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Joint Dedication to Professor Charles M. Thatcher & Justice Lori S. Wilbur

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VOLUME 63 JOINT DEDICATION

Professor Charles M. Thatcher

&

Justice Lori S. Wilbur
The Editorial Board of the *South Dakota Law Review* is honored to dedicate Volume 63 to Professor Charles Marshall Thatcher, who is retiring in the spring of 2018 after a forty-three-year career in legal education—forty-one of those years of at the University of South Dakota School of Law. Professor Thatcher’s reputation as a rigorous instructor is surpassed only by his caring personality and seemingly endless passion for imparting his knowledge to the next generation.

Professor Thatcher was the Manuscript Editor of the Ohio Northern Law Review, and he graduated from Ohio Northern University’s Pettit College of Law in 1975. He immediately accepted a position as a visiting instructor in law at the University of Cincinnati College of Law, where he taught legal writing, legal research, and appellate advocacy from 1975 to 1977. He also served as a legal writing instructor in summer classes offered by the Council on Legal Education Opportunity (CLEO). He accepted a position as an assistant professor at the University of South Dakota School of Law in July 1977.

Professor Thatcher has taught at the University of South Dakota School of Law for the past forty-one years, making him the second longest serving member of the faculty in the history of the Law School. During his first year on the faculty, he served as an assistant law librarian under the guidance of Head Law Librarian and Professor Alan Ogden. Since 1977, Professor Thatcher has taught a variety of courses, including legal writing, appellate advocacy, sales, and introduction to criminal procedure. He also taught a personal property course to participants in
the Law School Screening Program every summer from 1979 to 2009. He has devoted most of his career to teaching contracts, conflict of laws, and remedies. He took a year’s leave of absence from the faculty in June 1985 to practice as an associate with the law firm of Agee, Clymer & Morgan in Columbus, Ohio, where he became a member of the State Bar of Ohio and represented workers’ compensation claimants under the tutelage of senior partner Thomas E. Morgan. He returned to Vermillion in 1986 and resumed his duties as a member of the Law School faculty.

Professor Thatcher has repeatedly been recognized for the contributions he has made to the program of legal education at the School of Law. He has received the University-wide Belbas-Larson Award for Excellence in Teaching among tenured faculty, he has received the Law School’s John Wesley Jackson Memorial Award for Outstanding Professor of Law on three separate occasions, and he has received the State Bar award for excellence in legal education provided by the Cutler Law Firm in Sioux Falls.

In addition to his teaching duties, Professor Thatcher has fulfilled his scholarly and service responsibilities as a member of the School of Law faculty. He has published law review articles on contracts, sales, conflict of laws, remedies, and linguistics. He has served on most of the law school committees and chaired many of them. He has been a faculty advisor to co-curricular boards and student organizations. He has served on University committees. He has delivered lectures to undergraduates at the University and to civic organizations. As a member of the State Bar of South Dakota, Professor Thatcher has given presentations at Continuing Legal Education seminars. He often provides free legal advice to School of Law alumni and other members of the South Dakota Bar who solicit his opinion.

Professor Thatcher stated that he is deeply indebted to those who have provided him with encouragement, assistance, and friendship throughout his teaching career. These include colleagues on the Law School faculty, administration, and staff. He has served under the able stewardship of Deans Walter Reed, Mike Driscoll, Barry Vickrey, and Tom Geu. He has enjoyed the respect and affection of his fellow faculty members, including Professors Roger Baron, John Davidson, Pat Garry, Randy Gingiss, John Hagemann, Tom Horton, Chris Hutton, Frank Pommersheim, and Jon Van Patten (to name but a few). He is thankful to all of the talented Law School secretaries who have eased the way for him over the decades. He treasures the love and sustenance he receives from his wife, Mariana Roman. Professor Thatcher is most grateful for the love and support he has received throughout his professional career and his life from the finest teacher he has ever known, his father, Dr. and Professor Emeritus Charles Manson Thatcher.

