This article recounts the story of Project Rural Practice (“PRP”) from its inception to date. Like the story of rural America, the story of PRP cannot be effectively told without telling the story of its people. The common interest for each of these people is expressed in the purpose of PRP, which is both to assure meaningful access to legal services in rural communities and also to ensure rural communities remain “not just viable, but thriving.” The compelling story of PRP illustrates what can be accomplished when good people work toward a common purpose. Our hope is the story of PRP motivates and inspires positive action here at home and elsewhere in rural America.

I. INTRODUCTION

A. THE COUNTRY LAWYER: A DEEP-ROOTED RURAL HISTORY

[Ee] could have gone to the city, but [hisers] roots are deep in [hisers] community. . . . [Ee] is the man [or woman] of action whenever the community needs leadership. [Ee] makes a living, and a good one considering the resources of the community, but no fellow citizen with a problem stays away because [ee’s] afraid of the legal fee. Lawyer [ee] is, and philosopher too, who loves the community [ee] serves beyond the measure of money or personal honors. [Hisers] principal compensation comes from the love and praise of [hisers] fellowmen. . . . [Hisers] work, legal, social and cultural, brings honor to [hisers] name and to [hisers] profession.

† Patrick G. Goetzinger is a partner in the law firm of Gunderson, Palmer, Nelson, & Ashmore, LLP in Rapid City, South Dakota. He served as President of the State Bar of South Dakota in 2011-2012 and is currently the Co-Chair of the Project Rural Practice Task Force. While Pat lives in Rapid City, he calls Martin, South Dakota, his home.

† Robert L. Morris is the owner of Morris Law Firm, Prof. LLC in the “Center of the Nation,” Belle Fourche, South Dakota. He served as the President of the State Bar of South Dakota in 2009-2010 and is currently the Co-Chair of the Project Rural Practice Task Force, along with his 1988 USD Law School classmate, Patrick Goetzinger.


2. The following paragraph incorporates a method for pronoun gender neutrality promulgated by University of South Dakota School of Law Professor Charles Thatcher. See C. Marshall Thatcher, What is “Eet”? A Proposal to Add a Series of Referent-Inclusive Third Person Singular Pronouns and Possessive Adjectives to the English Language for Use in Legal Drafting, 59 S.D. L. Rev. 79 (2014).

3. The Country Lawyer, The Rotarian, Feb. 1955, at 63. This tribute to the Country Lawyer was brought to the authors’ attention by Vince Protsch and his son Greg, who display a portrait of this tribute in their law office, which is located on Main Street in Howard, South Dakota.
These passages lauding the Country Lawyer ably and accurately describe the not-too-distant past in South Dakota. South Dakota’s humble rural communities were home to many iconic country lawyers who dispensed prairie wisdom from their Main Street office and shaped the history of the Bar, their local communities, and the state. Although these iconic country lawyers were right at home on Main Street, their talents and ambitions produced a legacy that Main Street could not contain.

We remember several giants. M.Q. Sharpe was a Main Street lawyer of significance who became Governor from his Kennebec law practice and mentored many prominent lawyers and politicians who were known as the Lyman County Mafia. Another Kennebec lawyer, A.C. Miller, practiced law on the opposite side of Kennebec’s Main Street from Mr. Sharpe’s office. In 1943, M.Q. Sharpe served as Governor and A.C. Miller served as Lt. Governor, at the same time, making Kennebec the only community in South Dakota history to have both the sitting Governor and Lt. Governor from the same community.

Other giants from across the state bear recognition. First, Sam Masten, from Canton, whose legendary advocacy skills resulted in USD School of Law naming its annual Moot Court Competition after him. Next, Rick Johnson, a fearless litigator, who succeeded his father, George, and was himself succeeded by his daughter Stephanie and son George in a third generation law firm on Main Street in Gregory. Additionally, the Honorable Mildred Ramynke, originally from Morristown, who became South Dakota’s first female judge and the inspiration for The Trailblazer Award, an award given annually by the Law School’s Women In Law organization. Lastly, Arthur Frieberg was the first of four generations of Frieberg’s to practice law in Beresford, with his son Roscoe, grandson Bob, and great-grandson Tom representing three generations of South Dakota State Bar Presidents. For more stories of distinguished country lawyers, just button-hole anyone over the age of forty who calls a small town their home.

These lawyers practiced in a different time. South Dakota rural communities were growing in population. Small town schools were at capacity. Main Street store front vacancies were minimal. The constriction in the number of farms and ranches had not yet adversely affected rural economies. Rural Main Streets were well-stocked with country lawyers. Legal work was plentiful, challenging, and profitable. Law school graduates did not second guess a return to their home town. They embraced the challenge of hanging a shingle on Main Street. They lived the romance of a country lawyer as expressed by the passages from the Country Lawyer quote. Rural attorneys were civic leaders regarded by their communities as much more than just another lawyer. They were lauded for their values and humbled by the trust placed in them. They became giants of rural America.

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5. Id.
The shift in population from rural to urban areas in South Dakota over the course of the past decades has been well-documented. With the decline in the number of lawyers on Main Street in small town South Dakota, rural residents’ access to lawyers, and by extension, access to justice, also declined. The romance of the country lawyer begs for revival in order to restock rural Main Street with a new generation of country lawyers.

B. THE MAIN STREET LAWYER: AN ENDANGERED SPECIES

In his Foreword to this Symposium Issue of the Law Review, Chief Justice Gilbertson eloquently tells the story of what he observed in rural South Dakota over his lifetime. Since first drawing attention to this issue in his State of the Judiciary message in 2005, the Chief had to feel as if he was whistling past the graveyard. A crisis of access to legal services grew in rural South Dakota – and nothing was being done to actively address it.

