

No. FC-23-90015

---

---

**In the Judicial Council of the  
United States Court of Appeals for the Federal Circuit**

---

*In re Complaint No. 23-90015  
(Complaint Against Circuit Judge Pauline Newman)*

---

**MOTION FOR RECONSIDERATION OF JUDICIAL COUNCIL'S ORDER  
OF SEPTEMBER 6, 2024  
AND  
RENEWED MOTION TO TRANSFER UNDER RULE 26**

---

Gregory Dolin  
*Counsel of Record*  
John J. Vecchione  
Andrew Morris  
Mark Chenoweth  
NEW CIVIL LIBERTIES ALLIANCE  
4250 N. Fairfax Dr., Suite 300  
Arlington, VA 22203  
(202) 869-5210  
Greg.Dolin@ncla.legal

September 25, 2024

*Counsel for the Hon. Pauline Newman*

---

---

## TABLE OF CONTENTS

TABLE OF CONTENTS.....	1
INTRODUCTION.....	2
I. EVALUATION BY AARON G. FILLER, MD, PHD, JD.....	3
II. DR. FILLER IS AN OBJECTIVE NEUTRAL EXPERT WITH UNIQUE EXPERTISE.....	7
III.DR. FILLER’S REPORT OBVIATES THE NEED FOR FURTHER TESTING AND PERMITS THE COMMITTEE AND THE COUNCIL TO REACH AN “INFORMED” DECISION REGARDING JUDGE NEWMAN’S ABILITIES.....	9
IV. SHOULD THE MATTER NOT BE SPEEDILY CLOSED, THE JUDICIAL COUNCIL SHOULD REQUEST THAT THE CHIEF JUSTICE TRANSFER THIS MATTER TO ANOTHER CIRCUIT.....	15
CONCLUSION .....	16

## INTRODUCTION<sup>1</sup>

On September 6, 2024, the Judicial Council issued an order extending Judge Newman’s suspension from judicial service for another year. As a preliminary matter, Judge Newman notes that the order violated three separate provisions of Rule 20(f). First, Rule 20(f) requires that a Judicial Council order “be accompanied by a memorandum setting forth the factual determinations on which it is based and the reasons for the council action,” “[u]nless the judicial council finds that extraordinary reasons would make it contrary to the interests of justice.” No such finding was made. Although the Rule permits the Council to “incorporate all or part of any underlying special-committee report” in its memorandum, no such incorporation is noted in the order.

Second, the Rule specifies that “[i]f the complaint was initiated by identification under Rule 5, the memorandum must so indicate.” The Order bears no such indication. Third, “the subject judge must be notified of any right to review of the judicial council’s decision as provided in Rule 21(b).” No such notification was provided.

---

<sup>1</sup> Pursuant to Rule 23(b)(7) of Rules for Judicial-Conduct and Judicial-Disability Proceedings, Judge Newman requests and consents to the release of this filing and the Committee’s and Council’s response thereto. Judge Newman reminds the Committee that the Commentary to Rule 23 states that “[o]nce the subject judge has consented to the disclosure of confidential materials related to a complaint, the chief judge ordinarily will refuse consent *only* to the extent necessary to protect the confidentiality interests of the complainant or of witnesses.” R. 23 Comm. (emphasis added).

Nevertheless, the reason for the present motion does not concern the above recited deficiencies, which are noted for the completeness of the record. Instead, the present motion stems from new evidence that *conclusively* “establish[es] changed circumstances,” July 2024 Committee Report & Recommendation at 2, and equally *conclusively* establishes that Judge Newman does not “suffer from a[ny] mental disability that impairs her ability to fulfill the duties of her office,” *id.* at 1. This new evidence permits the Committee to “to fulfill its assigned task under the Act—namely, making an informed assessment ... about whether Judge Newman suffers from a disability.” Judicial Council Order of Sept. 20, 2023, at 68.

**I. EVALUATION BY AARON G. FILLER, MD, PHD, JD**

As the Committee and the Council well know, in 2023, Judge Newman was evaluated by two eminent professionals—Ted L. Rothstein, MD, of George Washington University and Regina M. Carney, MD, of the University of Miami. Both doctors concluded that Judge Newman does not suffer from any cognitive disability that might preclude her or impede her ability to carry out the duties of her office. The Committee rejected these reports for reasons Judge Newman continues to disagree with. Judge Newman continues to adhere to her position that no further testing is indicated. However, when Dr. Filler contacted her team unsolicited, Judge Newman agreed to submit to additional and *objective* testing by Dr. Filler as, and under the circumstances described below. While this testing should put to rest any legitimate doubts or concerns about Judge Newman’s ability to continue serving as a United States Circuit Judge, her agreement to undergo it should in no way be construed as

her agreeing, even remotely, with the Committee's demands or tactics, or conceding that any testing was ever necessary.

Dr. Aaron G. Filler, a renowned neurosurgeon and inventor<sup>2</sup> reached out to Judge Newman's attorneys and offered his services in an effort to help resolve the impasse between Judge Newman and the Committee. Prior to this communication, and except for Dr. Filler's appearance as an attorney before two panels of the Court which included Judge Newman, neither Judge Newman herself, nor any of Judge Newman's attorneys, nor any of Judge Newman's present or former staff had any personal or professional interaction with Dr. Filler. Dr. Filler proposed and Judge Newman agreed to undergo an *objective* test—Perfusion Computed Tomography of her brain—which would *conclusively* establish whether she suffers from any dementia or other cognitive impairment. As Dr. Filler's expert report explains, hundreds of peer-reviewed studies have validated the use of this objective imaging examination to test for dementia or other cognitive impairment. As Dr. Filler further explains, this test compares favorably to, and is indeed more reliable than, the subjective and non-medical neuropsychological tests.

Furthermore, because Dr. Filler has previously appeared as an attorney before Judge Newman (once in 2019 and once in 2022), he is in a *unique* position to evaluate Judge Newman's performance *in her specific job*.

---

<sup>2</sup> This Motion will not dwell on Dr. Filler's qualifications which are discussed in his expert report, Filler Report at 3-4, 13-14, and are evident from his Curriculum Vitae attached to his Report as Exhibit 1.

The Perfusion CT scan was performed at the George Washington University Hospital and evaluated as entirely normal by Dr. M. Reza Taheri, MD, PhD—a professor at The George Washington University School of Medicine & Health Sciences and a board-certified radiologist specializing in neuroradiology. According to Dr. Filler, who also evaluated the scan, it shows that Judge Newman’s brain is in perfect working order and indeed “demonstrates a very high rate of effective perfusion of the hippocampal region bilaterally [which is] reflective of her high capability for integrative thought, memory and structured creative professional expression.” Expert Report of Aaron G. Filler, MD, PhD, JD at 13 (“Filler Report”). Furthermore, the data from Judge Newman’s Perfusion CT “*rules out all* of the known causes of MCI (mild cognitive impairment) and any dementias [and] confirm[s] Dr. Carney’s assessment that Judge Newman is an ‘unusually cognitively intact 9[7]-year-old woman.’” *Id.* at 40 (quoting Regina M. Carney, M.D., *Report of Independent Medical Examination of Pauline Newman* at 5).

Furthermore, the Perfusion CT scan was not the only part of Dr. Filler’s evaluation. First, as the Committee required, *see* May 16, 2023 Order at 5-6, Dr. Filler was given access to Judge Newman’s medical records dating back to 2021, spanning almost 2,000 pages.<sup>3</sup> As Judge Newman indicated on multiple occasions to the Committee, the records were not relevant to Judge Newman’s mental status. Indeed, the *only* relevant items in the records were the three routine separate

---

<sup>3</sup> Some of the pages were duplicative of one another. *See* Filler Report at 18.

depression screenings in 2021, 2022, and 2024—all of which were negative. Filler Report at 21.

In addition to reviewing the medical records, Dr. Filler also familiarized himself with the affidavits relied on by the Committee, as well as all of the Committee's prior orders. *See* Filler Report at 4, 6.

Second, as the Committee demanded, *see* May 16 Order at 22, Dr. Filler administered a full neurological examination. The examination turned up no deficits, save for cataracts and slightly unsteady heel-to-toe (“tandem gate”) walk. *See* Filler Report at 5, 28-31, 40. No abnormalities were noted in the remainder of the physical examination. *Id.* at 5, 28, 40.

Third, utilizing his unique credentials and perspective as a physician *and* an attorney, Dr. Filler analyzed, from a medical perspective, Judge Newman's written output. Specifically, he compared her writings from the time when her mental status was not at issue to her more recent writings. *Id.* at 25-26. As Dr. Filler explained, “The review of the above opinions was not legal, but medical. In other words, the purpose of the review was to compare Judge Newman's current written product to that which preceded the allegations of cognitive decline.” *Id.* at 25.

Finally, Dr. Filler conducted a targeted examination of Judge Newman's recall, reasoning, logical processing, and executive function abilities by having her discuss previously unknown to her and complex technology and apply difficult patent law concepts to the questions posed by such technology. *Id.* at 36-40. Dr. Filler compared

the fluency of the responses and engagement with the issues to his interactions with Judge Newman when he appeared as a litigant before her. *Id.*

The combined result of these examinations led Dr. Filler to unambiguously conclude that a) Judge Newman’s performance on various components of the examination “demonstrate[s] an extraordinarily high level of cognitive ability;” b) the “evaluation demonstrates no impediment to [Judge Newman’s] continuing to serve in [an] active capacity as a Circuit Judge of the United States Court of Appeals for the Federal Circuit;” and c) “there is no medical, neurological, or cognitive basis for requiring additional testing; or, for doubt about Judge Newman’s ability ‘to discharge the duties of her office.’” *Id.* at 40 (quoting May 16 Order at 1).

## **II. DR. FILLER IS AN OBJECTIVE NEUTRAL EXPERT WITH UNIQUE EXPERTISE**

Throughout this process, the Committee has insisted that Judge Newman must be evaluated by a “neutral” expert, and criticized evaluations by Drs. Rothstein and Carney in part because they had a prior personal relationship with Judge Newman and Judge Newman’s counsel, respectively. *See* Sept. 20 Order at 51-52. Dr. Filler is not subject to such criticism.<sup>4</sup>

---

<sup>4</sup> Dr. Filler’s only prior interactions with Judge Newman were his appearances before two panels of the Federal Circuit over which Judge Newman presided. Of course, these assignments were entirely random. Additionally, Dr. Filler won one, *see NeuroGrafix v. Brainlab, Inc.*, 787 F. App’x 710 (Fed. Cir. 2019) (opinion by Taranto, J.) (non-precedential), and lost one, *see Filler v. United States*, 2022 WL 193199 (Fed. Cir. Jan. 21, 2022) (Rule 36 judgment without opinion) and lost one case before Judge Newman-led panels. Finally, the opinion in the case Dr. Filler won was authored by Judge Taranto—a member of the Special Committee. Thus, Dr. Filler cannot be plausibly accused of favoring Judge Newman on the basis of prior success as a litigant.



First, it should be emphasized that Dr. Filler was not paid by Judge Newman for his services or even reimbursed for his travel expenses. Thus, unlike a “partisan” expert, Dr. Filler has no reason or incentive to “shade” his findings or testimony. Second, Dr. Filler’s findings, at least with respect to the Perfusion CT analysis have been confirmed by Dr. Taheri—a neuroradiologist with no prior interactions with Judge Newman nor any knowledge of these proceedings. Additionally, Dr. Filler’s findings are fully consistent with prior reports by Drs. Rothstein and Carney.

Dr. Filler’s expertise is beyond reproach. He has decades of experience, hundreds of hours of testimony in various courts, and thousands of treated patients behind him. Filler Report at 13-14; *see also* Exhibit 1 to the Report (Curriculum Vitae of Aaron G. Filler, MD, PhD, JD). Of particular relevance, he has evaluated, treated, and acquired expertise with high-functioning individuals. Filler Report at 41; *see also id.* at 13, 14. Thus, his evaluation is particularly valuable because he is able to compare Judge Newman to that cohort rather than the general population. *Id.* at 8-9.

Additionally, because Dr. Filler is also an attorney, a member of the bar of the Federal Circuit, and a prior litigant in that court, he can provide a unique perspective on whether Judge Newman’s performance in her *specific job* is or can be expected to be affected by any identifiable cognitive abnormality. *Id.* at 25-26; *see also id.* at 4. This is a significantly more precise evaluation than one which could be performed by a general practice neuropsychologist, *i.e.*, someone who is neither a medical doctor nor particularly familiar with the work of federal judges.

As the Judicial Conduct & Disability Committee explained, a Special Committee may require an “an examination by an independent expert ... to ensure the accuracy and reliability of the procedures and examination results.” *In re: Complaint of Judicial Misconduct*, C.C.D. No. 17-01, p. 29 (U.S. Jud. Conf. Aug. 14, 2017). There is no question that Dr. Filler is independent. Indeed, as a member of the bar of the Federal Circuit, he is doubly obligated to provide fully objective information in his reports. There can also be no question as to the “accuracy and reliability of the procedures and examination results,” especially because the key procedure—the Perfusion CT scan—was done in a hospital which does not employ Dr. Filler, and the results of the study were confirmed by a neuroradiologist not associated with Dr. Filler. Filler Report at 31-32; *see also id.* at 12. Thus, any concerns about independence, accuracy, and reliability are fully addressed.

Nor is Judge Newman trying to “direct to some extent the nature of the examination.” *In re: Complaint of Judicial Misconduct*, C.C.D. No. 17-01, p. 29. To the contrary, Judge Newman submitted to all of the exams deemed necessary by Dr. Filler and did so *despite* her own firm belief that this entire investigative process is legally insupportable and factually baseless.

For these reasons, Dr. Filler’s report should be given dispositive weight.

### **III. DR. FILLER’S REPORT OBVIATES THE NEED FOR FURTHER TESTING AND PERMITS THE COMMITTEE AND THE COUNCIL TO REACH AN “INFORMED” DECISION REGARDING JUDGE NEWMAN’S ABILITIES**

The Committee and the Council have insisted that Judge Newman must undergo testing as directed so as to permit these bodies “to fulfill [their] assigned task under the Act—namely, making an informed assessment ... about whether Judge

Newman suffers from a disability.” Sept. 20 Order at 68. Thus, the testing was ordered not just for the sake of testing, but solely as an aid to the Committee in reaching its decision. See July 31, 2023 Report & Recommendation at 2. The Committee criticized previous testing (performed by Drs. Rothstein and Carney) as inadequate because it doubted that either of these professionals reviewed the entirety of Judge Newman’s medical records or the complaints lodged against her by Court staff. 2024 R&R at 14. To the extent these objections were ever valid, they have now been fully addressed. Dr. Filler reviewed all information compiled by the Committee and also reviewed over 2,000 pages of medical records. Filler Report at 18-24. Indeed, the scope of the records reviewed by Dr. Filler was broader than those that the Committee ordered Judge Newman to provide. Whereas the Committee limited its request for records only to those “regarding mental acuity, attention, focus, confusion, memory loss, fatigue, or stamina,”<sup>5</sup> see May 16 Order at 4, Dr. Filler was given access to Judge Newman’s *entire* medical file. As was expected, and as Judge Newman explained to the Committee over a year ago, nothing in the almost 2,000 pages of records reviewed by Dr. Filler, “shed[s] light on ... the issues of impairment of cognitive and other functioning the Committee is investigating,” *id.* at 5. Filler Report at 18 (“In my expert opinion, none of Judge Newman’s medical conditions revealed by her records are ultimately contributory or relevant to her current mental

---

<sup>5</sup> The Committee also requested records regarding a “cardiac episode” and a “fainting episode.” However, because there was no “fainting episode” nor a “cardiac episode,” no such records exist. In any event, as stated above, Dr. Filler reviewed *all* medical records from early 2021 to the present day.

state, and none suggest a cognitive decline or neurological deficits.”); *see also id.* at 4 (“The records reviewed by me do not ‘shed light’ on Judge Newman’s current condition.”). Furthermore, as Judge Newman’s Counsel represented to the Committee on July 10, 2024, the records do not reflect any recommendation by any provider at any point in time suggesting that Judge Newman is in need of any cognitive assessment.

Dr. Filler also conducted a full-blown neurological examination as required by the Committee. Filler Report at 28-31. As a Board-certified neurosurgeon, Dr. Filler is fully competent to perform such an examination, and doing so is within his scope of practice. *See, e.g.,* Cleveland Clinic, *Neurosurgeon*, <https://tinyurl.com/4bp5caya> (noting that both neurologists and neurosurgeons “diagnose[] and treat[] nervous system conditions,” but that only the latter does so “through *both surgical* and nonsurgical therapies.”) (emphasis added); NYU Langone Health, *Neurosurgery—Common Neurological Tests*, <https://tinyurl.com/5n7sk642> (explaining that “[w]hen [a patient seeks] treatment of a neurological condition that might require surgery” a surgeon may perform multiple exams, including a “neurological examination [which] is divided into five parts: mental status, cranial nerves, motor function, sensory function, and reflexes.”). The examination conducted by Dr. Filler included all five parts. *See* Filler Report at 28-31. There were no abnormalities noted on the examination, save for cataracts and a “slightly unsteady heel-to-toe walk ... neither of which raises any concerns with respect to Judge Newman’s cognitive abilities.” *Id.* at 5. Thus, there is no further need for neurological testing because such testing has

been performed by a qualified neutral expert and the full results of such testing are now available to the Committee and the Council. *See Id.* at 28-31. And since the Committee instructed Judge Newman to provide her medical records “only to the neurologist,” May 16 Order at 6, there is no need for further disclosure of medical records.<sup>6</sup>

The Perfusion CT scan, together with Dr. Filler’s comparison of Judge Newman’s current writings and her ability to engage with complex technological and legal issues to her prior ability to engage in these same tasks in the past, also obviates the need for a battery of neuropsychological tests. First, the neuropsychological tests are not medical nor administered by a medical doctor. Indeed, the individual selected by the Committee to administer the tests to Judge Newman is not a medical doctor and has less than a decade of experience. Nor is there any information confirming his experience with evaluating high-functioning individuals such as attorneys, judges, doctors, and the like for the *specific* requirements of their jobs. Second, “[n]ormative data for some neuropsychological tests are based on small samples or have limited validity or reliability data.” Diane Howieson, *Current Limitations of Neuropsychological Tests and Assessment Procedures*, 33 *Clinical Neuropsychologist* 200 (2019) (cited in Filler Report at 36). Additionally, in the neuropsychological tests “particular cognitive domains are underrepresented, particularly those involving high-level cognitive skills and social skills.” *Id.*

---

<sup>6</sup> That said, Dr. Filler exhaustively summarizes all prior medical records, and this summary is being made available to the Committee in unredacted form.

In contrast, a Perfusion CT scan

is far more accurate and specific than neuropsychological testing.

Advanced Perfusion CT scan is able to uncover tell-tale signs of early-stage dementia in relation to one of several major categories, which might be early Alzheimer's disease, early signs of senile dementia, vascular dementia, dementia associated with mild traumatic brain injury, dementia associated with cerebral ischemia, dementia associated with genetic frontotemporal dementias, and what is termed a mild cognitive impairment syndrome, and amnesic mild cognitive impairment.

Filler Report at 32.

True enough, a scan cannot differentiate between the various causes of dementia, but it can rule in or rule out the *presence* of any dementia. *Id.* Because Judge Newman's scan definitively *rules out* any cognitive impairment, *id.* at 3, 40, no further testing is necessary, and Dr. Filler's expert opinion is express on that point, *id.* at 40. And because the Perfusion CT is fully consistent with evaluations by Drs. Rothstein and Carney, as well as further supported by the remainder of Dr. Filler's examination, its findings are particularly robust.

Finally, unlike the neuropsychological battery of tests, the Perfusion CT scan is objective. As Dr. Filler notes, in most litigation where neuropsychological tests are involved, "there may be a 'defense neuropsychology report' and a 'plaintiff neuropsychology report' that disagree completely on nearly every conclusion, [but] there is no [such thing as a] 'defense CT scan' and 'plaintiff CT scan' because the data

is completely objective requiring little if any subjective interpretation.” Filler Report at 3.

Armed with these objective data and reassured that the expert evaluating Judge Newman considered the full record, including medical records from Judge Newman’s providers as well as all of the documents and concerns compiled and identified by the Committee, the Committee can “fulfill its assigned task under the Act—namely, making an informed assessment ... about whether Judge Newman suffers from a disability.” Sept. 20 Order at 68.<sup>7</sup> And the conclusion is obvious too. Following Dr. Filler’s report, the Committee now has, on one hand, opinions by *three* separate expert physicians, bolstered by objective data and hours of interviews confirming that Judge Newman suffers from no cognitive impairment and is able to carry out the duties of her office; on the other hand, the Committee has little more than concerns expressed by non-expert court staff (nearly all of whom serve at the pleasure of the Chief Judge) which have not been tested in adversarial proceedings. Weighing the evidence, the conclusion is inescapable—Judge Newman is competent to continue serving as a federal judge and must be immediately restored to her

---

<sup>7</sup> To the extent that the Committee and the Council do not speedily close this matter, for reasons explained below (as well as those explained previously), it should request, pursuant to Rule 26, that the matter be transferred to the Judicial Council of another circuit.

position.<sup>8</sup> Certainly there is no reason to continue to exclude her from the bench while the remainder of these proceedings play out in the federal courts.

