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Watch: NCLA Video Exposes Injustice Behind SEC’s Administrative Hearings

Michelle Cochran v. SEC

Washington, DC (November 22, 2019) – The New Civil Liberties Alliance today [released a video](#) putting a human face on the endless litigation journey that many Americans, like single mother Michelle Cochran, are put through by the U.S. Securities and Exchange Commission. The SEC is trying to force NCLA’s client to submit to serial invalid enforcement proceedings before their unconstitutional Administrative Law Judges (ALJs), where the Bill of Rights, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence do not apply.

These ALJs lack the constitutional authority to hear cases, because the multiple levels of protection from removal that they enjoy violate the President’s ability under Article II of the Constitution to “take Care” that the laws are faithfully executed. Yet the agency has been forcing individuals to appear before these ALJs anyway—even though the U.S. Solicitor General told the Supreme Court in the *Lucia v. SEC* case two years ago that the agency’s ALJs are improperly insulated from removal. Fortunately, the U.S. Court of Appeals for the Fifth Circuit recently [enjoined](#) the proceeding against Ms. Cochran, and that same court is currently considering whether or not she may challenge the constitutionality of her ALJ before submitting to another proceeding.

The SEC has brazenly violated Michelle’s civil rights, but she is not alone. Ms. Cochran’s case is one of more than 100 invalid SEC hearings nullified by the U.S. Supreme Court in June 2018. Now the SEC wants to subject her to a second unconstitutional hearing before another ALJ that will also be void. NCLA is taking the SEC to task for dodging federal district court (where the agency would have to play by fair rules and convince an independent judge) and challenging its power to deny Americans a lawful hearing before a constitutional tribunal.

Video Excerpts:

Michelle Cochran, NCLA client: *“At this point I am emotionally and financially drained. My livelihood could be in jeopardy. Nobody should have to go through this once, much less twice.”*

Peggy Little, Senior Litigation Counsel, NCLA: *“In June of 2018, the United States Supreme court held that the SEC administrative law judges were not constitutionally appointed. As a result, over a hundred cases were vacated and set aside including Michelle Cochran’s.”*

Mark Chenoweth, Executive Director & General Counsel, NCLA: *“Our constitutional system was not set up for Congress to create dozens of federal regulatory agencies that combine the legislative, the executive and*

the judicial power all in one administrative law judge. That's too much power in the hands of one judge without enough checks."

ABOUT NCLA

NCLA is a nonprofit civil rights organization founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other *pro bono* advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

For more information, visit us online: NCLAlegal.org.