ORAL ARGUMENT SCHEDULED FOR APRIL 20, 2026

No. 25-5188

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

GIFFORDS,
Plaintiff-Appellee,

v.

FEDERAL ELECTION COMMISSION,
Defendant-Appellee,

NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*,
Appellants.

On Appeal from the United States District Court
for the District of Columbia, No. 1:19-cv-01192-EGS
Before the Honorable Emmet G. Sullivan

BRIEF FOR PLAINTIFF-APPELLEE GIFFORDS

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to Circuit Rule 28(a)(1), Appellee Giffords submits its Certificate as to Parties, Rulings, and Related Cases.

(A) Parties and Amici. Giffords is the Plaintiff in the district court and an Appellee in this Court. Pursuant to Circuit Rule 26.1, Giffords certifies that it is a nonpartisan, nonprofit 501(c)(4) organization that has no parent companies, does not issue stock, and in which no publicly held corporation has any form of ownership interest. Giffords is dedicated to saving lives from gun violence; to that end, Giffords researches, writes, and proposes policies designed to reduce gun violence and mobilizes voters and lawmakers in support of safer gun laws.

Federal Election Commission is the Defendant in the district court and an Appellee in this Court.

National Rifle Association of America and National Rifle Association of America Political Victory Fund, which were not parties in the district court, were movants in the district court, and are the Appellants in this Court.

(B) Rulings Under Review. The ruling under review is the Memorandum Opinion and Order (ECF No. 112) entered April 22, 2025 by the U.S. District Court for the District of Columbia (Sullivan, J.) denying Appellants' Motion for Relief from Orders and Judgment pursuant to Federal Rule of Civil Procedure 60(b)(4).

The April 22, 2025, Memorandum Opinion and Order is not published in the federal reporter.

(C) Related Cases. The appealed ruling has not previously been before this Court or any other court. There is one related case currently pending before the U.S. District Court for the District of Columbia: Appellee Giffords's lawsuit pursuant to 52 U.S.C. § 30109(a)(8)(C) against the National Rifle Association of America Institute for Legislative Action and Appellant National Rifle Association of America Political Victory Fund, *see* No. 1:21-cv-2887-LLA (D.D.C.).

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GLOSSARY OF ABBREVIATIONS

APA	Administrative Procedure Act
FEC	Federal Election Commission
FECA	Federal Election Campaign Act
NRA	National Rifle Association of America and National Rifle Association of America Political Victory Fund

INTRODUCTION

The issue presented in this appeal is straightforward and the Court should affirm because a non-party like the NRA cannot seek relief from a judgment under Federal Rule of Procedure 60(b)(4). Rather than accept that inescapable result, the NRA attempts to use this appeal as a backdoor to challenge the merits of a four-year-old final judgment it did not appeal in a case where it chose not to intervene. This Court should not countenance such gamesmanship and should affirm.

In 2021, the district court held that the Federal Election Commission had unlawfully delayed acting on Giffords's administrative complaints—complaints alleging that NRA affiliates funneled up to $35 million in illegal, unreported contributions to federal candidates through coordinated advertising schemes. The court directed the FEC to make a "reason to believe" determination under the Federal Election Campaign Act. The FEC failed to comply, and, as FECA directs, the district court authorized Giffords to file a citizen suit to remedy those violations directly. The NRA had been aware of Giffords' complaints since shortly after they were filed in 2018. Yet it chose to intervene in the case below only for the purpose of unsealing the record—deliberately avoiding the responsibilities of party status—and otherwise did nothing as the court entered final judgment.

More than two years later, the NRA filed a Rule 60(b)(4) motion seeking to vacate that judgment. The district court correctly denied it on a straightforward

ground: relief under Rule 60(b) is available only to "a party or its legal representative." The NRA is neither. The district court's decision was firmly grounded in the Rule's plain language and this Court's binding precedent. And under the Supreme Court's decision last month in *Coney Island Auto Parts Unlimited, Inc. v. Burton Trustee for Vista-Pro Automotive, LLC*, No. 24-808, 2026 WL 135998 (U.S. Jan. 20, 2026) ("*Coney Island*"), it is now settled that Rule 60(b)(4) motions must satisfy Rule 60(c)'s reasonable-time requirement—a standard the NRA's 26-month delay plainly fails.

Unable to seriously contest the reasoning of the district court's decision, the NRA makes the extraordinary claim that this Court "need not even consider" it, and instead, should review and vacate the final judgment (which it did not appeal). The Court must reject this bait and switch: the Court lacks appellate jurisdiction over the final judgment because the NRA did not appeal it and could not have appealed anyway. Having avoided intervention and the burdens of party status, the NRA cannot now use the denial of its Rule 60(b)(4) Motion to relitigate the merits of a long-concluded case, which the district court correctly decided in any event.

JURISDICTIONAL STATEMENT

The district court had jurisdiction under 52 U.S.C. § 30109(a)(8)(A) and 28 U.S.C. § 1331, and that jurisdiction continued through the final judgment. *See* Argument Section III, *infra*. The case was not mooted by the FEC's February 23,

2021 deadlocked reason-to-believe votes, which the district court properly considered in its analysis of the merits of Giffords's claim. *See id.*

This Court's appellate jurisdiction is limited to review of the district court's April 22, 2025 Order denying the NRA's Rule 60(b)(4) Motion. *See* Argument Section II.A, *infra*. The Court lacks jurisdiction to review or disturb the November 18, 2021 final judgment. *See id.* Under Federal Rule of Appellate Procedure 3(c)(1)(B), the NRA's notice of appeal designates only the April 22, 2025 Order. JA557; *see Gonzalez v. Thaler*, 565 U.S. 134, 147 (2012) ("Rule 3's dictates are jurisdictional."). The NRA's appeal of that order does not bring up the underlying judgment for review. *Banister v. Davis*, 590 U.S. 504, 520 (2020).

STATEMENT OF THE ISSUES

The text of Federal Rule of Civil Procedure 60(b)(4) allows only a "party or its legal representative" to seek relief from a final judgment. The NRA is neither a party nor a party's legal representative. Did the district court abuse its discretion by holding that the NRA cannot seek relief under Rule 60(b)(4)?

STATUTES AND REGULATIONS

Except for the pertinent statutes and regulations reproduced in the addendum to this brief, all applicable statutes, etc. are contained in the addendum to the NRA's brief.

STATEMENT OF THE CASE

I. The NRA's Violations of FECA

Congress enacted FECA following Watergate to address "deeply disturbing" reports of contributors giving large sums to candidates "to secure a political quid pro quo." *Buckley v. Valeo*, 424 U.S. 1, 26-27 (1976) (per curiam). To "limit the actuality and appearance of corruption resulting from large individual financial contributions," *id.* at 26, FECA caps contribution amounts and prohibits corporate treasury contributions, 52 U.S.C §§ 30116(a)(1), 30118(a). Relevant here, political committees may contribute no more than $5,000 per year to candidates. *Id.* § 30116(a)(1)(C). FECA also requires disclosure of contribution sources and amounts to deter corruption and inform voters. *See Buckley*, 424 U.S. at 66-67.

Starting in the 2014 election cycle, two NRA affiliates—the National Rifle Association of America Political Victory Fund (an appellant here) and the National Rifle Association of America Institute for Legislative Action—engaged in an ongoing scheme to evade FECA's limits by using shell corporations to illegally coordinate advertising. Am. Compl., ¶¶ 2, 4, 63-141, *Giffords v. NRA, et al.*, No. 21-cv-2887 (D.D.C. Jan. 15, 2025), ECF No. 81. Through this scheme, the NRA made up to $35 million in illegal, excessive, and unreported in-kind contributions across the 2014, 2016, and 2018 elections, to several federal candidates. *Id.* ¶¶ 2-4, 63-141.

These coordinated contributions violated FECA's contribution limits, corporate contribution ban, and disclosure requirements. *Id.* ¶¶ 2, 156-180.

Giffords is a nonpartisan 501(c)(4) organization founded by former Congresswoman Gabrielle Giffords. Giffords is dedicated to reducing gun violence and competing with the NRA and its supported candidates. *Id.* ¶¶ 14-19, 22. Giffords relies on accurate FEC reports to further its mission by researching policies, mobilizing voters, educating candidates, and supporting gun-safety candidates. *Id.* ¶¶ 14-15. The NRA's violations thus deny Giffords campaign finance information to which it is entitled under FECA. *Id.* ¶¶ 48-51. From August 16 to December 7, 2018, Giffords filed four administrative complaints reporting the NRA's violations to the FEC. JA025-26.

II. The FEC and Its Enforcement Process

A. The FEC Complaint Process

The FEC is "an independent agency of the United States government with exclusive jurisdiction over the administration, interpretation, and civil enforcement of [FECA]." *Combat Veterans for Cong. Pol. Action Comm. v. FEC*, 983 F. Supp. 2d 1, 5 (D.D.C. 2013) (citing 52 U.S.C. §§ 30106(b)(1), 30107(a), 30109). Congress "designed the Commission to ensure that every important action it takes is bipartisan." *Combat Veterans for Cong. Pol. Action Comm. v. FEC*, 795 F.3d 151, 153 (D.C. Cir. 2015). The FEC thus consists of six commissioners, no more than

three of whom "may be affiliated with the same political party." 52 U.S.C. § 30106(a)(1). Any "decision[] of the Commission" to "exercise . . . its duties and powers" must, at minimum, "be made by a majority vote of" commissioners. *Id.* § 30106(c).

