

 New Civil Liberties Alliance

August 14, 2023

The Honorable the Members of the Special Committee of the  
Judicial Council for the Federal Circuit  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, DC 20439

VIA EMAIL

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

Your Honors:

We are in receipt of the Special Committee's Report and Recommendation which was filed on July 31, 2023. The report relies heavily on the data provided by the Office of the Clerk of the Court and also rejects and/or discounts statistical analysis conducted by Dr. Ron Katznelson. *See* Report at 58, n. 20.

In preparing Judge Newman's response to the Special Committee's Report and Recommendation, which is currently due on August 31, 2023, we need to conduct our own analysis of the data relied on by the Special Committee, as well as analyze whether such reliance is appropriate in the first place. To that end, we respectfully request that the Committee release to us, under seal, the data not only from 2020 on, but from 2018 to 2020. Specifically, we request data for the aforementioned time period regarding *per curiam* authorships, opinion reassignments, delays, and all similar types of data which was provided to the Committee by the Office of the Clerk of the Court for the 2020-present time period. *See* Report at 50-59.

Furthermore, we request access to the data which has not been publicly released for our consulting expert which in turn would permit us to conduct a proper analysis. Of course, it goes without saying that our expert would be bound by the same requirements of confidentiality as are the attorneys, paralegals, and other staff at the New Civil Liberties Alliance.

In light of the fast-approaching deadline to file a response to the Special Committee's Report and Recommendation, we respectfully request an expedited decision on this matter.<sup>1</sup>

Respectfully submitted,  
*/s/ Gregory Dolin, M.D.*  
Senior Litigation Counsel  
NEW CIVIL LIBERTIES ALLIANCE

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<sup>1</sup> Pursuant Rule 23(b)(7), Judge Newman consents (subject to necessary redactions) to the public release of the present letter and any Order or other communication issued in response thereto.