JUDICIAL INVESTIGATION COMMISSION
WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

October 28, 2026

Re: JIC Advisory Opinion 2026-08

Dear Judge :

Your request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission. You want to know if you are permitted to suggest to a pro se party in a civil case that they could consult with legal aid for potential representation without violating the Code of Judicial Conduct. In your request you stated the following:

> [T]here is a matter that often arises in civil cases wherein the defendant has never appeared or has appeared by filing a pro se answer denying liability. In looking at the case, I sometimes see that there may be viable defenses, but the defendant has not raised them or does not have the wherewithal to raise them. In these situations, though, it usually seems apparent that the defendant cannot afford an attorney. This often comes to mind in collection cases, but there have been other types of cases as well.

To address your question, the Commission has reviewed Rule 2.2 of the Code of Judicial Conduct which states:

> **Rule 2.2 – Impartiality and Fairness**
>
> A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Comment [4] to the Rule states that "[i]t it is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard."

Based upon the foregoing, the Commission is of the opinion that a judge may do a form order in all cases advising all parties that they can seek counsel from an attorney including those affiliated with legal aid and as long as no comment is made as to the merits of any claims. The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat