

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

PETER BERNEGGER,

Civil Action No. 1:26-cv-00106-APM

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

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Angela L. Wasson, Clerk of Court  
U.S. District Court for the District of Columbia

**DECLARATION OF PETER BERNEGGER  
IN SUPPORT OF PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

Pursuant to 28 U.S.C. § 1746, I, Peter Bernegger, declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am the plaintiff in this action and am over the age of eighteen. I make this Declaration on personal knowledge, on my review of the docket in this case, and on my review of my own files. If called to testify, I could and would competently testify to the facts set forth below.

2. I am a United States citizen, an elector, a voter, and a participant in the political process by voting in elections. I reside in New London, Wisconsin. I am the President of Election Watch, Inc., a nonpartisan election-integrity organization. I rely on accurate and complete federal campaign-finance disclosures to evaluate candidates, committees, and political fundraising practices.

**THE ADMINISTRATIVE COMPLAINT (FRIENDS OF JOHN THUNE, C00409581)**

3. In December 2025, I executed and submitted to the Federal Election Commission ("the Commission" or "the FEC") an administrative complaint pursuant to 52 U.S.C. § 30109(a)(1) and

11 C.F.R. §§ 111.4–111.7. A true and correct copy of that administrative complaint is attached as Exhibit E.

4. The administrative complaint alleges that Friends of John Thune (FEC ID C00409581), its candidate John Thune, and its Treasurer Nicole Weyers engaged in or facilitated structured, high-frequency, multi-same-day contribution patterns consistent with contributions in the name of another (“smurfing”), false reporting, and related violations of the Federal Election Campaign Act (“FECA”).

5. The administrative complaint cites violations of 52 U.S.C. § 30122 (contributions in the name of another) and 52 U.S.C. §§ 30102 and 30104 (recordkeeping and reporting). It is supported by compiled contribution data and summary statistics drawn from publicly available FEC filings, identifying 714 contributor identities flagged for anomalous patterns, 3,996 flagged transactions, and approximately \$1,148,902 in flagged contributions during the analyzed period. The supporting donor table reflects repeated multi-same-day contribution bursts, including donors making seventeen or more contributions on a single date, and repeated clustering of donations on numerous distinct dates for the same contributor identity.

6. The administrative complaint was subscribed and signed under penalty of perjury pursuant to 28 U.S.C. § 1746. *See* Ex. E (signature page).

#### **THE COMMISSION’S JANUARY 4, 2026 REFUSAL TO PROCESS**

7. On January 4, 2026, a paralegal in the Office of General Counsel of the Federal Election Commission communicated to me by electronic mail that the Commission would not process my administrative complaint concerning Friends of John Thune. The sole stated reason for the refusal

was that my administrative complaint was not notarized. A true and correct copy of that email communication is attached as Exhibit D.

8. My administrative complaint was, however, executed under penalty of perjury pursuant to 28 U.S.C. § 1746. Section 1746 provides that, “[w]herever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same . . . such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated.” 28 U.S.C. § 1746. By the plain text of § 1746, my unsworn declaration carried “like force and effect” as a sworn affidavit and satisfied any sworn-statement requirement that the Commission could lawfully impose under 11 C.F.R. § 111.4(b).

9. The Commission did not assign my administrative complaint a Matter Under Review (MUR) number, did not docket it, and did not issue any acknowledgment letter. The Commission did not (a) make a “reason to believe” finding under 52 U.S.C. § 30109(a)(2), (b) dismiss my administrative complaint by Statement of Reasons, (c) enter into conciliation under § 30109(a)(4)(A), or (d) institute civil proceedings under § 30109(a)(6). The 120-day period under 52 U.S.C. § 30109(a)(8)(A) has long since elapsed since my December 2025 submission, and the Commission has taken no further action of any kind on the merits.

### PROCEDURAL HISTORY OF THIS CIVIL ACTION

10. I commenced this action on January 14, 2026, by filing the Complaint for Declaratory and Injunctive Relief (Dkt. 1) in this Court. A true and correct copy of the current docket sheet for Civil Action No. 1:26-cv-00106-APM is attached as Exhibit B and is incorporated herein. I have reviewed Exhibit B and have personal knowledge that no answer to the First Amended Complaint, Rule 12 motion, or extension of time has been filed by the Commission and that no entry of any such filing appears on the docket.

11. On January 20, 2026, at 1:51 p.m., Ambiko Wallace of Capitol Process Services, Inc., personally served the United States Attorney for the District of Columbia, c/o Civil Process Clerk, 601 D Street, NW, Washington, DC 20530, with the court-stamped Summons; Notice of Right to Consent to Trial Before a United States Magistrate Judge; Notice, Consent, and Reference of a Civil Action to a Magistrate Judge; Civil Cover Sheet; and Complaint. The process server's sworn Affidavit of Service was filed on February 20, 2026 (Dkt. 6). A true and correct copy of the proof of service appears in Exhibit C.

12. On January 21, 2026, Carrie Hollingshed of Capitol Process Services, Inc., served the Attorney General of the United States by certified mail, return receipt requested, addressed to the U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530. The process server's sworn Affidavit of Service by Certified Mail was filed on February 20, 2026 (Dkt. 7), with a supplemental Affidavit of Service filed on March 13, 2026 (Dkt. 8). A true and correct copy of the proofs of service appears in Exhibit C.