South Dakota has sixty-six counties covering a geographical area of 77,184 square miles. As of 2011, six counties have no lawyers, nineteen counties have one to three lawyers, fourteen counties have four to six lawyers, while sixty-five percent of the active members of the State Bar of South Dakota were concentrated in only four cities. South Dakota reflected the national trend regarding the demographics of the legal profession, rural depopulation, and urban migration. South Dakota is on the front line of the national trend where the average age of the profession in rural communities is climbing, while young successors to aging attorneys increasingly prefer an urban-based practice.

Six years after he first brought attention to this issue, Chief Justice Gilbertson spoke the words that would become one of the anthems of PRP in his 2011 State of the Judiciary message: “We face the very real possibility of whole sections of this state being without access to legal services. Large populated areas are becoming islands of justice in a rural sea of justice denied.”

The Chief Justice’s call for action did not go without notice. When the Chief speaks, State Bar leaders listen. At their core, the co-authors of this article are small town South Dakota kids. Bob is from White and Pat is from Martin. Bob Morris, the State Bar President in the 2009-2010 Bar year, along with State Bar Young Lawyer President, Sarah Sharp Theophilus, co-founded the Young Lawyer Mentor Coin Program, which has since been renamed the Hagemann-Morris Mentorship Program. Past President Morris recruited his 1988 Law School classmate, Pat Goetzinger, to serve as State Bar President in the 2011-2012 Bar year. Along with his successor as President, Dick Casey, past President Morris actively mentored Goetzinger as he prepared to launch the theme of “Giving Back” during his year as President of the State Bar.

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8. Id.
9. Id.
Past President Casey initiated formulation of the Bar’s Strategic Plan during his term as President. The Bar’s Strategic Plan became the core of the Bar’s purpose guiding the work of its leadership on behalf of the profession. As the Bar’s Strategic Plan evolved and the Mentorship Program matured, both projects were critical in planting the seed that would grow into PRP. PRP represented all elements of the Bar’s objective to inspire lawyers to give back to the Bar, their profession, and their community by ensuring meaningful access to legal services for all citizens.

Inspired by Chief Justice Gilbertson’s image of a vast sea of justice denied, Goetzinger declared the Main Street attorney in rural South Dakota an endangered species. From the bully pulpit of the President’s Page in the State Bar newsletter, Goetzinger wrote:

The number of small town attorneys in relation to the need for legal services in rural South Dakota is shocking. The impact of losing rural lawyers on the economic viability of rural communities and the delivery of justice to these areas is potentially devastating. Action to preserve the Main Street attorney in rural [South Dakota] is necessary.

The Chief Justice identified an immense problem that had no precedent on how to solve it. Declaring the rural attorney as an endangered species was a bold tactic to grab the attention of the Bar and the public. Attention quickly turned to the tasks necessary to remove rural lawyers from the list of endangered species.

C. THE BAR RESPONDS: PROJECT RURAL PRACTICE TASK FORCE ESTABLISHED

To address the challenge of shrinking rural attorney numbers and reverse the decline of legal services in rural areas, the Bar responded by creating Project Rural Practice. To increase the effectiveness of PRP, the Bar recognized support for meaningful access to legal services must extend beyond just lawyers. As the Bar pointed out, ensuring that Main Streets in rural South Dakota include law practices is not just an isolated Bar issue – it is a community issue:

It is linked to the very survival of many key elements that define the distinctive quality of life in all of [South Dakota]. The decline of Main Street lawyers is directly connected to the health of the local economy, impacts shrinking budgets, and is key to effective advocacy to ward off discussions about courthouse closings and county consolidation.

The threats represented by this challenge extended beyond the borders of the State Bar. Responding to the threat effectively required the participation of multiple stakeholder organizations representing several constituencies within the community.

The Bar asked PRP to take a leadership role in addressing the rural lawyer’s status as an endangered species. It was charged with several tasks regarding the decline in the quantity of Main Street lawyers, such as assessing its impact,

12. *Id.*
13. *Id.*
developing recommendations to promote the benefits of a rural practice, incubating solutions, and recruiting Main Street lawyers. To carry on the work of PRP, in the fall of 2011 the State Bar President appointed a multi-faceted Task Force consisting of attorneys, members of the bench, and non-lawyer stakeholders.  

The Task Force initiative brought together leaders from all across South Dakota representing a cross section of organizations that are the backbone of rural South Dakota to spotlight their respective interests in this issue and identify enlightened solutions. The romance associated with the country lawyer was on the cusp of a revival. The Task Force was reminded, however, “not to confuse recognition of the good old days with being stuck in the past.” The Fall of 2011 represented a new time with new challenges and new opportunities to attract today’s lawyers to rural Main Street. President Goetzinger challenged the Task Force to reinvent “the main street practice to fit 2012 realities.” Concluding his announcement of the formation of the Task Force, President Goetzinger recalled the Chief Justice’s “image of a vast sea of justice denied” and the seaman’s ode that “a smooth sea never made a skilled mariner.” Goetzinger declared the Bar was “ready to set sail in this tossing sea of challenge through the skill of those assembled” in the PRP Task Force and proclaimed a new version of the mariner’s toast, “May PRP have fair winds and following seas.”

