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NCLA Asks D.C. District Court to Halt Illegal Suspension of Hon. Pauline Newman

The Hon. Pauline Newman v. Hon. Kimberly A. Moore, Hon. Sharon Prost, Hon. Richard G. Taranto, et al.

Washington, DC (October 26, 2023) – Late yesterday, the New Civil Liberties Alliance filed a [brief](#) in *Newman v. Moore, et al.*, urging the U.S. District Court for the District of Columbia to deny Defendants’ motion to dismiss the Hon. Pauline Newman’s complaint and to grant a preliminary injunction halting her ongoing suspension. Last month, the Judicial Council of the Federal Circuit unlawfully suspended the veteran circuit judge from hearing new cases for at least a year, after ordering her indefinite suspension several months earlier without due process.

Judge Newman’s indefinite removal from the bench is unprecedented in American judicial history. Throughout the process, the Judicial Council has changed the rationale for its actions and even altered the allegations leveled against her, all to accomplish a predetermined outcome. In March 2023, the Judicial Council indefinitely suspended Judge Newman from hearing new cases before any formal investigation began. In violation of basic and fundamental due process requirements, Chief Judge Moore and the Judicial Council refused to transfer the investigation to another circuit court of appeals, *despite* the fact that all members of the Judicial Council are fact witnesses to the events at the heart of the dispute. Three former Chief Judges (two from the Federal Circuit itself, and one from the Fifth Circuit) [have publicly challenged](#) the Judicial Council’s behavior.

The Judicial Council’s factually baseless and procedurally defective suspension of Judge Newman deprives her of the constitutional right and obligation to continue in office, and it violates the procedural due process protections built into the very statute and rules the Judicial Council is enforcing. The September order exceeds sanctions imposed on judges who committed serious misconduct and improprieties. The Council’s actions, which appear designed to accomplish a preordained result, have left Judge Newman with no remaining cases to hear, irreparably harming her and depriving the country of her decades of valuable judicial experience and insight.

Despite the lack of factual predicate for the mental examination ordered by the Judicial Council, Judge Newman voluntarily submitted to two separate examinations by two expert medical professionals. She was properly tested. She passed twice and has since shown her unquestionable vigor in speeches at [public events](#) honoring her myriad achievements. Oddly, the Judicial Council dismissed the validity of both medical examination reports, substantively mischaracterizing the examinations those doctors conducted and substituting their own Google search for the considered opinions of two board-certified medical experts. The District Court, which has jurisdiction over the *administrative* actions taken by the Federal Circuit’s Judicial Council, should judge far more wisely, restoring Judge Newman to her full judicial duties, pending final resolution of her administrative appeals.

NCLA released the following statements:

“Judge Newman’s lawsuit is about more than restoring her to the bench. It is about the very independence of the federal judiciary and the ability of each federal judge to fulfill the office constitutionally entrusted to her. The District Court should reject Defendants’ claims of absolute and unfettered power to effectively remove judges from office—a power that belongs to Congress alone.”

— **Greg Dolin, M.D., Senior Litigation Counsel, NCLA**

“Judge Newman has a clear right to review in the District Court. We look forward to continuing to work in this court to ensure a fair and constitutional process for Judge Newman and other Article III judges—and to see Judge Newman returned to hearing cases as soon as possible.”

— **Andrew Morris, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#) or watch the case video [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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