

United States Court of Appeals for the Federal Circuit

~~UNDER SEAL (NON-PUBLIC ORDER)~~

IN RE COMPLAINT NO. 23-90015

Before MOORE, *Chief Judge*, PROST and TARANTO, *Circuit Judges*.

PER CURIAM.

ORDER

By order of March 24, 2023, a special committee composed of Chief Judge Moore, Judge Prost, and Judge Taranto (the Committee) was appointed to investigate and report its findings and recommendations with respect to a complaint identified against Judge Newman raising, *inter alia*, a concern that she has a mental or physical disability that renders her unable to discharge the duties of her office.

Based on its investigation and direct observations of Judge Newman's behavior, the Committee has determined that there is a reasonable basis to conclude she might suffer a disability that interferes with her ability to perform the responsibilities of her office. The Committee has retained [REDACTED] to assist the Committee in this matter. He has recommended that Judge Newman undergo a neurological examination and a complete neuro-psychological battery of tests to determine whether she suffers from a disability, and if so, its nature and extent. The Committee finds such examination is

warranted to facilitate the Committee's investigation of the Complaint because there is a reasonable basis to believe such an examination is necessary. *See* Rule 13 of the Rules for Judicial Conduct and Judicial-Disability Proceedings

██████████ has identified a qualified neurologist, ██████████, who is willing to perform the necessary neurological testing on an expedited basis, and a qualified neuropsychologist, ██████████, who is willing to conduct the neuropsychological testing on an expedited basis. Specific dates to be arranged. ██████████ is also available to speak to Judge Newman to answer any questions about the nature of the examination and testing. He may be reached at ██████████. The Court will retain and bear all costs associated with the required testing.

Accordingly,

IT IS ORDERED THAT:

(1) Judge Newman is directed to undergo the above-identified examination and testing.

(2) Given the willingness of the physicians to handle this matter on an expedited basis and the need to retain the physicians and allocate funds, a prompt response is necessary to secure the appointments. Judge Newman is therefore directed to inform the Committee by 3:00 pm on April 11, 2023 whether she will comply with this Order and make herself available for the above needed examinations and tests.

(3) Refusal to comply with this Order without good cause shown may result in the Committee seeking to expand the scope of the investigation to include an inquiry into whether the subject judge's non-cooperation

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constitutes misconduct under Rule 4(a)(5) of the Rules for Judicial Conduct and Judicial-Disability Proceedings. Failure to respond to this order by 3:00 pm on April 11, 2023 will be deemed failure to comply.