

# South Dakota

The state hosts a bevy of solo practitioners, but several larger firms have been in practice since South Dakota entered statehood. While most firms are located in Sioux Falls, an increased presence in Rapid City is noted, as well as a burgeoning legal surge in capital city Bismarck. Interest in local representation is of high esteem, with employment, transportation and utility work important litigation issues in the state.

## Highly recommended firms

Years before South Dakota gained statehood, the firm that evolved into current powerhouse **Costello Porter Heisterkamp Bushnell & Carpenter** was already in practice. More than 115 years later, the firm has grown to become one of the most respectable law offices in the region. Representing a diverse client base, Costello Porter attorneys handle matters for individuals and corporations, as well as businesses related to insurance, medicine, banking and construction. In addition to expertise in tribal law, the firm frequently represents employers and employees throughout the state and in Wyoming. In a recent breach of contract matter, the firm received a defense jury verdict for its client. In an appeal, a summary affirmance was issued in favor of the firm's client. The firm also assisted in the defense representation of a large multinational corporation against a product defect charge. Donald Porter recently handled a matter for a construction client involved in injury claims. The charges were dismissed after expert testimony was given and medical issues failed to convince a jury the company did anything wrong.

Representing both plaintiffs and defendants, **Edward Carpenter** is a skilled litigator in trial court as well as on federal and state appeals. The senior partner maintains a broad practice, including experience in commercial work, various construction matters, eminent domain, as well as personal injury and wrongful death representation. His construction experience includes litigation around claims of defects, delay and change orders, professional negligence claims involving architects and engineers, and the preparation and filing of liens. "He is a little low-key, but a good lawyer," says one peer.

The largest firm in the state is also the one sources say is growing the fastest. Peers note that the Sioux Falls-based **Davenport Evans**

**Hurwitz & Smith** is particularly on the rise in the areas of insurance and employment. In its insurance coverage practice, the firm serves as general counsel for the South Dakota Insurance Guaranty Association and the South Dakota Life and Health Insurance Guaranty Association. Founded in 1939, the firm now boasts a full-service litigation practice with half of the firm's attorneys specializing in litigation. Kudos is also given to Davenport's foray into financial services, credit card compliance, health care and trust law. Firm clients include Allstate Insurance, Sioux Valley Hospitals and Wal-Mart.

In professional liability, professional malpractice and personal injury matters, **Edwin Evans** is considered a go-to litigator and an "excellent lawyer." Well-versed in civil litigation, his robust client base in the insurance and medical areas includes Sanford Health System, Midwest Medical Insurance, The Doctors Company and CNA Insurance.

Rapid City firm **Gunderson Palmer Goodsell & Nelson** boasts experience in a variety of litigation matters, including class actions, insurance defense, products liability and complex civil litigation. Competitors in the area note "the quality of their work." For more than 30 years, the firm offers clients a comprehensive A to Z list of practice groups, from administrative law to workers' compensation representation. The firm's insurance defense litigation group handles matters for a long list of clients, including national and local companies, from Allstate and GEICO to the South Dakota Insurance Guaranty Association. Practicing primarily in the areas of insurance, products liability and banking, **J Crisman Palmer** also represents plaintiffs in personal injury and medical malpractice issues. "I like and refer a lot to Cris," says one peer. "Cris Palmer does a great job," praises another.

Devoting almost all of its practice to litigation, **Johnson Heidepriem Janklow Abdallah & Johnson** may be one of the

## Local litigation firms

### Highly recommended

Costello Porter Hill Heisterkamp Bushnell & Carpenter

Davenport Evans Hurwitz & Smith

Gunderson Palmer Goodsell & Nelson

Johnson Heidepriem Janklow Abdallah & Johnson

Lynn Jackson Shultz & Lebrun

### Recommended

Bangs McCullen Butler Foye & Simmons

Boyce Greenfield Pashby & Welk

Cadwell Sanford Deibert & Garry

May Adam Gerdes & Thompson

Woods Fuller Shultz & Smith

***"In professional liability, professional malpractice and personal injury matters, Edwin Evans is considered a go-to litigator and an "excellent lawyer.""***

