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Media Inquiries: [Judy Pino](#), 202-869-5218

Arkansas Supreme Court Agrees with NCLA *Amicus* Brief and Abandons Deference to State Agencies

American Honda Motor Co., Inc. v. Walther, Dir., and Arkansas Department of Finance and Administration

Washington, DC (November 4, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights organization, commends the Arkansas Supreme Court’s [decision](#) to stop judges in the state from giving deference to the Department of Finance and Administration’s interpretations.

The Court agreed with the position in the [amicus brief](#) NCLA filed in *American Honda Motor Co. v. Walther*, which asked the court to declare agency deference unconstitutional and flagged the constitutional problems with agency deference.

In its decision, the Court clarified that agency interpretations of statutes will be reviewed *de novo*, without any deference to an agency. “[I]t is the province and duty of this Court to determine what a statute means. . . . In considering the meaning and effect of a statute, we construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. An unambiguous statute will be interpreted based solely on the clear meaning of the text. But where ambiguity exists, the agency’s interpretation will be one of our many tools used to provide guidance.”

Granting “great deference” to an agency’s statutory interpretations violates the state and federal Constitutions because it requires judges to abandon both their duty of independent judgment in violation of Article 4 of the Arkansas Constitution and the requirements of the Arkansas Code of Judicial Conduct. Deference also violates the Due Process Clauses of the Arkansas Constitution and the Fourteenth Amendment of the U.S. Constitution by commanding that the judiciary display systematic bias in favor of agencies whenever they appear as litigants.

NCLA believes that today’s decision by the Arkansas Supreme Court relieves the lower courts of the burden of having to choose whether to obey the state supreme court’s deference regime or their own judicial oaths.

NCLA released the following statements:

“The Arkansas Supreme Court has confirmed once again that the state courts will not defer to state agencies’ interpretations. That confirmation is as welcome as it is timely.”

—**Adi Dynar, NCLA Litigation Counsel**

“It is wonderful to see Arkansas join Arizona, Florida, Mississippi, and Wisconsin as states that have recently disavowed or discarded deference to state agency interpretations. If enough states follow this trend, perhaps the U.S. Supreme Court will eventually catch on that deference is an idea that deserves to die.”

—**Mark Chenoweth, Executive Director and General Counsel, NCLA**

View case summary 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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