

**Supplementary Report 1 of Dr. James M. Noble**

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## INTRODUCTION

On January 30, 2025, I submitted my initial report to the Committee. Since then, I have been provided with additional medical records for Judge Newman, totaling 1948 pages which are the medical records reviewed by Dr. Filler in preparing his report. The report below summarizes key findings and my impressions.

As was the case with my prior report, with these additional medical records I have no known prior personal or professional connection with any individuals involved in Judge Newman's evaluations. I am unaware of any potential conflicts of interest.

As before, my opinions offered in this summary are not part of my work at Columbia University. I have been asked to review these additional medical records as pertains to my prior report. Both my report from January 30, 2025 and this supplemental document reflect my opinions based on review of documents provided for me. I have not directly interviewed or examined Judge Newman. Neither my prior report nor this supplement intends to diagnose her. As was the case with my initial report, this document should not be interpreted as a substitute for direct clinical care.

## SUMMARY OF MEDICAL RECORD REVIEW

The medical records provided reflect multiple health conditions and evaluations, including periods of care for syncope, anemia, hypotension, pulmonary hypertension, infection, chronic kidney disease, and the known fall leading to her injured wrist. Overall, the records demonstrate that she was contending with multiple serious medical illnesses over 2023-2024. With a few important exceptions, this summary of health conditions is generally in line with Dr. Filler's summary, as was the list of medications.

## KEY FINDINGS AND NEW INFORMATION

There are several important points brought to my attention through review of these additional records, which were not otherwise included in the reports of Drs. Filler, Carney, or Rothstein when preparing my original report.

First, Dr. Filler states that Judge Newman reported she had no history of syncope (also known as a fainting episode). Specifically, on page 18 of his report he asserted "records do not reveal any such episodes," and makes a similar statement on page 4 of his report. However, in the records available to Dr. Filler there are multiple records documenting an episode of syncope (including "syncope," "syncopal," or "loss of consciousness": PN\_001436-7, 1441-43, 1588-91, 1609, 1610-1611, 1612-13, 1631-33, 1634-65, 1658-59, 1665-84, 1684-1735, 1739-40, 1740-42, 1749-50) involving an emergency department (aka emergency room) visit in April 2023 leading to a brief hospitalization. There is also documentation at that time of another similar episode at some point in the past (PN\_001441, and 1591). Indeed, it appears that her pacemaker was initially placed in 2016 (PN\_001787) after an episode of syncope due to sick sinus syndrome (PN\_001591). On page 4 of Dr. Carney's report Judge Newman recounted her syncopal episode from April 2023, although she denied that she had been admitted to the hospital. The records show however that she was admitted from the Emergency Room to [REDACTED] Hospital where she spent the night of 4/19/2023 in room 525 and was discharged the afternoon of 4/20/2023 (PN\_001665-99). Furthermore, by the time she met Dr. Filler in late 2024 she denied ever having any episode of syncope. The fact that Judge Newman did not fully recall her own medical history, including that she was briefly hospitalized for that episode of syncope, raises further concern for meaningful memory problems. Aside from Judge Newman's poor recall of her own medical history, it is problematic that Dr. Filler overlooked the clear documentation of syncope in Judge Newman's medical records and Dr. Carney's report.

Second, in several instances in a problem list, “memory impairment” is documented as beginning 4/27/2022 and as resolved 11/5/2023 (PN\_000003, 130, 256, 265, 275, 283, 1133, 1338, 1359). April 27, 2022 coincides with a visit to her cardiologist (PN\_000126), but records of that visit have not been provided. Considering that another physician raised concern about a matter critical to the matter at hand, Dr. Filler should have noted this gap in information, even if the records were not eventually available. Clearly there are records beyond what has been provided.

For a physician, a problem list serves as a list of issues or concerns which should be addressed or taken into consideration in the broader context of care. In some instances, items on a problem list become formal diagnoses. Dr. Filler’s report on page 4 states “The records reviewed by me do not ‘shed light’...on Judge Newman’s current condition. Indeed, given that her neurological workup was entirely normal, the records do not appear to be contributory in any way to ‘the issues of impairment of cognitive and other functioning the Committee is investigating.’” On page 18 Dr. Filler further states “none of Judge Newman’s medical conditions revealed by her records are ultimately contributory or relevant to her current mental state, and none suggest a cognitive decline or neurological deficits.” Given that “memory impairment” is clearly in her problem list for an extended period of time, this goes against Dr. Filler’s impression and at a minimum should have prompted an exploration of why memory impairment was included in the problem list.

