

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PETER BERNEGGER,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civil Action No. 1:26-cv-00106-APM

**DECLARATION IN SUPPORT OF REQUEST FOR CLERK'S  
ENTRY OF DEFAULT UNDER FED. R. CIV. P. 55(a)**

Plaintiff Peter Bernegger submits this sworn declaration in support of his request that the Clerk enter default against Defendant Federal Election Commission ("FEC") under Federal Rule of Civil Procedure 55(a).

1. I am the Plaintiff in this action. I make this declaration based on personal knowledge and on my review of the docket and the filings in Case No. 1:26-cv-00106-APM and my records.
2. Procedural history. The Complaint was filed on January 14, 2026 (Dkt. 1). The First Amended Complaint ("FAC") was filed and entered on the docket on February 6, 2026 (Dkt. 5).
3. Rule 4(i)(2) service – Defendant FEC. Plaintiff served the Federal Election Commission c/o Office of General Counsel, 1050 First Street, NE, Washington, DC 20463, in accordance with Rule 4(i)(2), as documented in the Notice to Court of Proof of Service (Dkt. 6). Via US Certified Mail, article no. 9407 1362 0855 1285 4182 43. On January 21, 2026. Defendant

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Clerk, U.S. District & Bankruptcy  
Court for the District of Columbia

has actual notice of this action: on January 29, 2026, counsel for the Commission, Michael D. Contino (D.C. Bar No. 1782269), together with Acting General Counsel Lisa J. Stevenson (D.C. Bar No. 457628), Associate General Counsel James D. McGinley (D.C. Bar No. 1017356), and Acting Assistant General Counsel Shaina Ward (D.C. Bar No. 1002801), filed the Commission's Notice of Lack of Quorum (Dkt. 3). The Commission was served the court-stamped Summons, Complaint, and exhibits.

4. Rule 4(i)(1)(A) service – United States Attorney for the District of Columbia. On January 20, 2026, at 1:51 p.m., Ambiko Wallace of Capitol Process Services, Inc., personally served the United States Attorney for the District of Columbia, c/o Civil Process Clerk, 601 D Street, NW, Washington, DC 20530, with the court-stamped Summons; Notice of Right to Consent to Trial Before a United States Magistrate Judge; Notice, Consent, and Reference of a Civil Action to a Magistrate Judge; Civil Cover Sheet; and Complaint for Declaratory and Injunctive Relief (52 U.S.C. § 30109(a)(8)) by delivering them to Toyin Ajide, Paralegal, authorized to accept service. The process server's sworn Affidavit of Service was filed on February 20, 2026 (Dkt. 6).
5. Rule 4(i)(1)(B) service – Attorney General of the United States. Carrie Hollingshed of Capitol Process Services, Inc., of Greenbelt, Maryland, served the Attorney General of the United States by certified mail, return receipt requested, addressed to the U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530, on January 21, 2026, USPS Article Number 9407 1362 0855 1285 4182 43. The process server's sworn Affidavit of Service by Certified Mail was filed on February 20, 2026 (Dkt. 7), and an additional Affidavit of Service by Certified Mail was filed on March 13, 2026 (Dkt. 8).

6. Notice to Court. On February 20, 2026, Plaintiff filed a Notice to Court of Proof of Service documenting the Rule 4(i) service described above (Dkt. 6), with the three process-server affidavits.
7. Pursuant to the Court's practice of providing notice to interested persons named in the underlying administrative proceeding, Plaintiff also sent the campaign committee Friends of John Thune (FEC ID C00409581), addressed to its Treasurer, Nicole Weyers, PO Box 841, Sioux Falls, SD 57101, a courtesy copy of the stamped Summons and Complaint by United States Postal Service Certified Mail, no. 9590 9402 9434 5069 5676 80.
8. Response deadline under Rule 12(a)(2). Federal Rule of Civil Procedure 12(a)(2) requires a United States agency, or a United States officer or employee sued only in an official capacity, to serve an answer to a complaint within 60 days after service on the United States Attorney. Based on the January 20, 2026 Rule 4(i)(1)(A) service on the United States Attorney for the District of Columbia (Dkt. 6), the 60-day period for the FEC to answer or otherwise respond to the Complaint expired on March 23, 2026 (March 21, 2026 being a Saturday; the period accordingly runs to the next business day under Fed. R. Civ. P. 6(a)(1)(C)).
9. Response deadline under Rule 15(a)(3). Federal Rule of Civil Procedure 15(a)(3) provides that any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later. Plaintiff filed the First Amended Complaint on February 6, 2026 (Dkt. 5), and served it on counsel for the Commission, Michael D. Contino, by FedEx overnight delivery on February 5, 2026, pursuant to Fed. R. Civ. P. 5, as documented in the Certificate

of Service dated February 5, 2026 (Dkt. 5, p. 10). The 14-day period under Rule 15(a)(3) expired on February 19, 2026. The later of the Rule 12(a)(2) and Rule 15(a)(3) deadlines is March 23, 2026, and no Rule 12 motion, answer, or other responsive pleading directed to the First Amended Complaint appears on the docket.

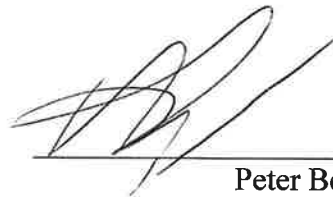
10. The Notice of Lack of Quorum (Dkt. 3). On January 29, 2026, counsel for the Commission (Michael D. Contino, for Acting General Counsel Lisa J. Stevenson) filed a document styled “Defendant Federal Election Commission’s Notice of Lack of Quorum” (Dkt. 3). For the reasons set forth in the following paragraph, that filing does not constitute a pleading or other defense within the meaning of Rule 55(a).
11. The Notice of Lack of Quorum is not a pleading and does not “otherwise defend.” The January 29, 2026 Notice (Dkt. 3): (a) states, in the Commission’s own words, that the Notice “is given for the sole purpose of notifying the Court that the Commission lacks a quorum and is without the authority to litigate the merits of plaintiff’s Complaint” (Dkt. 3 ¶ 4); (b) is not styled as, and does not purport to be, an answer under Rule 8(b) or a motion under Rule 12; (c) does not admit or deny any allegation of the Complaint or First Amended Complaint; (d) does not seek dismissal, a more definite statement, judgment on the pleadings, or any other relief; (e) does not request an extension of time to respond; and (f) was filed on January 29, 2026, before the First Amended Complaint was filed on February 6, 2026, and therefore is not directed to the operative pleading. The filing is, on its face, an advisory notice of the Commission’s inability to defend. It is therefore not a “pleading” or other step to “otherwise defend” within the meaning of Rule 55(a).

12. No extension has been sought or granted. The docket does not reflect that Defendant has filed an answer to the First Amended Complaint, filed a Rule 12 motion, or obtained an order enlarging its time to respond.
13. Rule 55(a) standard. Federal Rule of Civil Procedure 55(a) provides: “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” The showing required by Rule 55(a) is made here.
14. Request. Plaintiff respectfully requests that the Clerk enter default against Defendant Federal Election Commission under Rule 55(a). This request is without prejudice to any subsequent motion practice concerning default judgment under Rule 55(b) and Rule 55(d), or any motion the Defendant may file to set aside an entry of default.

#### VERIFICATION

I, Peter Bernegger, declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct based on my personal knowledge, my review of the docket in this action, and the filings referenced above.

Executed on 04-17-, 2026.



Peter Bernegger, *Plaintiff*  
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