



included at least four votes in favor of closing the MUR files at this time. As a result of these file closures, the Commission will place on the public record categories of documents integral to its decision-making process in these MURs, including certifications of Commission votes and Commissioner statements of reasons, in accord with the agency's disclosure policy. *See* FEC, Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702, 50,703 (Aug. 2, 2016). The Commission will do so as soon as practicable and generally endeavors to do so within 30 days. *Id.*

The closure of these MUR files, and resulting disclosures, are pertinent to the FEC's Motion to Dismiss, as to which briefing has concluded, and plaintiff's Cross-Motion for Summary Judgment, as to which briefing is currently underway. (*See* FEC's Motion to Dismiss ("Motion to Dismiss") (ECF No. 17); Plaintiff's Cross-Motion for Summary Judgment (ECF No. 20).) In its Motion the Commission argued that this Court lacks jurisdiction and that plaintiff has failed to state claims upon which relief can be granted. (Motion to Dismiss at 12-33.) In part, the Commission explained that the agency has a longstanding practice of holding votes to close administrative enforcement files, and that this practice is an exercise of lawful discretion as well as a permissible interpretation of the Federal Election Campaign Act and FEC regulations. (*Id.* at 24-25; FEC's Opposition to Cross-Motion for Summary Judgment at 24-44 (ECF No. 26).) The closure of these MUR files in matters that appear to meet the criteria of the seven MURs plaintiff has challenged, and resulting disclosures, mean that these issues will soon be mooted.

The Commission will confer with plaintiff Heritage Action to confirm its agreement that the case will shortly become moot and to propose an appropriate course of action for the interim period. Given the pending motions, the Commission wanted to provide this immediate update.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 1, 2022, I served the foregoing pursuant to Fed. R. Civ. P. 5(b)(2)(E) on counsel of record, as a registered ECF user, through the Court's ECF system.

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