

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JOSH HAWLEY FOR SENATE  
150 Long Road  
Suite 50  
Chesterfield MO 63005

Plaintiff,

Civil Case No. \_\_\_\_\_

v.

FEDERAL ELECTION COMMISSION  
1050 First Street NE  
Washington, DC 20463

Defendant.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Now comes Plaintiff, Josh Hawley for Senate, and states as follows:

**INTRODUCTION**

1. Plaintiff brings this action under the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (“FOIA”), challenging the Federal Election Commission’s (the “FEC” or “Commission”) improper withholding of records responsive to Plaintiff’s FOIA request submitted on November 23, 2021 (the “FOIA Request” or “Request”).

2. Plaintiff filed a request for documents with the FEC on November 23, 2021, regarding the FEC’s consideration of several enforcement matters, all of which are related in subject matter, and certain of which name Plaintiff as an administrative respondent (together, the “Related MURs”). In response to Plaintiff’s request, the FEC provided an incomplete and redacted production on January 7, 2022, noting that it was withholding 32 pages of responsive materials under specified FOIA exemptions. The FEC produced one additional responsive document on

March 25, 2022, and reiterated that it was withholding 32 pages of responsive materials under specified FOIA exemptions.

3. Plaintiff filed an administrative appeal with Defendant on March 30, 2022.

4. The FEC notified Plaintiff on April 27, 2022, that “[u]pon review of your FOIA appeal, the Commission was unable to render an opinion on whether to approve or deny the appeal by a majority vote.” Due to this stalemate the FEC: (a) continues to withhold 32 pages of responsive documents, including vote certifications and a Statement of Reasons issued by two Commissioners in connection with the Related MURs; and (b) is unable to approve or deny Plaintiff’s administrative appeal.

5. The FEC long ago held votes on the administrative complaints in the Related MURs and lacked the necessary four votes to proceed with an investigation, thereby terminating the administrative complaints. Upon information and belief, certain Commissioners have arbitrarily and capriciously conspired to (i) force FEC administrative respondents such as Plaintiff into civil litigation to defend against administrative complainants’ allegations and (ii) intentionally deny the parties, courts, and general public access to records of the FEC’s votes and determinations as to the Related MURs, all while falsely claiming the FEC failed to act. Indeed, the FEC’s FOIA violation in this matter appears to be part of a pattern and practice to deny parties in certain enforcement matters access to FEC records, including those lawfully available under FOIA. 5 U.S.C. § 552. *See, e.g., 45Committe Inc. v. FEC*, Case No. 1:22-cv-00502-ABJ (currently pending before this Court and alleging that FEC has improperly withheld responsive documents under FOIA in similarly situated matter).

6. The FEC’s withholding of responsive documents is in violation of FOIA as the FEC’s cited FOIA exemptions are not applicable.

7. The Court should order the FEC to immediately and fully comply with Plaintiff's FOIA Request, award Plaintiff costs and attorneys' fees, and find that the FEC acted arbitrarily and capriciously by withholding the responsive materials without legal basis.

### **PARTIES, JURISDICTION, AND VENUE**

8. This Court has both subject matter and personal jurisdiction over the parties and claims pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Venue lies in this District under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1).

9. Plaintiff Josh Hawley for Senate is a nonprofit corporation incorporated in the State of Missouri. Plaintiff is organized as a political organization pursuant to Section 527 of the Internal Revenue Code, as amended, and is registered with the Federal Election Commission as the authorized campaign committee of Senator Josh Hawley, who represents the State of Missouri in the United States Senate.

10. Defendant Federal Election Commission is an independent agency of the United States Government. The FEC is charged with the administration and enforcement of federal campaign finance law. The FEC is headquartered in Washington, D.C., and its principal office is located at 1050 First Street, NE, Washington, DC 20463.

11. Defendant has possession or control of records requested by Plaintiff that are the subject of this action.

### **STATUTORY AND LEGAL BACKGROUND**

12. The Freedom of Information Act, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

13. An agency must respond to a party making a FOIA request within twenty (20) working days. Any agency response must, at a minimum, notify the requestor of whether the agency has determined to fulfill the request and of the requestor's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i). The agency must also notify the party requesting public records of "such determination and the reasons therefor" within this twenty (20) day timeframe. 5 U.S.C. § 552(a)(6)(A)(i)(I).

14. In "unusual circumstances," an agency may delay its response to a FOIA request or appeal but must provide notice and "the date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B).

15. There are nine (9) statutory exemptions to disclosure under FOIA. 5 U.S.C. § 552(b). FOIA "does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section." 5 U.S.C. § 552(d). According to the FEC's two responses to Plaintiff's FOIA Request, the FEC has relied on FOIA Exemptions 3(A) and 5 in withholding responsive materials.

16. FOIA Exemption 3(A) refers to matters that are specifically exempted from disclosure by statute, if that statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld. 5 U.S.C. § 552(b)(3)(A).

17. FOIA Exemption 5 applies to inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency. 5 U.S.C. § 552(b)(5).

18. FEC regulations provide that "[a]ny person who has been notified . . . that his/her request for inspection of a record or for a copy has been denied . . . may appeal the adverse

determination . . . by requesting the Commission to direct that the record be made available.” 11 C.F.R. § 4.8(a). “For good cause shown, the Commission may disclose a record which is subject to one of the exemptions listed in § 4.5 of this part.” 11 C.F.R. § 4.8(e). The FEC must make a determination on an appeal within 20 business days. 11 C.F.R. § 4.8(f).

19. “As a general matter, a FOIA requester must exhaust administrative appeal remedies before seeking judicial redress.” *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 182 (D.C. Cir. 2013). If, however, an agency does not adhere to the above-referenced statutory timelines in responding to a FOIA request, the requester is deemed by statute to have fulfilled the exhaustion requirement. 5 U.S.C. § 552(a)(6)(C)(i).

20. “To trigger the exhaustion requirement, an agency must make and communicate its ‘determination’ whether to comply with a FOIA request — and communicate ‘the reasons therefor’ — within 20 working days of receiving the request, or within 30 working days in ‘unusual circumstances.’ *Id.* at § 552(a)(6)(A)(i), (a)(6)(B)(i). If the agency has made and communicated its ‘determination’ in a timely manner, the requester is required to administratively appeal that ‘determination’ before bringing suit. But if the agency has not issued its ‘determination’ within the required time period, the requester may bring suit directly in federal district court without exhausting administrative appeal remedies.” *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d at 182.

21. This Court “has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter *de novo* and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld

under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.” 5 U.S.C. § 552(a)(4)(B).

### STATEMENT OF FACTS

22. The FEC is tasked with the administration and civil enforcement of the Federal Election Campaign Act, as amended, 52 U.S.C. §§ 30101-46. The FEC oversees compliance with public disclosure requirements regarding funds raised and disbursed to influence federal elections, and with restrictions on receipts and expenditures, among other campaign finance regulations.

23. Plaintiff is an administrative respondent in certain FEC enforcement matters. Those enforcement matters are among the Related MURs that are the subject of two civil actions before this Court: *Giffords v. FEC*, No. 1:19-cv-1192-EGS; and *Giffords v. National Rifle Association of American Political Victory Fund, et. al.*, No. 1:21-cv-02887-EGS (hereinafter, “*Giffords v NRA*”).

24. On November 1, 2021, the Court in *Giffords v. FEC* authorized Giffords to file suit directly against the targets of its administrative complaint, pursuant to 52 U.S.C. § 30109(a)(8)(C), on the basis of an alleged “failure of the Commission to act on” Giffords’ administrative complaints. Order, *Giffords v. FEC*, No. 1:19-cv-1192-EGS (D.D.C. Nov. 1, 2021), ECF No. 75. Giffords should not have been permitted to pursue private action because the FEC acted on Giffords’ administrative complaints when it deadlocked on votes to pursue enforcement action and thereby dismissed those complaints. Even FEC counsel admitted that the Commissioners had in fact voted on the administrative complaints at issue and the controlling bloc of Commissioners had prepared and submitted a Statement of Reasons for the administrative record. Nevertheless, the Court permitted the action to proceed. *Id.*

25. Because of that order, on November 2, 2021, Giffords filed *Giffords v. NRA* ostensibly under 52 U.S.C. § 30109(a)(8)(C). Josh Hawley for Senate, the Plaintiff in the present

matter, is a Defendant in *Giffords v. NRA*. Josh Hawley for Senate filed a Motion to Dismiss in *Giffords v. NRA* on January 21, 2022, and a Reply to Plaintiff's Opposition to its Motion to Dismiss on March 4, 2022.

26. Plaintiff filed a FOIA Request with the FEC on November 23, 2021, to obtain materials necessary to its defense in *Giffords v. NRA*—namely, documents evidencing the FEC's votes on the administrative complaints and the controlling Statement of Reasons. Specifically, Plaintiff requested records of votes cast by FEC Commissioners in connection with any and all of the following enforcement matters: Matter Under Review ("MUR") 7427; 7497; 7621; 7524; 7553; 7558; 7560; 7621; 7654; and *Giffords v. FEC*, 1:19-cv-01192. In addition, Plaintiff requested copies of any Statements of Reasons prepared by FEC Commissioners in connection with any and all of the following enforcement matters: MUR 7427; 7497; 7621; 7524; 7553; 7558; 7560; 7621; 7654; and *Giffords v. FEC*, 1:19-cv-01192. Plaintiff's FOIA Request is attached as **Exhibit A**.

27. The FEC acknowledged receipt of Plaintiff's FOIA Request via email on November 24, 2021. The FEC's acknowledgement email is attached as **Exhibit B**.

28. The FEC informed Plaintiff by email on December 22, 2021, that it was "extending the processing period to respond to your request by ten (10) working days to January 7, 2022." The FEC's extension email is attached as **Exhibit C**.

29. On January 7, 2022, the FEC responded to Plaintiff's FOIA Request with six pages of redacted documents. The FEC asserted that redactions were made pursuant to FOIA Exemption 5. The FEC also informed Plaintiff that it was:

withholding 32 pages of responsive materials under FOIA Exemptions 3(A) and 5. FOIA Exemption 3(A) protects from disclosure information that is specifically exempted from disclosure by statute. See 5 U.S.C. § 552(b)(3)(A). Pursuant to the Federal Election Campaign Act, the FEC may not disclose information related to

open enforcement matters. 52 U.S.C. § 30109(a)(12). This continues to apply to respondents in open matters who have not waived confidentiality pursuant to 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21.

The FEC's response of January 7, 2022, is attached as **Exhibit D**.

30. On March 25, 2022, the FEC responded to Plaintiff's FOIA Request with one additional document. The FEC also informed Plaintiff:

On January 7, 2022, the FOIA Service Center produced six pages of records responsive to your request, consisting of vote certifications in Giffords v. FEC, No. 19-1192. We also informed you that we were withholding 32 pages of materials under FOIA Exemptions 3(A) and 5, which consist of vote certifications and a Statement of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654.

The FEC asserted that "[t]his completes the FEC's response to your request." The FEC's response of March 25, 2022, is attached as **Exhibit E**.

31. Plaintiff filed an administrative appeal with the FEC on March 30, 2022, seeking consideration by the Commissioners of the FEC's improper withholding of responsive documents, and requesting that the Commissioners direct that all responsive documents be produced. Plaintiff's administrative appeal is attached as **Exhibit F**.

32. On April 27, 2022, the FEC informed Plaintiff that "[u]pon review of your FOIA appeal, the Commission was unable to render an opinion on whether to approve or deny the appeal by a majority vote." The FEC's correspondence regarding the Commissioners' consideration of Plaintiff's administrative appeal is attached as **Exhibit G**. The effect of the Commissioners' divided vote is apparently to maintain the status quo, and the FEC continues to improperly withhold documents responsive to Plaintiff's FOIA Request.

33. In November 2021, Plaintiff, along with all other administrative respondents in the Related MURs, filed waivers of confidentiality under 52 U.S.C. § 30109 with the FEC's Office of General Counsel. Plaintiff executed and filed this waiver of confidentiality for the express purpose



of allowing the FEC to publicly release documents in the above-referenced matters implicating the activities of Plaintiff. *See Exhibit H.*

34. Plaintiff notified the FEC's FOIA Office of the administrative respondents' waivers of confidentiality filings in its FOIA Request and again in its Administrative Appeal. Plaintiff attached copies of all waivers of confidentiality to its Administrative Appeal.

35. The Court in *Giffords v. FEC* placed many of the filings in that matter under seal. On December 13, 2021, the Court in *Giffords v. FEC* unsealed the record in that case after copies of the above-referenced waivers of confidentiality were filed with the Court. Minute Order, *Giffords v. FEC*, No. 1:19-cv-1192-EGS (D.D.C. Dec. 13, 2021). Details regarding the FEC's consideration of the Related MURs, including the specific dates and results of votes and the existence of the controlling Statement of Reasons, are now known to persons outside the FEC only because the court unsealed the record in *Giffords v. FEC*.

36. Although the dates and results of votes taken in connection with the Related MURs are now known to the public, the FEC has refused to provide Plaintiff with the vote certifications of those same votes in response to its FOIA Request. Similarly, it is now known to the public that the two Commissioners who voted to dismiss the Related MURs provided the legally controlling Statement of Reasons for the administrative record on October 26, 2021, but the FEC has refused to provide Plaintiff with a copy of that Statement of Reasons in response to its FOIA Request. *See, e.g.,* Transcript, *Giffords v. FEC*, No. 1:19-cv-1192-EGS (D.D.C. Dec. 27, 2021), ECF No. 89 at 7.

37. The FEC's two responses to Plaintiff's FOIA Request do not adequately explain why the FEC believes FOIA Exemptions 3(A) and 5 apply to the 32 pages of withheld responsive materials.

38. Because all administrative respondents have waived their confidentiality rights under 52 U.S.C. § 30109, the FEC cannot rely on FOIA Exemption 3(A) as justification for withholding responsive documents. The court in *Giffords v. FEC* has already made public information about the contents of these documents on the basis of the administrative respondents' waivers of confidentiality.

39. The FEC cannot rely on FOIA Exemption 5 because the Related MURs have been lawfully dismissed, the FEC's consideration of the Related MURs is ended, and the FEC has taken final agency action. The documents withheld are neither predecisional nor deliberative. The two Commissioners who voted to dismiss the Related MURs submitted their Statement of Reasons for the administrative record. In the case of a "deadlocked" enforcement vote, where there are not the statutorily required four votes to proceed with enforcement action, this Statement of Reasons constitutes the FEC's rationale for dismissal that is subject to judicial review. *See FEC v. Nat'l Republican Senatorial Comm.*, 966 F.2d 1471, 1476 (D.C. Cir. 1992) ("Since those Commissioners constitute a controlling group for purposes of the decision [to dismiss], their rationale necessarily states the agency's reasons for acting as it did."). Thus, the FEC has made its decision in the Related MURs and, as a result, the documents related to the Related MURs are, by definition, no longer "predecisional" or "deliberative." The FEC's response of January 7, 2022, asserts that "the FEC may not disclose information related to open enforcement matters," but the FEC's asserted position that the Related MURs remain "open" is legal error under FECA, as construed by applicable D.C. Circuit precedent. *See Citizens for Responsibility & Ethics v. FEC*, 993 F.3d 880, 891 (D.C. Cir. 2021) (rejecting argument that four votes are required for dismissal of enforcement matter and affirming longstanding holding that deadlocked enforcement votes result in "deadlock dismissal").

40. The withheld responsive documents are critical to assisting Plaintiff in ongoing litigation. These documents, including the FEC's controlling Statement of Reasons in the Related MURs, the existence of which the FEC acknowledged in separate litigation, would provide necessary and vital information to assist the Court in considering issues raised in *Giffords v NRA*. The FEC's refusal to provide such documents, as well as the FEC's failure to adequately explain why FOIA Exemption 5 applies despite binding D.C. Circuit precedent to the contrary, is not only a direct violation of the FEC's FOIA obligations and Plaintiff's legal rights, but also directly harms Plaintiff's ability to defend itself in pending litigation.

41. Plaintiff has fully exhausted its administrative remedies regarding the FOIA Request at issue in this matter and is now entitled to judicial action enjoining the FEC from continuing to improperly withhold records and ordering the production of records improperly withheld.

**COUNT I**  
**Violation of FOIA, 5 U.S.C. § 552**  
**(Injunctive and Declaratory Relief Due To the FEC's Wrongful Failure to Produce**  
**Records Pursuant to, and Violation of the Provisions of FOIA)**

42. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

43. FOIA authorizes a court "to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant." 5 U.S.C. § 552(a)(4)(B).

44. Plaintiff properly requested records that are within the FEC's custody and control.

45. The FEC is an agency subject to FOIA, and therefore must release, in response to a FOIA request, any non-exempt records and provide a valid and lawful reason for withholding any materials.

46. The FEC is improperly attempting to use FOIA Exemptions 3(A) and 5 to shield from disclosure its votes on administrative complaints, including matters involving Plaintiffs, and a Statement of Reasons submitted for the administrative record in connection with those same administrative complaints.

47. By refusing and/or failing to produce the requested records when there is no legal basis for doing so the FEC violates Plaintiffs' legal rights under the FOIA statute and is otherwise in violation of the FOIA statute.

48. The FEC's failure to produce opinions rendered in enforcement proceedings is directly contrary to 11 C.F.R. § 4.4(a)(3) and 4.5.

49. The FEC acted in an arbitrary and capricious manner with respect to its failure to release the requested records because the Commission has not provided adequate legal basis for withholding the records or delaying production, and because the purported legal basis for the Commission doing so is contrary to binding D.C. Circuit precedent. *See* 5 U.S.C. § 552(a)(4)(F)(i).

50. Plaintiff has exhausted its administrative appeal rights, and therefore may bring suit in this Court.

51. Accordingly, Plaintiff is entitled to injunctive and declaratory relief with respect to the disclosure and release of the records pursuant to Plaintiffs' FOIA Request and is entitled to relief requiring the FEC to promptly produce all non-exempt records and to provide a meaningful index justifying the withholding of any responsive records in a manner that allows the Court to review the same in-camera.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff Josh Hawley for Senate respectfully requests the following relief:

1. A declaration that Defendant FEC violated the Freedom of Information Act by failing to lawfully satisfy Plaintiff's FOIA Request;
2. An Order compelling the FEC to immediately process and release all records responsive to Plaintiff's FOIA Request at no cost to Plaintiffs, including but not limited to the 32 pages of withheld responsive documents referenced in the FEC's responses to Plaintiff's FOIA Request, and/or to immediately provide an index of all withheld documents along with sufficient information such that Plaintiff and the Court may ascertain the basis for the Commission's withholding of the withheld responsive documents, and the propriety and legality of same;
3. A preliminary and permanent injunction enjoining Defendant FEC from withholding records responsive to Plaintiff's FOIA Request;
4. A declaration that the FEC acted arbitrarily and capriciously by withholding the requested records because the FEC lacked a legitimate and legal basis to do so under FOIA or otherwise;
5. A ruling that this Court retain jurisdiction of this action to ensure that the FEC properly and lawfully responds to the Request thus ensuring that no records are wrongfully withheld;
6. An award to Plaintiff of costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E) and/or as otherwise provided by law in light of the FEC's lack of good faith in refusing to comply with the statutory requirements and thereby requiring Plaintiffs to expend resources in this matter; and

7. A grant of any and all other or additional relief that the Court may deem just and proper.

Dated: May 10, 2022

Respectfully submitted,

*/s/ Jason Torchinsky*

Jason Torchinsky (D.C. Bar No. 976033)

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2300 N Street NW, Suite 643A

Washington, DC 20037

Tel: (540) 341-8808

Fax: (540) 341-8809

*Counsel for Plaintiff Josh Hawley for Senate*

## CERTIFICATE OF SERVICE

I certify that the foregoing complaint will be served as soon as the summons is available on the following persons by certified mail, return receipt requested, and that a courtesy copy will be emailed to Kevin Deeley, FEC's Associate General Counsel for Litigation, at [kdeeley@fec.gov](mailto:kdeeley@fec.gov):

Office of the General Counsel  
Federal Election Commission  
1050 First Street NE  
Washington, DC 20463

And

Attorney General of the United States Merrick Garland  
c/o Assistant Attorney General for Administration  
Justice Management Division  
950 Pennsylvania Ave. NW  
Room 1111  
Washington, D.C. 20530

And

Matthew M. Graves  
United States Attorney for the District of Columbia  
Civil Process Clerk  
555 4th St. NW  
Washington, D.C. 20001

/s/Jason Torchinsky  
Jason Torchinsky

## EXHIBIT A



# JOSH HAWLEY



Salvatore Purpura  
Treasurer  
Josh Hawley For Senate  
6334 Pumpernickel Lane  
Monroe, NC 28110

November 22, 2021

Federal Election Commission  
Attn: FOIA Requester Service Center  
1050 First Street, NE  
Washington, DC 20463

Re: Freedom of Information Act (FOIA) Request

To Whom It May Concern:

I submit this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and 11 C.F.R. § 4.1 *et seq.* I request that a copy of the records detailed below be provided to me. I do not wish to inspect the records first.