**IV. SHOULD THE MATTER NOT BE SPEEDILY CLOSED, THE JUDICIAL COUNCIL SHOULD REQUEST THAT THE CHIEF JUSTICE TRANSFER THIS MATTER TO ANOTHER CIRCUIT**

From the beginning, Judge Newman argued that this matter should not be adjudicated by her colleagues because of conflicting roles as witnesses, complainants, and adjudicators. As Judge Newman explained on multiple occasions, *never* has a complaint against a circuit judge been considered in that judge's own circuit, other than those readily dismissed as frivolous. The Committee's and Council's rejections of the transfer requests never made any sense, and they do not make sense now. Nevertheless, prior rejections need not be relitigated as the renewal of the transfer request (to the extent the Committee believes there is something left to investigate) is based on the Judicial Council's own order, which permits such a renewal following production of medical records and medical testing. Judicial Council Order of May 3, 2023. Now that Judge Newman has produced the entirety of her records to an independent medical expert and has undergone an objective medical evaluation tailored to her specific responsibilities as a circuit judge, she is renewing her request.

Judge Newman will not reiterate all the prior arguments for transfer, but she incorporates them by reference. She does note that since those requests were made,

---

<sup>8</sup> In any event, as the Committee repeatedly claimed, staff concerns only go to the basis for *requesting testing*, and they do not serve as an independent basis for the finding of disability. *See, e.g.,* 2023 R&R at 33-50.



the relationship between her and members of the Special Committee has further deteriorated. As noted in her filing of June 28, 2024, “[e]ven social courtesies have not been observed.” June 28, 2024 Response at 14 n.9. Since that filing, the members of the Council continued to behave in the same inappropriate manner. For example, about a week ago, during the administrative meeting of the Federal Circuit’s judges, almost none of them extended even so much as a greeting to Judge Newman. Surely, this is not an environment in which fair and neutral adjudication can be expected, nor one that would maintain public confidence in the process. As the Commentary to Rule 26 explains, “where internal tensions arising in the council as a result of the complaint render disposition by a less involved council appropriate” a transfer should be sought. Surely, this is such a case.

Thus, to the extent that Dr. Filler’s exhaustive expert report does not bring this matter to a speedy and favorable resolution, the Judicial Council should request that the matter be transferred.

## **CONCLUSION**

Judge Newman reiterates that there is not and never was any legitimate reason for the Committee’s demands, all of which were based on faulty data and unsubstantiated allegations of medical problems (such as a purported “heart attack” and “fainting” episode). Without receding from that position, Judge Newman made herself available for yet another round of medical testing utilizing an objective test performed by individuals who have no personal or professional relationship with anyone involved in this process. The test showed, and an expert medical opinion

confirms what Judge Newman has maintained all along—she is fully capable of performing the duties of her office.

The Committee can now reach an informed decision on this matter and conclude, unencumbered by any legitimate doubts about the scope of the examination, identity of the examiner, or the breadth of information considered by that examiner, that Judge Newman does not “have a mental or physical disability that renders her unable to discharge the duties of her office.” It is long past time for the Committee and the Council to recognize this fact. If this body cannot come to a just conclusion based on uncontroverted evidence before it, for whatever reason, it ought to transfer this matter to a body that can.

For the reasons herein stated, Judge Newman moves that the Council reconsider and rescind its Order of September 6, 2024, close this matter with prejudice, and immediately restore her to the full functions of her office.<sup>9</sup>

*/s/ Gregory Dolin*  
Gregory Dolin  
John J. Vecchione  
Andrew Morris  
Mark Chenoweth  
NEW CIVIL LIBERTIES ALLIANCE  
4250 N. Fairfax Dr., Suite 300  
Arlington, VA 22203  
(202) 869-5210  
Greg.Dolin@ncla.legal

September 25, 2024

---

<sup>9</sup> Should the Special Committee find it useful, Dr. Filler is available to be deposed and cross-examined. Additionally, Judge Newman’s counsel is ready to present oral argument on this matter to the Committee or the Council or both.

Attachment

No. FC-23-90015

---

---

**In the Judicial Council of the  
United States Court of Appeals for the Federal Circuit**

---

*In re Complaint No. 23-90015  
(Complaint Against Circuit Judge Pauline Newman)*

---

DECLARATION OF AARON G. FILLER, MD, PHD, JD, FRCS.

---

September 17, 2024

---

---

## DECLARATION OF Aaron G. Filler, MD, PhD, JD, FRCS.

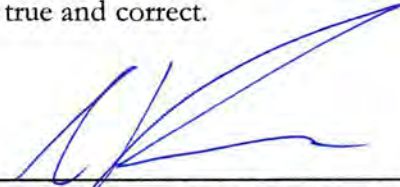
1. I, Aaron G. Filler, MD, PhD, JD, FRCS, am over the age of 18 and make this Declaration in support of Judge Pauline Newman's motion to reconsider her second suspension which is pending before the Judicial Council of the Federal Circuit. My full Curriculum Vitae is attached to my expert report as Exhibit 1.
2. I am a Board-Certified Neurosurgeon practicing in Santa Monica, California. I am affiliated with the Institute of Nerve Medicine in that city. I received a medical degree from the University of Chicago and a Ph.D in Biological Anthropology from Harvard University.
3. I am an editor of the principal textbook in neurosurgery (*Youmans & Winn, Neurological Surgery* (8th ed., Elsevier)) and an author of several chapters including the chapter on Diffusion Tensor Imaging of the brain—a technology I invented and patented. See U.S. Pat. No. 5,560,360 (the subject of some 480,000 publications identifiable on Google Scholar).
4. I serve on the Continuing Medical Education Committee of Cedars Sinai Medical Center in Los Angeles. For many years, I have also served on the Joint Guidelines Committee of the American Association of Neurological Surgeons and the Congress of Neurological Surgeons. I have been admitted as an expert in more than a hundred cases in various state and federal courts and my testimony has never been excluded.
5. I also am an attorney (having received my JD degree in 2014) and am a member of the member of the Bar of the United States Court of Appeals of the Federal Circuit and a member of the Federal Circuit Bar Association.
6. I hold the following memberships and certifications: a) Board Certified: ABNS – American Board of Neurological Surgery; b) FRCSN – Fellow of the Intercollegiate Board in Surgical Neurology of England, Ireland, Edinburgh & Glasgow; c) Fellow of the Royal College of Surgeons of England.
7. I am also a Member of the Bar of the Court of Appeals for the Federal Circuit and of the United States Supreme Court.
8. I have appeared and argued before the Court of Appeals for the Federal Circuit as an attorney and am familiar with both the content and sophistication of its opinions and its practices at oral argument.
9. I make this Declaration based on personal knowledge as to my background, and information gleaned from examining Judge Newman on August 24, 2024, reviewing her medical and other records as described in the report and my education and training as a physician. I produced a report based upon that examination and review of records on September 16, 2024, and it is attached as Exhibit 1 to this Declaration.
10. My examination of Judge Newman complied in all respects with standard neurological and medical examinations of my profession. My report explains in greater detail the tests conducted, the documents and materials examined, and the processes followed in reaching my conclusions.
11. However, in sum and substance, in my expert professional opinion, and to a reasonable degree of medical certainty, based on the combined test results and examination there is no

evidence that Judge Newman suffers from any cognitive impairment, and she is fully able to discharge the duties of her office.

12. I am willing and able to be questioned under oath as to the basis for and the contents of my expert report, if the Special Committee or the Judicial Council so order.


I declare under penalty of perjury that the foregoing is true and correct.

Executed On: September 17, 2024



---

Aaron G. Filler, MD, PhD, JD, FRCS



---

Christian Ochoa Gonzalez  
NOTARY PUBLIC

**SEE ATTACHED CA  
NOTARY CERTIFICATE**

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1–6 below)
- See Statement Below (Lines 1–6 to be completed only by document signer[s], not Notary)

\_\_\_\_\_  
*Signature of Document Signer No. 1*

\_\_\_\_\_  
*Signature of Document Signer No. 2 (if any)*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
 County of Los Angeles

Subscribed and sworn to (or affirmed) before me  
 on this 17<sup>th</sup> day of September, 2024,  
 by Aaron G. Filler  
Date Month Year



Place Notary Seal and/or Stamp Above

(and (2) \_\_\_\_\_),  
*Name(s) of Signer(s)*

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Christian Ochoa Gonzalez  
*Signature of Notary Public*

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: Declaration of Aaron G. Filler, MD, PhD, JD, FRCS

Document Date: September 17, 2024 Number of Pages: 3

Signer(s) Other Than Named Above: \_\_\_\_\_