

NEIL FULTON

EDUCATION

- 1997 JD, Summa Cum Laude, *University of Minnesota School of Law*
- Class Rank: 1 of 270
 - Order of the Coif
 - Kaplan Award for Overall Academic Experience
 - Devitt Award for Excellence in Trial Advocacy Courses
- 1994 BA, Political Science, *Yale University*

EXPERIENCE

- 2010 – 2019 Federal Public Defender, *Districts of North and South Dakota*
- Guideline Committee, 2012 – Present
 - Legislative Committee, Co-Chair, 2014 – Present
 - Performance Measurement Working Group, 2017 - Present
- 2007 – 2010 Chief of Staff, *Governor M. Michael Rounds*
- 1998 – 2007 *May, Adam, Gerdes, & Thompson, LLP*
- Associate, 1998 – 2003
 - Partner, 2003 – 2007
- 1997 – 1998 Law Clerk, *The Honorable Diana Murphy, United States Court of Appeals for the Eighth Circuit*

BAR ADMISSIONS

2010	United States District Court for the District of North Dakota
2003	United States Supreme Court
2003	Cheyenne River Sioux Tribal Court
2002	Rosebud Sioux Tribal Court
1998	United States Court of Appeals for the Eighth Circuit
1997	United States District Court for the District of South Dakota
1997	South Dakota

LEGAL COMMITTEES AND MEMBERSHIPS

2018	Full Time Magistrate Judge Selection Committee, United States District Court for the District of South Dakota, Western Division
2017	Magistrate Judge Reappointment Committee, United States District Court for the District of South Dakota, Northern Division
2017	Magistrate Judge Reappointment Committee, United States District Court for the District of South Dakota, Central Division
2017 - 2019	South Dakota Board of Bar Examiners
2016 - Present	American Board of Trial Advocates
2016 - Present	Eighth Circuit Pattern Jury Instruction Criminal Law Subcommittee
2016 - 2019	United States Sentencing Commission Tribal Issues Advisory Group
2015 - 2016	United States Sentencing Commission ad hoc Tribal Issues Advisory Group

- 2015 Part Time Magistrate Judge Selection Committee, United States District Court for the District of South Dakota, Western Division
- 2014 Magistrate Judge Selection Committee, United States District Court for the District of South Dakota, Southern Division
- 2003 – Present Eighth Circuit Bar Association
- 1999 – 2005 University of Minnesota Law School Alumni Board
- 1997 – Present American Bar Association
- 1997 – Present State Bar of South Dakota
 - Audit Committee, 2000 – 2005, Chair, 2002 – 2005
 - Ethics 2000 Committee, 2002 – 2003
 - Bar Commission, 2003 – 2006
 - Ethics Committee, 2004 – Present, Chair, 2008 – 2019
 - Diversity and Inclusion Committee, 2018 – Present

COMMUNITY SERVICE

- 2017 – 2019 Pierre Catholic Foundation Board of Directors
- 2016 – Present Catholic Community Foundation for Eastern South Dakota Board of Directors
- 2013 – 2017 St. Joseph’s School Home and School Association Board
- 2006 – 2010 Saints Peter and Paul Parish Properties Committee
- 2004 – 2008 Countryside Hospice Board of Directors
- 1998 – 2006 Oahe YMCA Board of Directors
- 2015 – 2019

PUBLICATIONS

- State Bar of South Dakota Newsletter, This is a Disaster! Ethically Planning for the Worst Case Scenario, March 2019
- Joint Dedication to Justice Lori S. Wilbur, 63 S.D. L. Rev. i
- Bismarck Tribune, Marking the 50th anniversary of Gideon (with U.S. Attorney Tim Purdon), 23 March 2013
- South Dakota Banker, Volume IV, No. 1 p. 18 (Jan. 2007) Cell Phones Combined with Driving Becoming Major Source of Exposure to Liability
- South Dakota Banker, Volume III, No. XI p. 10-11 (November 2006) Legal Cases Illustrate Lending Do's and Don'ts
- Amendment E: The Constitutional Dimensions of Unintended Consequences, 49 S.D. L. Rev. 781
- Brief of Appellees Montana-Dakota Utilities Co., Northwestern Public Service, and Otter Tail Power Company, 49 S.D. L. Rev. 674
- Wielding Ockham's Knitting Needles, 47 S.D. L. Rev. 385

