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NCLA Defeats Illegal Investigation by Public Company Accounting Oversight Board

John Doe Corporation v. Public Company Accounting Oversight Board

Washington, DC (January 7, 2025) – The New Civil Liberties Alliance has filed a [stipulated dismissal](#) without prejudice of its pseudonymous client John Doe Corporation’s federal lawsuit in the U.S. District Court for the Southern District of Texas challenging the unconstitutional investigative processes of the Public Company Accounting Oversight Board (PCAOB). The dismissal follows PCAOB’s decision in late December to terminate and close its years-long investigation into NCLA’s client without any charges or other enforcement action against the small accounting firm, effectively mooting the [John Doe Corporation v. PCAOB](#) lawsuit. NCLA celebrates this important victory in the ongoing fight against unlawful administrative power.

NCLA filed this lawsuit in March 2024 to stop PCAOB from enforcing its excessively intrusive and burdensome investigative “Accounting Board Demand” on John Doe Corporation that was ostensibly authorized by the Sarbanes-Oxley Act of 2002. The unconstitutionally structured PCAOB is a bespoke quasi-governmental regulator created by the Act to regulate the public auditing profession. Among other constitutional defects, PCAOB’s demand was not authorized by any court of law. PCAOB’s processes allowed no opportunity for John Doe Corporation to challenge the demand in court before either complying with the demand or facing severe financial penalties, debarment, and potential criminal prosecution, depriving NCLA’s client of due process of law.

At PCAOB’s request, the Southern District of Texas prematurely and erroneously transferred the case to the District of Columbia in August 2024. However, NCLA successfully obtained a *writ of mandamus* from the U.S. Court of Appeals for the Fifth Circuit directing the Texas court to request return of the case. After the U.S. District Court for the District of Columbia returned the case to Texas in October and the parties agreed to a briefing schedule for anticipated motions, PCAOB closed its investigation in late December, leading to the stipulated dismissal without prejudice. NCLA was pleased to team up as co-counsel in this case with Dickinson Wright PLLC attorneys Jacob Frenkel, Brooks Westergard, and John Nelson, bringing an end to the unjust treatment of our client.

NCLA released the following statement:

“Although NCLA wanted an authoritative decision from the Court declaring PCAOB’s investigation unconstitutional, the next-best alternative was having the Board close its investigation in the face of our constitutional challenges. It’s a complete victory for this client, but NCLA will continue its ongoing fight to end PCAOB’s Star Chamber proceedings against our other clients.”

— **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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