Any person may file a sworn administrative complaint with the Commission alleging a violation of FECA. 52 U.S.C. § 30109(a)(1). After the FEC receives a complaint, the commissioners may either (1) vote "to find reason to believe" a person has committed a FECA violation, or (2) "vote to dismiss." Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 89 Fed. Reg. 19729-02, 19730 (Mar. 20, 2024). If the FEC "determines, by an affirmative vote of 4 of its members" that there is "reason to believe," the FEC must investigate the alleged violation. 52 U.S.C. § 30109(a)(2). If the vote deadlocks, "the case remains open" and the agency may conduct additional proceedings, including holding "further reason-to-believe votes" to attempt to reach bipartisan consensus. *Campaign Legal Ctr. v. 45Committee*, 118 F.4th 378, 382 (D.C. Cir. 2024). Alternatively, the Commission can dismiss a complaint either by a four-vote "no reason to believe" determination or by a majority vote to close the enforcement file without reaching the merits. *See id.* at 382, 384-85.

Until the agency closes a matter by dismissing the complaint, "there may be no public disclosure of th[e] votes or any other actions taken by the Commission

with respect to the complaint . . . unless the target of the complaint consents to disclosure." *Id.* at 382 (citing 11 C.F.R. § 111.21; 52 U.S.C. § 30109(a)(12)(A)); *see also* 52 U.S.C. § 30109(d)(1)(A) (imposing criminal penalties for knowing and willful violations). Only once the FEC dismisses the complaint, may "the Commission make[] public, among other things, the votes taken with respect to the complaint." *45Committee*, 118 F.4th at 382.

B. Judicial Review of FEC Delay and FECA Citizen Suits

Because the FEC's bipartisan structure "creates a risk that partisan deadlock will prevent enforcement of campaign finance laws," Congress "accounted for that possibility with a judicial review provision." *Citizens for Resp. & Ethics in Washington v. FEC*, 55 F.4th 918, 923 (D.C. Cir. 2022) (Millet, J., dissenting from denial of reh'g en banc). That provision allows any administrative complainant "aggrieved by . . . a failure of the Commission to act on [a] complaint during the 120-day period beginning on the date the complaint is filed" to seek review in this District. 52 U.S.C. § 30109(a)(8)(A) (often called a "delay suit"). The district court hearing the case "may declare that the . . . failure to act is contrary to law." *Id.* § 30109(a)(8)(C).

As the D.C. Circuit has explained, a FECA failure-to-act claim is effectively an APA unreasonable delay claim, *see* 5 U.S.C. § 706(1), applied to the FEC. On

the same day this Court created the so-called "*TRAC* factors" for APA 706(1) claims, it held:

> [T]he unreasonableness of the Commission's delay in completing its task [must] be tested under standards generally applicable to review of agency inaction . . . under general principles of administrative law and the Administrative Procedure Act, 5 U.S.C. § 706(1). *See Telecommunications Research & Action Center v. FCC*, No. 84-1035 & 84-5077, slip op. at 18-19 (D.C. Cir. Oct. 24, 1984) (citing factors).

In re Nat'l Cong. Club, Nos. 84-5701, 84-5719, 1984 WL 148396, at *1 (D.C. Cir. Oct. 24, 1984) (per curiam); *see also 45Committee*, 118 F.4th at 383 (reaffirming that the *TRAC* factors apply to FEC failure-to-act claims).

After review, if the district court declares that a failure to act is contrary to law, it "may direct the Commission to conform with [that] declaration within 30 days." 52 U.S.C. § 30109(a)(8)(C). If the FEC fails to conform within 30 days, the complainant may file a citizen suit, *i.e.*, "a civil action to remedy the violation involved in the original complaint." *Id.*; *see 45Committee*, 118 F.4th at 386-88.

III. Giffords Sues the FEC for Unreasonable Delay.

A. Giffords Alleges the FEC Failed to Expeditiously Make a Reason-to-Believe Determination.

After the FEC failed to act on Giffords's complaints for more than 120 days, Giffords filed this delay suit against the Commission on April 24, 2019 under 52 U.S.C. § 30109(a)(8)(A). JA024-44. Career attorneys in the FEC's nonpartisan

Office of General Counsel appeared in the case and defended the agency. JA005, 053-137, 230-87, 337-341, 374-386.

After a period of discovery, the parties cross-moved for summary judgment in December 2019. JA053-336. The FEC argued that the "specific actions the agency has taken in these matters plainly shows that it has acted reasonably," and that "[t]here is no basis to find unlawful delay here." JA065. To support those contentions, the agency disclosed to the Court—under seal to maintain FECA-required confidentiality of open enforcement proceedings—the alleged actions it had taken in the administrative proceedings, including those since the suit was filed. JA073-75, 087-089. Giffords sought summary judgment on the grounds that the FEC had failed "to determine whether there is reason to believe [the respondents] . . . violated FECA and should therefore be investigated." JA151.

While the cross motions were pending, the FEC filed two notices informing the Court of new developments in the FEC's ongoing handling of Giffords's administrative complaints. JA337-41. The first notice stated that, on February 9, 2021, the Commission held a vote on a motion to find two of the four complaints provided "no reason to believe" the respondents had violated FECA. JA338-39. That vote failed in deadlock, 2-3, with one recusal. *Id.* All four of Plaintiff's administrative complaints were held over "for further consideration" at the Commission's next meeting. *Id.* The FEC's second notice informed the Court that

on February 23, 2021, the Commission held a vote to find "reason to believe," a vote to find "no reason to believe," and a vote to close the file, all of which deadlocked and thus failed to receive the necessary four votes to pass. JA340-41.

In response to those notices, Giffords pointed out that "[t]hese votes have done nothing but extend the Commission's unlawful failure to act on the administrative complaints," because, due to the deadlocks, "an investigation of Plaintiff's administrative complaints cannot begin." Pl.'s Resp. to Def.'s Notice of Subsequent Developments at 2, *Giffords v. FEC*, No. 19-cv-1192-EGS (D.D.C. Apr. 2, 2021), ECF No. 86.

B. The District Court Rules the FEC's Delay Was Contrary to Law.

On September 30, 2021, the district court issued a memorandum opinion and order granting Giffords's motion for summary judgment. JA343-73. The court concluded "the FEC has unreasonably delayed its consideration of Plaintiff's administrative complaints." JA354. The court properly considered the entire factual record of the FEC's handling of the administrative complaints and found that "the FEC's failure to reach a reason-to-believe determination more than three years after the first administrative complaint was filed is prejudicial" to Giffords and "the electoral system." JA363. The district court specifically described the FEC's February 23, 2021 deadlocked reason-to-believe vote, and included that vote in its analysis. JA350-51, 371. The court's ruling concluded by declaring the FEC's delay

contrary to law and directing the FEC "to conform to the Court's Order within 30 days . . . by making the reason-to-believe determination set forth in 52 U.S.C. § 30109(a)(2)." JA372; *see also* JA373 (order, stating same).

More than 30 days later, on November 1, 2021, the district court held a status conference during which the FEC confirmed that it had failed to even vote whether to find reason to believe, let alone make the reason-to-believe determination the Court's September 30 Order required. JA379; *see also* JA560-61 (Oct. 27, 2021 vote certification). After the November 1, 2021 conference, the court entered an order finding the FEC failed to conform and authorizing Giffords's citizen suit. JA387-88. On November 2, 2021, Giffords filed a FECA citizen suit against the NRA Political Victory Fund and other defendants. *See* Compl., *Giffords v. NRA, et al.*, No. 21-cv-2887 (D.D.C. Nov. 2, 2021), ECF No. 1.

C. The NRA Intervenes to Unseal the Judicial Record.

Eleven days after the district court found that the FEC failed to conform, on November 12, 2021, the NRA moved to intervene—not as a party, but for the limited purpose of moving to unseal the judicial record after the NRA agreed to waive FECA's confidentiality protections. JA389-420. Final judgment was entered six days later, on November 18, 2021. JA421-22. On December 13, 2021, the Court granted the NRA's motion and unsealed the record. JA019. Once the record was unsealed, the NRA obtained access to the documents the FEC filed in the case

evidencing its alleged actions on Giffords's complaints, including the FEC's February 2021 reason-to-believe deadlocks. JA019-20.

D. The FEC Dismisses and Discloses the Enforcement File.

Eight months after final judgment, a new commissioner arrived at the FEC, *see* JA594-95, who then voted with three continuing commissioners to close the file, thereby dismissing Giffords's administrative complaints. JA596. That dismissal triggered the FEC's September 30, 2022 disclosure of the matter's administrative file.[1] Among the documents the FEC released was the October 26, 2021 vote certification evidencing that the agency had failed to conform to the district court's contrary to law order. JA560-61.

E. The District Court Denies the NRA's Rule 60(b)(4) Motion and the NRA Appeals Only That Denial.

More than two years after final judgment, on January 26, 2024, the NRA—properly designating itself as a non-party—filed a Motion for Relief from Orders and Judgment under Rule 60(b)(4), arguing that the district court's decision and order on summary judgment, authorization of the citizen suit, and final judgment were void for lack of subject matter jurisdiction. JA423-78. The Motion argued the

[1] *See generally* FEC Public Record re: MUR 7427, *available at* https://www.fec.gov/data/legal/matter-under-review/7427/; FEC Public Record re: MUR 7497, *available at* https://www.fec.gov/data/legal/matter-under-review/7497/; FEC Public Record re: MUR 7524, *available at* https://www.fec.gov/data/legal/matter-under-review/7524/; FEC Public Record re: MUR 7553, *available at* https://www.fec.gov/data/legal/matter-under-review/7553/.

case became moot before the district court entered the orders and judgment, and there was no case or controversy. JA456-67.

