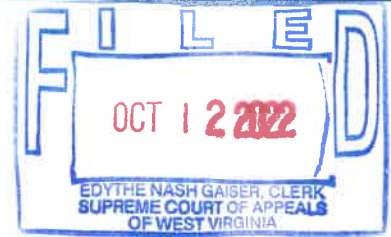


October 9, 2022



Edythe Nash Gaiser, Clerk of the Court
West Virginia Supreme Court of Appeals
Capitol Complex
1900 Kanawha Boulevard East
Building One, Room E-317
Charleston, WV 25305

Dear Ms. Gaiser:

The WVU College of Law Veterans Advocacy Law Clinic (“VALC”) writes to indulge in the invitation to offer analysis and feedback on the broad civil rules package provided for public comment by Order of June 15, 2022. I wanted to offer thoughts and perspective on the impact to Veterans in the civil justice system by the proposed changes.

West Virginia is home to more than 167,000 veterans, many with acute and unique legal needs related to their military service or return to civilian life. West Virginia has worked hard to create an affordable and welcoming home for veterans with our low cost of living and other benefits to encourage veterans to retire in this wonderful state. In the clinic, we represent West Virginia veterans in litigation before administrative agencies on benefits, discharge upgrades, and similar matters. The VALC also litigates in courts on employment claims and other civil matters, which will naturally be impacted by the proposed amendments to the West Virginia Rules of Civil Procedure. In addition to these efforts, our group advocates to advance the legal needs of veterans regarding regulatory and legislative reform efforts, media advocacy, and other arenas that impact veterans, including changes to the justice system such as the proposed amendments to the rules made available for public comment.

One of the most common issues that veterans face is a lack of attorneys who specialize in the services they need, whether it be benefits, family law, or other civil legal assistance. Veterans are in a unique position that many civilians might not appreciate or have a full understanding. Veterans are often the targets of unscrupulous lenders seeking to capitalize on military benefits. Veterans have more robust medical histories than most after serving their Country, leading to increased risks to their personal information in an age of online piracy. Additionally, the products veterans use are most often times not by choice, but as a result of command or an order of a superior officer. If those products fail, as is the case in some circumstances, veterans must have refuge to seek redress in the justice system. Veterans also present unique issues to family law due to the fact that deployments and frequent moves can create difficulties in determining parenting time and custody issues. Narrowing discovery,¹ increasing the costs of litigation, and creating new objections to withhold documents² are barriers that harm an already underserved veteran community. In the proposed amendments, the timing rules are less lenient, the pleading rules are less forgiving, and the discovery rules constrain veterans’ abilities to reveal harms

¹ See generally Comments to Rule 26 and this Rule’s interplay with other rules implication discovery.

² See Comment to Rule 26 “Section (b)(3)(C)(iii) includes proportionality as a basis of opposing discovery.”

and bring claims.³ Our concern is that this will lead to even fewer advocates who are able to serve West Virginia veterans.

For these reasons, the Veteran's Advocacy Law Clinic urges the WVSCA not to adopt rule changes that increase the barriers to justice and add additional hurdles to our large veteran population that seeks to utilize the civil justice system. At the very least, a pause in change is required to study the cost burden and impact of the proposed rules before they are imposed on West Virginia's veterans. A pause in change is also necessary to first identify specific problems facing litigants so any amendments are specifically tailored to those identified issues. If an opportunity exists to further advocate for veterans regarding any potential rule changes, I offer my services to participate and contribute to that process.

Creating barriers to redress for our veterans, who have sacrificed so much for our freedoms in the first instance, deserves fuller consideration and analysis to fully understand the implications of the rule changes. As an advocate on behalf of every West Virginia veteran, I respectfully request that these amendments not be enacted.

Very truly yours,



Jed Nolan, Esq.
Director, WVU College of Law Veterans Advocacy Law Clinic

³ See generally, *Proposed Amendments to the West Virginia Rules of Civil Procedure*.