II. BACKGROUND

A. THE FACE OF PROJECT RURAL PRACTICE, FRED COZAD: THE EPISTOME OF A COUNTRY LAWYER

The need for establishing PRP has been well-documented as illustrated by the preceding discussion. For one of the co-authors, however, the motivation for achieving success in PRP is personal because of the direct impact urban migration of lawyers has had on his hometown of Martin, South Dakota, in Bennett County. Bennett County is an anomaly among rural areas. The population of Bennett County has remained steady for the past few decades. It lies in the heart of Indian Country with the Pine Ridge Indian Reservation as its neighbor in the west and the Rosebud Sioux Tribe as its neighbor in the east. Martin, the Bennett County seat, is just down the road from Wounded Knee. It is wedged between the geographic marvels of the Badlands to the north and the Sandhills of Nebraska in the south. The nearest major metro area is Rapid City, about 129 miles to the northwest as the crow flies.

Martin is universally described as a good law town due to the intersection of farmers, ranchers, Indian Country, the businesses that support them, and the

14. Id.
15. Id.
16. Id.
17. Id.
18. Id.
governmental entities that serve them. In its hey day, Martin supported five lawyers. One of them, Fredric R. Cozad, became the epitome of a country lawyer who has thrived in a rural community. Fred’s family homesteaded in Bennett County. He hung his shingle on Main Street in 1949 and actively competed for legal business as one of five lawyers in Martin. Now, Martin has no lawyers. Fred’s practice straddled the numerical peak of the country lawyer, as well as its decline. Fred and Martin are, respectively, symbols of the endangered species and the sea of justice denied.

Fred was mentored by M.Q. Sharpe and served as mentor to several lawyers with roots in and around Bennett County.19 Because of his bearing, demeanor, oratory, civic leadership, and skill as a lawyer, Fred has been described as a modern day Atticus Finch. His skill as a lawyer resulted in appointments by multiple Governors to the State Board of Regents, The Board of Charities and Corrections, and the Board of Pardons and Paroles, among other positions. Recognizing his achievements, the USD School of Law honored Fred with the McCusick Award in 2006.

The esteem accorded to Fred by his clients is legendary. One story illustrates the importance of the country lawyer as told by Rapid City lawyer and Philip native, Quentin Riggins, about his grandmother, Zola Riggins from Wanblee, South Dakota. Grandma Zola had several children, grandchildren, siblings, nieces, and nephews along with countless friends. Her method of keeping track of them was to utilize a huge chalkboard positioned next to her rotary wall phone. The chalkboard was Grandma Zola’s antique equivalent of a “Contacts” list kept on smartphones of today. Conventional thinking was that the higher a name appeared on the chalkboard, the more important the person. For decades, the person who enjoyed a spot near the top of Grandma Zola’s chalkboard was her lawyer, Fred Cozad.

Fred is quick to remind us his success is directly attributed to his wife and legal secretary of sixty-five years, Luella Cozad. Illustrating the depth of Luella’s skills as a legal secretary, in a recent interview, Fred said, “It keeps me humble every time a client sticks his nose in the door and asks me if Luella has time to help them.”20

Before retiring from the active practice of law in 2013, Fred was the only lawyer in Martin for the past fifteen years. Despite a thriving practice spanning eight decades, the loyal clients he has served, the town of Martin, and Bennett County are at risk because he does not have a successor. With Fred, the city of Martin, and Bennett County in mind, PRP was conceived. PRP could not have found a more fitting symbol and ambassador for the cause than Fred Cozad.

B. PROJECT RURAL PRACTICE GAINS NATIONAL Attention

Linking the announcement of PRP to the story of Fred Cozad was instrumental to capturing the attention of the state and nation to PRP’s cause.Shortly after the September 2011 President’s Page was published in the State Bar newsletter, a wave of media inquiries were received. Several media stories profiled Fred, discussed rural issues, and reported PRP as being one of the solutions to address the problems challenging a shrinking rural America. Each article and story raised PRP’s profile and, in turn, the challenge of providing meaningful access to legal services in rural America.

Fred was charming, informative, and insightful as a spokesperson for PRP. Other allies for the PRP effort were interviewed by media and demonstrated a natural disposition to be an effective spokesperson advancing the credibility of PRP as a serious effort to restock Main Street with country lawyers. Prominent among them was Dean Tom Geu, from the USD School of Law.

The Law School and Dean Geu’s active participation were critical to PRP. Early on, the Law School was consulted on what needed to be done to address the disconnect between the number of unemployed or underemployed law graduates and the need for attorneys on Main Street in rural South Dakota. Dean Geu recognized the importance of a multi-disciplinary approach that included addressing the needs of the career for the prospective attorney’s spouse and promoting a course of study that produced Main Street-ready graduates. The Law School became an integral and dynamic partner in PRP due to the vision of Dean Geu.21

While the grist of the media mill churned, planning for the first meeting of the Task Force occurred, and it was more than ready for the challenge.

C. THE TASK FORCE GOES TO WORK

The inaugural meeting of the PRP Task Force in the fall of 2011 started the organized process of exploring the width and breadth of access to legal services in rural areas and the process of incubating solutions to the problem. The inclusion of a mix of representatives from the bench, Bar, governmental organizations, and non-lawyer stakeholders proved effective. When issues were raised and solutions discussed, the multiple perspectives offered improved the discussion and sharpened the focus on practical solutions.

Three significant observations resulted from the initial meeting of the Task Force. First, the members looked around the table and noted who or what organizations were missing from the conversation and should receive an invitation to participate in finding and implementing a solution. Second, planning for the next meeting of the Task Force began, which was essential to growing the momentum of PRP and raising its profile. Third, the meeting

21. In March, 2014, the South Dakota Law Review held its annual Symposium. The topic centered around PRP and the drought of lawyers in rural South Dakota. One of the primary participants at the Symposium was Dean Geu.
produced a high level, energetic discussion with a multitude of proposals and ideas that set the agenda for the next meetings of the Task Force.

