

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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PETER BERNEGGER,

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

Plaintiff,

v.

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

FEDERAL ELECTION COMMISSION,

Defendant.

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Peter Bernegger ("Plaintiff") alleges as follows:

1. This is an action under the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30109(a)(8), seeking expedited judicial review of the Federal Election Commission's failure to act within 120 days on Plaintiff's administrative complaint and seeking the relief authorized by Congress when the Commission's failure to act is contrary to law.
2. Plaintiff filed an administrative complaint with the Federal Election Commission ("Commission" or "FEC") alleging violations of FECA involving Tammy Baldwin for Senate and related activities, as set forth in Plaintiff's administrative complaint and supporting materials.
3. The Commission received Plaintiff's administrative complaint on or about May 21, 2025.
4. More than 120 days elapsed after receipt of Plaintiff's administrative complaint and the Commission failed to act within the meaning of FECA, including failing to dismiss the complaint, failing to enter into a conciliation agreement, and failing to institute a civil action.

5. FECA expressly authorizes this action when the Commission fails to act within the statutory window, and directs that such actions “shall be expedited.”

II. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 52 U.S.C. § 30109(a)(8). Plaintiff filed the underlying administrative complaint pursuant to 52 U.S.C. § 30109(a)(1) and 11 C.F.R. § 111.4.
7. This Court has authority to grant declaratory relief under 28 U.S.C. §§ 2201–2202 and to award appropriate relief as authorized by FECA.
8. Venue is proper in this District pursuant to 52 U.S.C. § 30109(a)(8)(A) which exclusively vests jurisdiction over petitions challenging the Commission's failure to act in the United States District Court for the District of Columbia. Venue is also proper under 28 U.S.C. § 1391(e)(1) because Defendant is an agency of the United States.

III. PARTIES

9. Plaintiff Peter Bernegger is a United States citizen, taxpayer, elector and a “complainant” within the meaning of 52 U.S.C. § 30109(a)(8). He votes in federal and other elections. He is the President of Election Watch, Inc., a nonpartisan election integrity organization.
10. Defendant Federal Election Commission is an independent agency of the United States government with principal offices at 1050 First Street NE, Washington, D.C. 20463.

IV. FACTUAL ALLEGATIONS

A. Plaintiff's Administrative Complaint and Receipt by the FEC

11. On or about May 21, 2025, Plaintiff filed an administrative complaint with the FEC alleging violations of FECA arising from the conduct identified in Plaintiff's administrative filing.
12. Plaintiff's administrative complaint included factual allegations, analysis, and supporting materials alleging violations of federal campaign finance law and reporting obligations.
13. The Commission acknowledged receipt of Plaintiff's administrative complaint and assigned it a Matter Under Review ("MUR") number, including MUR 8378, as reflected in the Commission's correspondence.
14. The administrative complaint (MUR 8378) alleges that Tammy Baldwin for Senate (FEC ID: C00830687) and sixteen related campaign committees violated multiple provisions of FECA, including: 52 U.S.C. § 30122 (contributions in the name of another); 52 U.S.C. § 30104 (failure to accurately report contributions); 52 U.S.C. § 30116 (acceptance of excessive contributions); 11 C.F.R. § 110.4(b) (prohibition on contributions in name of another); and 52 U.S.C. § 30102(c) (failure to maintain adequate contributor records).
15. The administrative complaint alleges that the Baldwin committees received approximately \$36,820,755 in unlawful contributions between 2017 and 2024 through a campaign finance laundering scheme commonly known as "smurfing" - the deliberate fragmentation of large contributions into thousands of small transactions using the names and identities of elderly or unemployed individuals without their knowledge or consent.
16. The administrative complaint presents detailed statistical and documentary evidence of donation patterns that are beyond human possibility, including: (a) multiple donor profiles contributing identical dollar amounts at identical timestamps from different states; (b) individual donors attributed with tens of thousands of contributions in a single election

cycle, including one individual on video stating she contributes only \$5 to \$10 per month in political donations; and (c) unemployed or retired elderly individuals purportedly exceeding the federal contribution limit of \$6,600 per cycle by more than 500%.

