

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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PETER BERNEGGER,
Plaintiff,

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

v.

Civil Action No. 1:25-cv-04559-JEB

FEDERAL ELECTION COMMISSION,
Defendant.

**PLAINTIFF'S FIRST AMENDED COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff Peter Bernegger files this First Amended Complaint under 52 U.S.C. § 30109(a)(8) to challenge the Federal Election Commission's failure to act on his sworn administrative complaint (MUR 8399) concerning three committees affiliated with Senator Amy Klobuchar: Amy Klobuchar for Minnesota (Committee ID C00431353), Amy Klobuchar Victory Committee (Committee ID C00628354), and Amy for America (Committee ID C00696419), their candidate Amy Klobuchar, and their respective treasurers. Plaintiff seeks a declaration that the Commission's failure to act within 120 days of receipt is contrary to law, and an order directing the Commission to conform within 30 days.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 52 U.S.C. § 30109(a)(8) and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. § 2201.

2. Venue is proper in this District because Congress vested exclusive jurisdiction over actions under 52 U.S.C. § 30109(a)(8) in the United States District Court for the District of

Columbia, and because Defendant is an agency of the United States headquartered in this District.
28 U.S.C. § 1391(e)(1).

PARTIES

3. Plaintiff Peter Bernegger is a United States citizen, elector, voter, and participant in the political process by voting in elections who resides in New London, Wisconsin. He is the sworn complainant in the underlying administrative proceeding (MUR 8399) and relies on accurate and complete federal campaign finance disclosures to evaluate candidates, committees, and political fundraising practices. Plaintiff is a “party aggrieved” within the meaning of 52 U.S.C. § 30109(a)(8). *See FEC v. Akins*, 524 U.S. 11, 19–26 (1998).

4. Defendant Federal Election Commission is an independent agency of the United States located at 1050 First Street, NE, Washington, DC 20463. The Commission is charged with administering, interpreting, and civilly enforcing the Federal Election Campaign Act of 1971, as amended (“FECA”).

5. Interested parties in the underlying administrative proceeding include: (a) Amy Klobuchar for Minnesota (FEC ID: C00431353); (b) Amy Klobuchar Victory Committee (FEC ID: C00628354); (c) Amy for America (FEC ID: C00696419); (d) Amy Klobuchar, as the authorizing candidate; and (e) the respective treasurers of each committee in their official capacities as the persons responsible for receipt, deposit, and reporting of contributions and certification of reports under penalty of perjury.

LEGAL BACKGROUND

6. Under 52 U.S.C. § 30109(a)(8)(A), any party aggrieved by the Commission’s dismissal of an administrative complaint, or by the Commission’s failure to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with this Court. If the Court declares the dismissal or failure to act is contrary to law, it may direct the Commission to conform within 30 days. 52 U.S.C. § 30109(a)(8)(C).

7. Courts in this District routinely grant declaratory relief and conformance orders in such cases. *See Giffords v. FEC*, No. 1:19-cv-01192, 2021 WL 4810333 (D.D.C. Sept. 30, 2021) (finding Commission “unreasonably delayed its consideration” of administrative complaints and granting summary judgment to plaintiff).

8. The D.C. Circuit defines the “contrary to law” standard and recognizes judicial review of the Commission’s inaction. *See Orloski v. FEC*, 795 F.2d 156, 161–168 (D.C. Cir. 1986).

9. The Supreme Court has recognized complainant standing to seek judicial review in election enforcement matters. *See FEC v. Akins*, 524 U.S. 11, 19–26 (1998).

10. In assessing agency delay, courts consider the factors identified in *Telecommunications Research and Action Center v. FCC*, 750 F.2d 70, 79–80 (D.C. Cir. 1984) (“TRAC”).

11. The D.C. Circuit has explained that when this Court orders the Commission to conform within 30 days, the Commission may satisfy conformance by taking formal action within the window. A contemporaneous certification of any vote and a Statement of Reasons permit meaningful judicial review of any dismissal or deadlock. *See Campaign Legal Center v. 45Committee, Inc.*, No. 23-7040 (D.C. Cir. Oct. 8, 2024).

FACTS

A. The Administrative Complaint

12. On August 26, 2025, Plaintiff executed and submitted a sworn administrative complaint to the Federal Election Commission under 52 U.S.C. § 30109(a)(1), alleging that three committees affiliated with Senator Amy Klobuchar - Amy Klobuchar for Minnesota (FEC ID: C00431353), Amy Klobuchar Victory Committee (FEC ID: C00628354), and Amy for America (FEC ID: C00696419) - and their respective treasurers in their official capacities (collectively, the “Klobuchar Committees”) engaged in and/or facilitated systematic violations of the Federal Election Campaign Act.

