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**Media Inquiries:** [Joe Martyak](mailto:Joe.Martyak@ncla.org), 703-403-1111

## **NCLA Asks First Circuit to Overturn Decision Enabling Excessive SEC-Demanded Sanctions**

*Securities and Exchange Commission v. Rev. Father Emmanuel Lemelson and Lemelson Capital Mgmt., LLC, and The Amvona Fund, LP*

**Washington, DC (November 27, 2024)** – Today, the New Civil Liberties Alliance filed our opening [brief](#) urging the U.S. Court of Appeals for the First Circuit to reverse a lower court’s denial of costs and attorney’s fees that Rev. Fr. Emmanuel Lemelson incurred in successfully defending himself against outrageously excessive sanctions demands by the Securities and Exchange Commission. A Massachusetts federal jury in 2021 rejected nearly all of the SEC’s baseless charges against Fr. Lemelson, a Greek Orthodox Priest and activist investor, including its false and incendiary allegations that he engaged in a scheme to defraud the market and even his own fund investors.

Despite the jury’s rebuke, SEC demanded as sanctions a permanent, lifetime prior restraint on Fr. Lemelson and more than \$2 million in surrendered profits, interest, and civil penalties. The U.S. District Court for the District of Massachusetts saw right through SEC’s overreach and granted only a small fraction of what SEC demanded. Yet despite acknowledging the “large disparity” between SEC’s demands and the final judgment, the court nevertheless ruled that Fr. Lemelson was not entitled to recover any of his defense costs and fees under the Equal Access to Justice Act (EAJA).

The EAJA, a law originally passed in 1980 and amended in 1996—both times with overwhelming bipartisan support in both houses of Congress—was specifically designed to deter powerful government agencies like SEC from making excessive demands to intimidate the private citizens and small businesses they sue in court, forcing them either to capitulate to unfair settlements or to incur costs and legal fees to defend themselves. NCLA asks the First Circuit to correct the District Court’s error and rule that SEC’s demanded sanctions against Fr. Lemelson were “excessive” and “unreasonable” within the meaning of the EAJA.

### **NCLA released the following statement:**

“Excessive demands are too often made to intimidate agency targets and thereby coerce them into unfair settlements or force them to spend a small fortune defending themselves. SEC’s demands against Father Lemelson in this case were a textbook example of what the Equal Access to Justice Act was intended to prevent, and SEC should be held accountable for its overreach.”

— **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.

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