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NCLA Asks Fifth Circuit to Return Erroneously Transferred Lawsuit Against PCAOB to Texas Court

John Doe Corporation v. Public Company Accounting Oversight Board

Washington, DC (September 12, 2024) – Today, the New Civil Liberties Alliance [petitioned](#) the U.S. Fifth Circuit Court of Appeals for a *writ of mandamus* to help return its anonymous client John Doe Corporation’s lawsuit against the Public Company Accounting Oversight Board to the U.S. District Court for the Southern District of Texas. NCLA filed the suit in the Southern District of Texas challenging PCAOB for unlawfully exerting government power. But the Texas court transferred the case to the U.S. District Court for the District of Columbia without any notice to the parties and without giving NCLA’s client an opportunity to respond, as the law requires. The Fifth Circuit should order the Southern District of Texas to ask that the case return from the D.C. court.

John Doe Corporation’s lawsuit seeks to stop the Board from enforcing an excessively intrusive and burdensome investigative “Accounting Board Demand” ostensibly authorized by the Sarbanes-Oxley Act of 2002. The unconstitutionally structured Board is a bespoke quasi-governmental regulator created by the Act to regulate the public auditing profession. Its punishing years-long investigation into NCLA’s client also deprives the small accounting firm of due process of law.

The order transferring John Doe Corporation’s lawsuit to D.C. ignored the Texas court’s own recently adopted rule requiring an automatic 21-day stay of all out-of-circuit transfers. This forces NCLA’s client and the Fifth Circuit into an emergency mandamus process to rectify an erroneous and premature out-of-circuit transfer that cannot be appealed directly in an orderly, deliberate manner.

NCLA released the following statement:

“Like other powerful federal regulators who issue diktats from Washington, D.C. to private businesses in every state, the ‘peekaboo’ bureaucrats at PCAOB desperately want to deprive accountants the right to challenge the PCAOB’s constitutionality in their own local federal courts by forcing them to litigate in distant courts in PCAOB’s own backyard in the nation’s capital. But federal bureaucrats are not entitled to home-court privilege, and we’re asking the Fifth Circuit to make that crystal clear—yet again.”

— **Russ Ryan, 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.