13. Specifically, the administrative complaint alleged that the Klobuchar Committees violated:

- (a) 52 U.S.C. § 30122, by knowingly accepting contributions made in the name of another person (“smurfing” or “straw donor” contributions);
- (b) 52 U.S.C. § 30104(b), by knowingly filing false reports with the Commission containing inaccurate contributor information; and
- (c) 52 U.S.C. § 30116, by accepting contributions that circumvent statutory contribution limits.

14. The administrative complaint was supported by extensive documentary evidence, including FEC contribution data showing statistically anomalous patterns such as: (a) individual donors making hundreds of micro-donations on single days; (b) elderly and unemployed individuals attributed with making tens of thousands of contributions; and (c) contribution patterns exhibiting characteristics of automated or algorithmic activity rather than organic human behavior.

15. The contribution patterns identified in the administrative complaint, viewed in combination with the committees' legal obligations to obtain and report truthful contributor information, provide reason to believe that the Klobuchar Committees accepted and reported prohibited contributions in the name of another, 52 U.S.C. § 30122, filed materially false, misleading, and/or incomplete reports, 52 U.S.C. §§ 30104(b), and accepted contributions that circumvented statutory limits, 52 U.S.C. § 30116.

B. The Commission's Acknowledgment and Inaction

16. By letter dated September 3, 2025, the Commission acknowledged receipt of Plaintiff's administrative complaint. The letter stated that the complaint was received on August 26, 2025, and that the matter had been assigned Matter Under Review ("MUR") No. 8399.

17. Under 52 U.S.C. § 30109(a)(8)(A), the 120-day statutory period for the Commission to act on Plaintiff's complaint began on August 26, 2025, the date the complaint was filed. The 120-day period expired on December 24, 2025.

18. As of the date of filing of this First Amended Complaint, more than 160 days have elapsed since August 26, 2025. Despite the passage of more than 120 days, the Commission has failed to take any action on Plaintiff's administrative complaint. Specifically, the Commission has not: (a) Made a "reason to believe" determination under 52 U.S.C. § 30109(a)(2); (b) Voted to dismiss the complaint; (c) Entered into conciliation with the respondents; or (d) Taken any other final action communicated to Plaintiff.

19. Plaintiff has received no communication from the Commission regarding the status or disposition of MUR 8399 other than the initial acknowledgment letter. The Commission's failure

to act on Plaintiff's complaint within the 120-day statutory period is contrary to law under 52 U.S.C. § 30109(a)(8).

20. Plaintiff filed the original Complaint in this action on December 31, 2025, after the expiration of the 120-day statutory period on December 24, 2025. *See* 52 U.S.C. § 30109(a)(8)(A).

C. The Commission's Lack of Quorum

21. On January 29, 2026, the Commission filed a Notice of Lack of Quorum in this action (Document 3, ECF), stating that the Commission "is without a quorum and unable to authorize defense of this action."

22. FECA provides for six voting Commissioners. 52 U.S.C. § 30106(a). The authority for the Commission to conduct an investigation on an administrative matter or defend a civil action brought under 52 U.S.C. § 30109(a)(8)(A) requires the affirmative votes of four members of the Commission. 52 U.S.C. § 30107(a)(6); *see also* 52 U.S.C. § 30106(c).

23. On April 30, 2025, former Commissioner Allen Dickerson resigned from the FEC upon the expiration of his term, leaving the Commission with three Commissioners. On October 3, 2025, former Commissioner James E. "Trey" Trainor resigned from the FEC, leaving the Commission with only two Commissioners. As of the filing of this First Amended Complaint, the Commission remains without a quorum.

24. The Commission's lack of quorum does not moot or defeat Plaintiff's claims. Congress enacted 52 U.S.C. § 30109(a)(8) precisely to address circumstances where the Commission fails to act - whether due to deadlock, inaction, or inability to muster the requisite votes. The quorum

deficit is itself a failure to act within the meaning of the statute. *See Giffords v. FEC*, 2021 WL 4810333; *Orloski v. FEC*, 795 F.2d at 161–168.

25. The Commission’s quorum deficit is not a defense to this action; it is evidence of the very failure to act that 52 U.S.C. § 30109(a)(8) was designed to remedy. The statute does not condition judicial review on the Commission’s institutional capacity to act. Rather, it guarantees complainants a right to judicial review when the Commission, for whatever reason, does not act.

26. Plaintiff is aggrieved by the Commission’s failure to act on MUR 8399 and has no adequate remedy other than that provided by 52 U.S.C. § 30109(a)(8).

CLAIM FOR RELIEF

COUNT I

Failure to Act Contrary to Law (52 U.S.C. § 30109(a)(8))

27. Plaintiff incorporates all preceding paragraphs.

28. Plaintiff filed a sworn administrative complaint alleging facts that establish reason to believe violations of FECA occurred, including but not limited to: (a) contributions in the name of another, 52 U.S.C. § 30122; (b) materially false, misleading, and/or incomplete reporting, 52 U.S.C. § 30104(b); and (c) acceptance of contributions that circumvent statutory contribution limits, 52 U.S.C. § 30116.