I seek any and all records, as that term is defined under FOIA (5 U.S.C. § 552(f)(2)), and applicable case law (*see, e.g., Forsham v. Harris*, 455 U.S. 169, 193 (1980)), existing in any format whatsoever, including, but not limited to, written correspondence, email correspondence, records of telephone correspondence, records pertaining to in-person meetings, calendar or scheduling entries, videotapes, photographs, computer print- outs, telephone messages, or voice mail messages.

In particular, I request the following:

(1) Records of votes cast by FEC Commissioners in connection with any and all of the following matters:

- Matter Under Review 7427
- Matter Under Review 7497
- Matter Under Review 7621
- Matter Under Review 7524
- Matter Under Review 7553
- Matter Under Review 7558
- Matter Under Review 7560

- Matter Under Review 7621
- Matter Under Review 7654
- Giffords v. Federal Election Commission, 1:19-cv-01192

(2) Statements of Reasons prepared by FEC Commissioners in connection with any and all of the following matters:

- Matter Under Review 7427
- Matter Under Review 7497
- Matter Under Review 7621
- Matter Under Review 7524
- Matter Under Review 7553
- Matter Under Review 7558
- Matter Under Review 7560
- Matter Under Review 7621
- Matter Under Review 7654
- Giffords v. Federal Election Commission, 1:19-cv-01192

Please be advised that all respondents to these matters have waived their rights to confidentiality under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21. These waivers are on file with the Federal Election Commission Office of General Counsel. Accordingly, Section 30109 should not serve as an impediment to disclosure of the requested records.

Notice is hereby given that I am requesting these records as an “other requestor[.]” within the meaning of 5 U.S.C. § 552(a)(4)(A)(ii)(III) and 11 C.F.R. § 4.9(c)(1)(iv).

Notice is hereby given that I am willing to pay the appropriate fees incurred and assessed for the “document search and duplication” of the agency records responsive to this request. 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also* 11 C.F.R. § 4.9(c)(1)(iv).

Please search for responsive records regardless of format, medium, or physical characteristics. I request that responsive records be produced in native format, or the format most felicitous to an expedited production. Upon receipt of this request, please take all reasonable steps to preserve relevant public records while the request is pending.

If it is your position that any portion of the requested records is exempt from disclosure, I request that you provide a *Vaughn* index of those documents. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979). Moreover, the *Vaughn* index must “describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought- after information.” *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. § 552(b). Pursuant to regulation, please clearly delineate any and all redactions in such a manner so that the justification for each redaction is apparent. See 11 C.F.R. § 4.5(c). If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed through the document. *Mead Data Cent. v. U.S. Dep't of the Air Force*, 455 F.2d 242, 261 (D.C. Cir.

1977). Claims of non-segregability must be made with the same detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

If you have any questions about this request, please do not hesitate to contact me by phone at (704) 668-1993 or by email at **salpurpura2010@gmail.com**. If records are available in electronic format, please email the documents to **salpurpura2010@gmail.com**. If not, please send the requested documents to my attention at:

**Salvatore Purpura**  
**Treasurer**  
**Josh Hawley For Senate**  
**6334 Pumpernickel Lane**  
**Monroe, NC 28110**

Because of the time-sensitive nature of this request, I ask that you strictly comply with the 20-day time limit established by FOIA and applicable FEC regulations. See 5 U.S.C. § 552(a)(6)(A); 11 C.F.R. § 4.7(c). Please be advised that once this 20-day period has expired, you are deemed to have constructively denied this request, and I will consider the internal appeals process to be constructively exhausted. See, e.g., *Citizens For Ethics And Responsibility In Government v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013). I also respectfully request that documents be made available as soon as they are located and reviewed via a rolling production. I will undertake to pay any and all reasonable increased costs incurred as part of a rolling production.

Sincerely,



Sal Purpura  
Treasurer Josh Hawley for Senate

## EXHIBIT B

**Subject:** Your Freedom of Information Act Request to the Federal Election Commission FOIA (2022-014)  
**Date:** Wednesday, November 24, 2021 at 8:21:52 AM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes  
**Attachments:** image001.jpg

Your Freedom of Information Act Request to the Federal Election Commission FOIA (2022-014)

Dear Mr. Bayes:

This email acknowledges receipt of your Freedom of Information Act (FOIA) request dated November 23, 2021.

Specifically, you requested the following:

“1) Records of votes cast by FEC Commissioners in connection with any and all of the following matters:

Matter Under Review 7427

Matter Under Review 7497

Matter Under Review 7621

Matter Under Review 7524

Matter Under Review 7553

Matter Under Review 7558

Matter Under Review 7560

Matter Under Review 7621

Matter Under Review 7654

Giffords v. Federal Election Commission, 1:19-cv-01192

(2) Statements of Reasons prepared by FEC Commissioners in connection with any and all of the following matters:

Matter Under Review 7427

Matter Under Review 7497

Matter Under Review 7621

Matter Under Review 7524

Matter Under Review 7553

Matter Under Review 7558

Matter Under Review 7560

Matter Under Review 7621

Matter Under Review 7654

Giffords v. Federal Election Commission, 1:19-cv-01192.”

We received your request on November 23, 2021.

We will soon be initiating our search for records responsive to your request. If we determine that you have requested a voluminous amount of records that require extensive searching and examination, we will contact you to discuss your willingness to modify your request.

Any questions regarding the status of this request should be directed to our office at foia@fec.gov or 202-694-1650. Please cite the following unique tracking number in all future correspondence regarding this

matter: FOIA Request 2022-014.

Thank you for contacting the Federal Election Commission.

Sincerely,

Christopher Mealy  
FEC FOIA Requester Service Center

---

**From:** Mike Bayes <jmbayes@HoltzmanVogel.com>  
**Sent:** Tuesday, November 23, 2021 9:13 AM  
**To:** FOIA <FOIA@fec.gov>  
**Cc:** salpurpura2010@gmail.com  
**Subject:** FREEDOM OF INFORMATION ACT REQUEST

The attached **Freedom of Information Act Request** is submitted on behalf of Josh Hawley for Senate, and Salvatore Purpura, in his capacity as Treasurer.

Please let us know if you have any questions or require additional information.

Thank you,

**Michael Bayes**  
**Holtzman Vogel Baran Torchinsky & Josefiak PLLC**  
**Mobile: (571) 235-7130**  
[jmbayes@HoltzmanVogel.com](mailto:jmbayes@HoltzmanVogel.com) // [www.HoltzmanVogel.com](http://www.HoltzmanVogel.com)

**Washington DC Office**  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808

**Virginia Office**  
15405 John Marshall Highway  
Haymarket, VA 20169  
(540) 341-8808



**PRIVILEGED AND CONFIDENTIAL**

This communication and any accompanying documents are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. Moreover, any such disclosure shall not compromise or waive the attorney-client, accountant-client, or other privileges as to this communication or otherwise. If you have received this communication in error, please contact me at the above email address. Thank you.

**DISCLAIMER**

Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

## EXHIBIT C

**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Wednesday, December 22, 2021 at 11:04:13 AM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes

VIA ELECTRONIC MAIL

Mike Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email concerns the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

In accordance with 5 U.S.C. § 552(a)(6)(B)(i) and 11 C.F.R. § 4.7(c), we are extending the processing period to respond to your request by ten (10) working days to **January 7, 2022**. This extension is necessary because your request requires consultation with two or more components of the Commission which have a substantial subject matter interest in the request. 11 C.F.R. § 4.7(c)(3).

If you have any questions about this letter, you may contact the FOIA Requester Service Center at (202) 694-1650 or by email at [FOIA@fec.gov](mailto:FOIA@fec.gov). Please include the following tracking number in all future correspondence regarding this matter – FOIA Request 2022-014.

Sincerely,

Steve N. Hajjar

FOIA Requester Service Center





## EXHIBIT D

**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Friday, January 7, 2022 at 5:23:43 PM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes  
**CC:** Press  
**Attachments:** 2022-014 Bayes Responsive Records\_Redacted.pdf

VIA ELECTRONIC MAIL

- Michael Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email responds to the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

The FOIA Service Center has conducted a search and located documents responsive to your request.

Attached to this email is a six-page PDF containing records responsive to your request, portions of which have been redacted under FOIA Exemption 5, which protects from disclosure inter- or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency, including documents covered by the attorney work-product, deliberative process, and attorney-client privileges. *See* 5 U.S.C. § 552(b)(5).

We are also withholding 32 pages of responsive materials under FOIA Exemptions 3(A) and 5. FOIA Exemption 3(A) protects from disclosure information that is specifically exempted from disclosure by statute. *See* 5 U.S.C. § 552(b)(3)(A). Pursuant to the Federal Election Campaign Act, the FEC may not disclose information related to open enforcement matters. 52 U.S.C. § 30109(a)(12). This continues to apply to respondents in open matters who have not waived confidentiality pursuant to 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21.

Accordingly, your request has been granted in part.

You may contact our FOIA Public Liaison, Christine McClarin, at (202) 694-1485 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) Civ. No. 19-1192 (EGS) (D.D.C. filed  
Giffords v. FEC: (b) (5) ) April 24, 2019)  
(b) (5) ) Agenda Document No. X19-17

CERTIFICATION

I, Laura E. Sinram, recording secretary of the Federal Election Commission executive session, do hereby certify that on May 09, 2019, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 3-1 to:

Authorize the Office of General Counsel to defend the Commission in  
*Giffords v. FEC*, Civ. No. 19-1192 (EGS) (D.D.C. filed April 24, 2019).

Commissioners Hunter, Petersen, and Walther voted affirmatively for the motion.

Commissioner Weintraub dissented.

