

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SENATE MAJORITY PAC,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civil Action No. 1:26-cv-336-BAH

AFFIDAVIT IN SUPPORT OF DEFAULT

I hereby certify under penalty of perjury, this 8th day of April, 2026, that I am the attorney of record for the plaintiff in the above-entitled case; that the defendant Federal Election Commission was served in accordance with Federal Rule of Civil Procedure 4(i)(1) & (2) as follows: (1) pursuant to Federal Rule of Civil Procedure 4(i)(1)(A)(i), a copy of the summons and complaint was personally delivered on February 6, 2026, to the civil process clerk at the office of the United States Attorney for the District of Columbia; (2) pursuant to Federal Rule of Civil Procedure 4(i)(1)(B), a copy of the summons and complaint was sent by certified mail on February 6, 2026, to the Attorney General of the United States at Washington, D.C. and was signed for on February 17; and (3) pursuant to Federal Rule of Civil Procedure 4(i)(2), a copy of the summons and complaint was sent by certified mail on February 6, 2026, to the Federal Election Commission and was signed for on February 13.

I further certify under penalty of perjury that no pleading has been filed and none served upon the attorney for plaintiff, no extension has been given and the time for filing has expired, and the defendant is neither an infant nor an incompetent person.

On April 6, 2026, an attorney for the Federal Election Commission appeared and filed a “Notice of Lack of Quorum.” ECF No. 9. This document confirms that “the Commission lacks a quorum and is without the authority to litigate the merits of plaintiff’s Complaint.” *Id.* ¶ 4. It is not, and does not purport to be, a “responsive pleading” under Federal Rule of Civil Procedure 12(a) or a motion under Federal Rule of Civil Procedure 12(b). Its filing therefore does not prevent the Federal Election Commission from having defaulted in this case. *See Jackson v. Beech*, 636 F.2d 831, 835 (D.C. Cir. 1980) (“Once a defendant fails to file a responsive answer, he is in default, and an entry of default may be made by either the clerk or the judge.”).

The Clerk is requested to enter a default against the Federal Election Commission.

Dated: April 8, 2026

Respectfully submitted,

/s/David R. Fox
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