

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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MAY 29 2026

Angela D. Caesar, Clerk  
U.S. District & Bankruptcy Courts  
for the District of Columbia

PETER BERNEGGER,  
Plaintiff,

v.

FEDERAL ELECTION COMMISSION,  
Defendant.

Civil Action No. 1:25-cv-04563-TNM

**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. 1:25-cv-04563-TNM and my records.
2. *Procedural history.* The Complaint for Declaratory and Injunctive Relief (52 U.S.C. § 30109(a)(8)) was filed on December 31, 2025 (Dkt. 1), with the supporting exhibits (Dkt. 1-1) and Civil Cover Sheet (Dkt. 1-2). On January 2, 2026, the Court entered its Standing Order setting case-management directives (Dkt. 2). No amended pleading has been filed; the Complaint filed December 31, 2025 is the operative pleading.

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), by United States Postal Service Certified Mail, return receipt requested, article no. 7022 2410 0000 8096 4818. USPS tracking records confirm delivery to the FEC at 9:24 a.m. on February 2, 2026. Service is documented in the Notice to Court of Proof of Service filed March 13, 2026 (Dkt. 4), with the USPS tracking record attached as Exhibit A.
4. The Commission has actual notice of this action: on March 31, 2026, counsel for the Commission, Michael D. Contino (D.C. Bar No. 1782269), together with Deputy General Counsel – Law 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. 5). The Commission was served the court-stamped Summons, Complaint, and exhibits.
5. *Rule 4(i)(1)(A) service – United States Attorney for the District of Columbia.* Plaintiff served the United States Attorney for the District of Columbia, c/o Civil Process Clerk, 601 D Street, NW, Washington, DC 20530, by United States Postal Service Certified Mail, return receipt requested, article no. 7022 2410 0000 8096 4832, with the court-stamped Summons and Complaint for Declaratory and Injunctive Relief (52 U.S.C. § 30109(a)(8)) and exhibits. The certified-mail return receipt reflects delivery and signature by Evie Cassal on February 2, 2026. Service is documented in the Notice to Court of Proof of Service filed February 20, 2026 (Dkt. 3), with the certified-mail return receipt attached as Exhibit A.
6. *Rule 4(i)(1)(B) service – Attorney General of the United States.* Plaintiff served the Attorney General of the United States by United States Postal Service 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, article no. 7022 2410 0000 8096 4825, with the court-stamped Summons and Complaint for Declaratory and Injunctive Relief (52 U.S.C. § 30109(a)(8)) and exhibits. The certified-mail return receipt reflects delivery and signature by Evie Cassal on February 2, 2026. Service is documented in the Notice to Court of Proof of Service filed February 20, 2026 (Dkt. 3).

7. *Notice to Court.* On February 20, 2026, Plaintiff filed a Notice to Court of Proof of Service documenting the Rule 4(i)(1)(A) service on the United States Attorney for the District of Columbia and the Rule 4(i)(1)(B) service on the Attorney General of the United States (Dkt. 3), with the certified-mail return receipts attached as Exhibit A. On March 13, 2026, Plaintiff filed an additional Notice to Court of Proof of Service documenting the Rule 4(i)(2) service on the Federal Election Commission (Dkt. 4), with USPS tracking records attached as Exhibit A.
8. Pursuant to the Court's practice of providing notice to interested persons named in the underlying administrative proceeding, Plaintiff also sent the campaign committee Team Graham, Inc. (FEC ID C00458828), addressed to its Treasurer, Cabell Hobbs, PO Box 1801, Columbia, SC 29202, a courtesy copy of the stamped Summons and Complaint by United States Postal Service Certified Mail, article no. 7022 2410 0000 8096 4849. The certified-mail return receipt reflects delivery and signature by Brondon Greer on January 29, 2026.
9. *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 February 2, 2026 Rule 4(i)(1)(A) service on the United States Attorney for the

District of Columbia (Dkt. 3), the 60-day period for the FEC to answer or otherwise respond to the Complaint expired on April 3, 2026. As of the date of this declaration, no Rule 12 motion, answer, or other responsive pleading directed to the Complaint appears on the docket.

10. *The Notice of Lack of Quorum (Dkt. 5)*. On March 31, 2026, counsel for the Commission (Michael D. Contino, for Deputy General Counsel – Law Lisa J. Stevenson) filed a document styled “Defendant Federal Election Commission’s Notice of Lack of Quorum” (Dkt. 5). 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 March 31, 2026 Notice (Dkt. 5): (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; (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; (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) is, on its face, an advisory notice of the Commission’s asserted inability to defend. It is therefore not a “pleading” or other step to “otherwise defend” within the meaning of Rule 55(a).
12. *Prior motion practice*. On April 2, 2026, Plaintiff filed a Motion for Entry of Default and Default Judgment (Dkt. 6). By Minute Order dated April 7, 2026, the Court denied that motion without prejudice, holding that “[e]ntry of default should be sought via affidavit, not motion,

Fed. R. Civ. Pro 55, and default judgment may only be sought once default is entered.” Plaintiff submits this Declaration in compliance with the Court’s April 7, 2026 directive.

13. *No extension has been sought or granted.* The docket does not reflect that Defendant has filed an answer to the Complaint, filed a Rule 12 motion, or obtained an order enlarging its time to respond.

14. *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.

15. *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 May 28, 2026.

  
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Peter Bernegger, *Plaintiff*

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