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NCLA Condemns Federal Trade Commission’s Inclusion of Untrue Claims in Federal Court Complaint

Federal Trade Commission v. Precision Patient Outcomes, Inc. and Margrett Priest Lewis

Washington, DC (December 6, 2022) – The Federal Trade Commission (FTC), in its initial [filing](#) before the U.S. District Court for the Northern District of California, has falsely accused Precision Patient Outcomes, Inc. (PPO) and CEO Margrett Lewis of unlawfully marketing and selling a dietary supplement called COVID Resist. The problem for FTC is PPO and Ms. Lewis never sold such a product—and FTC knows that. During six months or more of investigation, PPO provided FTC clear proof such sales never happened. So, there is simply no excuse for the agency to repeat this untrue claim, which undermines its entire groundless case. The New Civil Liberties Alliance will vigorously defend our clients PPO and Ms. Lewis and expose FTC’s deceit here in the process.

Inspired by her personal experiences with health and wellness, Ms. Lewis became a tireless consumer and patient advocate. Drawing on a wide-cross section of information, she founded PPO, which develops precision medical solutions for wound care, scar management, and skin-renewing technologies. More recently, PPO began to develop and sell vitamin, mineral, and nutraceutical supplements. Prior to selling any supplements, PPO contacted FTC and asked it if there was any problem with the proposed product’s name and marketing. FTC would not say either way, so out of an abundance of caution and at great expense, PPO abandoned its trademarked name, removed and relabeled products, and changed its website and marketing. PPO never sold any “COVID Resist.”

Despite PPO’s drastic changes, the fact that it sold no product under the COVID Resist label, and that PPO ceased selling any product called “VIRUS Resist” before FTC filed suit, FTC has continued to pursue an enforcement action against the company—and against Ms. Lewis individually—under the newly enacted Covid-19 Consumer Protection Act. FTC seeks to monitor Ms. Lewis’s and PPO’s activities for the next 20 years and obtain substantial penalties for selling fewer than 250 bottles of a supplement containing ingredients thousands of physicians across the country recommend to support immune health. FTC lacks the statutory and constitutional authority to pursue these penalties or this action.

FTC unlawfully seized assets through disgorgement for 40 years until stopped by the Supreme Court in *AMG Capital Management, LLC v. FTC* in 2021. Now, the Commission is trying to eliminate truthful statements citizens make about their products and implement ruinous fines on a small business owner who did no wrong—and one who, in fact, sought advance agency approval. It is no accident that the Justice Department declined to bring this meritless case, and it is only being carried forward by FTC after a divided Commission vote. Actions like these explain why independent federal agencies have no business undertaking executive activities. And, in fact, existing U.S. Supreme Court precedent forbids FTC’s conduct, which NCLA will bring to heel.

NCLA released the following statements:

“These dietary supplements contain things like zinc and vitamin D. The whole world thinks vitamins improve your system’s resistance. No one should have her livelihood taken for saying so. FTC has begun this case with a Complaint riddled with falsehoods. It will likely end this suit with diminished power—as happened in *AMG*.”

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

“Despite the Commission’s recent admonition from the Supreme Court in *AMG*, FTC continues heedlessly to push the boundaries of its powers, real or imagined. It is high time for courts to recognize the Commission wields substantial, forbidden executive power and re-examine the constitutionality of its purported independence.”
— **Kara Rollins, 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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