

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PETER BERNEGGER,  
Plaintiff,

v.

FEDERAL ELECTION COMMISSION,  
Defendant.

Civil Action No. 1:25-cv-04072-RBW

**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, the filings in Case No. 1:25-cv-04072-RBW and my records.
2. Procedural history. The Complaint was filed on November 20, 2025. The First Amended Complaint ("FAC") was filed on February 6, 2026, and entered on the docket on February 10, 2026 (Dkt. 9).
3. Rule 4(i) service – Defendant FEC (in person). Capitol Process Services, Inc., through process server Michael Weaver, personally served the FEC at 1050 First Street, NE, Washington, DC 20002, on December 3, 2025, at 1:41 p.m., by delivering the court stamped Summons and Complaint for Declaratory and Injunctive Relief (with Exhibits) to Joe Smith, Property Manager, who was authorized to accept service. The process server's sworn Declaration of Service was filed on January 20, 2026 (Dkt. 6).

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

4. Rule 4(i) service – United States Attorney for the District of Columbia. Plaintiff served the United States Attorney for the District of Columbia with a court stamped Summons and Complaint by certified mail, return receipt requested, addressed to the Civil Process Clerk, 601 D Street, NW, Washington, DC 20530, USPS tracking number 9590 9402 9434 5069 5678 33. The return receipt establishes delivery; signed for by this entity’s agent on February 2<sup>nd</sup> 2026.
5. Rule 4(i) service – Attorney General of the United States. Plaintiff served the Attorney General of the United States by certified mail, return receipt requested, addressed to the U.S. Department of Justice, Attn: Civil Process Clerk, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, USPS tracking number 9590 9402 9434 5069 5678 26. The return receipt establishes delivery; signed for by this entity’s agent on February 2<sup>nd</sup> 2026. Also however, Capitol Process Services, Inc. of Greenbelt, Maryland serviced the stamped Summons and Complaint by US certified mail on January 21, 2026 to the Attorney General of the United States.
6. Notice to Court. The Notice to Court of Proof of Service documenting the Rule 4(i) certified mailings to the Attorney General and United States Attorney, with the three certified-mail return-receipt cards attached as Exhibit A, was filed on February 20, 2026 (Dkt. 10).
7. Pursuant to the Court’s requirement, Plaintiff also sent the campaign committee Tammy Baldwin for Senate a courtesy copy of the stamped Summons and Complaint by USPS Certified Mail, tracking number 9590 9402 9434 5069 5678 19, which was signed for by that committee’s agent on February 5, 2026.

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 Rule 4(i) service documented in Dkt. 10, the 60-day period for the FEC to answer or otherwise respond expired on March 22<sup>nd</sup>, 2026.
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. The First Amended Complaint was filed and served through the Court's CM/ECF system on February 6, 2026 (Dkt. 9); more than 14 days have elapsed. 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. 7). On January 29, 2026, the FEC filed a document styled "Defendant Federal Election Commission's Notice of Lack of Quorum" (Dkt. 7). 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. 7): (a) states that the Commission lacks a quorum and is unable to authorize the defense of this action; (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 before the First Amended

Complaint was filed 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 \_\_\_\_\_, 2026.



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Peter Bernegger, Plaintiff  
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Email: peter@electionwatch.info

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PETER BERNEGGER,

Plaintiff,

v.

Civil Action No. 1:25-cv-04072-RBW

FEDERAL ELECTION COMMISSION,

Defendant.

**CLERK'S ENTRY OF DEFAULT  
UNDER FED. R. CIV. P. 55(a)**

Upon the Declaration of Plaintiff Peter Bernegger in Support of Request for Clerk's Entry of Default, and upon review of the record in this action, it appearing that Defendant Federal Election Commission has failed to plead or otherwise defend as provided by Federal Rule of Civil Procedure 55(a),

IT IS HEREBY ENTERED, pursuant to Federal Rule of Civil Procedure 55(a), that default is entered against Defendant Federal Election Commission.

Date: \_\_\_\_\_

ANGELA D. CAESAR  
Clerk of Court

By: \_\_\_\_\_  
Deputy Clerk

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Mailroom

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Angela D. Caesar, Clerk of Court  
U.S. District Court, District of Columbia