17. The administrative complaint is supported by extensive analysis of FEC records, structured data spreadsheets, interviews conducted by a licensed private investigator with individuals who denied making the contributions attributed to them, and expert analysis by an information technology professional with over 35 years of experience. The complaint requested that the FEC find reason to believe that violations occurred, conduct a full investigation, impose civil penalties, and refer the matter to the Department of Justice for criminal investigation.

B. The Commission Failed to Act Within the Statutory Period

18. FECA requires the Commission to act on a complaint within specific statutory parameters.

19. Under 52 U.S.C. § 30109(a)(8)(A),(C) if the Commission fails to act on a complaint within 120 days after it is filed, the complainant may file a petition with this Court.

20. More than 120 days elapsed from the Commission's receipt of Plaintiff's administrative complaint, and the Commission failed to act within the meaning of FECA.

21. Specifically, after the 120-day period elapsed, the Commission did not (a) dismiss Plaintiff's administrative complaint, (b) enter into a conciliation agreement with any administrative respondent(s), or (c) institute a civil action to remedy the alleged violations.

22. The Commission's continued inaction deprives Plaintiff of the enforcement process Congress created and frustrates the statutory scheme for timely resolution of administrative complaints. Plaintiff is aggrieved by the Commission's failure to act on that complaint within the statutory period.

23. The Commission’s inability to reach four affirmative votes does not eliminate Congress’s expedited judicial remedy under § 30109(a)(8).
24. The Commission’s Lack of Quorum Does Not Defeat This Court’s Jurisdiction or Plaintiff’s Statutory Remedy.
25. On January 29, 2026, the Commission filed a “Notice of Lack of Quorum” in this action (Dkt. 7), stating that as of May 1, 2025, the Commission lacks the four voting Commissioners required under 52 U.S.C. § 30107(a)(6) to authorize defense of this action or to conduct an investigation on Plaintiff’s administrative complaint. The Commission’s notice states that former Commissioner Allen Dickerson resigned on April 30, 2025, and former Commissioner James E. Trainor resigned on October 3, 2025, leaving the Commission with only two members.
26. The Commission’s lack of quorum does not defeat this Court’s jurisdiction under 52 U.S.C. § 30109(a)(8). Congress created the § 30109(a)(8) judicial remedy precisely to address the Commission’s institutional failures to act - whether caused by partisan deadlock, insufficient resources, or lack of quorum. The statutory text conditions the judicial remedy solely on the Commission’s “failure … to act on such complaint during the 120-day period,” without exception for the reason the Commission failed to act. 52 U.S.C. § 30109(a)(8)(A).
27. The Commission’s quorum deficiency is itself a circumstance that reinforces, rather than negates, the conclusion that the Commission’s failure to act is “contrary to law” within the meaning of 52 U.S.C. § 30109(a)(8)(C). Where the Commission cannot muster the votes to act on an administrative complaint, Congress has provided the complainant with an alternative enforcement path through the courts. See *Giffords v. FEC*, No. 1:19-cv-01192 (D.D.C. Sept. 30, 2021) (finding Commission’s failure to act within 120 days contrary to law); *CREW v.*

FEC, 993 F.3d 880 (D.C. Cir. 2021) (addressing standard for “contrary to law” determinations under § 30109(a)(8)).

28. If a lack of quorum were sufficient to insulate the Commission from judicial review under § 30109(a)(8), the Commission could effectively nullify the enforcement scheme Congress created simply by failing to maintain a quorum - leaving complainants without any remedy and campaign finance violations entirely unaddressed. This result would be contrary to both the text and purpose of FECA. See *FEC v. NRA Political Victory Fund*, 6 F.3d 821, 826 (D.C. Cir. 1993) (recognizing that the FEC’s enforcement structure must be interpreted to effectuate Congress’s purposes).

29. Moreover, the Commission’s own Notice acknowledges that it “will notify the respondent in the administrative matter that this lawsuit has been filed” (Dkt. 7 at 2), demonstrating that the Commission retains at least some operational capacity. The Commission’s quorum problem is an institutional failure within the Commission’s control - or within the control of the political branches responsible for appointing Commissioners - and cannot serve to deprive Plaintiff of the statutory remedy Congress expressly provided.

