

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

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Angela D. Caesar, Clerk of Clerk
U.S. District Court District of Columbia

PETER BERNEGGER,

Plaintiff,

v.

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

FEDERAL ELECTION COMMISSION,

Defendant.

**PLAINTIFF'S FIRST AMENDED COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff Peter Bernegger files this First Amended Complaint under 52 U.S.C. § 30109(a)(8) to challenge the Federal Election Commission's refusal to process and docket his sworn administrative complaint concerning Friends of John Thune (Committee ID C00409581), its candidate John Thune, and its Treasurer Nicole Weyers. Plaintiff seeks a declaration that the Commission's refusal to process and its failure to act are contrary to law, and an order directing the Commission to conform within 30 days.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 52 U.S.C. § 30109(a)(8) and 28 U.S.C. § 1331. Declaratory relief is authorized by 28 U.S.C. § 2201.

2. Venue is proper in this District because Congress vested exclusive jurisdiction over actions under 52 U.S.C. § 30109(a)(8) in the United States District Court for the District of Columbia, and because Defendant is an agency of the United States headquartered in this District. 28 U.S.C. § 1391(e)(1).

PARTIES

3. Plaintiff Peter Bernegger is a United States citizen, elector, voter, and participant in the political process by voting in elections who resides in New London, Wisconsin. He is the sworn complainant in the underlying administrative proceeding and relies on accurate and complete federal campaign finance disclosures to evaluate candidates, committees, and political fundraising practices. Plaintiff is a “party aggrieved” within the meaning of 52 U.S.C. § 30109(a)(8). See *FEC v. Akins*, 524 U.S. 11, 19–26 (1998).

4. Defendant Federal Election Commission is an independent agency of the United States located at 1050 First Street, NE, Washington, DC 20463. The Commission is charged with administering, interpreting, and civilly enforcing the Federal Election Campaign Act of 1971, as amended (“FECA”). *Note:* In its Notice of Lack of Quorum filed in this action on January 29, 2026 (Document 3), the Commission misidentified itself in the caption as the “Federal Election Committee” rather than the “Federal Election Commission.” This pleading uses the correct statutory name.

5. Interested parties in the underlying administrative proceeding include: (a) Friends of John Thune (C00409581); (b) John Thune, as the authorizing candidate; and (c) Nicole Weyers, as Treasurer of Friends of John Thune and the person responsible for the committee’s receipt, deposit, and reporting of contributions and certification of reports under penalty of perjury.

LEGAL BACKGROUND

6. Under 52 U.S.C. § 30109(a)(8)(A), any party aggrieved by the Commission’s dismissal of an administrative complaint, or by the Commission’s failure to act on such complaint, during

the 120-day period beginning on the date the complaint is filed, may file a petition with this Court. If the Court declares the dismissal or failure to act is contrary to law, it may direct the Commission to conform within 30 days. 52 U.S.C. § 30109(a)(8)(C).

7. Courts in this District routinely grant declaratory relief and conformance orders in such cases. See *Giffords v. FEC*, No. 1:19-cv-01192, 2021 WL 4810333 (D.D.C. Sept. 30, 2021) (finding Commission “unreasonably delayed its consideration” of administrative complaints and granting summary judgment to plaintiff).

8. The D.C. Circuit defines the “contrary to law” standard and recognizes judicial review of the Commission’s inaction. See *Orloski v. FEC*, 795 F.2d 156, 161–168 (D.C. Cir. 1986).

9. The Supreme Court has recognized complainant standing to seek judicial review in election enforcement matters. See *FEC v. Akins*, 524 U.S. 11, 19–26 (1998).

10. In assessing agency delay, courts consider the factors identified in *Telecommunications Research and Action Center v. FCC*, 750 F.2d 70, 79–80 (D.C. Cir. 1984) (“TRAC”).

11. The D.C. Circuit has explained that when this Court orders the Commission to conform within 30 days, the Commission may satisfy conformance by taking formal action within the window. A contemporaneous certification of any vote and a Statement of Reasons permit meaningful judicial review of any dismissal or deadlock. See *Campaign Legal Center v. 45Committee, Inc.*, No. 23-7040 (D.C. Cir. Oct. 8, 2024).

FACTS

A. The Administrative Complaint

12. In December 2025, Plaintiff executed and submitted a sworn administrative complaint to the Federal Election Commission under 52 U.S.C. § 30109(a)(1), alleging that Friends of John Thune (Committee ID C00409581), its candidate John Thune, and its Treasurer Nicole Weyers engaged in and or facilitated structured, high-frequency, and multi-same-day contribution patterns consistent with contributions in the name of another, false reporting, and related FECA violations.

13. The administrative complaint is supported by compiled contribution data and summary statistics identifying high-frequency contributor identities and multi-same-day contribution bursts from publicly available FEC filings.

14. The administrative complaint and supporting materials identify 714 contributor identities flagged for anomalous patterns, involving 3,996 flagged transactions totaling approximately \$1,148,902 during the analyzed period.

15. The supporting donor table reflects repeated multi-same-day contribution bursts, including donors making 17 or more contributions on a single date, and repeated clustering of donations on numerous distinct dates for the same contributor identity.

16. Plaintiff's administrative complaint alleges that these patterns, viewed in combination with the committee's legal obligations to obtain and report truthful contributor information, provide reason to believe that the committee accepted and reported prohibited contributions in the name of another, 52 U.S.C. § 30122, and filed materially false, misleading, and or incomplete reports, 52 U.S.C. §§ 30102 and 30104, and implementing regulations.