2. Decided by a vote of 4-0 to:

- a. Grant authority to the Office of General Counsel to defend this  
litigation (*Giffords v. FEC*, No. 19-cv-1192)(b) (5)

(b) (5)

Federal Election Commission

Page 2

Certification for Giffords v. FEC, Civ. No. 19-1192: (b) (5)

(b) (5)

May 9, 2019

(b) (5)

(b) (5)

Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

5/10/19

Date



Laura E. Sinram  
Deputy Secretary of the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) Civ. No. 19-1192 (EGS) (D.D.C. filed  
Giffords v. FEC: Issues Related to ) April 24, 2019)  
Court's Orders of September 30, 2021 )

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on October 04, 2021, the Commission  
decided by a vote of 5-0, (b) (5)

to:

1. Authorize the Office of General Counsel to comply with the Court's  
September 30, 2021 Minute Order in *Giffords v. FEC*, Civ. No. 19-  
1192 (EGS) (D.D.C. filed April 24, 2019).

(b) (5)

Commissioners Broussard, Dickerson, Trainor, Walther, and Weintraub  
voted affirmatively for the decision. Commissioner Cooksey recused himself with  
respect to this matter and did not vote.

Attest:

The seal of the Federal Election Commission is circular, featuring an eagle with wings spread, perched on a shield. The words "FEDERAL ELECTION COMMISSION" are inscribed around the top inner edge, and "UNITED STATES OF AMERICA" around the bottom inner edge. The date "October 4, 2021" is written above a horizontal line, and the word "Date" is written below the line.  
October 4, 2021  
Date

\_\_\_\_\_  
Laura E. Sinram  
Acting Secretary and Clerk of the  
Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) No. 19-1192 (EGS) (D.D.C. filed April  
Giffords v. FEC: Issues Related to the ) 24, 2019)  
Court's Orders of September 30, 2021 ) Agenda Document No. X21-30

CERTIFICATION

I, Vicktoria J. Allen, recording secretary for the Federal Election Commission executive session on October 26, 2021, do hereby certify that the Commission failed by a vote of 3-0 to not appeal the September 30, 2021 decision of the district court.

Commissioners Broussard, Walther, and Weintraub voted affirmatively for the motion. Commissioners Dickerson and Trainor abstained. Commissioner Cooksey was recused and did not vote.

Attest:

October 27, 2021

Date

Vicktoria J. Allen  
Acting Deputy Secretary of the Commission



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	No. 19-1192 (EGS) (D.D.C. September
Giffords v. FEC: The District Court's	)	30, 2021)
Minute Order Setting a Status	)	Agenda Document No. X21-32
Conference for November 1, 2021, and	)	
Further Proceedings Before the District	)	
Court	)	

CERTIFICATION

I, Vicktoria J. Allen, recording secretary of the Federal Election Commission executive session, do hereby certify that on October 26, 2021, the Commission took the following actions in the above-captioned matter:

1. Decided by a vote of 5-0 to:

Authorize the Office of General Counsel to comply with the Court's October 12, 2021 Minute Order in *Giffords v. FEC*, No. 19-1192 (EGS) (D.D.C. filed April 24, 2019) to participate in the November 1, 2021 status conference.

Commissioners Broussard, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioner Cooksey was recused and did not vote.

(b) (5)



Federal Election Commission

Page 2

Certification for *Giffords v. FEC*, No.19-1192 (EGS) (D.D.C. filed September 30, 2021)

October 26, 2021

Attest:



October 27, 2021

Date

Vicktoria J. Allen

Acting Deputy Secretary of the  
Commission

Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Chief FOIA Officer, Federal Election Commission, 1050 First St., N.E., Washington, DC 20463, or sending an e-mail to [foia@fec.gov](mailto:foia@fec.gov). Any such appeal should follow the guidelines set forth in the Commission's FOIA regulations at 11 C.F.R. § 4.8. Thank you for contacting the FEC.

Sincerely,

Steve N. Hajjar  
FOIA Service Center

## EXHIBIT E

**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Friday, March 25, 2022 at 3:02:33 PM Eastern Daylight Time  
**From:** FOIA  
**To:** Mike Bayes  
**CC:** Press  
**Attachments:** 2022-014 Bayes Final Record.pdf

VIA ELECTRONIC MAIL

Mike Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email responds to the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

On January 7, 2022, the FOIA Service Center produced six pages of records responsive to your request, consisting of vote certifications in *Giffords v. FEC*, No. 19-1192. We also informed you that we were withholding 32 pages of materials under FOIA Exemptions 3(A) and 5, which consist of vote certifications and a Statement of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654.

We have located one additional page of responsive records that is attached to this email.

This completes the FEC's response to your request.

You may contact our FOIA Public Liaison, Christine McClarin, at (202) 694-1485 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Chief FOIA Officer, Federal Election Commission, 1050 First St., N.E., Washington, DC 20463, or

sending an e-mail to [foia@fec.gov](mailto:foia@fec.gov). Any such appeal should follow the guidelines set forth in the Commission's FOIA regulations at 11 C.F.R. § 4.8. Thank you for contacting the FEC.

Sincerely,

Steve N. Hajjar  
FOIA Service Center

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Giffords v. FEC

)

) Civ. No. 19-1192 (EGS) (D.D.C. filed

) April 24, 2019)

CERTIFICATION

I, Laura E. Sinram, recording secretary for the Federal Election Commission executive session on May 23, 2019, do hereby certify that the Commission failed by a vote of 3-1 to release the certification of the Commission in the vote for *Giffords v. FEC* and release it publicly.

Commissioners Hunter, Petersen, and Walther voted affirmatively for the motion.

Commissioner Weintraub dissented.

Attest:

5/23/19

Date

Laura E. Sinram

Laura E. Sinram

Deputy Secretary of the Commission

## EXHIBIT F

# Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

## FOIA APPEAL

March 30, 2022

Chief FOIA Officer  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

### **Re: FOIA Request (2022-014); FOIA Administrative Appeal**

Dear Mr. Baker,

On behalf of FOIA Requester Josh Hawley for Senate, the undersigned counsel hereby files this administrative appeal in the matter designated 2022-14. As set forth below, the FEC's FOIA Service Center improperly withheld responsive documents and we request the Commission direct that all responsive records be produced.

### **Background**

- The Requestor filed its FOIA Request on November 22, 2021.
- A representative from the FEC's FOIA Requester Service Center acknowledged receipt by email on November 24, 2021.
- By email dated December 22, 2021, the FEC granted itself an extension to January 7, 2022.
- On January 7, 2022, the FEC provided a partial response to the FOIA Request and produced six pages of partially redacted material. The FEC also stated that it was "withholding 32 pages of responsive materials under FOIA Exemptions 3(A) and 5." The FEC's correspondence explained: "FOIA Exemption 3(A) protects from disclosure information that is specifically exempted from disclosure by statute. See 5 U.S.C. § 552(b)(3)(A). Pursuant to the Federal Election Campaign Act, the FEC may not disclose information related to open enforcement matters. 52 U.S.C. § 30109(a)(12). This continues to apply to respondents in open matters who have not waived confidentiality pursuant to 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21."
- On March 25, 2022, the FEC provided an additional response to the FOIA Request and produced one more page of responsive documents. The FEC's correspondence also explained: "On January 7, 2022, the FOIA Service Center produced six pages of records responsive to your request, consisting of vote certifications in *Giffords v. FEC*, No. 19-1192. We also informed you that we were withholding 32 pages of materials under FOIA Exemptions 3(A) and 5, which consist of vote certifications and a Statement of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654."



**HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC**

The documents and correspondence referenced above are included as Exhibit A.

**The Requested Materials Cannot Be Withheld Pursuant to FOIA Exemptions 3(A) and 5**

The FEC withheld vote certifications and one or more Statements of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654, claiming that those materials are covered by Exemptions 3(A) and 5. Neither exemption is applicable and all requested documents should be produced.

***Exemption 3(A)***

Exemption 3(A), set forth at 11 C.F.R. § 4.5(a)(3)(A), applies to records “[s]pecifically exempted from disclosure by statute, provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue.” FECA’s applicable non-disclosure provision, 52 U.S.C. § 30109(a)(12), does not apply here because the administrative respondents have waived their confidentiality rights.

Section 30109(a)(12)(A) provides that “[a]ny notification or investigation made under this section shall not be made public by the Commission or by any person *without the written consent of the person receiving such notification* or the person with respect to whom such investigation is made.” With respect to the MURs identified in the FOIA Request, all respondents have filed written waivers of confidentiality with the FEC’s Office of General Counsel. The FOIA Request advised the FOIA Requester Service Center that these waivers were “on file with the Federal Election Commission Office of General Counsel” and that “Section 30109 should not serve as an impediment to disclosure of the requested records.”

In December 2021, the court in *Giffords v. FEC*, 1:19cv1192, which involves several of the MURs referenced above, unsealed the record in the case after being provided with the administrative respondents’ waivers of confidentiality. As previously noted, these waivers are on file with the Office of General Counsel, and we include them here as Exhibit B for the avoidance of any confusion and to ensure they are part of the record in this matter. The administrative respondents in these matters have expressly waived their confidentiality rights under Section 30109. That provision exists solely to protect the privacy of accused respondents, and once that privacy interest has been waived, the FEC can no longer use the provision to avoid disclosure. *See In re Sealed Case 00-5116*, 237 F.3d 657, 666 (D.C. Cir. 2001) (“both FECA and the FEC’s regulations interpreting the statute create an extraordinarily strong privacy interest in keeping the records sealed *absent a party’s express written consent to the contrary*”) (emphasis added). FOIA Exemption 3(A) no longer applies in this matter.

***Exemption 5***

Exemption 5, set forth at 11 C.F.R. § 4.5(a)(5), applies to records that constitute “[i]nter-agency or intra-agency memoranda or letters which would not be available by law to a party in litigation with the Commission.” Exemption 5 has been construed to apply to records that would be privileged against discovery. *See generally Ctr. For Biological Diversity v. United States Army Corps of Eng’rs*, 405 F. Supp. 3d 127, 140 (D.D.C. 2019) (discussing scope and

**HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC**

application of Exemption 5). Neither of the FEC's two responses to the FOIA Request identify which privilege the agency is claiming, although we presume it is the executive deliberative process privilege. (Attorney-client privilege and attorney work-product privilege are both plainly inapplicable.). In addition, "in order to qualify for the deliberative process privilege under Exemption 5, *the government must demonstrate* that the document is either inter-agency or intra-agency in nature, and also that it is both predecisional and part of the agency's deliberative process." *Dow Jones & Co. v. DOJ*, 917 F.2d 571, 574 (D.C. Cir. 1990) (emphasis added). Neither of the FEC's two responses provides any rationale for its purported application of Exemption 5.

