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NCLA Asks D.C. Circuit to Rule Against Unlawful Suspension of Federal Circuit Judge Pauline Newman

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

Washington, DC (December 5, 2024) – Today, the New Civil Liberties Alliance filed an opening [brief](#) urging the U.S. Court of Appeals for the D.C. Circuit to reverse a district court judgment that upheld the ongoing illegal suspension of Federal Circuit Judge Pauline Newman. Without due process, the Judicial Council of the Federal Circuit indefinitely removed Judge Newman from hearing new cases in March 2023 before beginning any formal investigation into her fitness for office, which violated the Judicial Conduct and Disability Act that the Council purported to be applying. The Judicial Council suspended her for a year in September 2023, extending the suspension for another year in September 2024. Representing Judge Newman, NCLA demands an end to this unconstitutional campaign that has functionally removed a sitting Article III judge from office.

Judge Newman’s indefinite, complete suspension is unprecedented in American judicial history, exceeding sanctions imposed on judges who committed serious misconduct and improprieties. Suspending an Article III judge from all judicial functions of her office is unconstitutional. To the extent that the Disability Act’s provision permitting judge suspensions is constitutional at all, it only authorizes a time-limited suspension with definite end-date. Nevertheless, the district court dismissed Judge Newman’s lawsuit, wrongly ruling that 28 U.S.C. § 357 bars federal courts from considering her constitutional challenges to the Disability Act as applied to her case. The D.C. Circuit has jurisdiction to consider these challenges to the Disability Act because they argue that the Judicial Council acted outside its statutory authority in its scheme against Judge Newman.

Throughout the investigation and suspension process, the Judicial Council changed the rationale for its actions and even altered the allegations leveled against Judge Newman, all to accomplish an apparently predetermined outcome. Judge Newman is now prevented from serving her constitutional role for no valid reason. World-renowned neurosurgeon Dr. Aaron G. Filler recently directed a cutting-edge Perfusion Computed Tomography (PCT) scan of Judge Newman’s brain and administered a full neurological examination that turned up no relevant deficits, [confirming](#) that she is fully fit to perform the duties of the office. Earlier this week, Retired Federal Circuit Judge Paul Michel [pointed out](#) that her suspension has “marred public faith in the federal judiciary.”

NCLA released the following statements:

“The entire disciplinary process against Judge Newman was always factually baseless and legally meritless. But the issues are more important than Judge Newman. At stake is the very independence of American judiciary and our system of checks and balances. The D.C. Circuit should put a stop to the Federal Circuit Judicial Council’s unconstitutional and *ultra vires* actions against Judge Newman.”

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

“Judge Newman has been suspended longer than any federal judge in American history. All without a hint of wrongdoing on her part and a trio of physicians demonstrating her mental and physical fitness for her office. The

unjust and unlawful use of the Disability Act by the Federal Circuit’s Judicial Council should be ended by the D.C. Circuit.”

— **John Vecchione, 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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