On April 22, 2025, the district court issued a memorandum opinion denying the NRA's Rule 60(b)(4) Motion. JA542-43. The sole basis for the court's ruling was that the NRA, as a non-party, lacks standing to bring a Rule 60(b) motion. JA552. The district court explained that "[t]he text of Rule 60(b) explicitly limits relief to parties and their legal representatives." JA552. The court rejected the NRA's request for an exception to the plain text of Rule 60(b) for non-parties who claim to be "strongly affected" by a case's judgment. JA553-55. The court also rejected the NRA's claim that a court may ignore Rule 60(b)'s party requirement whenever a non-party raises allegedly jurisdictional objections to the judgment. JA555-56.

The NRA filed a Notice of Appeal that designates only the Court's April 22, 2025 Rule 60(b) ruling. ECF No. 113. On October 29, 2025, this Court issued an Order denying Giffords's motion for summary affirmance and referring Giffords's motion to dismiss to this panel.

SUMMARY OF ARGUMENT

The Court should affirm the district court's 2025 denial of the NRA's Rule 60(b)(4) Motion and reject the NRA's improper attempt to appeal the 2021 final judgment.

I. The district court did not abuse its discretion in denying the NRA's Rule 60(b)(4) Motion. First, the Rule's plain text limits relief to "a party or its legal representative"—the NRA was neither, so it had no standing to bring the motion. This Court faced the same set of the circumstances in *Agudas Chasidei Chabad of U.S. v. Russian Fed'n*, 19 F.4th 472, 477 (D.C. Cir. 2021) ("*Chabad II*"), and held that non-parties may not seek relief under Rule 60(b), even when they argue the judgment is void. Courts across the country similarly apply the Rule as written. Second, the NRA cannot get around that bar by framing its challenge as jurisdictional. The same *Chabad* line of cases makes clear that a jurisdictional argument does not rewrite Rule 60(b) for non-parties—they must use other procedural vehicles (like intervention or appeal), which the NRA chose not to pursue. Third, the NRA's reliance on a narrow Second Circuit exception to the text of Rule 60(b), which that court articulated in *Grace v. Bank Leumi Trust Co. of N.Y.*, 443 F.3d 180 (2d Cir. 2006), fails because this Court has declined to adopt it, and the NRA's facts do not remotely match *Grace*'s unusual circumstances. Finally, under the Supreme Court's January 2026 decision in *Coney Island*, the NRA's motion was untimely. The NRA waited 26 months after judgment with no good excuse, which fails to comply with Rule 60(c)'s "reasonable time" requirement.

II. Affirming the district court's denial of the NRA's Rule 60(b)(4) Motion resolves this appeal; as the NRA itself emphasizes, "[t]he NRA is *not* appealing the

underlying judgment—it appeals the denial of its Rule 60(b)(4) motion." NRA Br. 36. But the NRA nevertheless asks this Court to vacate the underlying 2021 final judgment, which it admits it has not appealed. The Court must reject this request. First, this Court lacks appellate jurisdiction to review the final judgment. An appeal from a Rule 60(b) denial brings up only that denial for review—not the underlying judgment—even when the appellant frames its objections as jurisdictional. Second, the NRA is procedurally barred from appealing the judgment as a non-party. Only parties—including those who properly intervene—may appeal. The NRA deliberately avoided intervention to sidestep the burdens of party status and so cannot now use a Rule 60(b) denial as a backdoor to relitigate the merits. The Court should reject this transparent attempt to circumvent settled appellate procedure.

III. Even if the NRA could somehow use Rule 60(b)(4) to challenge the underlying judgment—which it cannot—that challenge would still fail on the merits. The NRA advances two theories for why the 2021 judgment was void, but both are wrong. First, the case was not moot. The February 2021 deadlocked FEC votes the NRA relies on were not final agency action and did not provide the specific relief Giffords sought—an actual reason-to-believe determination. Under the well-established *Common Cause*/*TRAC* factors, the district court properly treated those deadlocks as one factor among many in determining on the merits that the FEC's delay was unreasonable. Second, the parties did not lack adversity. The FEC and

Giffords sought diametrically opposite outcomes and pursued them through the normal course of litigation. The NRA's complaint that the FEC failed to raise a particular argument did not implicate the district court's Article III jurisdiction. If the NRA believed the FEC inadequately represented its interests, the remedy was timely intervention, not a belated attack on a final judgment.

STANDARD OF REVIEW

This Court reviews the denial of a Rule 60(b) motion for abuse of discretion, though it reviews questions of law *de novo*. *Smalls v. United States*, 471 F.3d 186, 191 (D.C. Cir. 2006). The Court's "function is not to determine the substantive correctness of the judgment but rather is limited to deciding whether the district court abused its discretion in ruling that sufficient grounds for disturbing the finality of the judgment were not shown." *Id.* This standard preserves "'the delicate balance between the sanctity of final judgments'" and the needs of justice, while preventing Rule 60(b) from being "'employed simply to rescue a litigant from strategic choices that later turn out to be improvident.'" *Id.* (quoting *Good Luck Nursing Home, Inc. v. Harris*, 636 F.2d 572, 577 (D.C. Cir. 1980)).

ARGUMENT

I. The Court Should Affirm the District Court's Denial of the NRA's Rule 60(b)(4) Motion.

This appeal presents a single issue: whether a non-party is entitled to seek relief under Rule 60(b)(4). The district court correctly held that the answer to that

question is no—a non-party like the NRA may not seek Rule 60(b)(4) relief because the text of that rule explicitly states that only a "party or its legal representative" may do so. The district court also met its obligation to assess its own subject matter jurisdiction and properly declined to apply an inapplicable out-of-circuit exception to Rule 60(b) that this Court has already declined to adopt. The NRA's motion also fails for being untimely, as confirmed by the Supreme Court's recent decision in *Coney Island*.

A. A Nonparty Is Not Entitled to Seek Relief Under Rule 60(b)(4).

Rule 60(b), the basis of the NRA's Motion, limits relief to parties and their legal representatives: "On motion and just terms, the court may relieve *a party or its legal representative* from a final judgment, order, or proceeding." Fed. R. Civ. P. 60(b) (emphasis added). This Court has repeatedly held that relief under "Rule 60(b) by its own terms is available only to 'a party or [its] legal representative.'" *Ratner v. Bakery & Confectionery Workers Int'l Union*, 394 F.2d 780, 782 (D.C. Cir. 1968) (quoting *id.*); *see also Chabad II*, 19 F.4th at 477. When courts apply the Rules of Civil Procedure, specifically Rule 60, "the Rule's 'text and structure' take priority." *Coney Island*, 2026 WL 135998, at *4 (quoting *Honeycutt v. United States*, 581 U.S. 445, 453 (2017)); *see also id.* at *6 (Sotomayor, J., concurring in the judgment) ("Rule 60's text and structure require [the Court's] conclusion."). In a separate decision issued the same day as *Coney Island*, the Supreme Court similarly

emphasized the importance of applying the Rules as written. *Berk v. Choy*, No. 24-440, 2026 WL 135974, at *3 (U.S. Jan. 20, 2026) ("[W]e interpret the Federal Rules the same way we interpret federal laws more generally: by giving them their 'plain meaning.'") (citations omitted). And this Court has repeatedly emphasized that district courts should, absent ambiguity, begin and end their analysis with the plain text of the rules. *See Mann v. Castiel*, 681 F.3d 368, 372 (D.C. Cir. 2012) (describing the "plain text" requirements of Rule 4); *Chabad II*, 19 F.4th at 477 ("[T]he Federal Rules of Civil Procedure are to be accorded 'their plain meaning.'") (quoting *Pavelic & LeFlore v. Marvel Ent. Grp.*, 493 U.S. 120, 123 (1989)).

The district court, then, correctly concluded that the NRA was not entitled to relief under Rule 60(b), as the NRA was undisputedly neither a party nor a party's legal representative in the litigation. JA552-53. The NRA was therefore not entitled to bring its Motion. Deciding otherwise would have required the district court to not only rewrite the rule, but would have also been contrary to this Court's holding in *Chabad II*, where it affirmed the district court's denial of a Rule 60(b)(4) motion for precisely the same reason. 19 F.4th at 477. Circuit courts throughout the country have likewise applied the plain text of Rule 60(b) to preclude nonparties from filing such motions. *See, e.g.*, *Screven v. United States*, 207 F.2d 740, 741 (5th Cir. 1953); *Bridgeport Music, Inc. v. Smith*, 714 F.3d 932, 940 (6th Cir. 2013); *Ericsson, Inc. v. InterDigital Commc'n Corp.*, 418 F.3d 1217, 1224 (Fed. Cir. 2005); *United States*

v. 8136 S. Dobson St., 125 F.3d 1076, 1082 (7th Cir. 1997). The Court should do the same here and affirm.

B. The District Court's Obligation to Ensure Jurisdiction Did Not Cure the Procedural Deficiency in the NRA's Motion.

The NRA first attempts to avoid the plain meaning of Rule 60(b)(4), and this Court's precedents, by misinterpreting *Chabad II* and related cases. In *Chabad II*, this Court made clear that Rule 60(b) forecloses a non-party motion, even where that motion alleges a jurisdictional defect. The facts of *Chabad II* are strikingly similar to this case—a late-arriving non-party movant sought to overturn an existing judgment through Rule 60(b). As in this case, the district court entered judgment only to have a non-party movant—Tenex-USA ("Tenam") appear years later to seek vacatur, including by arguing that the judgment was void under Rule 60(b)(4). 19 F.4th at 475; *see also Agudas Chasidei Chabad of U.S. v. Russian Fed'n*, No. 1:05-cv-01548, 2020 WL 13652608, at *1 (D.D.C. July 28, 2020) ("*Chabad I*").[2] And just as the NRA did here, Tenam argued the district court lacked subject matter jurisdiction to enter judgment—specifically arguing that the court was without authority to enter judgment against the Russian Federation, and the court lacked jurisdiction to order specific performance, and that such judgments were therefore void. Statement of Points and Auth. by Non-Party Tenex-USA in Supp. of its Mot.