Third, [REDACTED] is an individual identified as accompanying Judge Newman in multiple instances, variably referred to as “POC” (PN\_001322), “law clerk” (PN\_000968), “assistant” (PN\_000969), “her friend” (PN\_001135), “caregiver” (PN\_000964), “caretaker” (PN\_001328), and even as her “legal guardian/emergency contact” (PN\_000121, 252, 261, 271, 278, 288). Notably there is another emergency contact listed who is also listed as a friend but not as a legal guardian. [REDACTED] is mentioned in multiple clinical encounters beginning in 2023 (PN\_001064, 1228, 1308, 1739). It is documented that [REDACTED] joined Judge Newman for visits and contacted medical offices on her behalf (PN\_000964, 968, 1222, 1741), and at least one instance on 6/14/2023 provided “much of” the medical history even though Judge Newman was also at the visit (PN\_001493). In the later years covered by the records in 2023-24, it appears that [REDACTED] is almost invariably the one who initiated contact or ended up being the first line of contact in outpatient care.

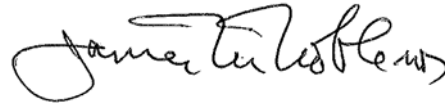
Importantly, given the role of [REDACTED] in Judge Newman’s healthcare encounters, and her apparently continuous or frequent observations and support of Judge Newman, an appropriate and expected step by Dr. Filler, who had access to

the same records made available for my review, would have been to seek collateral source history from [REDACTED]. In Dr. Filler's intake forms, [REDACTED], listed as a friend, has her information provided in the emergency contact information section. It is clear [REDACTED] served an important capacity in support for Judge Newman. However, it is unclear if the basis of this reliance was a matter of need or convenience. It is also unclear what support she provided, and it would be important to know if her support of Judge Newman was nominal or profound, and whether it was for physical or cognitive needs (or both). Based on the records, given the role of [REDACTED] over time in Judge Newman's care and support, she would have direct knowledge about what services she provides Judge Newman on a day-to-day basis. Dr. Filler should have asked to speak with [REDACTED] given that she was most likely the best and potentially only person with direct knowledge of what if any changes in activities of daily living had taken place for Judge Newman, what supports Judge Newman consistently needed, and whether these have a physical or cognitive basis. Learning information like this through a collateral source interview is standard practice in assessing and supporting any patient, and in this case may provide unique information to inform the cognitive history. As I detailed in my previous report, persons with memory problems are often unaware of their own cognitive problems such as forgetting, making a collateral source history all the more important. There is no indication that [REDACTED] was contacted by Drs. Filler, Carney, or Rothstein to inform their reports.

Finally, in the only form which appears to have been directly completed by Judge Newman, she provided an incorrect date at the top of the form, indicating the current date to be 8/22/1927 (PN\_000914). Notably her birth year is 1927 and her birthdate was provided elsewhere on the same form. The incorrect current date was provided on an intake form for the purposes of Dr. Filler's evaluation; the correct date was 8/22/2024. I presume that Judge Newman filled out the form because Dr. Filler made no mention of her need to have others fill out forms for her and Dr. Filler makes no mention of interviewing [REDACTED]. In my experience, people contending with memory problems often make careless errors like these when completing various standard forms. When observing this in practice, a typical follow-up question would be to ask the patient to restate the date, in case it was simply an error. But this may also prompt questions for a care partner to determine if similar mistakes happen in other circumstances, such as when dating a personal check for bill payment.

## CONCLUSIONS

Taking these additional medical records into consideration, my conclusions remain the same. A diagnostic workup including neuropsychological testing should have been recommended for Judge Newman.

A handwritten signature in black ink, appearing to read "James M. Noble". The signature is fluid and cursive, with the first name "James" and last name "Noble" clearly distinguishable.

James M. Noble, MD, MS, CPH, FAAN

April 11, 2025