Acting on the recommendations of the Task Force regarding participants, planning and core objectives, the Task Force began planning future meetings. The Task Force believed the location of a meeting does make a difference. In this case, the location of the meetings proved inspirational and essential to growing and defining the PRP brand.

The Spring 2012 meeting was held at the Rural Learning Center at Maroney Commons in Howard, South Dakota. Maroney Commons was an inspirational choice for a meeting on rural issues. It was envisioned as a gathering place for rural development planning, brainstorming, and training. PRP fulfilled the Rural Learning Center’s vision with its Spring meeting. Unfortunately, the Maroney Commons closed in the fall of 2012, illustrating the immense challenges in overcoming decades of decline in rural America. Despite its closure, the legacy of Maroney Commons is that it continues to inspire the work of PRP by challenging us to reimagine rural.

Highlighting the importance of the country lawyer and honoring those who have been members of the State Bar for sixty or more years, PRP and the State Bar hosted an event for the ages at Maroney Commons. The origin for the dinner was an interview Fred Cozad gave on PRP. He was asked if he was the longest serving active member of the State Bar. It turns out that Joe Cadwell of Sioux Falls is the longest serving member with an admission date of 1941. Ernie Carlsen of Sioux Falls and Vince Protsch of Howard were next with an admission date of 1948. Jim Goetz of Yankton and Fred followed with an admission date of 1949. Several other sixty-year plus veterans were identified. Many of them attended the dinner in Howard. Each one was charming, quick with a story, and very appreciative of the recognition of the importance of the country lawyer and the celebration of their long term service in giving back to the Bar, their profession and their community.

The other significant planning decision was to host the Fall 2012 meeting of the Task Force at the USD School of Law. This venue achieved several objectives. It demonstrated the support of the Law School was indispensable to the success of PRP. The venue assured direct contact with a target audience of candidates who would become Main Street lawyers. It drew veteran lawyers and alumni back to the Law School to meet their potential successors. Exposing law students to PRP at a critical stage of their career decision making process helped nudge a few to establish a Main Street practice. Finally, the leadership demonstrated by the Law School on PRP cemented the identity of the Big Three

22. See RURAL LEARNING CENTER, www.rurallearningcenter.org (last visited June 5, 2014). This center was located in the Maroney Commons in Howard, South Dakota, until the Commons closed in 2012. The Rural Learning Center and its founders were the architects of the “reimagine rural” concept that the PRP Task Force found so inspirational.

PRP Allies – the State Bar of South Dakota, the Unified Judicial System ("UJS"), and the USD School of Law.

PRP added valuable new allies to support PRP’s cause and build its brand. Supplementing the participants in the inaugural Task Force meeting, PRP enthusiastically welcomed Elsie Meeks, State Director of the USDA Rural Development Program. Director Meeks, originally from Kyle, South Dakota, delivered the keynote address to the Maroney Commons PRP meeting where she reminded us of the importance of PRP in assuring rural America remains not just viable, but thriving. Those elegant words, first spoken by Director Meeks, became another anthem in support of PRP.

From these early meetings, several core objectives sprang from the work of the Task Force. The objectives were distilled into three general categories and became known as PRP’s Big Three core objectives. The first objective was to educate lawyers on Bar and American Bar Association ("ABA") practice support resources for attorneys seeking to move to a rural area and break down barriers to a rural practice. The second objective was to develop community incentives among non-lawyer stakeholders and encourage them to make the case for recruiting a lawyer to their Main Street. The third objective was connecting lawyers seeking a rural opportunity, veteran attorneys seeking a successor, and communities seeking a lawyer for their Main Street through a website dedicated to PRP.

III. DISCUSSION

A. THE AMERICAN BAR ASSOCIATION: THE ROAD TO RESOLUTION 10B

The great thing about participating in Bar activities is the opportunity to exchange ideas at regional and national meetings of the ABA. One of the more intimate gatherings of national ABA and regional Bar leaders is the annual conference of the Jackrabbit Bar, which assembles the most hospitable group of western state Bar leaders you will ever meet. In order to qualify for membership in the Jackrabbit Bar, a state must meet one criterion: it must have more prairie dogs, coyotes, and jackrabbits than lawyers. The mascot for the Jackrabbit Bar is, of course, a mounted South Dakota jackrabbit.24

During the summer of 2012, the Jackrabbit Bar annual conference was held in Red Lodge, Montana.25 Attending that meeting were three of the highest ranking officers of the ABA: Chair of the ABA House of Delegates, Linda Klein, from Atlanta, Georgia (the second highest position in the ABA); Chair-

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24. Attorney Charlie Thompson, who owns a ranch on which they are plentiful, supplied the stuffed jackrabbit.

25. Three requirements must be met for the location of the annual gathering of the Jackrabbit Bar. First, it must be at a place that represents the essence of the host state. Second, it must be at a place you would not ordinarily visit. Third, it must be at a location well past the end of the road. Attire is western casual. Ties are not optional – they are forbidden. The chair of the meeting is given the title of Chancellor. Annually, the passage of the Chancellor position from the current host state to the next host state is accomplished through a formal ceremony known as “The Donning of the Jackrabbit Ears.” No animals or humans are harmed in this ceremony.
Elected to the ABA House of Delegates, Bob Carlson, from Butte, Montana; and ABA President-Elect James Silkenat, from New York City (by way of Kansas).