[2] NRA refers to this decision as Chabad Dkt. 221. *See* NRA Br. 29; *see also* ADD022-024.

Under Rule 60(b) at 13-21, *Agudas Chasidei Chabad of U.S. v. Russian Federation*, No. 1:05-cv-01548 (D.D.C. Jan. 22, 2020), ECF No. 203-1.[3] Acknowledging that the "D.C. Circuit has not taken a position on the scope of third parties' standing under Rule 60(b)," the district court applied the plain language of the rule and denied Tenam's motion because it was not a party, notwithstanding Tenam's challenge to the court's subject matter jurisdiction. *Chabad I*, 2020 WL 13652608, at *1-2. Tenam appealed and this Court affirmed, again relying on the language in Rule 60(b) limiting relief to "a party or [its] legal representative." *Chabad II*, 19 F.4th at 477. In its analysis, the Court relied on the plain text of the rule, this Court's decision in *Ratner*, and the district court's discussion of a leading treatise on civil procedure. *Id.* (citations omitted). This Court's reasoned decision makes clear that Rule 60(b) does not contain an implicit exception for jurisdictional arguments. To the contrary, *Chabad II* held that the movant's non-party status was an independent and sufficient reason to deny the motion. *Id.*

Although there are no meaningful differences between the circumstances presented in *Chabad II* and in this case—and the NRA's motion was therefore properly denied under Rule 60(b)—the NRA argues that *Chabad II* left the door

[3] Like the NRA here, Tenam also argued that the court should apply the *Grace* exception and that its motion was not time-barred. Statement of Points and Auth. by Non-Party Tenex-USA in Supp. of its Mot. Under Rule 60(b) at 10-13, *Agudas Chasidei Chabad of U.S. v. Russian Federation*, No. 1:05-cv-01548 (D.D.C. Jan. 22, 2020), ECF No. 203-1.

open for non-party Rule 60(b)(4) challenges because of other proceedings in the district court, which the NRA says "incorporated" Tenam's jurisdictional arguments. NRA Br. 29. But the NRA misstates those proceedings. Nothing in the district court's consideration of Tenam's Rule 60(b) motion indicates that the district court was looking beyond the procedural defects to reach the jurisdictional arguments. The court's entire discussion of those arguments was: "Tenam addressed its concerns regarding this Court's jurisdiction in a companion motion seeking certification to pursue an interlocutory appeal. This Court has denied that motion." *Chabad I*, 2020 WL 13652608, at *2 (citations omitted). In the "companion motion," the district court considered those arguments because that is what the applicable standard required. Order at 1-2, *Agudas Chasidei Chabad of U.S. v. Russian Fed'n*, No. 1:05-cv-01548 (D.D.C. July 28, 2020), ECF No. 220 ("*Chabad III*")[4] (addressing standard for an interlocutory appeal under 28 U.S.C. § 1292(b), including whether "there is substantial ground for difference of opinion on the controlling question of law"). Unlike Rule 60(b), section 1292(b) does not limit such relief to parties or their legal representatives, so there was no similar bar on Tenam making such a motion.

To the extent any doubt remained, this Court resolved it later in the *Chabad* litigation, when it made clear that the non-party movant was not entitled to bring a

[4] NRA refers to this decision as Chabad Dkt. 220. *See* NRA Br. 29; ADD017-020.

Rule 60(b)(4) motion, even though the same party may be able to raise jurisdictional issues though a different, appropriate, procedural mechanism. *Agudas Chasidei Chabad of U.S. v. Russian Fed'n*, 110 F.4th 242, 247 (D.C. Cir. 2024) ("*Chabad IV*") ("[R]egardless of the district court's jurisdiction over the Russian Federation, [the movant] could not invoke Rule 60(b) to void the judgments."). The district court in this case, therefore, acted in accordance with this Court's precedents by denying the NRA's procedurally defective motion, even though it raised subject-matter jurisdiction arguments. As *Chabad IV* explained, non-parties may raise such arguments through appropriate means, but the substance of the arguments does not authorize circumventing the rules. *Id.* at 249 (citation modified) ("[Tenam] could not attack the judgments in this case through a Rule 60(b) motion because [Tenam] was not 'a party or its legal representative'" in the litigation resulting in those judgments."). This is true even where a movant asserts the judgment was void. *See Coney Island*, 2026 WL 135998, at *3. Here, the most likely avenue to raise such an argument would have been intervention as a party and, if appropriate, appeal, which the NRA opted not to pursue. The district court was therefore correct to deny the motion on that basis.

Particularly in light of this Court's holdings in *Chabad II* and *Chabad IV*, the NRA's citation to a footnote in *Jakks Pacific, Inc. v. Accasvek, LLC*, 270 F. Supp. 3d 191 (D.D.C. 2017), is unpersuasive. *See* NRA Br. 28. In *Jakks*, while the district

court analogized to Rule 60(b)(4), it was not actually addressing a motion brought under the Rule. 270 F. Supp. 3d at 196 ("[A]lthough Fortress and Cunningham have not styled their filings as motions under Rule 60(b)(4), that is in essence the relief that they seek."). And although it addressed "standing" in passing, the district court in *Jakks* did not analyze the limitations of Rule 60(b), nor this Court's precedent from cases like *Ratner*. *Id.* This Court, similarly, did not reach the issue in its summary affirmance. *Jakks Pac., Inc. v. Accasvek, LLC*, 727 F. App'x 704 (D.C. Cir. 2018) (per curiam), *cert. denied*, 139 S. Ct. 596 (2018). Most importantly, *Jakks* was decided four years before *Chabad II*, and cannot be reconciled with the holding in that case.

Henderson ex rel. Henderson v. Shinseki is likewise of no help to the NRA. *See* NRA Br. 35. That case had nothing whatsoever do with the application of Rule 60(b) or a non-party's ability to belatedly attack an existing judgment. To the contrary, the discussion in *Henderson* to which the NRA cites admonishes parties not to reframe their argument as "jurisdictional." 562 U.S. 428, 434-35 (2011). And even where the Supreme Court addressed how a jurisdictional issue "alters the normal operation of our adversarial system," it did not indicate that a non-party may nonetheless overturn an existing judgment. *Id.* (noting that "*a party*, after losing at trial, may move to dismiss the case because the trial court lacked subject-matter jurisdiction") (emphasis added). Here, the NRA is doing precisely what the Court

sought to avoid in *Henderson*: conflating disagreement with the district court's analysis on the merits with the court's jurisdiction. *See* Argument Section III, *infra.*

The district court did not "ignore" jurisdictional defects, but was tasked with resolving the NRA's Rule 60(b)(4) Motion, which the court did consistent with the Rule and this Court's binding precedent. As that decision denying that motion was plainly correct, it should be affirmed.

C. This Court's Caselaw Forecloses the NRA's Reliance on an Inapplicable Out-of-Circuit Exception to Rule 60(b).

The NRA's final effort to avoid the limitations of Rule 60(b) is to claim, in passing, that it is entitled to the atextual exception described by the Second Circuit in *Grace v. Bank Leumi Trust Co. of New York*, 443 F.3d 180 (2d Cir. 2006). NRA Br. 45. This argument, too, is foreclosed by *Chabad II*, in which this Court affirmed a decision declining to adopt the *Grace* exception. 19 F.4th at 477. As the district court noted here, this followed the D.C. Circuit's general practice of declining to create or adopt *ad hoc* exceptions to the Rules. JA554 n.6; *see also Abbas v. Foreign Pol'y Grp., LLC*, 783 F.3d 1328, 1335 (D.C. Cir. 2015). The Sixth Circuit has likewise considered, but not adopted, such an exception. *See Bridgeport*, 714 F.3d at 941. And the Eighth Circuit, like this Court, applies Rule 60(b) as written. *See Stavenger v. Jay Ryan Enters., Inc.*, No. 07-cv-03514-ADM-RLE, 2015 WL 1189817, at *3 (D. Minn. Mar. 16, 2015). Given that this Court, like others, has

declined to adopt the *Grace* exception, the district court's decision to apply Rule 60(b)'s text as written was clearly correct.

Even if this Court had recognized the *Grace* exception, the district court correctly determined that it would not apply here anyway. JA554-555. *Grace* was "limit[ed] . . . to the facts of [that] case," 443 F.3d at 188, which were extraordinary:

> where plaintiffs enter into a settlement agreement with a judgment-proof, *pro se* defendant with the intent at the time of the settlement to collect from a third party that allegedly received fraudulent conveyances, and further, they attempt to use the judgment as a predicate for a fraudulent conveyance action against the third party, the third party is "strongly affected" by the judgment and entitled to standing to bring a Rule 60(b) motion.

Id.

The Second Circuit has declined to extend *Grace* beyond these unusual facts. *See, e.g.*, *Federman v. Artzt*, 339 F. App'x 31, 33-34 (2d Cir. 2009) (summary order). Plainly, nothing similar occurred here, nor does the NRA claim otherwise. Unlike in *Grace*, the judgment here was not the "result of a settlement process devoid of due process protections and marred by serious procedural shortcomings," 443 F.3d at 189, but instead the result of lengthy and involved litigation. The district court received evidence and argument from the parties and made a reasoned decision, carefully applying the law to the facts. JA353-72, 554-55. The NRA was aware of the proceeding, 52 U.S.C. § 30109(a)(1); JA396-98, and declined to intervene as a party. Rather than address the facts of *Grace*, which were central to this Court's

discussion of that case in *Chabad II*, the NRA merely restates its argument that it is "strongly affected" by the judgment. NRA Br. 45, 51. But that is, at most, only part of what the Second Circuit considered in *Grace*, and the NRA does not attempt to establish that the remaining elements that were present in *Grace* exist in this case. 443 F.3d at 188; *see also Federman*, 339 F. App'x at 34 ("There is nothing similarly extraordinary about the situation before us."). Therefore, even if this Court had adopted it, the *Grace* exception would not apply.