TESTIMONY AND PRESENTATIONS

- South Dakota Trial Lawyers Keynote "Trial Lawyers in the Era of Fake News", 21 June 2018.
- South Dakota Bar, "Legal Potpourri: Recent Changes to Attorney Conduct and Attorney Discipline Rules", 20 June 2018
- Unified Judicial System/South Dakota Bar, Project Rural Practice Seminar, "Ten Commandments of Legal Ethics, 9 March 2018
- United States Sentencing Commission, Public Hearing on Tribal Issues, 8 February 2018 (Written testimony)
- Black Hills Legal Professionals, "Responding to Difficult Ethical Situations", 21 April 2017
- Criminal Justice Act Panel Training, South Dakota, "Discussion of the Future of the CJA: Cardone, Colson, and NACDL Reports", 11 October 2016
- SDPB Midday, "Racial Disparity in Federal Sentencing", 9 August 2016
- Ad Hoc Committee to Review the Criminal Justice Act; Minneapolis, MN Hearing, 16-17 May 2016 (Written/oral testimony)
- Black Hills Legal Professionals, "Top Ten of Legal Ethics", 22 April 2016
- United States Sentencing Commission, Public Hearing on Child Pornography Circuit Splits and Miscellaneous Proposed Amendments, 16 March 2016 (Written/oral testimony)

- Senate Committee on the Judiciary, 114th Congress (2015), Protecting the Constitutional Right to Counsel for Indigents Charged with Misdemeanors (Written/oral testimony)
- National Federal Defender Conference, “Creative Approaches to Managing Office Processes”, 27 February 2015
- South Dakota Bar, Nuts and Bolts: “Basics of Professional Responsibility”, October 2014
- United States Sentencing Commission, Public Hearing on the Violence Against Women Reauthorization Act of 2013, 13 February 2014 (Written/oral testimony)
- Criminal Justice Act Panel Training, North Dakota, “Ethics in Criminal Defense” (Leader of Panel Discussion), 19 June 2013
- South Dakota School Superintendents Association Conference Keynote “Leadership in Complicated and Interesting Times”, 13 June 2012
- Criminal Justice Act Panel Training, North Dakota, “Common Ethical Traps and How to Think About Them”, 23-26 May 2011
- South Dakota Focus (SDPB): Education in South Dakota, 23 October 2008
- PEPL Fund Risk Management Conference, “Workplace Behavior: Ethics, Liability, Law Suits”, 12 August 2008
- Governor’s Leadership Program Graduation, Challenging Leadership, May 2008
- PEPL Fund Risk Management Conference, “Mitigating Damages”, 16 August 2007
- PEPL Fund Risk Management Conference, “Risk Planning Through Legal Vigilance”, and “Litigation: A Mock Trial”, 22 August 2006
- South Dakota Legislature: I testified many times before a variety of committees for private clients, the Office of the Governor, and state agencies between 1998 and 2010 and drafted legislation

APPELLATE BRIEFING

South Dakota Supreme Court

- Argus Leader v. Hagen, No. 24191, 739 N.W.2d 475 (SD 2007)
- Jundt v. Fuller, No. 24393, 736 N.W.2d 508 (SD 2007)
- In re Tinklenberg, No. 23704, 716 N.W.2d 798 (SD 2006)
- In re Application of Benton, No. 23232, 691 N.W.2d 598 (SD 2005)
- In re Rounds, No. 22766, 659 N.W.2d 374 (SD 2003)
- Purdy v. Fleming, No. 22181, 655 N.W.2d 424 (SD 2002)
- In re Setliff, Nos. 21996, 21982, 645 N.W.2d 601 (SD 2002)

- Dakota Pork Industries v. City of Huron, No. 21990, 638 N.W.2d 884 (SD 2002)
- Gettysburg School District 53-1 v. Larson, No. 21750, 631 N.W.2d 196 (SD 2001)
- In re One-time Special Underground Assessment by Northern States Power Co. in Sioux Falls, Nos. 21752, 21769, 628 N.W.2d 332 (SD 2001)
- Casazza v. State, No. 21217, 616 N.W.2d 872 (SD 2000)
- Hart v. Miller, No. 20947, 609 N.W.2d 138 (SD 2000)

8th Circuit Court of Appeals

- United States v. Zachery Conner, No. 18-1032
- Ryan Ronald Mountain v. United States, No. 17-3771
- Darren Holter v. United States, No. 17-3734
- United States v. Samantha Flute, No. 17-3727
- United States v. Mark Anthony Reyna, Sr., No. 17-3569
- Scott Lee Owen v. United States, No. 17-3487
- Arthur Daniel Smith v. United States, No. 17-3307
- Gabriel Lazaro Garcia-Hernandez v. United States, No. 17-3027
- Ambrose Lewis Champagne v. United States, No. 17-3021
- Nilsen v. United States, 732 Fed.Appx. 494 (8th Cir. 2018)
- Adam Joseph Winarske v. United States, No. 17-2367
- United States v. David Cory Waters, No. 17-2236
- United States v. Janis, 730 Fed.Appx. 387 (8th Cir. 2018)
- United States v. Hess, 742 Fed.Appx. 149 (8th Cir. 2018)
- Winters v. United States, 691 Fed.Appx. 286 (8th Cir. 2017)
- United States v. Doering, 759 F.3d 862 (8th Cir. 2014)
- United States v. Conklin, 750 F.3d 773 (8th Cir. 2014)
- Hamberg v. United States, 675 F.3d 1170 (8th Cir. 2012)
- United States v. Ramos-Rogel, 411 Fed.Appx. 944 (8th Cir. 2011)
- Gingras v. Wood, 294 Fed.Appx. 241 (8th Cir. 2008)
- Schmidt v. Big Boy, 272 Fed.Appx. 536 (8th Cir. 2008)
- Ferebee v. Smith, 280 Fed.Appx. 560 (8th Cir. 2008)
- Thompson v. Merwin, 216 Fed.Appx. 611 (8th Cir. 2007)
- Figg v. Russell, 433 F.3d 593 (8th Cir. 2006)
- Janis v. Biesheuvel, 428 F.3d 795 (8th Cir. 2005)
- Andrews v. Fuoss, 417 F.3d 813 (8th Cir. 2005)

