

### Statement of the Legal Issues

1. Whether the Administrative Law Judge's factual finding that the claimant "did in fact voluntarily leave employment" was clearly erroneous in light of the entire evidence in the record.

The Circuit Court concluded that the Claimant had not shown that the Administrative Law Judge's finding was clearly erroneous. (Appendix, p. 6).

S.D.C.L. § 61-1-10(1)

S.D.C.L. § 61-6-13

*Wernke v. State, Dept. of Social Services*, 1999 SD 32, 590 N.W.2d 260

*Anderson v. Western Dakota Insurors*, 393 N.W.2d 87 (S.D. 1986)

*Zeig v. S.D. Dept. of Labor, Unemployment Insurance Division*, 337 N.W.2d 437

(S.D. 1983)

2. Whether the Agency's policy of barring an employee from receiving unemployment compensation benefits solely because the employee was also the president of a company that closed down on account of reasonable financial considerations was arbitrary and contrary to the law.

In a case of first impression, the Circuit Court followed case law from the Supreme Court of Wisconsin and distinguished contrary authority from Iowa and Minnesota and held that the Department's policy was not contrary to the law. (App., p. 6).

*Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993)

*State Dept. of Industrial Relations v. Barber*, 923 So.2d 312 (Ala.App. 2005)

*Director, Department of Industrial Relations v. Ford*, 700 So.2d 1388 (Ala. App.

1997)

*In re Rosen*, 779 N.Y.S.2d 875 (N.Y. A.D. 2004)