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Media Inquiries: [Ruslan Moldovanov](mailto:ruslan.moldovanov@ncla.org), 202-869-5237

NCLA Seeks to Halt FDIC’s Attempted Illegal Prosecution of Enforcement Target Without Jury Trial

John C. Ponte v. Federal Deposit Insurance Corp.; Chairman Martin J. Gruenberg, in his official capacity, et al.

Washington, DC (August 19, 2024) – The New Civil Liberties Alliance has filed a [Complaint](#) urging the U.S. District Court for the District of Columbia to stop the Federal Deposit Insurance Corporation (“FDIC”) from keeping our client, John C. Ponte, trapped in an unlawful administrative enforcement proceeding. Mr. Ponte is neither a banker nor does he own or control any banks, which is FDIC’s sole statutory purview.

FDIC seeks to punish Mr. Ponte administratively over allegations that he vehemently denies, depriving him of the chance to defend himself in a jury trial in an Article III court. NCLA has [moved](#) for a Temporary Restraining Order and has asked the district court to permanently end this assault on Mr. Ponte, overseen by an illegitimate FDIC Administrative Law Judge, and to grant him the jury trial the Seventh Amendment guarantees him.

The Supreme Court held in NCLA’s [SEC v. Cochran](#) case last year that Americans have a right to bring structural constitutional claims against agencies’ administrative proceedings directly before federal district courts. Mr. Ponte argues FDIC’s Board of Directors is unconstitutional because the President cannot remove a majority of its members at will. Requiring “good cause” to do so violates the Vesting Clause in Art. I, Sec. 1 of the Constitution. The agency’s administrative law “judges,” including the one in Mr. Ponte’s case, enjoy two levels of protection from presidential removal (and thus at least one unconstitutional level) and can only be fired for cause.

As the Supreme Court [confirmed](#) in its [SEC v. Jarkesy](#) decision this June, taking NCLA’s *amicus* advice, enforcement actions like FDIC’s proceeding against Mr. Ponte violate the Seventh Amendment by denying the right to a jury trial.

NCLA released the following statements:

“Mr. Ponte has been accused of common law violations. The Seventh Amendment requires such claims be tried before a jury in an Article III court. Administrative agencies may not proceed against citizens in violation of the Constitution.”

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

“When an agency is exceeding the scope of its jurisdiction and trying to adjudicate an enforcement proceeding against someone over whom it does not have regulatory power, that is a question that must be decided at the outset by an Article III judge.”

— **Mark Chenoweth, President, 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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