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Troutman Pepper Continues Fight for Full Educational Benefits for Military Veterans

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RICHMOND, Va. — With the help of attorneys from [Troutman Pepper's](#) public records team and co-counsel David DePippo from Dominion Energy, FBI Special Agent Jim Rudisill, a U.S. Army veteran, has filed a Freedom of Information Act (FOIA) lawsuit against the U.S. Department of Veterans Affairs (VA) in the U.S. District Court for the Eastern District of Virginia.

The lawsuit will force the VA to disclose the full scope of its denying more than 1.7 million post-9/11-era veterans billions of dollars of educational benefits. Since 2015, Rudisill has been successfully battling the VA to grant him full entitlement to Post-9/11 GI Bill benefits based on his nearly eight years of qualifying service. This is notwithstanding the VA's process of limiting veterans' entitlement to Post-9/11 GI Bill benefits based on their use of benefits under a separate program, the Montgomery GI Bill.

"Under the FOIA, the VA has a clear legal duty to either produce the requested records or assert that a statutory exemption prevents their disclosure," said Abbey Thornhill, Troutman Pepper associate and lead co-counsel in Rudisill's FOIA suit. "The VA's response has been complete silence. It has failed to produce any documents in response to Special Agent Rudisill's request and has not provided any reasons for its failure to do so."

"Oral argument before the en banc U.S. Court of Appeals for the Federal Circuit confirmed what we've always said: the government recognizes there are veterans who are separately entitled to benefits under two separate GI Bill programs," said [Timothy McHugh](#), Troutman Pepper associate and co-counsel on the case. "Yet the government cannot identify any part of the statutory scheme that suggests Congress intended to deny veterans the benefits they earned through their service. If Congress intends to do that, it must say so clearly."

With the help of Partner [Stephen Piepgrass](#), head of the firm's Regulatory, Investigations, Strategy + Enforcement Group and Associate [Trey Smith](#), McHugh, Thornhill, and DePippo hope to obtain valuable information to aid Special Agent Rudisill's ongoing benefits litigation.

Case highlights:

- Rudisill served three periods of active military service between 2000 and 2011. He applied for education benefits under the Montgomery GI Bill, receiving 25 months and 14 days of the 36 months of benefits available

under that program.

- After his final stint in the Army, Rudisill applied for education benefits under the Post-9/11 GI Bill, which also provides 36 months of benefits and has a 48-month combined limit of benefits for veterans who have had multiple terms of service and use benefits under multiple programs.
- The VA claimed Rudisill was only entitled to the remaining 10 months and 16 days of the time allotted by the Montgomery GI Bill.
- The U.S. Court of Appeals for Veterans Claims determined that Rudisill wasn't limited to the 36 months given by the Montgomery GI Bill because he also qualified for later benefits under the Post-9/11 GI Bill.
- The U.S. Court of Appeals for the Federal Circuit Judges Pauline Newman, Timothy B. Dyk, and Jimmie V. Reyna heard arguments in the case in December 2020. The panel issued an opinion affirming the U.S. Court of Appeals for Veterans Claims' decision in July 2021.
- The full U.S. Court of Appeals for the Federal Circuit heard arguments on the case on Thursday, October 6, 2022. Their decision is expected in the first quarter of 2023.

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