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## **Retired Judges' Amicus Brief Supports Judge Newman in NCLA Suit Against Her Suspension**

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

**Washington, DC (December 13, 2024)** – Six retired federal judges have filed an *amicus curiae* [brief](#) in [Newman v. Moore](#) supporting the unlawfully suspended Federal Circuit Judge Pauline Newman, who is represented by the New Civil Liberties Alliance. The Hon. Janice Rogers Brown (D.C. Circuit), Hon. Paul Michel (Federal Circuit), Hon. Randall Rader (Federal Circuit), Hon. Thomas Vanaskie (Third Circuit), Hon. Paul Cassell (District of Utah), and Hon. Susan Braden (Federal Claims) ask the U.S. Court of Appeals for the D.C. Circuit to render judgment for Judge Newman in the lawsuit challenging her unconstitutional suspension from the bench. NCLA thanks these eminent jurists for their courage and demands an end to the illegal campaign that has functionally removed a sitting Article III judge from office.

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. This 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.

The retired judges explain that, instead of addressing the merits of Judge Newman's constitutional claims, the U.S. District Court for the District of Columbia dismissed her claims "largely on the ground that judicial review was precluded," a holding that "cuts against the strong presumption that all U.S. citizens are entitled to have their federal constitutional claims heard in a federal court."

"The Constitution assigns to the U.S. Senate alone the power to remove Article III judges from office," the retired judges' brief says. "By suspending Judge Newman for an indefinite period and thereby effectively removing her from judicial office, Appellees have usurped that authority and directly challenge the independence of all federal judges."

The [Bar Association of the District of Columbia](#), [The Buckeye Institute](#), and [Manhattan Institute](#) also filed *amicus* briefs in support of Judge Newman. NCLA thanks these allies for standing in defense of due process and judicial independence.

### **NCLA released the following statements:**

"The *amicus* brief by a group of retired federal judges who were appointed by Presidents of both parties and which includes two former Chief Judges of the Federal Circuit shows how important this case is and the constitutional peril that Federal Circuit's actions have created. The D.C. Circuit should take heed of the concerns raised by this

brief (as well as by other *amici*) and protect judicial independence by holding the Federal Circuit's actions to be unlawful."

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

"It is rare that retired members of the Federal Bench and the D.C. Bar submit *amicus* briefs anywhere. Their concerns and arguments, as well as those of the other learned *amici* should be carefully considered by the D.C. Circuit and the larger legal community."

— **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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