



**FOR IMMEDIATE RELEASE**

**Media Inquiries:** [Judy Pino](#), 202-869-5218

**NCLA ‘Anchor Bracelet’ Lawsuit Granted Class-Action Status in Fight Against NOAA’s Boat Tracking**

*Mexican Gulf Fishing Company, et al. v. National Oceanic and Atmospheric Administration, et al.*

**Washington, DC (June 11, 2021)** – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil liberties group, is defending the rights of more than 1,000 charter vessel operators in the Gulf of Mexico. In a [class-action lawsuit](#) against the National Oceanic and Atmospheric Administration (NOAA), NCLA objects to unconstitutional and warrantless surveillance of boating operations. The U.S. District Court for the Eastern District of Louisiana [granted](#) NCLA’s motion for class certification this week and accepted an amended complaint in *Mexican Gulf Fishing Company, et al. v. National Oceanic and Atmospheric Administration, et al.* The ruling ensures that all members of the class will benefit from the Court’s rulings on these privacy issues.

In July 2020, the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service (NMFS), and the U.S. Department of Commerce published a [Final Rule](#) requiring Gulf for-hire vessel owners to submit electronic fishing reports “using hardware and software approved by NMFS.” The plaintiffs, charter boat captains and companies that take customers fishing and sightseeing off the coasts of Alabama, Florida, Louisiana, Mississippi, and Texas, say that the rule is the regulatory equivalent of an “ankle bracelet” (or anchor bracelet!) that constantly monitors their businesses and personal lives. It mandates that charter boat captains pay for and “permanently affix” a Vessel Monitoring System (VMS) and allow the tracking device to relay and store information at all times. Each captain must contact NMFS every time the vessel leaves port—even if just crossing the bay for dinner.

The Final Rule imposes technological and reporting requirements on small businesses and confers virtually no benefit in monitoring fish stocks in the Gulf of Mexico over cheaper, less intrusive methods. There is zero evidence that written logs and weekly reporting of fish reports countersigned by charter boat customers are insufficient for the government’s purposes. Further, the VMS unit gives NMFS knowledge of the vessels’ whereabouts 24 hours a day, 365 days a year, thus forcing captains to divulge sensitive proprietary information, including prime fishing locations that captains have spent decades obtaining.

The forced use of VMS “anchor bracelets” violates the plaintiffs’ constitutional right to privacy by transmitting and archiving locations when the vessels are used both for for-hire fishing and purely private and nonregulated purposes. As the amended complaint clarifies, NCLA is also challenging the aspects of NOAA’s Final Rule that require captains to divulge “charter fees, fuel prices, amount of fuel used, number of paying passengers, number of crew, [and] similar economic information.” None of that proprietary business information helps NOAA or NMFS track fishing stocks and is being collected unlawfully. The Fourth Amendment protects a person’s possessory rights by forbidding the government from trespassing without a warrant based on probable cause. Additionally, the Final Rule infringes on the plaintiffs’ freedom of movement under the Ninth Amendment. In light of these violations, the Plaintiffs seek permanent injunctive relief setting aside the Final Rule.

**NCLA released the following statements:**

“The Court’s ruling is welcome and allows all charter boat operators in the Gulf to benefit from rulings by the Court in this matter without the necessity of joining hundreds of aggrieved parties. The government opposed this motion, but the Court’s ruling makes eminent sense given the wide-ranging impositions on charter boats caused by the Final Rule.”

— **John Vecchione, Senior Litigation Counsel, NCLA**

“Warrantless GPS surveillance of even a suspected criminal’s vehicle is indisputably unconstitutional. Yet, NOAA is mandating 24-hour GPS surveillance of countless boat owners for running legitimate businesses. It does not take a legal scholar to spot the constitutional violation.”

— **Sheng Li, 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.

###