During the Roll Call of States portion of the conference, Bar leaders from each state are invited to give an update on their challenges and the programs being developed to address the challenges. A more receptive, and influential audience could not have been assembled to discuss concerns about access to legal services in rural areas. President Goetzinger explained PRP's Big Three core objectives, and how the Bar intended to achieve them with the active participation of PRP's Big Three Allies. The leadership of the ABA reacted by inviting the South Dakota State Bar to draft a resolution and supporting report in favor of PRP for action at the next meeting of the 550-member ABA House of Delegates.

Drafting Resolution 10B and preparing its supporting Report was a collaborative effort between the South Dakota State Bar, led by Pat Goetzinger, with key support from South Dakota's Delegates Bob Frieberg and Dick Travis, and the Resolutions Committee of the House of Delegates, chaired by Robert Carlson. The Resolution and Report process provided a platform to profile the best practices within the ABA. Resolution 10B states:

RESOLVED, That the American Bar Association urges federal, state, territorial, tribal and local governments to support efforts to address the decline in the number of lawyers practicing in rural areas and to address access to justice issues for residents in rural America.

FURTHER RESOLVED, That the American Bar Association encourages state and territorial bar associations to develop programs to increase the number of lawyers practicing in rural areas and which address access to justice issues for residents in rural America.²⁶

President Goetzinger was invited to address the entire House of Delegates at their Chicago meeting in August of 2012 to speak in support of Resolution 10B. In his remarks, Goetzinger recalled:

Fifty-two years ago, Harper Lee brought us the compelling story of Atticus Finch, a country lawyer whose devotion to justice placed him and his family in jeopardy. The story of Atticus Finch marks the peak of the esteem accorded to the country lawyer and illustrates the fundamental role served by the country lawyer in delivering justice to rural Americans.²⁷

He told the assembled delegates that passage of Resolution 10B was a significant step in the direction of restoring the esteem of the country lawyer by increasing their numbers. He concluded his remarks by observing:

ABA House of Delegate[s] support of the resolution brings attention to this issue and brings the vast resources of the ABA and its volunteer leadership to the task of developing solutions and preserving the tradition of Atticus Finch and his modern day, real life counterpart Fred Cozad as beacons of justice in rural America. Your support of this resolution vaults

PRP to the status of ABA policy. It confirms effective access to justice includes recruiting lawyers to rural communities in order to ensure access to justice in rural America remains not just viable, but thriving. Your support sends a clear message that the ABA stands with rural America so that our rural communities also remain not just viable, but thriving.\(^{28}\)

The invitation from the ABA provided a national stage for the discussion of the triple threat that consisted of the Bar’s endangered species analogy, the Chief Justice’s sea of justice denied imagery, and Director Meek’s eloquent admonition to ensure rural communities remain not just viable, but thriving. The Resolution passed with unanimous support of the House of Delegates. Chair Klein wryly noted the challenge of getting 550 lawyers to agree on anything. She also noted that when the ABA and small Bars work together, “one plus one equals three.”\(^{29}\) With the momentum of ABA support, PRP and its Big Three Allies were set to achieve great things.

B. UNVEILING THE PROJECT RURAL PRACTICE WEBSITE

A significant milestone was achieved in the fall of 2012 when PRP unveiled its website.\(^{30}\) The website added another dimension to fulfilling the core objectives of PRP. The website brings together the information instrumental to breaking down barriers to a rural practice. Additionally, the website provides an employment board for lawyers and law students. Moreover, the website contains community pages for a community to make their case in attracting prospects, a feature that has been described as a ‘Match.com’ for lawyers and communities.

News articles, blog posts, law practice management resources, links to relevant sites, and other information on all of the things associated with a rural practice can be found on the website. The website and its links provide lawyers interested in a rural practice a one stop service for fundamental information and resources. It has proved to be an invaluable method of informing and connecting those with an interest in establishing a rural practice.\(^{31}\)

C. THE ROAD TO THE RURAL LAWYER RECRUITMENT LEGISLATION: HB 1096

At the ABA Midyear meeting in February of 2013, the South Dakota Bar was grateful to receive the Louis M. Brown Meritorious Recognition Award from the ABA Standing Committee on the Delivery of Legal Services in recognition of PRP. The Louis M. Brown award honors the work of those who advance the delivery of legal services in innovative ways and is the highest award given by the ABA for a legal services program. The Meritorious Recognition Award is the equivalent of an honorable mention for the main award. Even though PRP was a runner-up, the recognition from the ABA

\(^{28}\) Id.
\(^{29}\) Linda A. Klein, Remarks at the University of South Dakota Law Review Rural Practice Symposium (Mar. 20, 2014).
\(^{31}\) Credit is given to Justin Goetz, Ryan Cwach, and Chris Hamze for developing and providing content for the PRP website.
accomplished raising the profile of PRP back home and kept the conversation about rural practice issues on the front burner as the 2013 Legislative Session began in Pierre.

The leading advocate for rural practice issues continues to be Chief Justice Gilbertson. In his State of the Judiciary message at the beginning of the 2013 Legislative Session, the Chief Justice updated the legislators on PRP and the efforts to attract lawyers to rural communities. To emphasize his comments, the Chief unveiled PRP’s yellow traffic sign – which is shaped like a yield sign – that informs observers “No Attorney for 129 Miles.”32 His relentless support for access to legal services in rural America grabbed the attention of a veteran legislator, Senator Mike Vehle.

Senator Vehle’s reputation as a selfless public servant vividly displayed itself by his interest and approach to the issue of attracting lawyers to rural areas. Like many involved in PRP, Senator Vehle’s roots are deeply entrenched in small town South Dakota. Senator Vehle grew up in Reliance and Chamberlain and now lives in Mitchell. He represents Davison County, an urban area, in the South Dakota Senate. Chief Justice Gilbertson’s passionate oratory on rural practice issues in his State of the Judiciary messages motivated Senator Vehle to take action.

