

IN THE
Supreme Court of the United States

PAULINE NEWMAN, JUDGE, UNITED STATES
COURT OF APPEALS FOR THE FEDERAL CIRCUIT
PETITIONER

v.

KIMBERLY A. MOORE, CHIEF JUDGE, UNITED
STATES COURT OF APPEALS FOR THE FEDERAL
CIRCUIT, et al.
RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO THE
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**BRIEF OF *AMICUS CURIAE* BAR ASSOCIATION OF
DISTRICT OF COLUMBIA
IN SUPPORT OF PETITIONER**

Christopher A. Zampogna
Zampogna P.C.
Past President Bar Association of District of Columbia
(BADC)
1775 I St NW. Ste 1150
Washington, DC 20006
Tel: (202) 223-6635
Email: caz@zampognalaw.com

Counsel of Record for Amicus Curiae Petitioner

March 26, 2026

INTEREST OF *AMICUS CURIAE*¹

The Bar Association for the District of Columbia (“BADC”) is the voluntary Bar of the District of Columbia and a 501(c)(6) nonprofit organization.² Founded in 1871, the BADC is one of the oldest voluntary bar associations in the United States and seeks to promote civility, justice, and collegiality among members of the legal profession in the nation’s capital. For over 150 years, members of the BADC have distinguished themselves by volunteering their time and talents to advance civility, justice, and the nation’s capital community’s access to legal services. The BADC also monitors developments in law, including caselaw and the courts. Members specialize in all aspects of litigation and frequently represent clients before the courts throughout our nation, including the Federal Circuit and this Court.

The BADC believes that suspending a judge from all judicial duties for an indefinite time is the purview of Congress and, perhaps more importantly, the BADC submits this on behalf of many who are publicly silent but deeply concerned.

¹ Pursuant to Rule 37.6, counsel for *amicus* authored this brief in whole, no party’s counsel authored this brief in whole or in part, and no other person or entity—other than *amicus*, its members, or its counsel—contributed monetarily to its preparation or submission. In addition, pursuant to Rule 37.2, BADC timely notified counsel of record for both Petitioner and Respondents of its intent to file this brief.

² The author of this petition, Christopher A. Zampogna, served as the President of the Bar Association of the District of Columbia, the third oldest voluntary bar in the United States, in 2014.

The BADC’s Intellectual Property Section (“IP Section”) was established in 1958 and serves as a community for patent attorneys and other intellectual property practitioners. IP Section members represent a cross-section of IP practitioners and represent the interests of both patent owners and patent challengers. Members frequently represent clients in patent matters before the U.S. District Courts, the United States Patent and Trademark Office, and the Court of Appeals for the Federal Circuit.

A major focus of the IP Section is to proactively help maintain fair and effective patent laws and policies that stimulate and reward meritorious inventions while serving the public interest of fostering fair and open competition in the marketplace. The IP Section has no client or economic interest in this case other than a professional interest in maintaining the integrity and predictability of the patent system.

ARGUMENT

The BADC submits this amicus petition in support of the appeal of Judge Pauline Newman of the Federal Circuit. As Petitioner notes, Judge Newman is recognized “for her insightful dissents, which have often been vindicated by the Supreme Court,” including this year. Kimberly Moore, *Anniversaries and Observations*, 50 AIPLA Q. J. 521, 524-25 (2022). *See also Rudisill v. McDonough*, 601 U.S. 294 (2024), *reversing* 55 F.4th 879 (Fed. Cir. 2022) (*en banc*) (adopting Judge Newman’s view of the law). Judge Newman’s past and current peers on the Federal Circuit agree:

Former [Federal Circuit] Chief Judge Michel noted that “Judge Newman may hold the record for the most dissents. But her dissents

have great force and often persuade other colleagues over time.” [Current Federal Circuit Chief] Judge Moore concurred, saying, “What people may not realize is that many of her dissents have later gone on to become the law—either the en banc law from our court or spoken on high from the Supremes.” She noted that “*Merck v. Integra* comes to mind. It’s a case where she wrote a very strong dissent. The Supreme Court took it and not only changed the state of the law to reflect what she had written, but they cited her outright in the opinion.”

Prof. Daryl Lim, *I Dissent: The Federal Circuit's "Great Dissenter," Her Influence on the Patent Dialogue, and Why It Matters*, 19 *Vanderbilt Journal of Entertainment and Technology Law* 873, 909 (2020), <https://scholarship.law.vanderbilt.edu/jetlaw/vol19/iss4/3>.

The involuntary and indefinite suspension of Judge Newman from all judicial duties is an impeachment and deprives our legal community of an experienced and fiercely independent voice in the ongoing weaving of the tapestry of caselaw at the Federal Circuit. This ongoing suspension circumvents our Constitution because Judge Newman can only be impeached by Congress. *See* U.S. Const. art. II, § 4.

The BADC submits this amicus petition to also apprise this Court of widespread, but silent, support for Judge Newman’s appeal among the Federal Circuit’s practitioner community. *See, e.g.*, Dr. Seuss, *The Lorax* (1971) (“I am the Lorax. I speak for the trees. I speak for the trees, for the trees have no tongues.”).

These practitioners fear, whether justified or not, that publicly supporting Judge Newman's effort might adversely impact their own appeals before the Appellees. This silence, noted only here, underscores why this Court should approach with skepticism the suspension and Appellees' refusal to transfer the complaint against Judge Newman to another circuit's judicial council.

CONCLUSION

The Court should grant the petition and reverse the judgment below, render judgment for Judge Newman, and immediately lift the suspension. Our constitutional structure and independence of the federal judiciary demand nothing less.

Dated: March 26, 2026

Respectfully submitted,

CHRISTOPHER A. ZAMPOGNA

Counsel of Record

Zampogna P.C.

1775 I Street NW, Suite 1150

Washington, DC 20006

Tel: (202) 223-6635

Past President BADC

Email: caz@zampognalaw.com