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NCLA Lawsuit Says CFPB Is Funded Unconstitutionally—Congress Cannot Divest Legislative Power
Law Offices of Crystal Moroney v. Consumer Financial Protection Bureau

Washington, DC (December 19, 2019) – The New Civil Liberties Alliance has filed a **lawsuit** in the U.S. District Court for the Southern District of New York challenging the funding mechanism for the Consumer Financial Protection Bureau (CFPB) as unconstitutional. Specifically, NCLA alleges that Congress unlawfully divested its legislative appropriations power when it gave CFPB the ability to draw funding directly from the Federal Reserve, without annual appropriations from Congress and without oversight from the appropriations committees of Congress. By giving the power of the purse—a core legislative power—over to an executive branch agency, Congress violated Article I of the Constitution, which vests ALL legislative power in Congress, including appropriations power.

This case, entitled *Law Offices of Crystal Moroney v. Bureau of Consumer Financial Protection*, may ultimately provide the U.S. Supreme Court the opportunity to revive the Nondelegation Doctrine that five justices expressed interest in revisiting earlier this year in the wake of last June’s *Gundy v. United States* decision.

NCLA also contends that CFPB acted beyond its constitutional authority when it targeted Ms. Maroney’s Law Firm with a Civil Investigative Demand, withdrew that CID on the cusp of her federal court hearing challenging it, and then promptly issued a new CID practically identical to the original one as soon as the case was dismissed as moot. The complaint asks the Court to redress this fundamental denial of Crystal Moroney’s right to due process.

Finally, the case also preserves the objection that Congress may not vest executive authority in CFPB, an independent agency led by a single director, while also shielding that agency’s director from Presidential oversight and removal. Such a regime clearly violates the President’s constitutional duty to “take Care” that the laws are faithfully executed. That objection to CFPB’s structure is pending at the U.S. Supreme Court in *Seila Law, LLC v. CFPB*. NCLA filed an *amicus curia* [brief](#) in that case this week too, arguing that the President must have the power to remove any federal officer who exercises executive power.

NCLA released the following statements:

“Crystal Moroney and the law firm she has built are victims of the Administrative State. Her plight is all too familiar to those of us fighting to restore constitutional constraints on federal agencies. On the bright side, her case will afford an excellent opportunity to call into question the highly irregular—and almost certainly unconstitutional—way in which Congress has funded CFPB.”

— **Mark Chenoweth, NCLA Executive Director and General Counsel**

“This case illustrates what happens to civil liberties when an administrative agency lacking any semblance of control or oversight from the executive or legislative branches turns on the citizens it purportedly

exists to serve. Only the judicial branch can vindicate Ms. Maroney’s civil liberties by restoring accountable, constitutional government.” — **Michael P. DeGrandis, NCLA Senior Litigation Counsel**

“The serial investigations of the Plaintiff expose the CFPB’s cynical investigatory practices and reprehensible litigation tactics for what they truly are—brazenly unconstitutional abuses of process. It is long past time for CFPB to face the judicial scrutiny that it has so contemptuously circumvented over the last two and a half years.” — **Jessica Thompson, NCLA Litigation Counsel**

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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