*-Davenport Evans Hurwitz & Smith*



## Local litigation stars

Scott Abdallah  
Johnson Heidepriem Janklow Abdallah & Johnson

Robert Anderson  
May Adam Gerdes & Thompson

Edward Carpenter  
Costello Porter Hill Heisterkamp Bushnell & Carpenter

Edwin Evans  
Davenport Evans Hurwitz & Smith

Thomas Fritz  
Lynn Jackson Shultz & Lebrun

Michael Hickey  
Bangs McCullen Butler Foye & Simmons

Steven Johnson  
Johnson Heidepriem Janklow Abdallah & Johnson

Michael Luce  
Davenport Evans Hurwitz & Smith

James Moore  
Woods Fuller Shultz & Smith

David Nadolski  
Lynn Jackson Shultz & Smith

Crisman Palmer  
Gunderson Palmer Goodsell & Nelson

Gary Pashby  
Boyce Greenfield Pashby & Welk

Steven Sanford  
Cadwell Sanford Deibert & Garry

Michael Schaffer  
Schaffer Law Office

Gary Thimsen  
Woods Fuller Shultz & Smith

Thomas Welk  
Boyce Greenfield Pashby & Welk

newest additions to the state's legal market, but the firm is surely making its presence known. Insiders describe the firm as a smaller boutique that works mostly in plaintiffs' side civil litigation, particularly personal liability work. A boutique of ten attorneys, the firm represents a majority of the state's school districts in a funding lawsuit. The matter, being led by partner **Scott Abdallah**, is a constitutional case against the state, the governor and Department of Education. A former US attorney, Abdallah is the firm's managing partner and focuses his work on civil litigation. "He's gotten a lot of attention," says one peer. "He is an exceptional lawyer." Specializing in civil litigation, in particular franchise litigation, products liability and medical malpractice, partner **Steven Johnson** is also noted as an exceptional litigator.

strong in healthcare matters, while excelling in professional liability defense in the medical arena. Clients include high-profile names in an array of industries, including advertising, insurance, real estate and tribal affairs.

Experienced in labor and employment, mining, water use and insurance law, **Michael Hickey** is also able in construction litigation and personal injury representation.

Sioux Falls firm **Boyce Greenfield Pashby & Welk** may boast an attorney roster in the single digits, but peers are quick to point out the firm's incredible bench strength. Partners **Gary Pashby** and **Thomas Welk** lead the way for the firm's strong group of litigators. Pashby has handled a number of cases in both federal and state courts, as well as an array of appeals. Noted also for his arbitration and mediation skill, a majority of his practice is devoted to commercial

***"They are a firm with great litigators and commercial lawyers,' says one insider, who praises the firm's ability to pick up referred work. 'I always feel like I will find someone who can handle the matter that needs referring.'"***

*– Woods Fuller Shultz & Smith*

General practice firm **Lynn Jackson Shultz & Lebrun** maintains an especially strong grasp of the South Dakota legal market with two offices in the state, Sioux Falls and Rapid City. Featuring a broad-based practice, including commercial litigation, intellectual property, real estate and securities work, the firm boasts around 25 attorneys. While a few are devoted to business and transactional work, most are general litigators, who do everything from contract litigation to insurance work. Insiders call it a "full-service law firm," but the firm does handle mostly litigation. Besides a strong personal injury practice, Lynn Jackson represents Gateway Computers in a piece of significant insurance litigation, and Black Hills Power in a utility matter stemming from a fire in the Black Hills. Representative clients include Allstate Insurance, MDU Resources Group, Farm Bureau Mutual Insurance, Federated Rural Electric Insurance, Wyeth Pharmaceuticals and Liberty Mutual.

Litigating in the areas of products liability and insurance bad faith claims, partner **Thomas Fritz** also does a lot of work for area utility companies. Sioux Falls partner **David Nadolski** handles matters relating to business and commercial litigation, real estate, mergers and acquisitions and creditor representation. He handles the insurance matter for Gateway as well.

### Recommended firms

Since the 1880s, **Bangs McCullen Butler Foye & Simmons** has provided counsel for clients throughout the country, including Wyoming, Nebraska, Iowa and Alaska. The firm is

litigation, construction, insurance and products liability. For nearly 30 years, Welk has brought his expertise to the Boyce team. With a slew of victories in white-collar criminal matters in the past, he now focuses on commercial litigation, employment, antitrust, healthcare and insurance. He was recently lead counsel for a hospital system in a statewide class action involving the pricing of healthcare.

Established in 1890, Sioux Falls mainstay **Cadwell Sanford Deibert & Garry** boasts an attorney base of only ten, yet has remained a prime member of the region's legal community since its inception. The firm handles matters in a number of areas, including insurance, banking, real estate, healthcare, bankruptcy and products liability. However, it is the commercial litigation team that garners the most applause, taking on matters regarding securities, liability and franchise disputes. Partner **Steven Sanford** is lauded for his commercial work, as well as expertise in insurance and products liability litigation.

It doesn't come as much surprise that most of Pierre-based **May Adam Gerdes & Thompson's** work emerges out of state government issues. The full-service firm is also one of the state's oldest, established in 1881. Because of its location in the state capital, the firm has established long-lasting relationships with state governmental entities, as well as garnering a reputation for its lobbying efforts. Featuring a broad litigation practice, the firm is able in commercial matters, criminal defense, lender liability defense, foreclosures, creditor bankruptcy, products liability and worker's

## Future stars

John Clendenin  
Nyemaster Goode West Hansell & O'Brien

Frank Grenard  
Whitfield & Eddy

David Phipps  
Whitfield & Eddy

Patrick White  
Nyemaster Goode West Hansell & O'Brien

compensation disputes. Due to Pierre's focus on agriculture as a main economic source, many firm clients are local farmers, ranchers and businesses part of larger corporations. The firm also boasts strong ties to Native American law and tribal courts. Representative experience includes South Dakota Medical Association, State Auto Insurance Group, General Motors South Dakota and American Family Insurance Group.

General civil litigator **Robert Anderson** enjoys a hearty employment practice, focusing on worker's compensation, insurance defense and coverage issues and governmental liability. He is also experienced in products liability and motor vehicle litigation, as well as mediation efforts. Anderson serves as state counsel for Philip Morris and RJ Reynolds in a number of products liability matters in tribal courts. Well-versed on both plaintiff and defense sides, he successfully defended the Bank of Hoven in a lender liability matter and represented a plaintiff in an important matter involving competition and trade secrets.

Sioux Falls staple **Woods Fuller Shultz & Smith** is one of the larger firms in the state, evolving from a one-person shop in 1887 to a well-equipped firm with a distinct flair for litigation. "They are a firm with great litigators and commercial lawyers," says one insider, who praises the firm's ability to pick up referred work. "I always feel like I will

find someone who can handle the matter that needs referring." While the firm has expanded over the years to enjoy a broad-based practice, litigation remains a historical strength. Woods Fuller litigators are able in the areas of aviation, civil rights defense, personal injury, products liability and professional liability matters. The firm handles product liability matters for both local and national companies in a variety of industries, from airplanes and railroads to breast implants and household appliances. Emphasizing medical and legal malpractice, the firm's professional liability litigation expertise includes representing architects, accountants and engineers. Aviation clients include Associated Aviation Underwriters, Phoenix Aviation Group and Southeast Aviation Underwriters, while the City of Sioux Falls, Minnehaha County, the State of South Dakota and other cities and counties frequently utilize the Woods Fuller team for civil rights defense matters.

Peers recognize **James Moore** for his trial experience in governmental liability and civil rights defense, as well as a strong appellate practice. Partner **Gary Thimsen**, a Woods Fuller litigator since 1976, practices across a broader spectrum, with experience in governmental liability, civil rights defense, employment, aviation, general liability defense, as well as boasting general civil litigation expertise.

