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NCLA Asks D.C. Circuit to Reinstate First Post-*Jarkesy* Suit Against SEC’s “Follow-On” Adjudications

Reverend Father Emmanuel Lemelson v. Securities and Exchange Commission

Washington, DC (September 4, 2025) – The New Civil Liberties Alliance has filed its [opening brief](#) asking the U.S. Court of Appeals for the D.C. Circuit to reinstate its lawsuit challenging SEC’s illegitimate “follow-on” enforcement proceeding against our client Rev. Fr. Emmanuel Lemelson. The U.S. District Court for the District of Columbia dismissed the case, erroneously holding it did not have jurisdiction to hear Lemelson’s claims that SEC is violating his Seventh Amendment jury-trial rights and is illegally trying to prosecute him a second time for the same alleged offenses. The district court incorrectly dismissed his other claims against SEC for failure to state a claim. NCLA urges the U.S. Court of Appeals for the District of Columbia Circuit to reverse that decision and remand the case to district court for further proceedings that will vindicate Lemelson’s core rights and prevent SEC from continuing to violate Americans’ civil liberties through its juryless in-house administrative tribunals.

A Massachusetts federal jury in 2021 rejected nearly all of SEC’s baseless charges against Lemelson, a Greek Orthodox priest and activist investor, including its incendiary allegations that he engaged in a scheme to defraud the market and even his own fund investors. Yet SEC now threatens to bar or suspend him from the securities industry using its own “follow-on” administrative proceeding overseen by an agency-appointed Administrative Law Judge (ALJ). In doing so, SEC seizes judicial power in violation of Article III of the Constitution and deprives Lemelson of his Seventh Amendment right to have his case adjudicated in an Article III court by a jury of his peers. Adding insult to injury, the ALJ is unconstitutionally insulated from presidential control because he enjoys multiple levels of tenure protection, a point which SEC has effectively conceded.

The district court’s dismissal of this case cannot be squared with NCLA’s 2023 Supreme Court victory in [Cochran v. SEC](#), which held that federal district courts *do* have jurisdiction to hear claims like Lemelson’s, including constitutional ones challenging the structure of SEC’s juryless administrative adjudications. It is also incompatible with the Supreme Court’s 2025 [Jarkesy v. SEC](#) decision holding that Article III and the Seventh Amendment prohibit SEC from using non-jury administrative adjudications to penalize respondents for securities fraud. NCLA asks the D.C. Circuit to apply these two important and recent Supreme Court precedents properly to prohibit SEC from continuing its unlawful administrative prosecution against Lemelson.

NCLA released the following statements:

“This is the first post-*Jarkesy* case to challenge SEC’s continuing use of its juryless administrative tribunal to prosecute and penalize private citizens. The Supreme Court in *Jarkesy* unequivocally required such prosecutions to be adjudicated in Article III courts with juries, and we hope the D.C. Circuit will put a stop to SEC’s open defiance of that landmark decision.”

— **Russ Ryan, Senior Litigation Counsel, NCLA**

“I am sure the SEC is not thrilled that it lost the *Cochran* and *Jarkesy* cases to NCLA and our allies. But those cases are now the law of the land. The D.C. Circuit should reverse the district court and uphold these precedents.”

— **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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