The District Court recently explained: "To qualify for this privilege, the document must be both 'predecisional' and 'deliberative.' A predecisional communication is one that 'precedes, in a temporal sense, the 'decision' to which it relates. A deliberative communication is one that is 'a part of the agency give-and-take – of the deliberative process – by which the decision itself is made.'" *Ctr. for Public Integrity v. FEC*, 332 F. Supp. 3d 174, 178 (D.D.C. 2018).

The records the FEC withheld are neither "predecisional" nor "deliberative." From the record in *Giffords v. FEC*, it is publicly known that consideration of the MURs at issue resulted in deadlocked enforcement votes. Specifically, from Judge Sullivan's Memorandum Opinion (Oct. 14, 2021), the public knows that a May 2019 "tally vote was inconclusive," that a vote to find no reason to believe in MURs 7427 and 7497 "failed 2-3 with one recusal" on February 9, 2021, and that a series of 3-2 and 2-3 votes were cast on February 23, 2021 in MURs 7427, 7497, 7524, and 7553. At a hearing before the Court held on November 1, 2021, the FEC revealed that the Commissioners again deadlocked in votes taken on October 26, 2021, and also informed the Court that the Commissioners who voted against finding reason to believe "submitted to the administrative record their statement of reasons." Thus, the Commission's decision in these matters has been made.

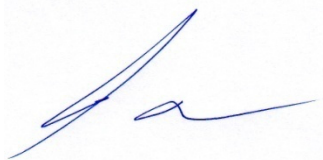
In an enforcement matter where the Commissioners "deadlock" – that is, fail to garner four votes to find either reason to believe or no reason to believe – the D.C. Circuit requires the Commissioners who voted against finding reason to believe to produce a written Statement of Reasons. *See FEC v. Nat'l Republican Senatorial Comm.*, 966 F.2d 1471, 1476 (D.C. Cir. 1992) ("Since those Commissioners constitute a controlling group for purposes of the decision [to dismiss], their rationale necessarily states the agency's reasons for acting as it did."); *see also Democratic Congressional Campaign Committee v. FEC*, 831 F.2d 1131 (D.C. Cir. 1987). This Statement of Reasons is not an "intra-agency memorandum" because it is written for the public record and court review. Furthermore, it is in no way "predecisional" or "deliberative." Under applicable D.C. Circuit precedent, it serves as the explanation for the Commission's *decision* in the matter; once this Statement of Reasons is issued, the FEC's decision is made and there is no further deliberation. The controlling Commissioners' Statement of Reasons publicly explains the FEC's final decision in an enforcement matter for purposes of judicial review. Such Statement serves as the FEC's public, judicially reviewable explanation of its decision, is affirmatively required by the D.C. Circuit, and it is not subject to FOIA Exemption 5 or otherwise privileged.

\*\*\*\*\*

**HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC**

For the reasons set forth above, we request the Commission direct that all responsive documents be produced to the FOIA Requestor.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jason Torchinsky', is written over a light gray rectangular background.

Jason Torchinsky  
Michael Bayes  
Jessica F. Johnson  
*Counsel to Josh Hawley for Senate*

Attachments

# EXHIBIT 1



Salvatore Purpura  
Treasurer  
Josh Hawley For Senate  
6334 Pumpernickel Lane  
Monroe, NC 28110

November 22, 2021

Federal Election Commission  
Attn: FOIA Requester Service Center  
1050 First Street, NE  
Washington, DC 20463

Re: Freedom of Information Act (FOIA) Request

To Whom It May Concern:

I submit this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 and 11 C.F.R. § 4.1 *et seq.* I request that a copy of the records detailed below be provided to me. I do not wish to inspect the records first.

I seek any and all records, as that term is defined under FOIA (5 U.S.C. § 552(f)(2)), and applicable case law (*see, e.g., Forsham v. Harris*, 455 U.S. 169, 193 (1980)), existing in any format whatsoever, including, but not limited to, written correspondence, email correspondence, records of telephone correspondence, records pertaining to in-person meetings, calendar or scheduling entries, videotapes, photographs, computer print- outs, telephone messages, or voice mail messages.

In particular, I request the following:

(1) Records of votes cast by FEC Commissioners in connection with any and all of the following matters:

- Matter Under Review 7427
- Matter Under Review 7497
- Matter Under Review 7621
- Matter Under Review 7524
- Matter Under Review 7553
- Matter Under Review 7558
- Matter Under Review 7560

- Matter Under Review 7621
- Matter Under Review 7654
- Giffords v. Federal Election Commission, 1:19-cv-01192

(2) Statements of Reasons prepared by FEC Commissioners in connection with any and all of the following matters:

- Matter Under Review 7427
- Matter Under Review 7497
- Matter Under Review 7621
- Matter Under Review 7524
- Matter Under Review 7553
- Matter Under Review 7558
- Matter Under Review 7560
- Matter Under Review 7621
- Matter Under Review 7654
- Giffords v. Federal Election Commission, 1:19-cv-01192

Please be advised that all respondents to these matters have waived their rights to confidentiality under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21. These waivers are on file with the Federal Election Commission Office of General Counsel. Accordingly, Section 30109 should not serve as an impediment to disclosure of the requested records.

Notice is hereby given that I am requesting these records as an “other requestor[.]” within the meaning of 5 U.S.C. § 552(a)(4)(A)(ii)(III) and 11 C.F.R. § 4.9(c)(1)(iv).

Notice is hereby given that I am willing to pay the appropriate fees incurred and assessed for the “document search and duplication” of the agency records responsive to this request. 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also* 11 C.F.R. § 4.9(c)(1)(iv).

Please search for responsive records regardless of format, medium, or physical characteristics. I request that responsive records be produced in native format, or the format most felicitous to an expedited production. Upon receipt of this request, please take all reasonable steps to preserve relevant public records while the request is pending.

If it is your position that any portion of the requested records is exempt from disclosure, I request that you provide a *Vaughn* index of those documents. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979). Moreover, the *Vaughn* index must “describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought- after information.” *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. § 552(b). Pursuant to regulation, please clearly delineate any and all redactions in such a manner so that the justification for each redaction is apparent. See 11 C.F.R. § 4.5(c). If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed through the document. *Mead Data Cent. v. U.S. Dep't of the Air Force*, 455 F.2d 242, 261 (D.C. Cir.

1977). Claims of non-segregability must be made with the same detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

If you have any questions about this request, please do not hesitate to contact me by phone at (704) 668-1993 or by email at **salpurpura2010@gmail.com**. If records are available in electronic format, please email the documents to **salpurpura2010@gmail.com**. If not, please send the requested documents to my attention at:

**Salvatore Purpura**  
**Treasurer**  
**Josh Hawley For Senate**  
**6334 Pumpernickel Lane**  
**Monroe, NC 28110**

Because of the time-sensitive nature of this request, I ask that you strictly comply with the 20-day time limit established by FOIA and applicable FEC regulations. See 5 U.S.C. § 552(a)(6)(A); 11 C.F.R. § 4.7(c). Please be advised that once this 20-day period has expired, you are deemed to have constructively denied this request, and I will consider the internal appeals process to be constructively exhausted. See, e.g., *Citizens For Ethics And Responsibility In Government v. Fed. Election Comm'n*, 711 F.3d 180 (D.C. Cir. 2013). I also respectfully request that documents be made available as soon as they are located and reviewed via a rolling production. I will undertake to pay any and all reasonable increased costs incurred as part of a rolling production.

Sincerely,



Sal Purpura  
Treasurer Josh Hawley for Senate

**Subject:** Your Freedom of Information Act Request to the Federal Election Commission FOIA (2022-014)  
**Date:** Wednesday, November 24, 2021 at 8:21:52 AM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes  
**Attachments:** image001.jpg

Your Freedom of Information Act Request to the Federal Election Commission FOIA (2022-014)

Dear Mr. Bayes:

This email acknowledges receipt of your Freedom of Information Act (FOIA) request dated November 23, 2021.

Specifically, you requested the following:

“1) Records of votes cast by FEC Commissioners in connection with any and all of the following matters:

Matter Under Review 7427

Matter Under Review 7497

Matter Under Review 7621

Matter Under Review 7524

Matter Under Review 7553

Matter Under Review 7558

Matter Under Review 7560

Matter Under Review 7621

Matter Under Review 7654

Giffords v. Federal Election Commission, 1:19-cv-01192

(2) Statements of Reasons prepared by FEC Commissioners in connection with any and all of the following matters:

Matter Under Review 7427

Matter Under Review 7497

Matter Under Review 7621

Matter Under Review 7524

Matter Under Review 7553

Matter Under Review 7558

Matter Under Review 7560

Matter Under Review 7621

Matter Under Review 7654

Giffords v. Federal Election Commission, 1:19-cv-01192.”

We received your request on November 23, 2021.

We will soon be initiating our search for records responsive to your request. If we determine that you have requested a voluminous amount of records that require extensive searching and examination, we will contact you to discuss your willingness to modify your request.

Any questions regarding the status of this request should be directed to our office at foia@fec.gov or 202-694-1650. Please cite the following unique tracking number in all future correspondence regarding this



matter: FOIA Request 2022-014.

Thank you for contacting the Federal Election Commission.

Sincerely,

Christopher Mealy  
FEC FOIA Requester Service Center

---

**From:** Mike Bayes <jmbayes@HoltzmanVogel.com>  
**Sent:** Tuesday, November 23, 2021 9:13 AM  
**To:** FOIA <FOIA@fec.gov>  
**Cc:** salpurpura2010@gmail.com  
**Subject:** FREEDOM OF INFORMATION ACT REQUEST

The attached **Freedom of Information Act Request** is submitted on behalf of Josh Hawley for Senate, and Salvatore Purpura, in his capacity as Treasurer.

Please let us know if you have any questions or require additional information.

Thank you,

**Michael Bayes**  
**Holtzman Vogel Baran Torchinsky & Josefiak PLLC**  
**Mobile: (571) 235-7130**  
[jmbayes@HoltzmanVogel.com](mailto:jmbayes@HoltzmanVogel.com) // [www.HoltzmanVogel.com](http://www.HoltzmanVogel.com)

**Washington DC Office**  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808

**Virginia Office**  
15405 John Marshall Highway  
Haymarket, VA 20169  
(540) 341-8808



**PRIVILEGED AND CONFIDENTIAL**

This communication and any accompanying documents are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. Moreover, any such disclosure shall not compromise or waive the attorney-client, accountant-client, or other privileges as to this communication or otherwise. If you have received this communication in error, please contact me at the above email address. Thank you.