Professor Thatcher’s dedication to the students he has been privileged to teach is unsurpassed. His love of teaching, preparation for classes, enthusiasm for the subjects he has taught, sense of humor, and determination to be a resource for the students in his classes are widely acknowledged. His reputation as a severely
critical editor of student writing is well deserved and often appreciated as demonstrating his determination to improve the analytical and writing skills of students in his charge. His attitude toward the many students whom he has served may be summarized in two words: “He cares.”

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CHRISTINE HUTTON†

Observations from Judge Judy,1 long-time participant in Professor Charles Thatcher’s annual presentation of JEOPARDY!, in which first-year students demonstrate their knowledge of 1L subjects in the first round and other topics in the Double JEOPARDY! round before an audience of cheering and jeering upper-division students:

JEOPARDY!

Category: USD Law Professors

200  Professor whose office light is on at 4:00 a.m. as he prepares for his 9:00 a.m. Contracts class

   *Who is Professor Charles Thatcher?*

400  Professor who not only sings but can accompany himself and a band on the piano or organ

   *Who is Professor Charles Thatcher?*

600  Professor who is the longest-serving faculty member at USD School of Law

   *Who is Professor Charles Thatcher?*

800  Professor who is the source of more puns, quips, and groaners than any other faculty member, now or in the future?

   *Who is Professor Charles Thatcher?*

1000 Professor who not only originated and wrote JEOPARDY! questions for decades and was selected to try out as a JEOPARDY! contestant, but also starred in the classic “Blues Brothers” rendition of “YMCA” with his sidekick, Professor Emeritus Roger Baron.2

   *Who is Professor Charles Thatcher?*

   FINAL JEOPARDY!

The premier Contracts professor in the State of South Dakota

*Who is Professor Charles Thatcher?*

† Professor, University of South Dakota School of Law.
1. Judge Judy (Chris Hutton) appreciates the editorial and creative contributions to this piece from Barry Vickrey and Frank Pommersheim.
Professor Thatcher’s dedication to USD Law students is unmatched. After every one of his tough exams, students line up outside his door to meet with him to wade through the red ink corrections on the test. Incredibly helpful! He is as well-prepared as a teacher can be for every class, and throws all of himself into the session. He is quick with a joke to lighten the otherwise-intimidating atmosphere in Contracts class. His JEOPARDY! production takes endless work—how else could he create “lex-rated movies” as a category, while also developing questions for each of the first-year courses?

Professor Thatcher’s dedication also extends to his faculty colleagues. He serves with the Dean as our annual evaluator, which requires attendance in at least one class for every faculty member. He accepted the election to this position without complaint, and as those who know him would expect, he writes extensive comments for each faculty member and follows up with a meeting to discuss their performance. Once again, incredibly helpful!

Professor Thatcher definitely lightens the atmosphere in the law school. Who else would have come up with this “groaner” for JEOPARDY! from 2001:

Greeting that Attila’s wife gave him when he returned from looting, pillaging, and sacking a Roman city.

*What is Hi, Hun! How was your day?*

Or this groaner from 2006:

Name of the product that the Kraft Food Company came out with last Easter:

“Cheeses of__________”

*What is “Nazareth?”*

We will miss Professor Thatcher. We are grateful for his many contributions in his four decades as a faculty member teaching USD Law students.

FRANK POMMERSHEIM†

Professor Thatcher was here even before I was. In fact, he has been here for forty-one years. I have a lot of admiration for that—not just for the time served, but for the time served well. That’s what makes the difference between the ordinary and extraordinary.

There are two sides to every colleague—the professional and personal. Let me say a little about both. On the professional side, Chuck is a consummate teacher. He won both the Law School’s Jackson Award for the Outstanding Professor of Law and the University-wide Belbas-Larsen Award for Excellence in Teaching. These awards were richly deserved as they recognized both Chuck’s zest and engagement in the classroom and his tireless (often pre-dawn) class preparation.

For me, it is equally, if not more, important to recognize Chuck’s exceptional contribution to the day-in, day-out functioning of the Law School. Back in the

† Professor, University of South Dakota School of Law.
day, he was indefatigable as the scheduler-in-chief to help set the semester course offerings in a coherent and student-friendly manner. I can assure you that this was no small feat.

