



For Immediate Release

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SOUTH DAKOTA STATE BAR URGED TO OPEN ATTORNEY DISCIPLINARY PROCESS

The Washington Legal Foundation (WLF) today petitioned the State Bar of South Dakota to amend South Dakota's disciplinary rules to allow the public greater access to attorney disciplinary proceedings. This was the forty-sixth petition filed to date by WLF in Phase IV of its SCALES ("Stop the Collapse of America's Legal Ethics") Project. WLF plans to file similar petitions over the next several months in the remaining states where a significant portion of the attorney discipline process is conducted in secret.

WLF believes that secrecy in the attorney disciplinary process is arguably the greatest threat to the public's confidence in the legal profession. As the authors of an American Bar Association (ABA) report on the subject stated, "We are convinced that secrecy in discipline proceedings continues to be the greatest single source of public distrust of lawyer disciplinary systems." The report concluded that "secrecy does great harm to the reputation of the profession." WLF believes that the public's suspicion that discipline meted out under the cloak of confidentiality can be neither fair nor vigorous is wholly understandable, especially where complaints are dismissed without explanation.

To ensure the public greater access to the disciplinary process, both as a practical and theoretical matter, WLF's petition urged the South Dakota Bar to open up the disciplinary process from the time the complaint is lodged with Bar authorities. Currently, disciplinary matters are kept confidential unless the Bar Counsel issues a formal complaint with the South Dakota Supreme Court to institute disciplinary proceedings. However, most complaints are dismissed without the public or other members of the Bar being apprised of the reasons for the dismissal, or are resolved by a private reprimand where all records are kept confidential.

WLF's SCALES project is a nationwide movement designed to eliminate abuse in America's civil justice system and improve the professional standards of America's lawyers. WLF petitions seeking public access to the attorney disciplinary process mark the fourth phase of the SCALES project. Earlier phases (which involved filing petitions in all 50 states) addressed attorney advertising, contingency fee agreements, and limitations on campaign contributions to judges by attorneys who practice before the judges. Numerous states have adopted reforms outlined in the WLF petitions.

For further information, contact WLF General Counsel Daniel J. Popeo or WLF Senior Executive Counsel Paul D. Kamenar at (202) 588-0302.