Moreover, the NRA is not "strongly affected" by the judgment in this case. The judgment does not require the NRA to do or to abstain from any act, and the underlying decision turns on the FEC's conduct, not the NRA's. The only way in which the NRA can claim that it was affected by the judgment in this case is that it enabled Giffords to file its citizen suit, which the NRA is defending—precisely the outcome Congress envisioned, *see* 52 U.S.C. § 30109(a)(8)(C).

The NRA's newfound claim to an interest so profound that it would justify operating outside the text of Rule 60(b) is also belied by its extensive delay. The NRA's decision not to contest the judgment until 2024—twenty-six months after judgment—is at odds with any argument it may have that it was "strongly affected" by the events in this case, as was its decision not to intervene as a party. *See* Fed. R. Civ. P. 24(a); *see Good Luck Nursing Home, Inc. v. Harris*, 636 F.2d 572, 577 (D.C. Cir. 1980) ("Rule 60(b) cannot, therefore, be employed simply to rescue a litigant

from strategic choices."). The district court's decision to abide by the text of Rule 60(b) was plainly correct and should be affirmed.

D. The NRA's Rule 60(b) Motion Was Untimely.

The NRA's Rule 60(b)(4) Motion also failed because it was not filed within the "reasonable time" required under Rule 60(c). Fed. R. Civ. P. 60(c)(1). Although the district court did not address timeliness, this Court has "discretion to consider alternative grounds for affirmance resting on purely legal arguments." *In re Fed. Bureau of Prisons' Execution Protocol Cases*, 955 F.3d 106, 112 (D.C. Cir. 2020). And prior to the Supreme Court's decision last month in *Coney Island*, the district court would not have had occasion to resolve the timeliness issue, as it was foreclosed by this Court's decision in *Bell Helicopter Textron v. Islamic Republic of Iran*, 734 F.3d 1175 (D.C. Cir. 2013). In that case, as in *Austin v. Smith*, 312 F.2d 337 (D.C. Cir. 1962), this Court declined to apply any time limit to Rule 60(b)(4) motions. *Id.* at 1180; *see also* NRA Br. 43.

But four weeks ago, in *Coney Island*, the Supreme Court squarely rejected that view, finding that even motions alleging flaws in jurisdiction are subject to Rule 60(c)'s timeliness limitations. 2026 WL 135998, at *4. As this represents a significant change in law during the pendency of the NRA's appeal, Giffords did not

waive this argument by not directly raising it below.[5] *See Hormel v. Helvering*, 312 U.S. 552, 558-559 (1941) (recognizing an exception to waiver in "those [cases] in which there have been judicial interpretations of existing law after decision below and pending appeal—interpretations which if applied might have materially altered the result").

The NRA did not submit its motion within the "reasonable time" required by Rule 60(c)(1). In analogous circumstances seeking relief under Rule 60(b)(6), courts evaluate reasonableness by "measur[ing] the time at which a movant could have filed his or her Rule 60(b)(6) motion against when he or she did in fact file the motion." *Bouret-Echevarria v. Caribbean Aviation Maint. Corp.*, 784 F.3d 37, 43 (1st Cir. 2015) (collecting cases). Courts of appeals have used the limitation from Rule 60(c)(1) "to forestall abusive litigation" by denying motions "alleging errors that should have been raised sooner (*e.g.*, in a timely appeal)." *Kemp v. United States*, 596 U.S. 528, 538 (2022). Even for those motions subject to the one-year limitation under Rule 60(c), that year represents an outside boundary on what constitutes a "reasonable time." *See* Wright & Miller Federal Practice & Procedure § 2866 (3d.

[5] While any argument under Rule 60(c) was foreclosed at the time of the proceedings below, Giffords did raise the timeliness of the NRA's motion below. JA516 (noting that the NRA filed its motion "more than 26 months after this Court's final judgment"); JA521. And the NRA is unlikely to be surprised by a timeliness argument, as it chose to address the issue in its opening brief. NRA Br. 43 (citing *Austin*, 312 F.2d at 343).

ed. June 2024 update) ("The one-year period represents an extreme limit[.]"). And "[i]n this Circuit, courts almost uniformly deny Rule 60(b)(6) motions as untimely when they are filed more than three months after judgment." *Carvajal v. Drug Enforcement Admin.*, 286 F.R.D. 23, 26 (D.D.C. 2012).

The NRA did not meet this standard. The district court issued its opinion on September 30, 2021, and entered judgment on November 18, 2021. JA421-22. As a respondent, the NRA had been on notice of the proceedings since shortly after Giffords filed its first administrative complaint, 52 U.S.C. § 30109(a)(1), and controlled the scope of the FEC's confidentiality throughout the process, 52 U.S.C. § 30109(a)(12); *Mayfair Extension, Inc. v. Magee*, 241 F.2d 453, 454 (D.C. Cir. 1957) (holding Rule 60(b) motion untimely when filed more than a year after the movant was advised of the judgment). And although the district court proceedings were largely sealed while the case was pending, the NRA waived confidentiality and successfully intervened to unseal the record less than a month after the district court entered judgment. JA389-422. Yet the NRA did not file the motion at issue here until January 26, 2024—twenty-six months later.

The FEC also released documents responsive to a related NRA FOIA request on or before August 24, 2022. JA619. The NRA thus had full access to the information required more than a year before it filed its motion. Any argument that the NRA's delay was justified because it lacked the required information only

compounds its timeliness defect, as a Rule 60(b) motion based on "newly discovered evidence" must be filed within a year of judgment. Fed. R. Civ. P. 60(c)(1).

Nor can the NRA argue that its delay was reasonable due to changes in the law. As the NRA acknowledges, courts began holding that deadlocked reason-to-believe votes could constitute "acts" within the meaning of FECA no later than March 31, 2023. *See* NRA Br. 31 (citing *CLC v. 45Committee, Inc.*, 666 F. Supp. 3d 1, 4 (D.D.C. 2023)). The NRA's delay is not only inexplicable, but also prejudices Giffords, which has been forced to defend the district court's judgment for more than two years. *See Kagan v. Caterpillar Tractor Co.*, 795 F.2d 601, 610 (7th Cir. 1986) (listing prejudice as a factor courts should consider in assessing reasonableness under Rule 60(c)(1)).

For the reasons described in Argument Section III, *infra*, the NRA's (and its amici's) claims that the district court's judgment was void are without merit. But even allegations of voidness are subject to time limitations, which the NRA failed to meet. For this independent reason, the district court's order should be affirmed.

II. The Court Should Deny the NRA's Improper Request to Review the Final Judgment, Which the NRA Did Not and Cannot Appeal.

That a non-party like the NRA may not seek relief under Rule 60(b)(4) resolves this appeal. While the NRA noticed an appeal *only* from the district court's April 22, 2025 Order denying its Rule 60(b)(4) Motion, it nonetheless attempts to bait and switch this Court into hearing an impermissible appeal of the final judgment.

Indeed, the NRA makes the extraordinary claim that this Court "need not even consider" the Rule 60(b)(4) order it appealed and, instead, should review and vacate the final judgment, which it did not and cannot appeal. NRA Br. 35-36.

This Court lacks appellate jurisdiction to entertain the NRA's ploy. And even if the NRA had attempted to notice an appeal of the judgment, the NRA would have been procedurally barred from doing so anyway because it is not a party.

A. The Court Lacks Appellate Jurisdiction Over the Final Judgment.

The NRA noticed its appeal only from the April 22, 2025 Order denying its Rule 60(b)(4) Motion—not from the November 18, 2021 final judgment or the earlier merits orders. That choice strictly limits this Court's review to the April 22, 2025 denial; the earlier orders and judgment are not subject to review or vacatur.

As the NRA itself acknowledges, "Article III courts are guided by the 'fundamental precept that federal courts are courts of limited jurisdiction,'" and those limits—including those "'imposed . . . by Congress'"—"'must neither be disregarded nor evaded.'" NRA Br. 30 (quoting *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978)). Congress granted courts of appeals jurisdiction over only certain district court orders, including "final decisions," *see* 28 U.S.C. § 1291, and only where a party filed a timely notice of appeal that "designate[s] the judgment—or the appealable order—from which the appeal is taken," Fed. R. App. P. 3(c)(1)(B); *see Gonzalez v. Thaler*, 565 U.S. 134, 147 (2012) ("Rule 3's dictates

are jurisdictional.") (citation modified). Because "jurisdiction is confined to the particular order appealed from," courts of appeals "will not consider matters that were ruled upon in other orders." *United States v. Stanley*, 483 U.S. 669, 677 (1987). The denial of Rule 60(b) relief is appealable as "'a separate final order.'" *Banister v. Davis*, 590 U.S. 504, 520 (2020) (quoting *Stone v. INS*, 514 U.S. 386, 401 (1995)). Because a Rule 60(b) motion "does not affect the judgment's finality or suspend its operation," Fed. R. Civ. P. 60(c)(2), "an appeal from the denial of Rule 60(b) relief 'does not bring up the underlying judgment for review.'" *Banister*, 590 U.S. at 520 (quoting *Browder v. Dir., Dep't of Corr. of Ill.*, 434 U.S. 257, 263 n.7 (1978)).