**DISCLAIMER**

Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Wednesday, December 22, 2021 at 11:04:13 AM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes

VIA ELECTRONIC MAIL

Mike Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email concerns the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

In accordance with 5 U.S.C. § 552(a)(6)(B)(i) and 11 C.F.R. § 4.7(c), we are extending the processing period to respond to your request by ten (10) working days to **January 7, 2022**. This extension is necessary because your request requires consultation with two or more components of the Commission which have a substantial subject matter interest in the request. 11 C.F.R. § 4.7(c)(3).

If you have any questions about this letter, you may contact the FOIA Requester Service Center at (202) 694-1650 or by email at [FOIA@fec.gov](mailto:FOIA@fec.gov). Please include the following tracking number in all future correspondence regarding this matter – FOIA Request 2022-014.

Sincerely,

Steve N. Hajjar  
FOIA Requester Service Center



**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Friday, January 7, 2022 at 5:23:43 PM Eastern Standard Time  
**From:** FOIA  
**To:** Mike Bayes  
**CC:** Press  
**Attachments:** 2022-014 Bayes Responsive Records\_Redacted.pdf

VIA ELECTRONIC MAIL

- Michael Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email responds to the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

The FOIA Service Center has conducted a search and located documents responsive to your request.

Attached to this email is a six-page PDF containing records responsive to your request, portions of which have been redacted under FOIA Exemption 5, which protects from disclosure inter- or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency, including documents covered by the attorney work-product, deliberative process, and attorney-client privileges. *See* 5 U.S.C. § 552(b)(5).

We are also withholding 32 pages of responsive materials under FOIA Exemptions 3(A) and 5. FOIA Exemption 3(A) protects from disclosure information that is specifically exempted from disclosure by statute. *See* 5 U.S.C. § 552(b)(3)(A). Pursuant to the Federal Election Campaign Act, the FEC may not disclose information related to open enforcement matters. 52 U.S.C. § 30109(a)(12). This continues to apply to respondents in open matters who have not waived confidentiality pursuant to 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21.

Accordingly, your request has been granted in part.

You may contact our FOIA Public Liaison, Christine McClarin, at (202) 694-1485 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of

Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Chief FOIA Officer, Federal Election Commission, 1050 First St., N.E., Washington, DC 20463, or sending an e-mail to [foia@fec.gov](mailto:foia@fec.gov). Any such appeal should follow the guidelines set forth in the Commission's FOIA regulations at 11 C.F.R. § 4.8. Thank you for contacting the FEC.

Sincerely,

Steve N. Hajjar  
FOIA Service Center

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) Civ. No. 19-1192 (EGS) (D.D.C. filed  
Giffords v. FEC: (b) (5) ) April 24, 2019)  
(b) (5) ) Agenda Document No. X19-17

CERTIFICATION

I, Laura E. Sinram, recording secretary of the Federal Election Commission executive session, do hereby certify that on May 09, 2019, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 3-1 to:

Authorize the Office of General Counsel to defend the Commission in  
*Giffords v. FEC*, Civ. No. 19-1192 (EGS) (D.D.C. filed April 24, 2019).

Commissioners Hunter, Petersen, and Walther voted affirmatively for the motion.

Commissioner Weintraub dissented.

2. Decided by a vote of 4-0 to:

- a. Grant authority to the Office of General Counsel to defend this  
litigation (*Giffords v. FEC*, No. 19-cv-1192)(b) (5)

(b) (5)

Federal Election Commission

Page 2

Certification for Giffords v. FEC, Civ. No. 19-1192: (b) (5)

(b) (5)

May 9, 2019

(b) (5)

(b) (5)

Commissioners Hunter, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

5/10/19

Date



Laura E. Sinram  
Deputy Secretary of the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) Civ. No. 19-1192 (EGS) (D.D.C. filed  
Giffords v. FEC: Issues Related to ) April 24, 2019)  
Court's Orders of September 30, 2021 )

CERTIFICATION

I, Laura E. Sinram, Acting Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on October 04, 2021, the Commission  
decided by a vote of 5-0, (b) (5)

to:

1. Authorize the Office of General Counsel to comply with the Court's  
September 30, 2021 Minute Order in *Giffords v. FEC*, Civ. No. 19-  
1192 (EGS) (D.D.C. filed April 24, 2019).

(b) (5)

Commissioners Broussard, Dickerson, Trainor, Walther, and Weintraub  
voted affirmatively for the decision. Commissioner Cooksey recused himself with  
respect to this matter and did not vote.

Attest:

The seal of the Federal Election Commission is circular, featuring an eagle with wings spread, perched on a shield. The words "FEDERAL ELECTION COMMISSION" are inscribed around the top half, and "UNITED STATES OF AMERICA" around the bottom half. The date "October 4, 2021" is written above a horizontal line, and the word "Date" is written below it.  
October 4, 2021  
Date

\_\_\_\_\_  
Laura E. Sinram  
Acting Secretary and Clerk of the  
Commission



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) No. 19-1192 (EGS) (D.D.C. filed April  
Giffords v. FEC: Issues Related to the ) 24, 2019)  
Court's Orders of September 30, 2021 ) Agenda Document No. X21-30

CERTIFICATION

I, Vicktoria J. Allen, recording secretary for the Federal Election Commission executive session on October 26, 2021, do hereby certify that the Commission failed by a vote of 3-0 to not appeal the September 30, 2021 decision of the district court.

Commissioners Broussard, Walther, and Weintraub voted affirmatively for the motion. Commissioners Dickerson and Trainor abstained. Commissioner Cooksey was recused and did not vote.

Attest:

October 27, 2021

Date

Vicktoria J. Allen  
Acting Deputy Secretary of the Commission



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	No. 19-1192 (EGS) (D.D.C. September
Giffords v. FEC: The District Court's	)	30, 2021)
Minute Order Setting a Status	)	Agenda Document No. X21-32
Conference for November 1, 2021, and	)	
Further Proceedings Before the District	)	
Court	)	

CERTIFICATION

I, Vicktoria J. Allen, recording secretary of the Federal Election Commission executive session, do hereby certify that on October 26, 2021, the Commission took the following actions in the above-captioned matter:

1. Decided by a vote of 5-0 to:

Authorize the Office of General Counsel to comply with the Court's October 12, 2021 Minute Order in *Giffords v. FEC*, No. 19-1192 (EGS) (D.D.C. filed April 24, 2019) to participate in the November 1, 2021 status conference.

Commissioners Broussard, Dickerson, Trainor, Walther, and Weintraub voted affirmatively for the decision. Commissioner Cooksey was recused and did not vote.

(b) (5)

Federal Election Commission

Page 2

Certification for *Giffords v. FEC*, No.19-1192 (EGS) (D.D.C. filed September 30, 2021)

October 26, 2021

Attest:



October 27, 2021

Date

Vicktoria J. Allen  
Acting Deputy Secretary of the  
Commission

**Subject:** Freedom of Information Act Request to the Federal Election Commission (2022-014)  
**Date:** Friday, March 25, 2022 at 3:02:33 PM Eastern Daylight Time  
**From:** FOIA  
**To:** Mike Bayes  
**CC:** Press  
**Attachments:** 2022-014 Bayes Final Record.pdf

VIA ELECTRONIC MAIL

Mike Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Request to the Federal Election Commission (2022-014)**

Dear Mr. Bayes,

This email responds to the request you filed on behalf of Josh Hawley for Senate, and Salvatore Purpura, Treasurer, for information under the Freedom of Information Act (FOIA) received by the Federal Election Commission's (FEC) FOIA Requester Service Center on November 23, 2021. Specifically, you requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

On January 7, 2022, the FOIA Service Center produced six pages of records responsive to your request, consisting of vote certifications in *Giffords v. FEC*, No. 19-1192. We also informed you that we were withholding 32 pages of materials under FOIA Exemptions 3(A) and 5, which consist of vote certifications and a Statement of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654.

We have located one additional page of responsive records that is attached to this email.

This completes the FEC's response to your request.

You may contact our FOIA Public Liaison, Christine McClarin, at (202) 694-1485 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Chief FOIA Officer, Federal Election Commission, 1050 First St., N.E., Washington, DC 20463, or

sending an e-mail to [foia@fec.gov](mailto:foia@fec.gov). Any such appeal should follow the guidelines set forth in the Commission's FOIA regulations at 11 C.F.R. § 4.8. Thank you for contacting the FEC.

Sincerely,

Steve N. Hajjar  
FOIA Service Center

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Giffords v. FEC

)

) Civ. No. 19-1192 (EGS) (D.D.C. filed

) April 24, 2019)

CERTIFICATION

I, Laura E. Sinram, recording secretary for the Federal Election Commission executive session on May 23, 2019, do hereby certify that the Commission failed by a vote of 3-1 to release the certification of the Commission in the vote for *Giffords v. FEC* and release it publicly.

Commissioners Hunter, Petersen, and Walther voted affirmatively for the motion.

Commissioner Weintraub dissented.

Attest:

5/23/19

Date

Laura E. Sinram

Laura E. Sinram

Deputy Secretary of the Commission

# EXHIBIT 2

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

GIFFORDS,

Plaintiff,

Case No. 1:19-cv-01192

v.

Hon. Emmet G. Sullivan

FEDERAL ELECTION COMMISSION,

Defendant.

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**INDEX OF EXHIBITS**

Exhibit A	Proposed Order
Exhibit B	FECA Confidentiality Waiver
Exhibit C	Certificate of Corporate Disclosure



# EXHIBIT B

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

The **National Rifle Association of America Political Victory Fund** and the **National Rifle Association Institute of Legislative Action** are Respondents in the following related matters: MUR 7427; MUR 7497; MUR 7524; MUR 7553; MUR 7558; and MUR 7560. MUR 7427, MUR 7497, MUR 7524, and MUR 7553 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondents National Rifle Association of America Political Victory Fund and National Rifle Association Institute of Legislative Action do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below, with respect to MUR 7427, MUR 7497, MUR 7524, and MUR 7553.**

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondents to disclose Responses filed on behalf of the Respondents in the above stated matters, in whole or in part.

*For Respondents National Rifle Association of America Political Victory Fund and National Rifle Association Institute of Legislative Action:*



John Frazer  
General Counsel



Date

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

GIFFORDS,

Plaintiff,

Case No. 1:19-cv-01192

v.

Hon. Emmet G. Sullivan

FEDERAL ELECTION COMMISSION,

Defendant.