Explaining why he became interested in this issue, Senator Vehle observed not having an attorney on Main Street was the death knell for a small town. He understood the urgency of taking action now, before local attorneys retire and no attorney remains in the community to mentor a successor.

Senator Vehle, along with Chief Justice Gilbertson and the State Bar of South Dakota’s Executive Director, Tom Barnett, drafted legislation in consultation with the Governor’s office labeled, “The Rural Lawyer Recruitment Bill, HB 1096.” Amid substantial legislative drama and parliamentary maneuvering, HB 1096 passed the legislature and was signed into law. HB 1096 secured South Dakota’s status as the first state in the nation to pass legislation providing financial incentives to lawyers practicing in rural areas. HB 1096 fit neatly within the community incentives category of PRP’s Big Three core objectives. Furthermore, PRP’s Big Three Allies gained a significant new tool to assist in attracting lawyers to rural communities.

HB 1096 established a four-year pilot project, which provides an economic incentive for qualified attorneys who agree to practice in rural counties. Counties with a population of 10,000 or less and determined to be eligible by the Unified Judicial System may participate in the program. The pilot program is

32. See PRP Updates – May 2013, PROJECT RURAL PRACTICE, http://sdrurallawyer.com/prp-updates-may-2013/ (last visited May 13, 2014). The Chief Justice designed this sign at the inception of PRP. It has been an effective prop at meetings across the country on rural practice issues and is featured in the ABA’s “Be the Change” video that discusses PRP. The video is available for viewing and download at http://www.americanbar.org/groups/leadership/office_of_the_president/legal_access_jobs_corps/video1.html (last visited June 7, 2014).
limited to sixteen attorneys, dubbed by the Bar as “The Sweet Sixteen.” Attorneys must agree to practice law in the eligible county for five years.\(^{33}\)

The incentive payment to the lawyer is approximately $13,288 per year for each year of the five-year commitment.\(^{34}\) There are no restrictions on the lawyer’s use of the incentive payments they receive under the program. The payments are directly made to the qualifying lawyer. The lack of restrictions on the qualifying lawyer’s use of the incentive payment is contrasted with other programs in other professions that are tied to student loan forgiveness or a tuition reduction. The autonomy in granting the lawyer discretion further distinguishes South Dakota’s program.

For each lawyer participating in the program, the incentive payment will be funded as follows: the state will fund fifty percent; the local government will fund thirty-five percent; and the South Dakota Bar Foundation will fund fifteen percent.\(^{35}\) This funding formula, which requires local investment and Bar financial support, was key to obtaining broad-based support of legislators and Governor Daugaard. The state’s funding commitment is locked in for the five-year period. In addition to the innovative funding requirements, structuring the program as a pilot project that did not require ongoing funding obligations satisfied South Dakota’s frugal – but entrepreneurial – legislature and Governor Daugaard.

The Unified Judicial System administers the program. Anyone interested in the program can access the legislation, administrative rules, and other materials through the PRP’s website or the Unified Judicial System’s website.\(^{36}\) The program became effective July 1, 2013.

**D. THE RURAL LAWYER RECRUITMENT PROGRAM GAINS NATIONAL ATTENTION**

Governor Daugaard’s signature was barely dry on signing HB 1096 into law when a wave of state and national media attention focused on the new law and South Dakota’s unique approach to attracting lawyers to rural areas.\(^{37}\)

Among the media stories that provided national visibility to South Dakota’s new law was a front page New York Times story titled, “No Lawyer for Miles, So One Rural State Offers Pay” that appeared in April of 2013.\(^{38}\) Ethan

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33. S.D.C.L. § 16-23-4 (2013). It is important to note that lawyers need not be graduates from the USD School of Law in order to be eligible for the program. The authors would also like to thank Greg Sattizahn and Suzie Starr-Kappes’s whose drafting and recruiting efforts have been indispensable to the program.
Bronner, the National Legal Correspondent for the New York Times, was attracted to HB 1096 and South Dakota’s innovative approach to address access to legal services in rural areas. The New York Times’ interest in rural access to justice issues seemed a natural companion to observance of the Fiftieth Anniversary of *Gideon v. Wainright*, the seminal U.S. Supreme Court decision establishing an indigent defendant’s right to counsel as a fundamental right guaranteed by the Constitution. Just a few weeks prior to the South Dakota article, on the anniversary of the decision, the New York Times returned to the rural Georgia county where *Gideon* originated for a story on access to justice in rural Georgia.

Although rural Georgia provided the story depicting the chronic problem of access to legal services in rural America, South Dakota provided a story of hope. The South Dakota article was punctuated by photos of Fred and Luella Cozad in an American Gothic pose in front of their humble Main Street office in Martin and the Chief Justice standing on a highway among the vast open prairie of South Dakota holding the PRP yellow traffic sign that read “No Attorney For 129 Miles.”

The importance of the New York Times article is that it gave national attention to a common challenge throughout rural America. The story profiled innovative programs to address the problem of ensuring access to legal services in rural America. It reported that hope for meaningful progress on the challenges in rural America may be in the not too distant future. With the national exposure brought by a front-page New York Times story, and the title of “pioneer” on this issue, national attention was refocused on South Dakota to see what results would come of their efforts and a program with no predecessor.

E. THE SEARCH FOR THE SWEET SIXTEEN: NEW FRONTIERS FOR PROJECT RURAL PRACTICE

In South Dakota, the Sweet Sixteen recruitment program became a rally point for the Bar across several platforms. The Bar’s annual meeting in June 2013 was infused with excitement created by the program. The Bar’s strategic plan and mentorship program were advanced. The hunt for the Sweet Sixteen fully engaged the alliance between the Bar, the UJS, and the USD School of Law. The Bar’s funding commitment for the program created enthusiasm for the South Dakota Bar Foundation’s “Raise the Bar” campaign to increase the size of its endowment. The vision of Tom Nicholson, State Bar President 2012-2013, in creating the position of Strategic Plan Coordinator for the State Bar, and hiring Francy Foral for this position, was indispensable in the future success of the program. The benefits of the program have further energized PRP’s non-lawyer stakeholders. Armed with new energy, new ideas, and new programs, PRP embarked on new frontiers to recruit the Sweet Sixteen.

Since the enactment of HB 1096, PRP and the UJS have focused on educating law students, lawyers, stakeholders, and community leaders about the new program. Representatives from local government organizations and local economic development agencies met to explore creative solutions to fund the local government’s commitment. Prospective lawyers and law students began discussions with the Main Street lawyers they sought to succeed and participated in community visits to rural communities across the state.

One community visit was to Martin, South Dakota, where a Sweet Sixteen prospect met with Fred Cozad in his Main Street office where he has dispensed prairie wisdom as a country lawyer for sixty-five years. Fred regaled his guest with stories of practice in a rural area – all of them with a point about the importance of small town lawyers. When it came time for Fred’s guest to ask questions, she revealed two concerns that nearly all young attorneys contemplating a rural practice would have. Her first concern was, “Can I sustain a practice in this community?” Her second question was, “I will be here all alone. Will I know what to do?”

Not too far from Martin is the setting for scenes from Kevin Costner’s movie blockbuster, Dances With Wolves. Costner’s character, Lt. Dunbar, had precisely the same thoughts as Fred’s guest. Lt. Dunbar was settling into the isolated outpost on the new frontier of the Dakota plains, Fort Sedgwick. To not only survive, but thrive, he worked hard, gained the trust of his neighbors, and made effective use of his training.

Fred’s response to his guest’s questions tracked the same principles that allowed Lt. Dunbar to not only survive, but thrive in the new frontier. In response to the question “Can I sustain a practice?” Fred discussed the institutional practice opportunities in a rural community, the importance of developing trust, and emphasizing there is no substitute for hard work. To illustrate these points, Fred told a story about one of his early mentors, Governor M.Q. Sharpe of Kennebec.41

While still a young lawyer, M.Q. had taken on the representation of a party in a quiet title action brought by a major financial institution that was represented by a prominent Sioux Falls attorney. It was a foregone conclusion that M.Q.’s client would not prevail in the action, and the financial institution would be successful in quieting title in its favor. The formality of a hearing was nonetheless required. At the hearing, the supremely confident Sioux Falls attorney presented evidence in support of quieting title. During his argument, a young M.Q. proceeded to point out fatal defects in counsel’s pleadings, which necessitated amended pleadings, a new hearing, and significant delay to the plans of the institution. While he did not ultimately prevail for his client, M.Q. immediately established himself as a lawyer to be taken seriously. Fred’s point was that achieving the status of a lawyer to be taken seriously is attainable whether you practice in White River or Sioux Falls. To the question, “Can I sustain a practice?” the answer is not at all dependent on where that practice is

41. See generally Sundall, supra note 4.
located. The answer depends on who the lawyer is and the attributes of that person.

The guest’s second question dealt with her apprehension about being alone and possibly not knowing what to do. To alleviate a young lawyer’s apprehension, having a connection to a veteran lawyer is fundamental. The Bar’s mentorship program, and PRP’s commitment to rural attorneys, directly addresses a new lawyer’s apprehension. To complement the Bar’s programs, one of its corporate partners, ALPS, launched ALPS Attorney Match, a free online service to link attorneys to one another. Whether for the purposes of forming a mentorship match or transitioning an existing practice, ALPS Attorney Match offers another solution to the challenges of a rural practice by assisting each and every one of the Sweet Sixteen in the new frontier of rural practice to attain the status of a lawyer to be taken seriously.

F. THE FIRST SWEET SIXTEEN RECRUIT

On November 19, 2013, the UJS announced the approval of Jake Fischer, in Corsica, South Dakota, as the first lawyer to participate in the Rural Lawyer Recruitment Program. Jake returned home to rural South Dakota from school and a career that started in Minneapolis. Jake’s motivation to return home was to be “part of a community, and being counted on by that community.”43

As of the writing of this article, eight counties have submitted applications for approval by the UJS to participate in the Rural Lawyer Recruitment Program. Of these counties, three have matches with attorneys who await Bar exam results before beginning their Main Street practice. The other five counties have been approved by the UJS for participation in the program and are awaiting matches with attorneys. More counties are laying the foundation for submitting their application for the program. There are several other law students who have begun discussions with local communities but await graduation and successful completion of the Bar exam before hanging their shingle on rural Main Street. The number of recruits in the first year of the Rural Lawyer Recruitment Program is close to being on pace to fill the Sweet Sixteen total under the four-year program term. In addition, other attorneys have established a Main Street practice outside of the Rural Lawyer Recruitment Program.44


44. The PRP Task Force Co-Chairs want to recognize the invaluable efforts of Bar President Terry Hofer for his aggressive implementation of the Bar’s Strategic Plan and his leadership in reimagining rural practice during the 2013-2014 Bar year. The authors would also be remiss if they did not acknowledge Francy Foral’s tireless continued efforts to promote PRP, as well as the efforts of the South Dakota Bar Association and UJS staff members.
G. THE ABA – PART II