The NRA's notice of appeal designates only the April 22, 2025 Order denying its Rule 60(b)(4) Motion. JA557. And the NRA's brief emphasizes the NRA "is not appealing the underlying judgment" and acknowledges its appeal "'does not bring up the underlying judgment for review.'" NRA Br. 36 (quoting *Banister*, 590 U.S. at 520). Yet the NRA demands review and vacatur of that judgment anyway, *see id.*, notwithstanding the limits of the Court's appellate jurisdiction.

The NRA claims that this Court can review and vacate the judgment despite not attempting to appeal it because the NRA's objections are purportedly jurisdictional. *See* NRA Br. 35-36. But that is not true. As a preliminary matter, the NRA's objections to the Court's 2021 judgment in fact concern the merits, not

jurisdiction. *See* Argument Section III, *infra*. But even if those objections were jurisdictional, they still would not justify review. Courts of appeals uniformly hold that when reviewing a Rule 60(b) denial, they lack appellate jurisdiction to review the underlying final judgment—even when the appellant challenges the district court's decision whether it had jurisdiction to enter such a judgment. *See Feiss v. United States*, No. 2021-1986, 2022 WL 396106, at *1 (Fed. Cir. Feb. 9, 2022) (quoting *Browder*, 434 U.S. at 263 n.7) ("We lack jurisdiction to review the Claims Court's May 2018 dismissal for lack of jurisdiction, because Dr. Feiss did not timely appeal that dismissal and because 'an appeal from denial of Rule 60(b) relief does not bring up the underlying judgment for review.'"); *LaBranche v. Dep't of Def.*, 720 F. App'x 182, 184 (5th Cir. 2018) (same); *Lommen v. McIntyre*, 125 F. App'x 655, 658 (6th Cir. 2005) (same); *Brown v. United States*, 80 F. App'x 676, 678 (Fed. Cir. 2003) (same); *Mendelson v. Brown*, 82 F.3d 420 (7th Cir. 1996) (same).

Were the rule otherwise, Rule 60(b)(4) would enable collateral attacks on long-final judgments whenever a party frames its objections as jurisdictional. The Supreme Court, however, has rejected that result—a Rule 60(b)(4) Motion "is not a substitute for a timely appeal." *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270 (2010). Instead, relief from a judgment that is "void" due to a jurisdictional defect is available only subject to Rule 60(b)(4)'s strict requirements, including that only a party may obtain relief in the "exceptional case" where the court "lacked even

an arguable basis for jurisdiction" such that there was a "clear usurpation of power." *Espinosa*, 559 U.S. at 271 (citation modified).

B. As a Non-Party, NRA Is Procedurally Barred from Appealing the Final Judgment.

Even if the NRA had attempted to timely appeal the judgment, it would have been precluded from doing so because it is not a party. "It is a well settled rule that only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment." *Broidy Cap. Mgmt. LLC v. Muzin*, 61 F.4th 984, 989 (D.C. Cir. 2023) (citation modified). If a non-party objects to a final judgment, they "must seek to intervene in the proceedings (either before or after entry of the judgment) as a condition of taking an appeal." *U.S. v. LTV Corp.*, 746 F.2d 51, 54 (D.C. Cir. 1984). That is because "intervention is the requisite method for a nonparty to become a party to a lawsuit." *U.S. ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 933 (2009). This rule "is a procedural requirement that appellate courts must address separately from issues of standing or jurisdiction." *Muzin*, 61 F.4th at 990. As the district court found, "[t]he NRA admits that it is not a party to this lawsuit and does not contend that it is standing in as one of the parties' legal representatives." JA552-53; *see* JA475; NRA Br. 36-38. The general rule thus independently bars the NRA's attempt to effectively appeal the underlying judgment.

The NRA does not fall within the narrow exception to this rule. A non-named party may nevertheless be a "party" for the purposes of appeal if they are "bound by

an underlying order" and "participated in the trial court under 'the applicability of various procedural rules … based on [the] context' of the underlying proceedings." *Muzin*, 61 F.4th at 991 (quoting *Devlin v. Scardelletti*, 536 U.S. 1, 10 (2002)). In every case where a court has considered a nonparty to be a "party" for purposes of appeal, the district court issued a "final decision" that settled a "right or claim" held by the non-party. *Devlin*, 536 U.S. at 9 (allowing non-named class member to appeal settlement approval binding "petitioner as a member of the class"); *see also, e.g.*, *U.S. Catholic Conference v. Abortion Rights Mobilization, Inc.*, 487 U.S. 72, 76 (1988) (allowing non-parties to appeal order holding them in civil contempt); *Hinckley v. Gilman, Clinton, & Springfield Railroad Co.*, 94 U.S. 467, 468-69 (1876) (allowing non-party to appeal order directing him to make a substantial payment as part of a foreclosure sale). In contrast, the NRA is not bound by the final judgment, which settles no right or claim held by the NRA. This suit concerns only whether *the FEC* complied with—and if not, whether it conformed to—its obligations under FECA. Any disposition of the NRA's rights occurs in the citizen suit, where it can appeal an adverse judgment. The NRA thus cannot use Rule 60(b) to circumvent the procedural bar on non-party appeals and attack the district court's judgment in the delay suit.

As it must, the NRA concedes that it "is *not* appealing the underlying judgment[.]" NRA Br. 36 (emphases original). Instead, it claims to appeal only the

denial of its Rule 60(b)(4) Motion, independent of the underlying judgment. *Id.* 36-37. But if the NRA is a party for the purpose of challenging the district court's Rule 60 order, it is a party *for that purpose alone*. *See Banister*, 590 U.S. at 520. Whenever the Court has allowed a non-party to become a "party" for purposes of appeal, it has only allowed the non-parties appeal to the extent to which it was bound. *See, e.g.*, *Hinckley*, 94 U.S. at 469 ("The receiver cannot and does not attempt to appeal from the decree of foreclosure, or from any order or decree of the court, except such as relates to the settlement of his accounts."); *Devlin*, 536 U.S. at 9 (same). And yet, the NRA devotes substantial portions of its brief to relitigating the underlying judgment. NRA Br. 27-36.

The NRA's arguments for why this Court may nonetheless reach the validity of the final judgment are unavailing. As an initial matter, as the district court found, the NRA was plainly not entitled to relief under Rule 60(b), which was sufficient cause to deny the motion. *See* Argument Section I.A-C, *supra.* The only other way this Court could reach the NRA's merits arguments would be in a direct appeal of the underlying judgment, which did not occur here. NRA Br. 36.

The NRA nonetheless pushes its claims that the judgment was flawed here because, it asserts, it cannot make those arguments anywhere else, *see* NRA Br. 37—but that is both irrelevant and incorrect. Jurisdictional arguments must be brought in accordance with applicable procedures and are subject to certain limitations, and

there is no guarantee that a party (or non-party) can raise any argument it wants at any time. *See Coney Island*, 2026 WL 135998, at *3. Moreover, denial of a Rule 60(b)(4) Motion does not necessarily foreclose consideration of such arguments if they are brought "through an appropriate procedural vehicle." *See, e.g.*, *Chabad IV*, 110 F.4th at 249.

And the NRA had the opportunity to raise its arguments elsewhere. Had it successfully sought intervention, the NRA could have raised its mootness and adverseness arguments below and appealed any adverse ruling. Instead, the NRA chose to avoid the burdens of party status, including establishing entitlement to intervention, exposure to potential discovery, and the limitations of res judicata. Having reaped the benefits of its strategic decisions in the delay suit, the NRA now complains about the downsides to secure a potential *third* bite at the apple of evading liability for its FECA violations.

The NRA is also now defending itself in the citizen suit. To be sure, some of the NRA's objections may not be properly raised in the citizen suit, as they amount to collateral attacks on the judgment of the district court in this case. *See, e.g.*, *Smalls v. United States*, 471 F.3d 186, 192 (D.C. Cir. 2006) ("A federal district court lacks jurisdiction to review decisions of other federal courts."). But the NRA has raised overlapping non-jurisdictional arguments in its defense in that case. Defendant's

Motion to Dismiss Giffords's First Amended Complaint at 17-25, *Giffords v. Nat'l Rifle Assoc.*, No. 1:21-cv-02887 (Mar. 7, 2025).

The Court should reject the NRA's gamesmanship and attempt to circumvent Rule 60(b)'s requirements. *See In re Sealed Case (Bowles)*, 624 F.3d 482, 487 (D.C. Cir. 2010) (discussing Rule 60(b) circumvention concerns). Otherwise, it would render restrictions on whether and when judgments can be appealed nullities. *See id.* And non-parties would have little reason to intervene before final judgment, knowing they could later bring a Rule 60(b)(4) motion and appeal any denial. Indeed, under the NRA's view, even non-parties whose intervention was correctly denied could pursue a broader appeal, using a Rule 60(b)(4) denial as a backdoor. *Contra Alt. Rsch. and Dev. Found. v. Veneman*, 262 F.3d 406, 408 (D.C. Cir. 2001).

In its prior motion to dismiss this appeal, Giffords argued that this Court should dismiss because the NRA was not a party to the judgment. This remains true—having decided not to intervene, the NRA cannot perform an end-run to challenge a judgment to which it was not a party and is not bound. Given the nature of the NRA's appeal, this Court is without jurisdiction to review (or vacate) the district court's final judgment. *See* 28 U.S.C. § 2106.

