UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DAVID ESRATI, Plaintiff, v. FEDERAL ELECTION COMMISSION, Defendant.	Civil Action No. 1:26-cv-01498-CJN

PLAINTIFF'S SURREPLY IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiff submits this short surreply only to address new assertions and arguments raised in the Federal Election Commission's reply.

I. THE FEC'S REPLY MISSTATES THE RECORD REGARDING PLAINTIFF'S OWN CAMPAIGN DATA

The FEC asserts for the first time that Plaintiff 'personally uploaded' the ActBlue contribution records and therefore 'cannot reasonably claim to have difficulty' identifying the source of contributions to his own campaign. Reply at 6. That assertion overstates the record and improperly resolves factual uncertainty against Plaintiff at the motion-to-dismiss stage.

Plaintiff's declaration explained his experience with the FEC filing process, including the requirement that campaign data be converted into the FEC's required filing format. It did not state that Plaintiff designed the FEC's public database, selected the public-facing fields, chose how ActBlue transactions would appear to the public, controlled whether ActBlue records would be linked to individual donor records, or caused ACTBLUE to be presented as the contributor in the public output.

Plaintiff's later review confirms why the FEC's inference is improper. Plaintiff's campaign records, ActBlue export, treasurer activity, FEC-required filing process, and the FEC public database cannot be reconciled from the FEC public record alone. Plaintiff's CiviCRM records distinguished donor from source. ActBlue's export contained donor-identifying information. The FEC public Schedule A output nevertheless displayed ACTBLUE in the contributor-name field for the rows at issue without the public memo, back-reference, conduit, or contributor fields needed to cross-index those rows to the individual donors.

Even Plaintiff, with access to private campaign records and an ActBlue export, cannot reconstruct the FEC's public ACTBLUE rows from the FEC database alone. An ordinary voter, journalist, donor, watchdog, or opposing candidate has no realistic ability to do so. That uncertainty is not a defect in Plaintiff's standing. It is the injury.

II. THIS CASE IS ABOUT CONTRIBUTOR IDENTIFICATION AND CROSS-INDEXING, NOT AESTHETIC PRESENTATION

The FEC repeatedly characterizes this case as a dispute over 'form,' 'presentation,' or Plaintiff's personal preference about data. That misstates the claim.

Plaintiff is not asking the Court to make the FEC website prettier. Plaintiff challenges the FEC's failure to provide contributor identification in the public disclosure system Congress required. FECA does not merely require the FEC to publish whatever name, address, occupation, and employer appear on separate reports. Congress directed the Commission to develop a 'filing, coding, and cross-indexing system' consistent with the purposes of FECA. 52 U.S.C. § 30111(a)(3).

Cross-indexing is the statutory answer to the problem shown in Plaintiff's exhibits. A reported name, address, occupation, and employer are useful only if the FEC's filing, coding, and cross-indexing system allows the public to determine when separate reports, committees, conduits, spellings, addresses, occupations, employers, filing systems, and conversion processes refer to the same donor.

Publication is not the same as identification. A campaign-finance system that cannot cross-index the same donor across reports cannot reliably disclose, aggregate, or enforce donor activity. The public should not have to obtain private ActBlue exports, private CRM records, treasurer files, FECFile conversion outputs, and public Schedule A fragments to answer the basic question: who gave the money?

III. THE COURT'S OWN ELECTRONIC FILING SYSTEM SHOWS WHY IDENTITY ASSOCIATION MATTERS

The Court's electronic filing system illustrates the difference between a typed name and legally meaningful identity association.

The FEC's Reply bears electronic "/s/" signatures and was filed through CM/ECF. The Court accepts those signatures because CM/ECF ties the filing to authenticated users. The legal significance does not come merely from typed names appearing on the page. It comes from a system that associates the filing act with identifiable counsel.