13. The FEC was personally served at 1050 First Street, NE on January 20, 2026, at 1:24 p.m., by serving Joe Johnson, Property Manager, authorized to accept service. On January 20, 2026, I

served the Office of General Counsel, 1050 First Street, NE, Washington, DC 20463, by United States Certified Mail, USPS Article No. 9407 1362 0855 1285 4182 43. The Commission has actual notice of this action: counsel for the Commission filed the Notice of Lack of Quorum (Dkt. 3) on January 29, 2026. A true and correct copy of the proof of service on the Commission appears in Exhibit C.

14. I additionally provided a courtesy copy of the stamped Summons and Complaint to the campaign committee Friends of John Thune (FEC ID C00409581), addressed to its Treasurer Nicole Weyers, P.O. Box 841, Sioux Falls, SD 57101, by United States Certified Mail (No. 9590 9402 9434 5069 5676 80).

15. On February 6, 2026, I filed and served the First Amended Complaint, which was entered on the docket on February 18, 2026 (Dkt. 5). A true and correct copy is attached as Exhibit G.

16. On January 29, 2026, the Commission filed its Notice of Lack of Quorum (Dkt. 3). A true and correct copy is attached as Exhibit F. The Notice represents that, as of May 1, 2025, the Commission lacked the four-vote quorum required by 52 U.S.C. § 30106(c) and § 30107(a)(6) to take final action. The Notice was filed before the First Amended Complaint, is not directed to the operative pleading, does not admit or deny any allegation, asserts no defense, requests no relief, and seeks no extension of time.

17. Federal Rule of Civil Procedure 12(a)(2) requires a United States agency to serve an answer to a complaint within 60 days after service on the United States Attorney. Based on the January 20, 2026 service on the United States Attorney for the District of Columbia, the 60-day period for the Commission to answer or otherwise respond to the Complaint expired on March 23, 2026 (March 21, 2026 being a Saturday; *see* Fed. R. Civ. P. 6(a)(1)(C)). Federal Rule of Civil Procedure

15(a)(3) provides that any required response to an amended pleading must be made within the time remaining to respond to the original pleading or within 14 days after service of the amended pleading, whichever is later. Both deadlines have lapsed. The Commission has not answered, moved under Rule 12, or sought leave to enlarge its time to respond.

18. On March 24, 2026, I filed my Motion for Entry of Default and Default Judgment (Dkt. 9). On April 20, 2026, I filed a supplemental Declaration in Support of Request for Clerk's Entry of Default (Dkt. 10). On April 29, 2026, this Court (Mehta, J.) entered a Minute Order granting in part the Motion for Entry of Default and directing the Clerk of Court to enter default against the defendant Federal Election Commission under Federal Rule of Civil Procedure 55(a). The Court found that the defendant "has 'failed to plead or otherwise defend' this action in a timely manner" and that, "[a]lthough the agency has filed a Notice of Lack of Quorum, ECF No. [3], it has not otherwise entered an appearance in this case and responded to the Complaint." (Minute Order, Apr. 29, 2026.) A true and correct copy of the Court's April 29, 2026 Minute Order and the resulting Clerk's Entry of Default is attached as Exhibit A.

19. I have not been informed, and have no information indicating, that the defendant is an infant, an incompetent person, or in the military service. I am informed and believe that, as the defendant is a federal agency, the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901–4043, does not apply.

#### **EXHIBITS AUTHENTICATED BY THIS DECLARATION**

The exhibits attached to and authenticated by this Declaration are as follows:

**Exhibit A:** Court's Minute Order and Clerk's Entry of Default under Federal Rule of Civil Procedure 55(a), dated April 29, 2026.

**Exhibit B:** Current docket sheet for *Bernegger v. Federal Election Commission*, Civil Action No. 1:26-cv-00106-APM (D.D.C.).

**Exhibit C:** Proof of service under Federal Rule of Civil Procedure 4(i), comprising (i) Capitol Process Services Affidavits of Service on the United States Attorney for the District of Columbia (Dkt. 6) and on the Attorney General of the United States (Dkt. 7, 8); and (ii) the United States Postal Service Certified Mail confirmation for service on the Federal Election Commission (Article No. 9407 1362 0855 1285 4182 43).

**Exhibit D:** January 4, 2026 electronic mail communication from a paralegal in the Office of General Counsel of the Federal Election Commission stating that the Commission would not process the plaintiff's administrative complaint concerning Friends of John Thune on the ground that the complaint was not notarized.

**Exhibit E:** Plaintiff's administrative complaint concerning Friends of John Thune (FEC ID C00409581), executed in December 2025 under 28 U.S.C. § 1746.

**Exhibit F:** Defendant's Notice of Lack of Quorum (Dkt. 3), filed January 29, 2026.

**Exhibit G:** Plaintiff's First Amended Complaint (Dkt. 5), filed February 6, 2026 and entered February 18, 2026.

**Exhibit H:** Federal Election Commission, "Description of Preliminary Procedures for Processing Complaints Filed with the Federal Election Commission" (January 2023).

I declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on May 4, 2026, at New London, Wisconsin.



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Peter Bernegger, Plaintiff  
1806 Brynwood Trace  
New London, WI 54961  
Telephone: (920) 551-0510  
Email: [peter@electionwatch.info](mailto:peter@electionwatch.info)