C. Expedited Treatment is Required

30. FECA directs that actions brought under § 30109(a)(8) “shall be expedited.” 52 U.S.C. § 30109(a)(8)(B).

31. Plaintiff seeks an expedited schedule and adjudication consistent with FECA’s mandatory directive.

V. CLAIM FOR RELIEF

COUNT I — Failure to Act Contrary to Law (52 U.S.C. § 30109(a)(8)(A)–(C))

32. Plaintiff realleges and incorporates paragraphs 1 through 31 as if fully set forth herein.
33. Plaintiff filed a complaint with the Commission within the meaning of 52 U.S.C. § 30109(a).
34. The Commission received Plaintiff's complaint on or about May 21, 2025.
35. The Commission failed to act on Plaintiff's complaint within 120 days after it was filed, within the meaning of 52 U.S.C. § 30109(a)(8)(A).
36. The Commission's failure to act is contrary to law within the meaning of 52 U.S.C. § 30109(a)(8)(C).
37. The standard for determining whether the Commission's failure to act is "contrary to law" under 52 U.S.C. § 30109(a)(8)(C) requires the Court to assess whether the Commission's inaction was based on an impermissible legal interpretation or was otherwise arbitrary and capricious. *CREW v. FEC*, 993 F.3d 880, 890–92 (D.C. Cir. 2021). Where the Commission has taken no action whatsoever - neither dismissing nor investigating - within the statutory period, the failure to act is contrary to law. *Giffords v. FEC*, No. 1:19-cv-01192, slip op. at 14–16 (D.D.C. Sept. 30, 2021) (finding that the Commission "unreasonably delayed its consideration" of administrative complaints when it failed to act within 120 days).
38. Upon a finding that the Commission's failure to act is contrary to law, this Court may declare such failure to be contrary to law and direct the Commission to conform with such declaration within 30 days. 52 U.S.C. § 30109(a)(8)(C). If the Commission fails to conform within 30 days, FECA authorizes the complainant to bring a civil action to remedy the violation involved in the original administrative complaint. *Id.* This sequential

enforcement mechanism reflects Congress's intent that campaign finance violations not go unremedied simply because the Commission fails to perform its statutory duties.

39. Under 52 U.S.C. § 30109(a)(8)(C), upon a finding that the Commission's failure to act is contrary to law, this Court may order the Commission to conform with such declaration within 30 days. Including the complainant's right to pursue the matter as provided by 52 U.S.C. § 30109(a)(8)(C).

VI. WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Declare that the Commission's failure to act on Plaintiff's administrative complaint within the statutory period is contrary to law under 52 U.S.C. § 30109(a)(8)(C);
- B. Order, consistent with 52 U.S.C. § 30109(a)(8)(C), that the Commission conform with this Court's declaration within 30 days;
- C. Direct that these proceedings be expedited as required by 52 U.S.C. § 30109(a)(8)(B), including by entering an expedited briefing schedule and setting a prompt status conference;
- D. For the Court to retain jurisdiction over this matter to ensure compliance with any order issued;
- E. Award Plaintiff allowable costs and grant such other and further relief as the Court deems just and proper.

Verification

I certify under penalty of perjury that the foregoing is true and correct. Executed on February 5, 2026. Pursuant to 28 U.S.C. § 1746.



Peter Bernegger

Respectfully submitted,

Dated: February 5, 2026

Peter Bernegger - Plaintiff
1806 Brynnwood Trace
New London, WI 54961
920-551-0510 peter@electionwatch.info

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FEDERAL ELECTION COMMISSION,

Defendant.

CERTIFICATE OF SERVICE

I, Peter Bernegger, Plaintiff, hereby certifies that on February 5, 2026, a true and correct copy of the foregoing Plaintiff's First Amended Complaint was served by Fedex overnight, postage prepaid, upon the Clerk of this Court and the following counsel of record for Defendant Federal Election Commission:

Michael D. Contino
Attorney for Defendant
Federal Election Commission
Office of General Counsel
1050 First Street, NE
Washington, DC 20463

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*Angela D. Caesar, Clerk of Clerk
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