The highest form of flattery is imitation. By that standard, ABA President James Silkenat paid South Dakota the highest of praise by adopting the fundamental principles of PRP as one of the ABA’s major themes during his year as President. In his October 2013 President’s Message in the ABA Journal, President Silkenat announced the formation of the Legal Access Job Corp with the objective of placing law graduates in areas with unmet legal needs in both urban and rural areas. President Silkenat has been a frequent guest of the Jackrabbit Bar where PRP and South Dakota’s pioneering efforts have been frequently discussed.\textsuperscript{45}

In his column, President Silkenat wrote, “Our nation is facing a paradox involving access to justice. On the one hand, too many people with low and moderate incomes cannot find or afford a lawyer False On the other hand, too many law graduates . . . have found it difficult to gain the practical experience they need to enter practice effectively.”\textsuperscript{46} To address the issue first acted on by South Dakota, President Silkenat appointed the ABA Legal Access Job Corps Task Force to review existing initiatives that may be adopted as national models. The President of the ABA also called out for recognition of South Dakota’s pioneering program to recruit lawyers to rural areas.\textsuperscript{47}

Improving on its status as the 2013 runner-up to the Louis M. Brown Award,\textsuperscript{48} the highest award given by the ABA for legal services programs, the Bar was the privileged recipient of the Award in February 2014 for PRP. Clearly, the Rural Lawyer Recruitment Program vaulted PRP to the status of an award-winning program.

In April 2014, Executive Secretary Tom Barnett and Chief Justice Gilbertson both received the ABA’s Grassroots Advocacy Award for expanding access to justice for those in rural communities. The award was in recognition of the cooperative efforts between bench and bar. ABA President Silkenat stated, “Chief Justice Gilbertson’s leadership on access to justice, in cooperation with the State Bar of South Dakota, has . . . given many rural South Dakotans a lifeline to our judiciary.”\textsuperscript{49}

\textsuperscript{45} See discussion, supra Part III.A. President Silkenat was also a guest of the Jackrabbit Bar in Keystone, South Dakota, in June of 2013, when Linda Klein and Patrick Goetzinger gave a presentation on the current status of PRP and ABA efforts to address access to justice in rural America.


\textsuperscript{47} Id. President Silkenat explained.

As part of its work, the [Legal Access Job Corps] task force will review existing initiatives that may be adopted as national models. One such program was recently launched in South Dakota, where the state bar president called the “Main Street attorney” an “endangered species.” Last March, Gov. Dennis Daugaard signed a rural attorney recruitment bill into law.

\textsuperscript{48} See discussion, supra Part III.C.

It was only fitting that PRP’s other leading man and Bennett County’s favorite son, Fred Cozad, also received news in April 2014 that he was elected to the 2014 Class of the South Dakota Hall of Fame. His election is the culmination of Fred’s dedication to his profession, his community and his state. Fred’s induction into the Hall of Fame will distinguish him as one of first lawyers elected to the Hall for simply, but essentially, being a country lawyer.

IV. CONCLUSION

The county-seat lawyer... has been an American Institution [Ee] was not always popular in [hisers] community, but [ee] was respected. . . . [Ee] thought of [hiserself] as a leader and a lawgiver, not as a mouthpiece. . . . It was from this [society] that America has drawn its statesmen and its judges.50

Justice Robert H. Jackson,
Associate Justice of the U.S. Supreme Court, 1950

Hopefully, Pericles’ noble test, “acts deserve acts, not words, in their honor,” is one that has been met by PRP and the State Bar of South Dakota. PRP can serve as a model for other states, Bar organizations, communities, and stakeholders to follow or adapt in approaching the difficult issue of reversing the decline of county-seat lawyers. To have done nothing would have been a concession to not only the country lawyer’s current status as an endangered species, but also the country lawyer’s future as an extinct species. Without Main Street lawyers, the march to oblivion of rural communities will hasten, resulting in shrinking communities, economic devastation, shuttered courthouses, county consolidation, and the expansion of a sea of justice denied.

Justice James A. Knecht once said of the rural lawyer,

I believe [] county seat lawyers... were the craftsmen of a way of life which had to change, but for the time they were the knights errant of the prairie, and were men [and women] to be admired for their versatility and their willingness to do the best they could for every client no matter [hisers] social station or race... If lawyers today, and politicians, and men and women of business, understood small town America and understood the people of their time and place... the world would be a better place.51

Similarly, Fred Cozad crafted a way of life as a county-seat lawyer, and he demonstrated daily his versatility and willingness to do his best for his clients. Bennett County, the city of Martin, and South Dakota are undeniably a better place for having Fred as their county-seat lawyer for the past sixty-five years. He is an inspiration to PRP and its mission. PRP acknowledges the way of life


crafted by country lawyers had to change, but it does not have to go away. What happens within the next few years to replenish the county-seat lawyer with the next generation of “knight errant of the prairie” will shape what happens in rural America for the next sixty-five years.

PRP and the Rural Lawyer Recruitment Program offer hope to rural America that they can adapt and evolve by reimagining rural. Recalling the romance of the country lawyer will assist communities in attracting attorneys and begin to help rural America thrive again. Reversing a fifty-year trend will not be easy, nor will it be sudden. What has been achieved in the past two and half years, however, is not only hopeful, but also extremely promising. This article serves as the road map to meet Pericles’ test, “acts deserve acts, not words, in their honor.” It is also a tribute to what can be achieved when good people believe in a cause and work together to imagine and implement the solutions.