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## **NCLA Fights Delegation of Government Power to Public Company Accounting Oversight Board**

*John Doe Corporation v. Public Company Accounting Oversight Board*

**Washington, DC (March 27, 2024)** – Today, the New Civil Liberties Alliance filed a [Complaint](#) urging the U.S. District Court for the Southern District of Texas to declare that the Public Company Accounting Oversight Board is a private entity unlawfully exerting government power. The unconstitutionally structured Board exercises sweeping legislative, executive, and pseudo-judicial power bestowed by the Sarbanes-Oxley Act of 2002, but it is staffed entirely by non-governmental private citizens who are subject to very little direction, oversight, or supervision from federal officials. This arrangement violates Article I, Sec. 1 of the U.S. Constitution.

Because of this lack of meaningful supervision, the Board routinely gets away with investigative bullying. Under Sarbanes-Oxley the Board is supposed to establish “fair procedures” but Congress did not provide an intelligible principle to guide writing them. The Board has thus buried NCLA’s client, a small accounting firm, with a sixth “Accounting Board Demand” for reams of private firm documents. It has already made five similarly intrusive demands for the firm’s papers during its investigation, which has been dragging on for more than two years. Board staff have also required firm personnel to endure an outlandish *seven days* of transcribed interrogation. NCLA’s anonymous client, “John Doe Corporation,” is a rare and courageous firm willing to stand up to this Star Chamber, which Justice Kavanaugh once aptly described as an “unprecedented extra-constitutional stew.”

The Board’s abusive and one-sided investigative tactics also violate constitutional due process requirements. Not only do the notoriously secretive Board and its private staff employees lack the government supervision and accountability demanded by the Constitution when they perform the core executive functions of investigating and prosecuting American citizens and businesses, but the Board’s investigative process also deprives John Doe Corporation and other investigative targets of due process of law. The Board routinely punishes targets for “noncooperation” with Board investigative demands before they have any opportunity to challenge those demands in a court of law. NCLA is joined by Jacob Frenkel, John Nelson, and Brooks Westergard of Dickinson Wright PLLC as co-counsel in this important case.

### **NCLA released the following statements:**

“Sadly, this investigation is par for the course at PCAOB. Operating in secrecy and unsupervised by government officials, Board staff routinely drag out investigations for years with an endless succession of burdensome and expensive demands for documents and sworn testimony—issued under constant threat of fines and debarment for ‘noncooperation’—until most investigative targets give up. It is time to rein in this modern-day Star Chamber.”

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

“It is outrageous that private citizens can exert government power over fellow citizens under the auspices of the PCAOB. Only federal officials accountable to the President may properly exercise such executive power. This lawsuit holds the promise of ending PCAOB’s egregious lack of due process and restoring constitutional order.”

— **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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