III. Even if the NRA Could Use Rule 60(b)(4) to Appeal the Final Judgment, That Appeal Would Fail.

As explained above, the NRA's appeal should be dismissed because the district court correctly decided that non-parties cannot seek relief under Rule 60(b)(4). *See* Argument Section I, *supra*. But even if this Court were to disagree and reverse the district court's April 22, 2025 Order, it would present no occasion for this Court to also reach the NRA's objections to the judgment, which the district court did not address, the NRA did not and could not appeal, and over which this Court lacks appellate jurisdiction. *See* Argument Section II, *supra*; *see also Hettena v. Cent. Intel. Agency*, 145 F.4th 1354, 1358 (D.C. Cir. 2025) (citing the "general rule" that "a federal appellate court does not consider an issue not passed upon below" (citation omitted)). In that scenario, the case should be remanded to the district court for further proceedings on the merits of the NRA's Rule 60(b)(4) arguments, which would then be subject to this Court's review under a deferential abuse of discretion standard. *Smalls*, 471 F.3d at 191.

But even if the NRA could transform this narrow appeal of the Rule 60(b)(4) denial into an appeal of the final judgment, its arguments would fail. The NRA's mootness and adverseness claims do not concern the court's jurisdiction and, in any event, lack merit. Under Rule 60(b)(4), a judgment is "void" due to a jurisdictional defect only in the "exceptional case in which the court that rendered judgment lacked even an arguable basis for jurisdiction." *Espinosa*, 559 U.S. at 271 (citation

modified). An arguable basis is lacking not merely where there has been "an error in the exercise of jurisdiction," but where there is a "[t]otal want of jurisdiction" such that the district court engaged in a "clear usurpation of power." *Id.* (citation modified). Neither of the NRA's arguments satisfies this (or any other) standard.

A. The February 2021 Deadlocks Did Not Moot the Case.

The NRA incorrectly claims this suit became moot when, in February 2021, the FEC deadlocked on votes to find that Giffords's FEC complaints stated "reason to believe" the NRA and others violated FECA. NRA Br. 30-36. Rather than rendering the case moot, these deadlocked votes were simply one among many factors the district court properly evaluated in deciding the FEC's delay was unreasonable and thus contrary to law.

Under FECA, a district court may declare an FEC "failure to act" within 120 days "contrary to law" and "direct the Commission to conform" within 30 days. 52 U.S.C. § 30109(a)(8)(A)-(C); *see also* Statement of the Case Section II.A-III.B, *supra*. The district court must evaluate the "unreasonableness of the Commission's delay in completing its task" by applying the *TRAC* and "*Common Cause*" factors. *See In re Nat'l Cong. Club*, 1984 WL 148396, at *1; *45Committee*, 118 F.4th at 383. Applying those factors, "[w]here the issue before the Court is whether the agency's failure to act is contrary to law, the Court must determine whether the Commission has acted expeditiously." *Common Cause*, 489 F. Supp. at 744 (citation modified).

Under this well-established framework, the February 2021 deadlocks did not moot the case because they were not final agency action, were not the specific non-final action Giffords's claim sought, and were merely one of many factors to be examined under the *Common Cause*/*TRAC*-factor analysis.

1. The Deadlocks Were Not Final Agency Action.

As an initial matter, the deadlocked votes were not final agency action that could have mooted the case by dismissing Giffords's administrative complaints. As *45Committee* explained, "a failed reason to believe vote" does not "occasion[] dismissal of the complaint" or otherwise terminate an FEC enforcement matter. 118 F.4th at 382. Instead, "a reason-to-believe vote resulting in a deadlock will give rise to a dismissal only if a majority of Commissioners separately votes to dismiss the complaint." *Id.*

Before *45Committee* was decided, the NRA had claimed the February 2021 deadlocks were final agency action. *See* JA437-38, 449, 451, 466-68. Forced to abandon that claim, the NRA now resorts to misleadingly calling the deadlocks "statutorily significant" because they were the FEC's "*final* reason-to-believe votes." NRA Br. 33. But this made-up label has no basis in FECA or administrative law: a deadlocked vote has no extra significance because of where it fell in a series of other votes. And as the NRA's brief itself describes, the February 2021 deadlocks were not even the FEC's last votes: after February 2021, Giffords's complaints

remained open for 18 months, during which time the FEC deadlocked again on October 26, 2021, *see* JA560-61, before dismissing the case by closing the file on August 29, 2022 (eight months after final judgment in this case), *see* NRA Br. 15-22; JA596.

2. The Deadlocks Were Not the Action Giffords Sought.

While the February 2021 deadlocks were not final agency action, they also were not the particular action Giffords's failure-to-act claim sought. Giffords sought not just *any* action, but to compel the FEC "to *determine* whether there is reason to believe [the respondents] violated FECA." JA151 (emphasis added); *see also* Statement of the Case Section III.A, *supra*. The district court's order granting summary judgment correspondingly directed the FEC "to conform . . . by *making the reason-to-believe determination* set forth in 52 U.S.C. 30109(a)(2)," not merely by holding an unsuccessful vote that failed to make any determination at all. JA372; *see also* JA373 (same); *see also* NRA Br. 5 (acknowledging that "a reason to believe determination" requires the "vote of 4 of the FEC's [6] members"). The FEC never made such a determination in this case, which would have resulted in either dismissal or an investigation. *See 45Committee*, 118 F.4th at 382.

3. The Deadlocks Were Non-Final Acts Relevant to the Merits of Whether the FEC Unreasonably Delayed.

Because the February 2021 deadlocks did not dismiss Giffords's complaint or provide the relief it sought, the district court properly considered those deadlocks

under the *Common Cause*/*TRAC* factors to determine, on the merits, whether the FEC's delay was "contrary to law." JA353-72. The court found that Giffords's allegations were credible and posed significant threats to the electoral system, that information availability did not justify delay, and that the FEC's failure to reach a reason-to-believe determination over three years after the initial complaint was prejudicial. JA354-64. The Court gave particular weight to the February 2021 deadlocked votes, which demonstrated commissioners had "a firm grasp on the complex issues." JA362. However, the seven-month silence afterward was unreasonable since the February 2021 votes proved commissioners had already "carefully considered and understood the facts, legal issues, and interests at stake." JA371-372.

Contrary to the NRA's claims, merely because the FEC took "some action" does not mean it acted expeditiously or, certainly, that the case became moot. *Campaign Legal Ctr. v. FEC*, No. 1:20-cv-0809-ABJ, 2021 WL 5178968, at *7 (D.D.C. Nov. 8, 2021) (citing *FEC v. Rose*, 806 F.2d 1081, 1091 (D.C. Cir. 1986)). Courts must instead examine the FEC's entire "handling of [the] administrative complaint" for "prompt and sustained agency attention to [the] complaint" and "thorough consideration of the issues it raised." *Rose*, 806 F.2d at 1091. Indeed, courts have held that FEC failures to act can be "contrary to law" even where the FEC took significant non-final action—such action does not moot the claim. *See,*

e.g., *Common Cause*, 489 F. Supp. at 740-41, 744-45 (finding three-year delay contrary to law even though during that time FEC found reason to believe, found probable cause, and conducted an investigation).

If non-final action like a deadlock mooted failure-to-act claims, courts could *never* rule on the merits that an FEC delay was reasonable, since the very actions supporting that conclusion would strip reviewing courts of jurisdiction. Yet this Court has decided such cases on the merits: In *Rose*, for example, the D.C. Circuit rejected a failure-to-act claim where the FEC "acted on the complaint immediately" and voted to find reason to believe seven months later—not due to mootness, but because the FEC had not "unjustifiabl[y] delay[ed]." 806 F.2d at 1091.

The NRA cites no case where a court held non-final action mooted an FEC delay suit. Instead, the primary cases upon which the NRA relies were both decided *on the merits*, not jurisdiction. *See 45Committee*, 118 F.4th at 392; *Campaign Legal Ctr. v. Heritage Action for Am.*, No. 23-7107, 2025 WL 222305, at *1 (D.C. Cir. Jan. 15, 2025). This is true even though in both cases, the FEC held deadlocked reason-to-believe votes long before the deadlocks the Courts found were dispositive occurred. *See 45Committee*, 118 F.4th at 383 (describing June 2020 reason-to-believe deadlock, 18 months before dispositive December 2021 deadlock); *Heritage Action for Am. v. FEC*, 682 F. Supp. 3d 62, 68 (D.D.C. 2023) (describing April 2021 reason-to-believe deadlock, one year before dispositive April 2022 deadlock). Under

the NRA's theory, those initial deadlocks should have mooted both cases. *See* NRA Br. 31-33. But they did not. And so in effect, the NRA urges this Court to rule that it decided *45Committee* and *Heritage Action* incorrectly under its own reasoning in both cases.

45Committee and *Heritage* are likewise distinguishable because they both involved the issue of whether a deadlocked reason-to-believe vote conforms with a court order directing the FEC "to take any action at all." *45Committee*, 118 F.4th at 390 ("When a contrary-to-law decision arises from the Commission's failure to act on a complaint at all, the Commission conforms by holding a reason-to-believe vote, regardless of the vote's outcome."); *Heritage Action*, 2025 WL 222305, at *1 (following *45Committee* and explaining that "the district court ordered the FEC to act" on the complaint and "[b]y holding the votes, the FEC complied"). That issue is not present in this case. The district court here ordered the FEC not just to act "at all," but specifically to "conform . . . by making the reason-to-believe determination," JA373, that Giffords sought, JA373. The FEC failed to do so.

45Committee and *Heritage Action* thus both demonstrate that the district court decided this case correctly.

B. There Was an Article III Case or Controversy.

The NRA contends this Court lacked Article III jurisdiction because the FEC failed to raise an argument the NRA now (three years later) deems dispositive,

allegedly rendering the litigation non-adversarial. *See* NRA Br. 43-54. This assertion is baseless, but even if it were true, it would raise only prudential concerns, not jurisdictional ones.