**INDEX OF EXHIBITS**

Exhibit A	Matt Rosendale for Montana, confidentiality waiver
Exhibit B	Josh Hawley for Senate, confidentiality waiver
Exhibit C	Ron Johnson for Senate, confidentiality waiver
Exhibit D	Cotton for Senate, confidentiality waiver
Exhibit E	On Message, Inc., and Starboard Strategic, Inc., confidentiality waiver
Exhibit F	The Thom Tillis Committee and Collin McMichael, confidentiality waiver
Exhibit G	National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group, confidentiality waiver
Exhibit H	Make America Great Again PAC, f/k/a Donald J. Trump for President, Inc., confidentiality waiver
Exhibit I	Senator Richard Burr, the Richard Burr Committee, and Timothy W. Gupton, confidentiality waiver

# EXHIBIT A



CHRIS K. GOBER

---

PO BOX 341016  
AUSTIN, TX 78734

---

512.354.1783 DIRECT  
CG@GOBERGROUP.COM

November 19, 2021

Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

**Re: Waiver of Rights of Confidentiality**

Dear Commissioners and Staff:

I am Matt Rosendale for Montana's counsel of record in four pending Federal Election Commission ("Commission") MURs—7497, 7560, 7621, and 7654—that that assert similar facts and allegations.

Pursuant to 52 U.S.C. § 30109(a)(12), "[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made." Furthermore, 11 C.F.R. § 111.21(a) provides that "no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made." 11 C.F.R. § 111.21(b) provides that "no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission." Finally, 11 C.F.R. § 111.21(c) provides that "[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure."

**The purpose of this letter is to formally notify the Commission that Matt Rosendale for Montana hereby waives any and all rights to confidentiality afforded to it under 52 U.S.C. §**

T | 800.825.1730

 | @GoberGroup

F | 877.437.5755

 | GoberGroup.com

FEDERAL ELECTION COMMISSION

NOVEMBER 19, 2021

PAGE 2 OF 2

**30109 and 11 C.F.R. § 111.21, effective as of the date below, with respect to MURs 7497, 7560, 7621, and 7654.**

Without limiting the foregoing, the Commission, either as an agency or through individual Commissioners, is authorized by Matt Rosendale for Montana to disclose information regarding: (i) complaints filed with the Commission in the above stated matters; (ii) notifications sent by the Commission in the above stated matters; (iii) investigations conducted by the Commission in the above stated matters; and (iv) findings made by the Commission in the above stated matters.

In addition, the Commission, either as an agency or through individual Commissioners, is authorized by Matt Rosendale for Montana to disclose the responses filed on behalf of Matt Rosendale for Montana in MURs 7497, 7560, 7621, and 7654, in whole or in part, and any votes taken in connection with the above stated matters.

If the Commission has additional questions related to this waiver, please do not hesitate to contact me at (512) 354-1783 or [cg@gobergroup.com](mailto:cg@gobergroup.com).

Sincerely,



Chris K. Gober  
Counsel to Matt Rosendale for Montana,  
and Errol Galt, in his official capacity as Treasurer

# EXHIBIT B



**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**Josh Hawley For Senate** is a Respondent in MUR 7524 and MUR 7560. MUR 7524 is currently a subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).


**Respondents Josh Hawley For Senate does hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.**

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose Responses filed on behalf of the

Respondent in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

*For Respondent Josh Hawley For Senate:*

  
\_\_\_\_\_  
[NAME] Salvatore Purpur  
[Position] Tr (9) Uker

11/3/21  
\_\_\_\_\_  
Date

# EXHIBIT C

## JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001.2113  
TELEPHONE: +1.202.879.3939 • FACSIMILE: +1.202.626.1700

DIRECT NUMBER: (202) 879-3986  
MNEWTON@JONESDAY.COM

November 4, 2021

VIA E-MAIL TO CELA@FEC.GOV

Federal Election Commission  
c/o Office of Complaints Examination and Legal Administration  
1050 First Street, N.E.  
Washington, DC 20463

**Re: Matter Under Review 7427**  
**(Notice of Consent under 52 U.S.C. § 30109(a)(12))**

Dear Commissioners:

On behalf of Ron Johnson for Senate (“the Campaign”), I write in regard to MUR 7427<sup>1</sup> to provide the Campaign’s consent to waive its confidentiality protections under 52 U.S.C. § 30109(a)(12) with regard to the proceedings to date.

As the Campaign made clear in its original response in this matter, the Complainants never alleged that Ron Johnson for Senate violated the law. To the contrary, their Complaint openly recognizes that the Campaign did not engage in prohibited coordination under 11 C.F.R. § 109.21. *See* Compl. ¶ 53 n.103 (citing 11 C.F.R. § 109.21(b)). Indeed, Complainants never even named the Campaign as a Respondent or sought a penalty against the Campaign. As such, there was absolutely no basis for the FEC to generate the Campaign as a Respondent in this matter let alone find reason to believe that a violation occurred. Nevertheless, the FEC generated the Campaign as a Respondent to the Complaint.

The Committee reserves its rights to rescind its consent in the event of any future FEC notification(s) or investigation(s) in connection with the MURs referenced in this letter. Thank you for your attention to this matter.

---

<sup>1</sup> In addition, to the extent the Campaign was generated as a Respondent in any of the other MURs filed by the same Complainants and raising similar issues (MURs 7497, 7524, and 7553), the Campaign hereby waives the confidentiality protections in those matters as well.

JONES DAY

Federal Election Commission  
November 4, 2021  
Page 2

Respectfully,

A handwritten signature in black ink that reads "Megan Sowards Newton". The signature is written in a cursive, flowing style.

Megan Sowards Newton

CC: Chair Shana M. Broussard (*via email to Commission Secretary*)  
Vice Chairman Allen Dickerson (*via email to Commission Secretary*)  
Commissioner Sean J. Cooksey (*via email to Commission Secretary*)  
Commissioner James E. "Trey" Trainor (*via email to Commission Secretary*)  
Commissioner Steven T. Walther (*via email to Commission Secretary*)  
Commissioner Ellen L. Weintraub (*via email to Commission Secretary*)

# EXHIBIT D

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**Cotton For Senate** is a Respondent in MUR 7427. MUR 7427 is currently a subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondent Cotton For Senate does hereby waive any and all rights to confidentiality afforded to it under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below, in the above stated matter.**

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose Responses filed on behalf of the

Respondent in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

*For Respondent Cotton For Senate:*

Theodore V. Koch

11-4-2021

[NAME] Theodore V. Koch  
[Position] Treasurer

Date



# EXHIBIT E

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**OnMessage, Inc. and Starboard Strategic, Inc.** are Respondents in the following related matters: MUR 7427; MUR 7497; and MUR 7524. MUR 7427, MUR 7497, and MUR 7524 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondents OnMessage, Inc. and Starboard Strategic, Inc. do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.**

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose Responses filed on behalf of the

Respondents in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

*For Respondents OnMessage, Inc. and Starboard Strategic, Inc.:*



[NAME]  
[Position]

Bradley A. Todd  
Partner

11-3-21

Date

# EXHIBIT F

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**The Thom Tillis Committee and Collin McMichael**, in his capacity as Treasurer of the Thom Tillis Committee (collectively “Respondents”) are Respondents in the following related matters: **MUR 7427** currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondents do hereby waive any and all rights to confidentiality afforded under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.**

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters. The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondent to disclose Responses filed on behalf of the Respondent in the above stated matters, in whole or in part.

*For the Thom Tillis Committee and Collin McMichael in his capacity as Treasurer of the Thom Tillis Committee*



Roger W. Knight  
Attorney for Respondents

11-3-21

Date

# EXHIBIT G

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group** are Respondents in the following related matters: MUR 7524; MUR 7553; MUR 7558; MUR 7560. MUR 7524 and MUR 7553 are currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondents National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group do hereby waive any and all rights to confidentiality afforded to them under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.**

Without limiting the foregoing, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters.

In addition, the Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondents to disclose Responses filed on behalf of the

Respondents in the above stated matters, in whole or in part, and any votes taken in connection with the above stated matters.

*For Respondents National Media Research Planning and Placement, LLC, Red Eagle Media Group, and American Media & Advocacy Group:*

Jon Ferrell, CFO

[NAME]  
[Position]

11-3-21

Date



# EXHIBIT H

## JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001.2113

TELEPHONE: +1.202.879.3939 • FACSIMILE: +1.202.626.1700

DIRECT NUMBER: (202) 879-3951  
SCROSLAND@JONESDAY.COM

November 3, 2021

### VIA E-MAIL

Federal Election Commission  
C/O Office of Complaints Examination and Legal Administration  
1050 First Street, N.E.  
Washington, DC 20463

**Re: Notice of Consent under 52 U.S.C. § 30109(a)(12), 11 C.F.R.  
§ 111.21**

Dear Commissioners:

On behalf of Make America Great Again PAC, f/k/a Donald J. Trump for President, Inc. (“the Committee”), we write in regard to MUR 7553.

As the Commissioners should know by now, the complaint in MUR 7553, filed by Campaign Legal Center and Giffords, openly acknowledged that there was no basis for reason to believe there had been a violation by the Committee. *See* MUR 7553, Compl. ¶ 50 n.95 (citing 11 C.F.R. § 109.21(b)(2)). In fact, the complaint did not assert any of its “Causes of Action” against the Committee, did not seek a penalty against the Committee in its “Prayer for Relief,” and did not even name the Committee as a respondent in its caption. This alone should have ended the matter as to the Committee. Yet the FEC generated the Committee as a respondent to the complaint nonetheless.