- US v. Red Elk, 426 F.3d 948 (8th Cir. 2005)
- Dakota, Minnesota & Eastern Railroad Corp. v. South Dakota, 362 F.3d 512 (8th Cir. 2004)
- Yocom v. Human Services Center, Doctors, Staff, and Adm'rs, 65 Fed.Appx. 586 (8th Cir. 2003)
- South Dakota Farm Bureau, Inc. v. Hazeltine, 340 F.3d 583 (8th Cir. 2003)
- US v. Allen, 40 Fed.Appx. 313 (8th Cir. 2002)
- Central South Dakota Co-op. Grazing Dist. v. Secretary of U.S. Dept. of Agriculture, 266 F.3d 889 (8th Cir. 2001)

Petitions for Writ of Certiorari

- Charles Russell Rhines v. Darin Young, No. 18A654
- Charles Russell Rhines v. Darin Young, No. 18A612
- Clifton Patterson v. United States, No. 18-5685
- Michael Lee Long v. United States, No. 17-7456
- Fernando Buendia Reyes v. United States, No. 17-5527
- Stacy Winters v. United States, No. 17-5495
- Ryan John Lenoir v. United States, No. 17-5485
- Brian Gene McCoy v. United States, No. 17-5484
- Ralph Lansing v. United States, No. 17-5483
- Colt David Schneider v. United States, No. 17-5477
- Luis A. Castillo v. United States, No. 17-5472
- Aldo Castillo v. United States, No. 17-5471
- Taylor Corey Azure v. United States, No. 17-5466
- Rendell Charles Hardy v. United States, No. 17-5442
- Alexander Zane Zephier v. United States, No. 14-9272
- Ronald Bonestroo v. United States, No. 12-10754
- Timothy Red Elk v. United States, No. 05-7567
- Timothy Red Elk v. United States, No. 04-5831

Supreme Court Amicus Briefs

- Welch v. United States, No. 15-6418, 2016 WL 721992, Brief of the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae in Support of Petitioner
- Beckles v. United States, No. 15-8544, 2016 WL 5903238, Brief of the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae in Support of Petitioner

- Pepper v. United States, No. 09-6822, 2010 WL 3518665, Brief of the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae in Support of Petitioner

SOUTH DAKOTA FORMAL ETHICS OPINIONS

- 2019-01
- 2014-01
- 2013-01, 2013-02, 2013-03, 2013-04, 2013-05
- 2012-02, 2012-04, 2012-05
- 2011-01
- 2010-01, 2010-02, 2010-03, 2010-04, 2010-06
- 2009-01
- Numerous additional opinions were not published by the State Bar, only issued to requesting lawyers

MISCELLANEOUS WRITING

- Monthly “Dean’s List” column in South Dakota Bar Newsletter, 2019-Present
- Eighth Circuit Pattern Jury Instructions 6.18.113(1) through 6.18.113(8)
- Report of the United States Sentencing Commission Tribal Issues Advisory Group, 16 May 2016 (Drafting Subcommittee Member)
- SDTLA Barrister, Issue 299 July/August 2018, Trial Lawyering in the Era of Fake News (Written text of keynote speech)
- Federal Public Defender comment letter to Senator McConnell and Senator Schumer regarding The First Step Act (H.R. 5682), 13 August 2018
- Federal Public Defender comment letter to Senator Grassley and Senator Feinstein regarding Sentencing Reform and Corrections Act of 2017 (S. 1917) and Smarter Sentencing Act of 2017 (S. 1933), 31 October 2017
- Federal Public Defender comment letter to Senator Hatch regarding Mens Rea Reform Act of 2017, 2 October 2017
- Federal Public Defender comment letter to Representative Ryan, Representative Pelosi, Representative Goodlatte, Representative Conyers, regarding Kates Law (H.R. 3004), 29 June 2017
- National Association of Federal Defenders comment letter to Senator Grassley and Senator Feinstein regarding Probation Officer Protection Act of 2017, 9 June 2017