



March 24, 2026

VIA EMAIL: [rulescomments@arcourts.gov](mailto:rulescomments@arcourts.gov)

Kyle E. Burton  
Clerk of the Arkansas Supreme Court  
Attn: Amendments to Arkansas Rules of Evidence  
625 Marshall Street Little Rock, AR 72201

**Re: 2026 Ark. 18, In Re Creation of Rule 412 of the Arkansas Rules of Evidence**

I write in my capacity as chair of the Legislation and Rules Committee within the DRI Center for Law and Public Policy in support of the Arkansas Supreme Court's proposed Rule of Evidence 412.

DRI is the largest international membership organization of attorneys defending the interests of business and individuals in civil litigation. DRI is committed to addressing issues germane to defense lawyers and the civil justice system and improving the civil justice system. Founded in 2012, the DRI Center for Law and Public Policy (the Center)—through scholarship, legal expertise, and advocacy—provides the most effective voice for the defense bar in the discussion of substantive law, judicial process, constitutional issues, and the integrity of the civil justice system at both the national and state levels. Upon request, the Center offers support to our affiliate state defense organizations who are concerned about legislative or rule issues developing in their jurisdictions.

DRI and the Center stand with the Arkansas Association of Defense Counsel (AADC) and echoes their advocacy arguments in support of proposed Rule of Evidence 412.

This past year, the Arkansas legislature passed an amendment to A.C.A. 16-64-120, which added clarifying language for recoverable damages under the statute. Subsection (b) of the statute now provides that a plaintiff's entitlement to damages for "past necessary medical care, past necessary medical treatment, or past necessary medical services" is limited to "only those costs actually paid by or on behalf of the plaintiff or that remain unpaid and for which the plaintiff or any third party is legally responsible." In furtherance of this legislative intent, the Supreme Court Civil Practice Committee was presented with two versions of the proposed Rule 412: the "Maryland" version and the "Texas" version. The Committee has wisely selected the version which most aligns with the General Assembly's intent: to facilitate the recovery of damages. By selecting the "Texas" approach, the Supreme Court will have provided this state's legal practitioners, both plaintiff and defense lawyers alike, with a clear framework for application in daily civil practice. Further, the proposed rule promotes uniform application by trial courts and minimizes unnecessary appellate issues.

AADC Letter to Arkansas Supreme Court, March 16, 2026.

We appreciate your consideration in this matter and support the creation of Rule 412 of the Arkansas Rules of Evidence.

Sincerely,

*Brooks Magratten*

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Chair, DRI Center for Law and Public Policy Legislation and Rules Committee