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NCLA Celebrates SCOTUS Win Rejecting FTC Power Grab and Restoring Limits on Rogue Agency

AMG Capital Management, LLC, et al. v. Federal Trade Commission

Washington, DC (April 22, 2021) – The New Civil Liberties Alliance celebrates a victory today as *amicus curiae* in the U.S. Supreme Court case, *AMG Capital Management, LLC, et al. v. Federal Trade Commission*. Justice Stephen Breyer handed down a unanimous decision declaring that section 13(b) of the Federal Trade Commission Act does not authorize the Federal Trade Commission (FTC) “to seek, or a court to award, equitable monetary relief such as restitution or disgorgement.”

Section 13(b) of the Federal Trade Commission Act strictly authorizes the Commission to obtain, “in proper cases,” a “permanent injunction” in federal court against “any person, partnership, or corporation” that it believes “is violating, or is about to violate, any provision of law” that the Commission enforces. But the FTC had transformed its limited statutory right to enjoin present or future unlawful conduct into a near-absolute right to secure any “equitable remedy” for past damages under Section 13(b). NCLA’s successful amicus brief admonished FTC for its unlawful practice of applying the agency’s statutory provisions in an unauthorized way to avoid the due process protections for monetary remedies Congress provided in the FTC Act.

For over three decades the agency has been aggrandizing its powers to obtain millions. In this case the Ninth Circuit, bound by its own precedent, acknowledged the problem but allowed the FTC \$1.27 billion in equitable monetary relief against Petitioner Scott Tucker and his payday lending companies. It did so without the statutory protections provided by Congress for monetary damages or even a jury trial, which the Seventh Amendment to the Constitution grants all Americans for suits at law for money damages over twenty dollars.

NCLA commends the Court for rejecting the FTC’s arguments and for restoring the limits Congress imposed on the agency.

NCLA released the following statement:

“NCLA is gratified that in a unanimous opinion by Justice Breyer the court recognized that Congress has never given the FTC power to seize all of an individual’s assets simply by using the word ‘injunction.’ This is a great victory because erroneous lower court opinions going back 40 years did not prevent a correct interpretation of law.”

— **John J. Vecchione, Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group 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.

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