Consistent with the Statement issued by Vice Chair Dickerson on November 1, 2021, the **Committee now writes to provide its consent, effective immediately, to waive any and all of its confidentiality protections under 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21 with regard to MUR 7553—a matter which the complainants already have made a matter of public record. *See* 52 U.S.C. § 30109(a)(12); 11 C.F.R. § 111.21. The Committee reserves its rights to rescind its consent in the event of any future notification(s) or investigation as to the Committee in connection with MUR 7553.**

Furthermore, the Committee has no record of receiving any notification that it was generated as a respondent in any of MURs 7427, 7497, or 7524, which we understand were filed by the same complainants and may involve some similar issues as MUR 7553. **In the event the FEC has generated the Committee as a respondent in either MUR 7427, 7497, or 7524, the**

JONES DAY

Federal Election Commission  
November 3, 2021  
Page 2

**Committee also waives any and all of its confidentiality protections under 52 U.S.C. § 30109(a)(12) and 11 C.F.R. § 111.21 with regard those matters, effective immediate. The Committee reserves its rights to rescind such consent in the event of any future notification(s) or investigation as to the Committee in connection with any of these MURs.**

Respectfully,



E. Stewart Crosland

CC: Chair Shana M. Broussard (*via email to Commission Secretary*)  
Vice Chair Allen Dickerson (*via email to Commission Secretary*)  
Commissioner Sean J. Cooksey (*via email to Commission Secretary*)  
Commissioner James E. "Trey" Trainor (*via email to Commission Secretary*)  
Commissioner Steven T. Walther (*via email to Commission Secretary*)  
Commissioner Ellen L. Weintraub (*via email to Commission Secretary*)

# EXHIBIT I

**WAIVER OF RESPONDENT'S RIGHTS OF CONFIDENTIALITY  
GRANTED UNDER 52 U.S.C. § 30109**

Pursuant to 52 U.S.C. § 30109(a)(12), “[a]ny notification or investigation made under [Section 30109] shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.”

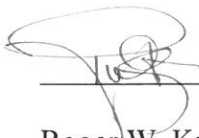
Furthermore, 11 C.F.R. § 111.21(a) provides that “no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.” 11 C.F.R. § 111.21(b) provides that “no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.” Finally, 11 C.F.R. § 111.21(c) provides that “[n]othing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.”

**Senator Richard Burr, the Richard Burr Committee and Timothy W. Gupton**, in his capacity as Treasurer of the Richard Burr Committee, are Respondents in the following related matters: **MUR 7560** currently the subject of litigation in *Giffords v. FEC*, 1:19-cv-01192 (D.D.C.).

**Respondents do hereby waive any and all rights to confidentiality afforded under 52 U.S.C. § 30109 and 11 C.F.R. § 111.21, effective as of the date below.**

The Federal Election Commission, either as an agency or through individual Commissioners, is authorized by the Respondent to disclose information regarding: (1) complaints filed with the Commission in the above stated matters; (2) notifications sent by the Commission in the above stated matters; (3) investigations conducted by the Commission in the above stated matters; and (4) findings made by the Commission in the above stated matters. The Federal Election Commission, either as an agency or through individual Commissioners, is further authorized by the Respondent to disclose Responses filed on behalf of the Respondent in the above stated matters, in whole or in part.

*For Senator Richard Burr, the Richard Burr Committee and Timothy W. Gupton in his capacity as Treasurer of the Richard Burr Committee*



Roger W. Knight  
Attorney for Respondents

11-3-21

Date

## EXHIBIT G

**From:** FOIA FOIA@fec.gov  
**Subject:** Freedom of Information Act Appeal to the Federal Election Commission (2022-04-A)  
**Date:** April 27, 2022 at 9:53 AM  
**To:** Mike Bayes jmbayes@HoltzmanVogel.com

---

VIA ELECTRONIC MAIL

-  
Michael Bayes  
Holtzman Vogel Baran Torchinsky & Josefiak PLLC  
2300 N Street, NW, Ste 643-A  
Washington, DC 20037  
(202) 737-8808  
jmbayes@HoltzmanVogel.com

**Re: Your Freedom of Information Act Appeal to the Federal Election Commission  
(2022-04-A)**

Dear Mr. Bayes,

This email concerns the FOIA Appeal you filed on behalf of Josh Hawley for Senate and Salvatore Purpura, Treasurer, received by the Federal Election Commission's (FEC) FOIA Requester Service Center on March 30, 2022. You requested:

**Records of votes cast and Statements of Reason in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654 and in *Giffords v. Federal Election Commission*, 1:19-cv-01192**

On January 7, 2022, the FOIA Service Center produced six pages of records responsive to your request, consisting of vote certifications in *Giffords v. FEC*, No. 19-1192. We also informed you that we were withholding 32 pages of materials under FOIA Exemptions 3(A) and 5, which consist of vote certifications and a Statement of Reasons in MURs 7427, 7497, 7621, 7524, 7553, 7558, 7560, 7621, and 7654. On March 25, we provided you with one additional page of records.

Upon review of your FOIA appeal, the Commission was unable to render an opinion on whether to approve or deny the appeal by a majority vote.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS at:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001  
E-mail: ogis@nara.gov  
Telephone: 202-741-5770  
Fax: 202-741-5769

Toll-free: 1-877-684-6448

You are advised that you may bring a civil action in U.S. District Court with respect to any adverse FOIA determination. If you have any questions, please contact the FOIA Requester Service Center at FOIA@fec.gov or (202) 694-1650.

Sincerely,

Steve N. Hajjar  
FOIA Requester Service Center



## CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<b>I. (a) PLAINTIFFS</b> Josh Hawley for Senate  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>St. Louis County</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> Federal Election Commission  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Holtzman Vogel Baran Torchinsky Josefiak, PLLC 2300 N Street NW, Suite 643A Washington, DC 20037 (202) 737-8808 (P)	ATTORNEYS (IF KNOWN) Office of the General Counsel Federal Election Commission 1050 First Street NE Washington, DC 20463

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff         </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)         </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant         </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b> <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input checked="" type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input checked="" type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input checked="" type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input checked="" type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen of this State	<input type="radio"/> 1	<input checked="" type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>	<input type="radio"/> <b>F. Pro Se General Civil</b>
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<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
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<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input checked="" type="radio"/> <b>I. FOIA/Privacy Act</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☐ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 5 U.S.C. § 552

**VII. REQUESTED IN COMPLAINT**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

**JURY DEMAND:**

Check YES only if demanded in complaint  
 YES ☐ NO ☒

**VIII. RELATED CASE(S) IF ANY**

(See instruction)

YES ☒ NO ☐

If yes, please complete related case form

**DATE:** 5/10/2022

**SIGNATURE OF ATTORNEY OF RECORD**

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

CLERK'S OFFICE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CO-932  
Rev. 4/96

NOTICE OF DESIGNATION OF RELATED CIVIL CASES PENDING  
IN THIS OR ANY OTHER UNITED STATES COURT

Civil Action No. \_\_\_\_\_  
(To be supplied by the Clerk)

NOTICE TO PARTIES:

Pursuant to Rule 40.5(b)(2), you are required to prepare and submit this form at the time of filing any civil action which is related to any pending cases or which involves the same parties and relates to the same subject matter of any dismissed related cases. This form must be prepared in sufficient quantity to provide one copy for the Clerk's records, one copy for the Judge to whom the cases is assigned and one copy for each defendant, so that you must prepare 3 copies for a one defendant case, 4 copies for a two defendant case, etc.

NOTICE TO DEFENDANT:

Rule 40.5(b)(2) of this Court requires that you serve upon the plaintiff and file with your first responsive pleading or motion any objection you have to the related case designation.

NOTICE TO ALL COUNSEL

Rule 40.5(b)(3) of this Court requires that as soon as an attorney for a party becomes aware of the existence of a related case or cases, such attorney shall immediately notify, in writing, the Judges on whose calendars the cases appear and shall serve such notice on counsel for all other parties.

\_\_\_\_\_

The plaintiff, defendant or counsel must complete the following:

I. RELATIONSHIP OF NEW CASE TO PENDING RELATED CASE(S).

A new case is deemed related to a case pending in this or another U.S. Court if the new case: [Check appropriate box(es) below.]

- ☐ (a) relates to common property
- ☒ (b) involves common issues of fact
- ☒ (c) grows out of the same event or transaction
- ☐ (d) involves the validity or infringement of the same patent
- ☐ (e) is filed by the same pro se litigant

2. RELATIONSHIP OF NEW CASE TO DISMISSED RELATED CASE(ES)

A new case is deemed related to a case dismissed, with or without prejudice, in this or any other U.S. Court, if the new case involves the same parties and same subject matter.

Check box if new case is related to a dismissed case: ☐

3. NAME THE UNITED STATES COURT IN WHICH THE RELATED CASE IS FILED (IF OTHER THAN THIS COURT):

United States District Court for the District of Columbia

4. CAPTION AND CASE NUMBER OF RELATED CASE(E-S). IF MORE ROOM IS NEED PLEASE USE OTHER SIDE.

Giffords

5/10/2022

DATE

Nat'l Rifle Ass'n of Am. Political Victory Fund

Signature of Plaintiff/Defendant (or counsel)

C.A. No. 21cv2887

# United States District Court For the District of Columbia

Josh Hawley for Senate	)	
	)	
	)	
	)	
vs	)	Civil Action No. _____
	)	
Federal Election Commission	)	
	)	
	)	
	)	
Defendant	)	

## CERTIFICATE RULE LCvR 26.1

I, the undersigned, counsel of record for Josh Hawley for Senate certify that to the best of my knowledge and belief, the following are parent companies, subsidiaries or affiliates of Josh Hawley for Senate which have any outstanding securities in the hands of the public:

N/A

These representations are made in order that judges of this court may determine the need for recusal.

Attorney of Record



Signature

Jason B. Torchinsky

Print Name

2300 N Street NW, Suite 643A

Address

Washington, DC 20037

City

State

Zip Code

540-341-8808

Phone Number

976033

BAR IDENTIFICATION NO.

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

Josh Hawley for Senate

*Plaintiff*

v.

Federal Election Commission

*Defendant*

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)

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*  
Federal Election Commission  
1050 First Street NE  
Washington, DC 20463

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jason B. Torchinsky  
Holtzman Vogel Baran Torchinsky Josefiak, PLLC  
2300 N Street NW, Suite 643A  
Washington, DC 20037

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

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

Josh Hawley for Senate

*Plaintiff*

v.

Federal Election Commission

*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Matthew M. Graves  
United States Attorney for the District of Columbia  
Civil Process Clerk  
555 4th St. NW  
Washington, D.C. 20001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jason B. Torchinsky  
Holtzman Vogel Baran Torchinsky Josefiak, PLLC  
2300 N Street NW, Suite 643A  
Washington, DC 20037

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



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

Josh Hawley for Senate

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*Plaintiff*

v.

Federal Election Commission

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*Defendant*

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Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Attorney General of the United States Merrick Garland  
c/o Assistant Attorney General for Administration  
Justice Management Division  
950 Pennsylvania Ave. NW  
Room 1111  
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jason B. Torchinsky  
Holtzman Vogel Baran Torchinsky Josefiak, PLLC  
2300 N Street NW, Suite 643A  
Washington, DC 20037

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: