

No. 31614 - *Kiser v. Caudill*

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OF WEST VIRGINIA

McGraw, Justice, dissenting:

I dissent to the majority opinion because it deprives the plaintiff of her day in court. This case has been working its way through the system for a dozen years but has yet to reach a jury. Our law strongly favors a decision on the merits by a jury of one's peers: "[T]he juror is an integral part of our democratic ideal, representing the conscience of the community." *Roberts v. Stevens Clinic Hospital, Inc.*, 176 W. Va. 492, 513, 345 S.E.2d 791, 813 (1986) (McGraw, J., dissenting).

Because the majority decision denies the plaintiff any opportunity to present this case to a jury, I must respectfully dissent.