29. The Commission’s failure to act on Plaintiff’s administrative complaint (MUR 8399) within the 120-day statutory period constitutes a “failure to act” within the meaning of 52 U.S.C. § 30109(a)(8)(A).

30. FECA requires the Commission to receive and process administrative complaints and to act in accordance with the enforcement framework Congress enacted in 52 U.S.C. § 30109. The Commission's failure to do so is contrary to law.

31. The Commission's failure to act is contrary to law because it is inconsistent with the Commission's mandatory statutory duties under FECA and deprives Plaintiff of the enforcement process and judicially reviewable disposition Congress provided. *See Orloski*, 795 F.2d at 161–168.

32. Relief is warranted under 52 U.S.C. § 30109(a)(8)(C) directing the Commission to conform within 30 days. *See Giffords*, 2021 WL 4810333.

33. Plaintiff is entitled to (a) a declaration that the Commission's failure to act is contrary to law, and (b) an order remanding the matter to the Commission and directing it to conform within 30 days as required by 52 U.S.C. § 30109(a)(8)(C).

NOTICE TO INTERESTED PARTIES

34. Plaintiff will provide notice of this action to the respondents named in the underlying administrative complaint, including Amy Klobuchar for Minnesota (C00431353), Amy Klobuchar Victory Committee (C00628354), Amy for America (C00696419), Amy Klobuchar, and the respective treasurers of each committee, in the manner required by FECA and the Federal Rules of Civil Procedure.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Declare that the Federal Election Commission's failure to act on Plaintiff's August 26, 2025 administrative complaint (MUR 8399) concerning Amy Klobuchar for Minnesota (C00431353), Amy Klobuchar Victory Committee (C00628354), and Amy for America (C00696419) within 120 days is contrary to law under 52 U.S.C. § 30109(a)(8);

B. Order the Commission to conform with that declaration within 30 days by taking one of the actions that FECA provides, including by docketing and processing Plaintiff's administrative complaint consistent with FECA and the Commission's regulations, and conformance within 30 days as required by § 30109(a)(8)(C). The Commission should also file any controlling Statement of Reasons sufficient to permit judicial review;

C. Retain jurisdiction to determine whether the Commission has conformed with the Court's order and to grant further appropriate relief;

D. If the Commission does not conform within 30 days, authorize Plaintiff to bring a civil action to remedy the violations involved in the original complaint as provided by 52 U.S.C. § 30109(a)(8)(C);

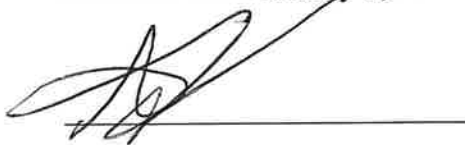
E. Award Plaintiff his allowable costs; and,

F. Grant such other and further relief as the Court deems just and proper.

VERIFICATION

I, Peter Bernegger, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the facts stated in this First Amended Complaint are true and correct to the best of my knowledge, information, and belief.

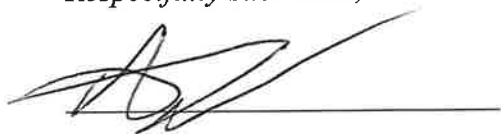
Executed on: February 5, 2026

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Peter Bernegger

Respectfully submitted,

Dated February 5, 2026

A handwritten signature in black ink, appearing to be 'PB', is written over a horizontal line.

Peter Bernegger, *Plaintiff*
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FOR THE DISTRICT OF COLUMBIA

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Plaintiff,

v.

Civil Action No. 1:25-cv-04559-JEB

FEDERAL ELECTION COMMISSION,

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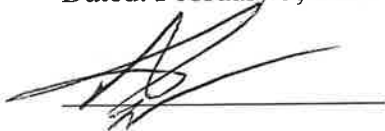
CERTIFICATE OF SERVICE

I, Peter Bernegger, Plaintiff, hereby certify that on February 5, 2026, I served a true and correct copy of Plaintiff's First Amended Complaint for Declaratory and Injunctive Relief upon counsel of record for Defendant Federal Election Commission by Fedex overnight, postage prepaid, addressed as follows:

Michael D. Contino (D.C. Bar No. 1782269) Attorney
Federal Election Commission
Office of General Counsel
1050 First Street, NE
Washington, DC 20463
Email: mcontino@fec.gov

The foregoing counsel appeared on behalf of Defendant in the Notice of Lack of Quorum filed January 29, 2026 (Document 3, ECF) in this action.

Dated: February 5, 2026



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