Article III requires an adversarial dispute between parties with adverse interests, not disagreement over every legal theory. *See GTE Sylvania, Inc. v. Consumers Union*, 445 U.S. 375, 382 (1980); *Muskrat v. United States*, 219 U.S. 346, 357 (1911). A case or controversy exists so long as the parties seek opposing outcomes; federal courts lack jurisdiction only when "litigants desire precisely the same result." *Moore v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 47, 48 (1971).

Giffords and the FEC sought diametrically different outcomes in the district court. Giffords sought a declaration that the FEC's delay was "contrary to law" and an order requiring the Commission to conform with that declaration by making a reason-to-believe determination. JA151, 158. The FEC vigorously opposed that relief through motions and briefing, arguing its pace and conduct were reasonable under *Common Cause* and *TRAC*. JA053-137, 230-336. The parties sought opposite results: Giffords pursued a judgment enabling a citizen suit, while the FEC sought to avoid any declaration of unlawful delay. That is classic Article III adversity. *See Lord v. Veazie*, 49 U.S. 251, 255 (1850).

Unable to dispute this adversity, the NRA argues jurisdiction was lacking because the FEC did not advance a specific legal argument the NRA prefers. NRA

Br. 43-51. That theory fails. Allegations that a party failed to press particular arguments do not defeat Article III jurisdiction. As the Supreme Court explained, such claims "elide[] the distinction between the jurisdictional requirements of Article III and the prudential limits on its exercise." *United States v. Windsor*, 570 U.S. 744, 756-58 (2013). Article III is satisfied when a plaintiff has standing, even if the defendant agrees with the plaintiff on the legal merits. *See id.* at 756-61 (explaining that "[t]he Executive's agreement with Windsor's legal argument" raises "prudential problems," not constitutional ones); *INS v. Chadha*, 462 U.S. 919, 939-40 (1983) (holding jurisdiction existed despite the parties' agreement the legislative veto was unconstitutional because Chadha's deportation hinged on the ruling). The NRA's proposed rule would upend routine federal practice. For example, courts regularly enter default judgments when defendants raise no arguments at all, without triggering jurisdictional concerns. *See* Fed. R. Civ. P. 55. Under the NRA's theory, this could never happen—the defendant's failure to defend the case—or failure to do so in a specific way—would deprive the court of jurisdiction.

This case is even further removed from Article III concerns than *Windsor* and *Chadha*, where the principal parties largely agreed on the required outcome. The NRA does not challenge Giffords's standing (nor could it), so Article III is satisfied. And the FEC opposed Giffords's legal arguments and desired outcome. JA053-137, 230-341. The NRA can only Monday-morning quarterback the specific arguments

it thinks the FEC's non-partisan career staff should have raised. *See* NRA Br. 47-51. This second-guessing raises no Article III issue.

The NRA's theory regarding the parties' adversity has additional problems. The argument the NRA claims the FEC "omitted" was not dispositive. *See* NRA Br. 47. As detailed above, a deadlocked vote does not resolve whether the FEC acted "expeditiously" under the *Common Cause*/*TRAC* analysis. *See supra* pp. 42-44. Moreover, as the NRA concedes, none of the district court cases on which it relies to attack the FEC's litigation strategy were even issued until years after this Court's 2021 judgment. *See* NRA Br. 33, 48 (citing *45Committee, Inc.*, 666 F. Supp. 3d at 1 (issued in 2023), *Heritage Action for Am.*, 682 F. Supp. 3d at 62 (issued in 2023); *Campaign Legal Center v. Iowa Values*, 691 F. Supp. 3d 94 (D.D.C. 2023)). The FEC reasonably presented the administrative record and argued its conduct was lawful; it was not required to advance a losing or unsettled argument.

The Court should also reject the NRA's bizarre claim that the FEC's legal arguments were driven by a "bloc" of Commissioners who hatched a "scheme" to bring about Giffords's citizen suit. NRA Br. 1, 8-11, 20-22, 44-45. This distorts Commission procedure: fewer than four commissioners cannot cause the agency to take any position or action, and deadlock that may occur is far from being the result of a nefarious scheme but, instead, inherent in the bipartisan six-member structure of the agency. *See supra* p. 5. Tellingly, the NRA treats FEC deadlocks with a blatant

double standard: When three or fewer commissioners vote against pursuing enforcement, the NRA says the resulting deadlock is "evidence of the Congressional scheme working." NRA Br. 6 (citation modified). But when other commissioners exercise their statutory right to vote not to dismiss a case, the resulting deadlocks are suddenly a nefarious "scheme." *Id.* 8-11. Despite the obvious incentives to deadlock, throughout the FEC's history, commissioners believing a complaint should be investigated have often chosen to vote to dismiss the complaint or defend the agency against suit in an act of bipartisan compromise. Indeed, in this very case, the commissioners who the NRA accuses of scheming joined their anti-enforcement colleagues to authorize the agency's lawyers to defend against Giffords's lawsuit. JA558-59. Contrary to the NRA's suggestions, *see, e.g.*, NRA Br. 8-9, those commissioner choices did not calcify into a legal requirement that they must dismiss enforcement matters they would prefer to pursue. *See 45Committee*, 118 F.4th at 382 ("[A] reason-to-believe vote resulting in a deadlock will give rise to a dismissal only if a majority of Commissioners separately votes to dismiss the complaint.").

In any event, the NRA's theories about collusion and schemes are irrelevant to whether there was sufficient adversity to maintain jurisdiction. Even if all six commissioners aligned with Giffords' position on the merits, the FEC had not given Giffords the relief it requested—a determination of its complaints on the merits. This alone is sufficient for Article III adversity. *See Windsor*, 570 U.S. at 757.

Ultimately, if the NRA believed the FEC inadequately represented its interests, its remedy was timely intervention, *see Crossroads Grassroots Pol'y Strategies v. FEC*, 788 F.3d 312, 321 (D.C. Cir. 2015), which it declined to pursue, not a belated effort to vacate a final judgment.

* * *

In sum, this Court lacks appellate jurisdiction to hear the NRA's attack on the judgment, which does not implicate subject-matter jurisdiction in any event. But even if the Court could review the judgment, it should be upheld.

CONCLUSION

For the foregoing reasons, the Court should affirm the district court's order denying the NRA's Rule 60(b) Motion.

Dated: February 19, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because it contains 12,599 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f). This filing complies with the typeface requirements of Fed. R. App. P. 27(a)(5) and the type style requirements of Fed. R. App. P. 27(a)(6) because this brief has been prepared using Microsoft Office Word in Times New Roman 14-point font.

/s/ Daniel S. Lenz
Daniel S. Lenz

CERTIFICATE OF SERVICE

I certify that on February 19, 2026, I electronically filed this brief with the Clerk of Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system, thereby serving all persons required to be served.

/s/ Daniel S. Lenz
Daniel S. Lenz

ADDENDUM

TABLE OF CONTENTS

5 U.S.C. § 706(1)
Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall--

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be--

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

28 U.S.C. § 2106
Determination

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

52 U.S.C. § 30106(b)(1)
Federal Election Commission

* * *

(b) Administration, enforcement, and formulation of policy; exclusive jurisdiction of civil enforcement; Congressional authorities or functions with respect to elections for Federal office

(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of Title 26. The Commission shall have exclusive jurisdiction with respect to the civil enforcement of such provisions.

* * *

52 U.S.C. § 30116(a)(1)
Limitations on contributions and expenditures

(a) Dollar limits on contributions

(1) Except as provided in subsection (i) and section 30117 of this title, no person shall make contributions--

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $2,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $25,000, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year;

(C) to any other political committee (other than a committee described in subparagraph (D)) in any calendar year which, in the aggregate, exceed $5,000; or

(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.

* * *

52 U.S.C. § 30118(a)
Contributions or expenditures by national banks, corporations, or labor organizations

(a) In general

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

* * *

Federal Rules of Appellate Procedure 3(c)(1)

Rule 3. Appeal as of Right—How Taken

* * *

(c) Contents of the Notice of Appeal.

(1) The notice of appeal must:

(A) specify the party or parties taking the appeal by naming each one in the caption or body of the notice, but an attorney representing more than one party may describe those parties with such terms as "all plaintiffs," "the defendants," "the plaintiffs A, B, et al.," or "all defendants except X";

(B) designate the judgment--or the appealable order--from which the appeal is taken; and

(C) name the court to which the appeal is taken.

* * *

Federal Rule of Civil Procedure 24(a)

Rule 24. Intervention

(a) INTERVENTION OF RIGHT. On timely motion, the court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by a federal statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

* * *

Federal Rules of Civil Procedure 55

Rule 55. Default; Default Judgment

(a) ENTERING A DEFAULT. 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.

(b) ENTERING A DEFAULT JUDGMENT.

(1) By the Clerk. If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk--on the plaintiff's request, with an affidavit showing the amount due--must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

(2) By the Court. In all other cases, the party must apply to the court for a default judgment. A default judgment may be entered against a minor or incompetent person only if represented by a general guardian, conservator, or other like fiduciary who has appeared. If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing. The court may conduct hearings or make referrals--preserving any federal statutory right to a jury trial--when, to enter or effectuate judgment, it needs to:

(A) conduct an accounting;
(B) determine the amount of damages;
(C) establish the truth of any allegation by evidence; or
(D) investigate any other matter.

(c) SETTING ASIDE A DEFAULT OR A DEFAULT JUDGMENT. The court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).

(d) JUDGMENT AGAINST THE UNITED STATES. A default judgment may be entered against the United States, its officers, or its agencies only if the claimant establishes a claim or right to relief by evidence that satisfies the court.

Federal Rules of Civil Procedure 60(c)

Rule 60. Relief from a Judgment or Order

* * *

(c) TIMING AND EFFECT OF THE MOTION.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) Effect on Finality. The motion does not affect the judgment's finality or suspend its operation.

* * *