More officially, Chuck was the longtime chair of the Faculty Promotion Committee. This huge, labor intensive effort required Chuck to visit the classes of every single faculty colleague at least once a year and to write up a comprehensive teacher evaluation of each one of us. Chuck’s evaluations were always timely, most thoughtful, and quite instructive as to how we might become better teachers. This clearly was a thankless, yet essential, task to improving faculty performance in the classroom.

Chuck’s professional side often careened into the personal. The best example of this was Chuck’s long time Jeopardy shtick. A law student competition where all the questions were legal in nature; for example, name the situation where you can’t be tried for the same crime twice. What is double jeopardy? Yeah, I can see the smile on many of your (alum) faces.

There is also the complement of the purely personal. Let me give two examples. Back in 1999 (!), Chuck and I went to see Little Richard perform at the Winnavegas Casino in Sloan, Iowa. Yeah, that Little Richard. One of the pioneer spirits of early rock-n-roll pounding the piano to the erotic, nonsense lyrics of Tutti-Frutti. Little Richard loved Jesus too. That’s what he told us down there at Winnavegas. Chuck and I just smiled. Then or now. It don’t really matter. The spirit of the music don’t never die.

More recently, this. Chuck’s spouse, Mariana, is from Romania. My father (now deceased) was born there back in 1919 near the town of Arad. My father never went back, never even visited. There was no bridge across his fear of communism. I mentioned to Chuck that it would be wonderful if I had a keepsake. Sure enough, Chuck and Mariana brought back a lovely ceramic piece identifying a number of Romania’s famous landmarks.

Chuck. Thanks for all this and more. It’s been a ride. I’m gonna miss you from both ends of the street.

PAMELA REITER†

Professor Thatcher’s love for the law is evident every time he enters the classroom. For forty-one years, he has inspired USD School of Law’s students to thoroughly examine the facts and law before reaching a conclusion about the anticipated outcome. He has a knack for encouraging his students to always be prepared for class lest he call upon you with that challenging look over his glasses that all of his students recognize. He inspires his students to think creatively about the law, continually evaluating all angles of a legal problem. His instruction to
several generations of lawyers has improved the practice of law with each passing year.

I have heard Professor Thatcher say that “you are only as good as your next class.” That phrase evidences the incredible effort and energy that he always brings into the classroom. He prepares for each class with the same vigor he used the first time he taught the course. He is a role model for all professors and is an inspiration to me and other lawyers to strive for the best possible outcome for our clients. Professor Thatcher, thank you for each one of your forty-one years of instruction and inspiration to all of your students. I wish you all possible enjoyment and happiness in your retirement!

ERIC C. SCHULTE

I met Professor Thatcher for the first time in August of 1996. I was twenty-three years old and starting law school at USD. In my first class ever, he asked one of my classmates. “What is a contract?” While this was the beginning of law school for me, I have had the good fortune of staying in touch with Professor Thatcher ever since.

Professor Thatcher is greatly respected and admired by our class. He is an excellent teacher. He has prepared generations of students for the practice of contract law. More than this, however, Professor Thatcher is a wonderful person. Nobody, and I mean nobody, cares more about the students at the law school than Professor Thatcher. His dedication and devotion to our class made our experience at USD simply wonderful.

We also share a deep love of rock ‘n’ roll and all kinds of music. While I was a student, Professor Thatcher introduced me to Toots & the Maytals. I recall him telling me, “He sounds like Otis Redding singing reggae, Mr. Schulte.” He was correct. We also share a deep love for the Rolling Stones and Bruce Springsteen. After graduating from law school in 1999, my classmate Doug Barnett and I have gone to two Springsteen shows with Professor Thatcher. His passion for music and life has been an inspiration to me.

My understanding is that after years of dedicated service, Professor Thatcher is retiring. Thank you, Professor Thatcher, for doing so much for so many of your students. You have made the world a better place. I wish you all the best in your retirement.

† Partner at Davenport, Evans, Hurwitz & Smith, LLP in Sioux Falls, South Dakota.
For a school that takes pride in its great teachers, Professor Charles M. Thatcher is, by any measure, one of them. He has won the annual Jackson Award for outstanding professor three times, as well as the prestigious University-wide Belbas-Larson teaching award. His essential mark upon generations of law students is evident as one talks with alumni across the state. I have witnessed firsthand his passion, knowledge, humor, and mastery in his Conflict of Laws course. He ranks with his mentor, Professor and Dean Mike Driscoll, as one of the most influential professors in the history of the University of South Dakota School of Law. If the law school community can be described in a metaphor, Charles Thatcher is deeply embedded in the DNA of the institution.

Charles has been a great colleague. Our free-ranging discussions have involved many shared interests (though often not shared opinions) on politics, history, music, writing, humor, and the all too frequent absurdities of academic life. We have had deep conversations over the years, counseling even, although he never took my advice concerning matters of the heart. We both also sought out the wisdom of our mutual mentor, Mike Driscoll, whose own contribution to the DNA of the law school is incalculable.3

What makes Charles a great teacher? In a word, insecurity. Productive, relentless energy, driven by a desire to teach every student in the class. His preparation for a class that he has taught perhaps thirty or more times never cuts corners. He teaches as if his reputation is hanging on each class. I have told him many times that he should not give students that much control over his own sense of self-worth. To his credit, he has ignored this advice as well. The effort he spends on exams borders on obsessive. I grade exams, he corrects them. I give feedback when asked, he makes appointments to go over the many red marks on each page. Charles extends his teaching to the courts, where his writings conquer the mysteries of UCC 2-207 and the Restatement (Second) of Conflict of Laws. His conflict of laws scholarship has changed the law in South Dakota.

Charles and I have long kidded each other about our differences. He talks fast, is obsessive/compulsive, possibly anal retentive, politically liberal, energetic, and extroverted. I am none of these. His sense of humor he describes as “wet,” whereas mine runs definitely to “dry.” He had a long-standing practice of greeting with a “sick joke of the day,” of which I’ll spare you. I couldn’t help but laugh (or groan). I usually felt bad that I did, however. I was an enabler. Always present, with whatever form his humor would take, was a sense of joy and appreciation of the foibles of life.

Above all, Charles is my friend. We have grown up together. We are very different, but we are brothers. As Aristotle has said, friendship is grounded on equality. Not necessarily equality of condition, or wealth, or class, or education,

† Professor, University of South Dakota School of Law.
3. See Dedication to the Memory of Robert E. “Mike” Driscoll, 57 S.D.L.Rev. i-xii (2012).
or talent, or skill, or even looks. The essential equality is one of fair exchange—that each contributes to the relationship in one’s own way. If we were the same, the exchange would be dull. Life with Charles has never been dull.

Diversity is highly valued in today’s university. Charles brings true diversity to our legal community in so many ways. And we are all enriched for it.

BARRY R. VICKREY†

The most important thing a law school does is teach. Scholarly research and professional and public service are essential parts of a law school’s mission. But nothing is more important than teaching the students who will ultimately serve their clients and society as lawyers. During my quarter century at the University of South Dakota School of Law, no one fulfilled the teaching mission of the Law School better than Professor Charles Thatcher.

I had the remarkably good fortune of inheriting Professor Thatcher when I became dean. He had joined the faculty sixteen years earlier. When I arrived, I learned almost immediately that Chuck had a reputation as a great classroom teacher. Every year, as I observed him in the classroom and talked privately with him about teaching, my admiration of his talent and dedication as a teacher of the law grew greater. Most years of my deanship, Chuck’s colleagues showed their respect for him by selecting him to observe them in their classes as part of our faculty evaluation process.

In order to write this dedication, I spent some time thinking about what makes Chuck Thatcher such a great teacher. I could make a long list of the qualities that contributed to Chuck’s success in the classroom, but I will focus on just a few because of space limitations: intelligence, talent, humor, dedication, and integrity.

We often use the phrase “the smartest guys in the room” ironically, as in the title of the documentary about Enron. We use it to describe people who aren’t nearly as smart as they think they are, who succumb to their own hubris. But sometimes there is a person who actually is the smartest one in the room, and Chuck Thatcher is one of those people. His knowledge of the law, and not just those subjects he teaches, is encyclopedic. Some of my most enjoyable times at USD involved discussions and sometimes debates with Chuck about the most arcane aspects of the law of estates in land and future interests. Even though this was a subject I taught and Chuck didn’t, I held no advantage in these debates.

As for talent, Chuck is a performer. One does not have to be a performer to be a great teacher, but it helps. When trying to engage students in a discussion of UCC 2-207, it doesn’t hurt to have the talent to channel Wilson Pickett singing “Mustang Sally.” For decades, Chuck relieved for at least an hour the anxiety of 1Ls facing their fall semester exams and enlivened the entire Law School.

† Dean & Professor Emeritus, University of South Dakota School of Law.
community with his annual production of Law School Jeopardy. That same talent energized generations of students in Chuck’s classes.

Another element that Chuck has always brought to the classroom is humor, a commodity that is not in oversupply in legal education. In preparation for Law School Jeopardy, Chuck would consult me about his jokes. While I sometimes confirmed his intuition that a particular joke was inappropriate for a Law School event, I don’t recall a joke that wasn’t funny. I especially appreciated Chuck’s sense of humor when, at a faculty dinner at my house, Chuck became the unintended target of my brand-new whipped cream maker.

Chuck’s dedication to teaching has always been reflected in his work ethic. Each semester, he would take one for the team, spending more time than anyone else correcting students’ exams and then meeting with students to review those exams. Exam-review sessions are not pleasant for the student or the professor, but they make an invaluable contribution to the development of law students. Chuck’s dedication to this one-to-one instruction made them better law students and ultimately better lawyers.

In *The Courage to Teach*, a book the Law School faculty studied together some years ago, Parker Palmer writes, “Good teaching cannot be reduced to technique; good teaching comes from the identity and integrity of the teacher.” As Palmer explains, a great teacher must be honest about who he or she is and then have the courage to expose that true self in the classroom. Chuck Thatcher does that every day, communicating to students not only his knowledge of the law but also his deep commitment to its essential role in the lives of human beings and society. He demonstrates by words and actions his understanding of the famous quotation, “Students don’t care how much you know until they know how much you care.” Professor Charles Thatcher cares—about his students, his colleagues, his Law School, his University, and even his deans—and we are all the better for it.
The Board of Editors of the *South Dakota Law Review* is honored to dedicate Volume 63 to Justice Lori S. Wilbur of the South Dakota Supreme Court. The South Dakota Law Review joins Judge Wilbur’s colleagues in saluting her outstanding career as a lawyer, colleague, and judge. The Board is pleased to be able to recognize, through this dedication, Justice Wilbur’s outstanding record of service on the bench as well as her contributions to South Dakota’s legal community. Tributes from those who worked most closely with her follow her profile.

Justice Wilbur, a native of Madison, South Dakota, graduated from the University of South Dakota in 1974. She continued her education at the University of South Dakota School of Law, where she graduated in 1977. Following graduation, Justice Wilbur began her legal career as a Law Clerk from 1977 to 1978. She then served as a Hearing Officer for several state agencies, a Staff Attorney for Bureau of Personnel, a Staff Attorney for Legislative Research Council, and an Assistant Attorney General for Attorneys General Janklow and Meierhenry. Justice Wilbur also served as Magistrate Judge for six years.

Justice Wilbur was elected to an open circuit court position in 1998. As a Circuit Judge, Justice Wilbur was privileged to serve as a member of the Judicial Qualifications Commission and as President of the South Dakota Judge's Association. She made thousands of decisions while on the circuit bench, in cases ranging from small claims to murder. Justice Wilbur was involved in many exciting projects, including establishing a Central South Dakota Teen Court program and a Court Appointed Special Advocate (“CASA”) program for abused
and neglected children. But for Justice Wilbur, the most meaningful and satisfying work she did as a circuit judge was working with many dedicated professionals to establish and help operate the first DUI/Drug Court in the state.

In August 2011, Governor Daugaard surprised Justice Wilbur with a phone call offering her an appointment to the South Dakota Supreme Court. Justice Wilbur stated, “Serving in that capacity and having the opportunity to work alongside fellow justices and weigh in on issues that affect the citizens of South Dakota has been a great honor and very humbling.” Justice Wilbur retired in 2017, but she remains active working with drug courts in South Dakota.

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ROB ANDERSON†

I first met Lori Scully in August 1974, when the most intelligent, personable, and good-looking class ever to enter law school at USD arrived on the steps of the old law school building. Since that time, I have been fortunate to become and remain a very good friend of Lori’s. Therefore, this writing is more personal than professional.

After graduation in May 1977, Lori and I both traveled to Pierre to begin our careers. Although I work at the same job today as I began at that time, she progressed up the judicial ladder by starting as a Supreme Court law clerk, working as both a part-time and full-time magistrate judge, a circuit judge, and finally a Supreme Court Justice. She also served in other law-related jobs with both the Attorney General’s Office and the South Dakota Bureau of Personnel. In all these roles, she served with distinction and earned the friendship and respect of those she worked with. This was especially evident at the ceremony held at the Capitol recognizing her retirement.

During her years on the bench, she enforced and applied the law in an even-handed manner and with great respect for those who appeared before her. Like most judges, she has, on occasion, been forced to deal with the most heinous crimes, and at other times has dealt with people who have committed minor alcohol violations, enthusiastically over-bagged on pheasants or fish, shot illegal fireworks, and possessed potato cannons so powerful that they were subject to federal regulation. Throughout all this, she exercised her common sense and maintained her sense of humor.

Whether in Pierre or Sioux Falls, she has always been a great supporter of children’s activities and an enthusiastic participant in many outdoor activities, including trap shooting. Children always found her eager to purchase raffle tickets for American Legion Baseball, hockey, tennis, or the many other sports which she and her family supported and continue to support to this day.

I would be remiss to not mention that her late husband, Brent, was my law partner for almost thirty years. Together, she and Brent raised two fine children.

† Partner at May, Adam, Gerdes & Thompson, LLP in Pierre, South Dakota.
here in Pierre, and when it came time to find godparents for our son, Cash, my wife, Sheri, and I would have chosen no one else.

Brent and Lori were married on the opening day of pheasant season. That may appear to contradict the common sense which I mentioned above. This year, on the opening day of pheasant season, a granddaughter was born just as the opening shots were being fired. Despite the importance of that day, Lori obviously chose to be with her family and at the side of her daughter, Molly. We did our best to shoot her share in her absence, knowing that after all these years she lacked jurisdiction to do anything about it.

The people of South Dakota have lost a fine public servant, but the State still has a dedicated mother and grandmother.

NEIL FULTON†

No lawyer has been more inspirational to how I endeavor to live as a lawyer than Justice Lori Wilbur. Her formula is clear: be kind, be courageous, work hard, be joyful.

Justice Wilbur offers kindness to everyone. Too often the law leaves no room for kindness. But Justice Wilbur asks tough questions with courtesy, makes adverse rulings with empathy, and is kind while remaining demanding. This is no small thing. The impact of this ripples out to others, because kindness is contagious.

Lori’s kindness reaches beyond the quotidian to larger gestures as well. When the Missouri River flooded in 2011, my family was displaced. Lori took us in. This was in spite of already hosting another couple and the fact that Molly and I had two boisterous young boys along for the ride. Lori’s generosity and hospitality made what could have been a trying time an entertaining “evacuation,” and one of our fondest memories.

Justice Wilbur perpetually manifests courage. It is the courage to try, learn, and grow. It is the courage to start a drug court and make it work. The courage to grow into every judicial position in the Unified Judicial System. The courage to try avocations from music, tennis, reading on myriad eclectic topics, and serving as “Grandma Lori” to a growing group (not all her blood relatives). Almost whenever presented with a challenge, she views it as an opportunity and says, “Why not!” The challenge is then fully engaged with energy and creativity, great things typically growing out of it.

Whenever I face important decisions, I hear Justice Wilbur’s courageous voice challenging me: “Why not!” She has encouraged me to marry Molly, accept unexpected professional opportunities, read a book she suggested, and to simply embrace life to the greatest degree possible. We are all richer when we embrace everything possible, and Justice Wilbur walks at the front of us all, calling us to follow along to greater things.

† Federal Public Defender of South Dakota and North Dakota.
Kindness and courage can mask hard work. So it is with Justice Wilbur. It is tempting to focus on the smile on her face and lose sight of the sweat on her brow. When you find something you are passionate about, you need to work hard at it. Justice Wilbur works very hard. Her opinions are thoroughly researched, tightly reasoned, and cleanly written. The work has been done with grace, but with effort.

Lastly, Justice Wilbur does all this with great joy. Too often, we can succumb to drudgery. But we can choose to live like the child described by William Blake: “I happy am, joy is my name.” Joy is not mere happiness, it is a more fundamental state of thankfulness and peace. It is, sadly, not an easy state to maintain. It is the animating force that I have observed in Justice Lori Wilbur over the years.

Few of us will manifest all these traits as completely as Lori. Each of us can try. Our practice and our world are better due to that effort that she inspires.

GLEN A. SEVERSON†

Justice Lori Wilbur’s impact on the South Dakota Supreme Court and the Unified Judicial System will be felt for generations. She influenced the legal profession with her leadership, creativity, intelligence, integrity, and sound judgment. Justice Wilbur’s leadership and creativity helped bring drug and alcohol courts to South Dakota. By pioneering these courts in our State, Justice Wilbur created an avenue for citizens to successfully address addiction issues, which avenue also allowed the State to reduce prison populations.

But her most important contribution has been in her legal scholarship. It is popular to repeat the maxim that judges should just apply the law to the facts and not make the law. That sounds good, and I confess that I may have repeated it myself. Judges soon learn that reality is more complex. Facts are frequently disputed. And law is seldom clear cut. Despite this complex reality, I observed Justice Wilbur quietly excel. She construed intricate legal issues with intelligence, integrity, skill, and sound judgment. She also creatively addressed many novel questions.

In the history of the South Dakota Supreme Court, there have now been fifty justices. We all eventually move on. During Justice Wilbur’s years as a magistrate judge, circuit judge, and presiding circuit judge, she impacted the lives of many people and left a legacy in the legal profession. Then as a Supreme Court justice, she left her most lasting legacy. Justice Wilbur humbly and diligently applied her talents in the four hundred plus cases filed each year. She also left well-crafted precedent for others to follow by authoring over one hundred published decisions. This was all done while making us smile with her delightful and clever personality. She certainly transformed many mundane experiences into memorable moments. Well done Lori.

† Justice, South Dakota Supreme Court.
“Show up, try hard, and be honest.” These are the three rules that Sixth Circuit Judge Lori Wilbur asked of her DUI Court clients, and these are the same three rules she has lived by as an extraordinary jurist. These attributes describe the life and career of Justice Lori Wilbur: attentive public servant, knowledgeable about the law, a curious mind with a common-sense approach to problem solving, and a compassionate and generous heart for the people she worked with and the people she served.

Justice Wilbur’s legal resume evidences her singular devotion to the legal field in the role of an attentive and dedicated public servant. Justice Wilbur is the only judge in South Dakota history to-date that has held every judicial position in the South Dakota court system. She served as Magistrate Judge, Circuit Judge—spending five of those years as the Presiding Judge, and Supreme Court Justice. Prior to serving in the judiciary, she served as Assistant Attorney General, General Counsel to the Board of Regents, Staff Attorney to the South Dakota Legislative Research Council and Legal Counsel for the Bureau of Personnel. As an active community member, she served on numerous boards and commissions where she worked to improve the lives of children, advance educational opportunities, and improve the judiciary and the legal profession.

As impressive as her many accomplishments, Justice Wilbur’s legacy lies in the establishment of the Sixth Circuit DUI Court in 2009. During her years as a magistrate and circuit judge, she observed that the existing policy of jailing addicts for their criminal conduct was neither addressing addiction nor reducing crime. With compassion for addicts and their families, and with concern for the safety of the public, Judge Wilbur rolled up her sleeves and went to work to create a DUI Court. It must be remembered that at this time, specialty sentencing courts were controversial—opponents argued they were “soft on crime.” Justice Wilbur had done her homework and knew that the evidence-based data showed otherwise. Through Justice Wilbur’s strong leadership, aided by freshly-baked chocolate chip cookies and bowls of M&Ms, she was able to bring together prosecutors, defense counsel, law enforcement officers, court service officers, counselors, and community members to work towards the common goal of creating a DUI Court. After this team of professionals built the foundation for a DUI Court, the next obstacle was financing the project. When the South Dakota Legislature failed to provide funding, Justice Wilbur refused to give up; she went out and secured federal grant funding through Highway Safety for the Sixth Circuit DUI Court. Justice Wilbur served as the Sixth Circuit DUI Court judge until she was appointed to the South Dakota Supreme Court in 2011.

Having had the privilege of working with Justice Wilbur for over twenty years, what I admire and respect most about her is her ability to intellectually and compassionately listen to people and make them feel comfortable and supported. This quality makes her a phenomenal justice and judge—and a wonderful friend.

† Retired Judge, Sixth Judicial Circuit of South Dakota.
Justice Wilbur is one of those rare people who can talk to anyone; a Supreme Court Justice, the custodian at the courthouse, or the addict who just completed chemical dependency treatment. Justice Wilbur’s gift is best illustrated by this quote from Dr. Maya Angelou: “I’ve learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel.”

STEVEN L. ZINTER†

I met Justice Lori S. Wilbur forty-seven years ago when we were both starting our undergraduate educations at the University of South Dakota. We have been friends ever since. Justice Wilbur has had a truly remarkable career that warrants her dedication of this volume of the South Dakota Law Review.

Immediately after law school, Lori began her career as a law clerk for Justice Larry Zastrow. Following her clerkship, she obtained broad experience practicing law in a number of capacities, including as an assistant attorney general, general counsel for the Board of Regents, staff attorney for the Legislative Research Council, and legal counsel for the South Dakota Bureau of Personnel.

Following her practice of law, Lori returned to the judiciary for the next quarter century. During that time, she served as a magistrate judge, circuit judge, presiding circuit judge, and Supreme Court justice. As a result, Justice Wilbur is the only person in South Dakota history that has held every judicial position in this state. She is also one of few lawyers in the nation who became a justice on a supreme court after having been a law clerk for the same court.

But her service for the Unified Judicial System is only a small part of her historic career. She was a member of State Bar Ethics Committee and the Judicial Qualifications Commission. She served as president of the South Dakota Judges Association. She was chosen as Woman Attorney of the Year in 2012. And in 2017, she sat on the South Dakota Supreme Court’s first case in which a female majority presided over the duly constituted court.

Justice Wilbur was also a very important member of the Supreme Court. She never approached cases based on ideology: she always presented principled arguments based on law and fact. During her service, she authored more than one hundred published opinions dealing with significant legal issues. Those cases involved: public and private rights in South Dakota surface waters; the death penalty; trust law; and the legal duties of drivers, owners of property, landlords and tenants, babysitters, group homes, corporations, insurance agents, physicians, and employers.

Even more importantly, Justice Wilbur changed—and in some cases literally saved—the lives of hundreds of South Dakota’s adults and children. Long before anyone else, she recognized the need to change the way the court system dealt with those afflicted with chronic alcohol and drug problems. Despite opposition from every corner, she pioneered the effort to create teen, DUI, and drug courts in South Dakota. As a direct result of her hands-on involvement in every detail of

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that endeavor, South Dakota now has sixteen alternative courts that have received national recognition. In just the last four years, those courts have enabled over six hundred addicted adults to stay out of prison, work meaningful jobs, and support over one thousand children who would otherwise be on public assistance.

Justice Lori Wilbur is a determined, principled, and consummately fair jurist. She served with honor and distinction. She moved the South Dakota Supreme Court forward in both its legal and administrative responsibilities. She blazed a trail that inspired both women and men alike. She has had a truly remarkable judicial career—one that has literally salvaged the lives of hundreds of adults and children—a career that cannot be replicated.