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NCLA Sues to Overturn SEC's Unconstitutional 'Gag Order' that Never Expires in *SEC v Romeril*
SEC v. Barry D. Romeril, et al.

Washington, DC (May 6, 2019) – The New Civil Liberties Alliance (NCLA) today filed a [Motion for Relief from Judgment](#) with the U.S. District Court for the Southern District of New York on behalf of Barry D. Romeril. Mr. Romeril served as the Chief Financial Officer of the Xerox Corporation from 1993-2001. NCLA has asked the court to remove a gag order placed on Mr. Romeril on June 5, 2003 as part of a Consent Order with the Securities and Exchange Commission (SEC) because it violates the First Amendment of the U.S. Constitution. Despite the passage of nearly 16 years, Mr. Romeril continues to be bound by the gag order provision.

The Consent purports to permanently forbid him from contesting any of the allegations in the Commission's Complaint against him, regardless of the accuracy of those allegations or the truth of Mr. Romeril's remarks. He faces the threat of reopened and renewed prosecution even for truthful speech challenging the allegations. NCLA contends that the Gag Order is a content-based restriction of speech, a forbidden prior restraint, and that it gives the SEC unbridled enforcement discretion by silencing Mr. Romeril in perpetuity.

The SEC's gag rule was promulgated in 1972 without notice and comment. NCLA [petitioned](#) the SEC to amend the rule in October 2018, contending that the Commission lacks the authority to use the Gag Rule because it directly infringes upon the First Amendment rights of Americans and hides the agency's enforcement practices from public scrutiny.

"SEC Gag Orders are unconstitutional prior restraints that violate Americans' First Amendment rights and their due process rights. Congress itself could not enact a law that forbade defendants from speaking about the merits of their prosecutions. Surely the SEC cannot do by rule what even Congress cannot do by statute."—**Peggy Little, Senior Litigation Counsel, NCLA**

ABOUT NCLA

NCLA is a nonprofit civil rights organization 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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