegal services.
- ▶ Canon 1 – A paralegal must not: (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; (b) establish attorney-client relationships, set fees, give legal opinions or advice, or represent a client before a court or agency unless so authorized by that court or agency; and (c) engage in conduct or take any action which would assist or involve the attorney in a violation of professional ethics or give the appearance of professional impropriety.

UPL—The list of “do nots” is short— but inflexible

Paralegals cannot:

- ▶ Practice law.
- ▶ Give legal advice.
- ▶ Accept/reject retention for a case or negotiate fees.
- ▶ Appear and argue/question in a proceeding.
- ▶ Do any of the “dos” without attorney supervision.

Confidentiality is Critical

Canon 7 – A paralegal must protect the confidences of a client and must not violate any rule or statute now in effect or hereafter enacted controlling the doctrine of privileged communications between a client and an attorney.

SDRPC 1.6—Confidentiality of information

- (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b).
- (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Confidentiality (Cont'd)

- ▶ Paralegals must ensure that all client information is stored securely. This includes physical files, electronic records, and any other forms of data. Access to this information should be restricted to authorized personnel only. Implementing strong passwords, encryption, and secure storage systems are critical measures for safeguarding privileged information.
- ▶ The work from home conundrum—security is the key consideration.
- ▶ Reporting Breaches: If a paralegal becomes aware of a potential breach of confidentiality, it is their responsibility to report it immediately to their supervising attorney. Prompt reporting allows for swift action to mitigate any damage and to take corrective measures to prevent future breaches

Confidentiality (cont'd)

- ▶ Paralegals must exercise discretion when communicating about cases. Discussions about client matters should only occur in private, secure environments, and only with individuals who are authorized to have access to the information. This includes being mindful of discussions in public places and avoiding the use of unsecured communication channels for sensitive information.
- ▶ Paralegal friends and family waiver risk—Do not discuss cases with family or friends. Even if you try to keep the facts vague and non-case-specific, there is danger that the conversation could get back to the client—or worse.



NEWS FROM U.S. DISTRICT COURT

September 13, 2024

Jury Scams. Recently, the Court has been alerted to several jury scams that have taken place across the district. In four separate incidents, South Dakota residents were contacted via phone and told that they were in contempt of court for failure to appear for jury duty. A Lyman County resident was instructed to travel to the Walmart in Pierre and buy gift cards from the kiosk. Fortunately, the individual contacted a court employee where he discovered that the call was a scam.

Another call involved an individual who was informed that he failed to appear for a federal jury trial in Rapid City before Judge Lange. The caller wanted the individual to post bond for failure to appear. The individual told the caller that he never received a letter or summons from the court. Fortunately, the individual verified the information with the Clerk's Office and did not send money to the scammer.

In two recent incidents, individuals were called and told that they had missed jury duty. The first person was informed that she would have to pay \$4,000 to resolve the issue and was instructed to obtain a money order from the bank. The individual was also told to provide odometer readings prior to leaving her house and upon returning from the bank. The second individual ended the call shortly after the caller threatened him. In both cases, the caller indicated that he knew where the individuals lived and claimed to know where one of them worked.

Regarding jury duty, please keep the following facts in mind:

- The court will always send a jury summons by U.S. Mail. The summons will never request a credit/debit card number, bank routing number, account number, wire transfer, or demand any type of payment over the phone.
- On the day of jury duty, if a juror has not checked-in, the Clerk's Office may attempt to call the juror and inquire about their attendance. A juror who fails to report for jury duty will be contacted via mail by the District Court Clerk's Office and they may, in certain circumstances, be ordered to appear before a judge. Such orders will always be in writing and signed by a judge.

- If a juror is summoned to court for failure to appear for jury duty, they will be given an opportunity to discuss the matter with the judge. If a fine is imposed, it will be ordered in open court and reduced to writing.

If you know someone who has been the target of this type of scam, please encourage them to report the incident to the proper authorities. If the caller claims to be from federal court, please contact the FBI office. If the caller claims to be from state court, please contact local law enforcement (Police Department or Sheriff's Office). It is a federal crime for anyone to falsely represent themselves as a federal court official.

DID YOU KNOW?

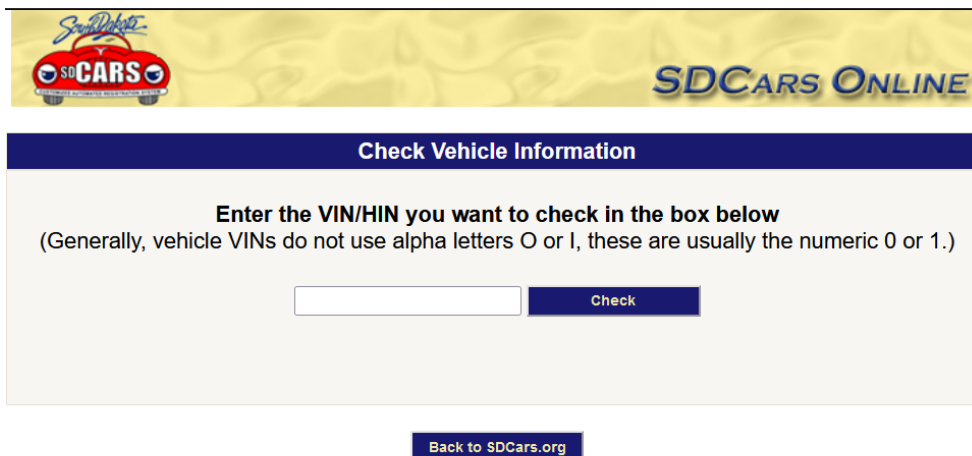
1. FTRs

For the Record, referred to as "FTR," is digital court recording being used in courtrooms. FTR will record and keep the record, so that if a transcript is needed later, a court reporter can then listen to the recording and transcribe from it. FTRs are being used in some of our South Dakota courtrooms when a judge is available, but the court reporter is unavailable.

Be sure to read our feature article from the South Dakota Court Reporters Association *Stenography: The Gold Standard* on page 6.

2. VIN Searches

Check the Vehicle Identification Numbers at SD Cars Online: <https://apps.sd.gov/RV66Renewals/checkvin/NewCheckVIN.aspx>



The screenshot shows the SD CARS ONLINE website interface. At the top left is the SD CARS logo, and at the top right is the text "SDCARS ONLINE". Below this is a dark blue header with the text "Check Vehicle Information". The main content area has a light gray background and contains the text "Enter the VIN/HIN you want to check in the box below" followed by "(Generally, vehicle VINs do not use alpha letters O or I, these are usually the numeric 0 or 1.)". Below this text is a white input box and a dark blue "Check" button. At the bottom of the form area is a dark blue button with the text "Back to SDCars.org".

[TOP](#)

sdCARS -- South Dakota Department of Revenue
Division of Motor Vehicles

[TOP](#)

Answers in this Issue

Across:

5. Stenography
6. Comma
7. Punitive
9. Jessi

Down:

1. Membership
2. Cheese
3. Frosty
4. NALA
5. Scams
8. Eleven