Plaintiff experienced the same principle from the opposite side. Before Plaintiff received CM/ECF access, the Clerk required Plaintiff to provide handwritten signatures for emailed filings. Plaintiff is not raising that issue to complain about filing procedure. The point is that this Court, like other legal systems, treats identity verification as meaningful. A typed name alone is not always enough. The system must reliably identify who performed the legally significant act.

Plaintiff is not asking for wet signatures from donors. He is asking for campaign-finance disclosure that uses the filing, coding, and cross-indexing system Congress required to identify contributors across reports, committees, conduits, and filing variations.

In an era when voter legitimacy, court filing, banking, and ordinary digital transactions increasingly depend on authentication and identity association, the FEC's public donor system should not treat ACTBLUE in a contributor-name field as meaningful public disclosure of the individual who supplied the money. ActBlue and WinRed may be relevant as conduits. They are not the donors.

The point is simple. A credit-card processor is not treated as the customer merely because it processed the payment. A campaign-finance disclosure system should not treat ActBlue or WinRed as the contributor merely because they processed or transmitted the contribution. The public record should identify the donor, the payment method, the recipient, the amount, the date, and the relationship among those entries.

IV. THE FEC'S STANDING THEORY WOULD LEAVE NO ONE ABLE TO ENFORCE FECA'S PUBLIC DISCLOSURE RIGHT

The FEC's standing argument would make FECA's public disclosure requirements practically unenforceable.

The FEC says Plaintiff lacks standing because the data is public, because the injury is shared by the public, because Plaintiff seeks meaningful contributor identification rather than total nondisclosure, and because the defects in the disclosure system are systemic. Taken together, that argument leads to an impossible result: as long as the FEC publishes some data fields, no member of the public can challenge whether those fields actually identify contributors in the cross-indexed public disclosure system Congress required.

If that is correct, who can challenge the FEC's failure to provide contributor identification in a cross-indexed public disclosure system?

Plaintiff is a voter, citizen journalist, donor, repeated federal candidate, and actual user of FEC data. He was a federal candidate when this case was filed. He has used FEC records to evaluate campaigns, report on political money, compare donor activity, and participate in federal elections. If such a person cannot challenge the FEC's failure to provide contributor identification, then the FEC's position appears to be that no member of the public may challenge the system so long as the Commission publishes some data fields.

That cannot be the law. FECA's disclosure provisions exist for the public. A right created for the public must be enforceable by members of the public. Otherwise, the right is not a right at all.

Plaintiff's injury is not abstract. He is denied information FECA requires and that would help him as a voter, journalist, donor, candidate, and member of the public evaluate who is financing federal elections. The fact that the injury is shared by the public does not make it unreal. Public disclosure laws create public rights. When the required information is not meaningfully disclosed, every intended user of that information is injured.

V. PLAINTIFF IS NOT REQUIRED TO SOLVE THE AMBIGUITY BEFORE CHALLENGING IT

The FEC suggests Plaintiff should file administrative complaints against particular committees or individuals if he believes reporting violations occurred. That suggestion misses the claim.

Plaintiff is not asking this Court to decide whether one committee made one reporting mistake. Plaintiff challenges the FEC's official public disclosure system because it fails to cross-index donor, conduit, recipient, date, amount, and relationship in a way that allows the public to identify who supplied the money. An administrative complaint against one filer would not fix a public database that publishes ACTBLUE rows without the public linkage necessary to identify the underlying contributors.

Nor is Plaintiff required to solve every ambiguity before challenging the system that creates the ambiguity. The entire purpose of a federal disclosure agency is so voters, candidates, journalists, donors, and the public do not have to become detectives to determine who financed federal elections.

The FEC's public system should answer the basic statutory and enforcement question: who gave the money, how much did that person give, and whether the same person appears elsewhere in the federal campaign-finance record? Plaintiff has shown that the system often does not. For these reasons, and for the reasons stated in Plaintiff's opposition, the Motion to Dismiss should be denied.

Respectfully submitted,

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Date: July 20, 2026