B. The Commission's Refusal to Process

17. On or about January 2, 2026, the Commission notified Plaintiff by email that it was not going to process Plaintiff's administrative complaint concerning Friends of John Thune.

18. The Commission's refusal to process, docket, and proceed on the administrative complaint constitutes a dismissal and or failure to act contrary to law under 52 U.S.C. § 30109(a)(8). By refusing to process the complaint, the Commission effectively foreclosed the statutory enforcement process Congress created in 52 U.S.C. § 30109.

19. Plaintiff filed this action on January 14, 2026, within 60 days of the Commission's January 2, 2026 refusal to process Plaintiff's administrative complaint, which constitutes a dismissal for purposes of FECA judicial review. *See* 52 U.S.C. § 30109(a)(8)(A).

C. The Commission's Lack of Quorum

20. On January 29, 2026, the Commission filed a Notice of Lack of Quorum in this action (Document 3, ECF), stating that the Commission "is without a quorum and unable to authorize defense of this action."

21. FECA provides for six voting Commissioners. 52 U.S.C. § 30106(a). The authority for the Commission to conduct an investigation on an administrative matter or defend a civil action brought under 52 U.S.C. § 30109(a)(8)(A) requires the affirmative votes of four members of the Commission. 52 U.S.C. § 30107(a)(6); *see also* 52 U.S.C. § 30106(c).

22. On April 30, 2025, former Commissioner Allen Dickerson resigned from the FEC upon the expiration of his term, leaving the Commission with three Commissioners. On October 3, 2025,

former Commissioner James E. “Trey” Trainor resigned from the FEC, leaving the Commission with only two Commissioners. As of the filing of this First Amended Complaint, the Commission remains without a quorum.

23. The Commission’s lack of quorum does not moot or defeat Plaintiff’s claims. Congress enacted 52 U.S.C. § 30109(a)(8) precisely to address circumstances where the Commission fails to act - whether due to deadlock, inaction, or inability to muster the requisite votes. The quorum deficit is itself a failure to act within the meaning of the statute. *See Giffords v. FEC*, 2021 WL 4810333 (ordering conformance despite FEC’s lack of quorum); *Orloski v. FEC*, 795 F.2d at 161–168.

24. The Commission’s quorum deficit is not a defense to this action; it is evidence of the very failure to act that 52 U.S.C. § 30109(a)(8) was designed to remedy. The statute does not condition judicial review on the Commission’s institutional capacity to act. Rather, it guarantees complainants a right to judicial review when the Commission, for whatever reason, does not act.

25. Plaintiff is aggrieved by the Commission’s refusal to process his administrative complaint and its continuing failure to act, and has no adequate remedy other than that provided by 52 U.S.C. § 30109(a)(8).

CLAIM FOR RELIEF

COUNT I

Dismissal and or Failure to Act Contrary to Law (52 U.S.C. § 30109(a)(8))

26. Plaintiff incorporates all preceding paragraphs.

27. Plaintiff filed a sworn administrative complaint alleging facts that establish reason to believe violations of FECA occurred, including but not limited to: (a) contributions in the name of another, 52 U.S.C. § 30122; and (b) materially false, misleading, and or incomplete reporting, 52 U.S.C. §§ 30102 and 30104, and implementing regulations.

28. The Commission's refusal to process Plaintiff's complaint, communicated on or about January 2, 2026, constitutes a dismissal and or failure to act within the meaning of 52 U.S.C. § 30109(a)(8)(A).

29. FECA requires the Commission to receive and process administrative complaints and to act in accordance with the enforcement framework Congress enacted in 52 U.S.C. § 30109. The Commission's refusal to do so is contrary to law.

30. The Commission's dismissal and or failure to act is contrary to law because it is inconsistent with the Commission's mandatory statutory duties under FECA and deprives Plaintiff of the enforcement process and judicially reviewable disposition Congress provided. *See Orloski*, 795 F.2d at 161–168.

31. Relief is warranted under 52 U.S.C. § 30109(a)(8)(C) directing the Commission to conform within 30 days. *See Giffords*, 2021 WL 4810333.

32. Plaintiff is entitled to (a) a declaration that the Commission's action is contrary to law, and (b) an order remanding the matter to the Commission and directing it to conform within 30 days as required by 52 U.S.C. § 30109(a)(8)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Declare that the Federal Election Commission's refusal to process Plaintiff's December 2025 administrative complaint concerning Friends of John Thune (C00409581) constitutes a dismissal and or failure to act that is contrary to law under 52 U.S.C. § 30109(a)(8);

B. Order the Commission to conform with that declaration within 30 days by taking one of the actions that FECA provides, including by docketing and processing Plaintiff's administrative complaint consistent with FECA and the Commission's regulations, and by filing with the Court a certification of any vote or votes taken during that period. The certification should identify the date, the question presented, and each Commissioner's vote. The Commission should also file any controlling Statement of Reasons sufficient to permit judicial review;

C. Retain jurisdiction to determine whether the Commission has conformed with the Court's order and to grant further appropriate relief;

D. If the Commission does not conform within 30 days, authorize Plaintiff to bring a civil action to remedy the violations involved in the original complaint as provided by 52 U.S.C. § 30109(a)(8)(C);

E. Award Plaintiff his costs and, where permitted, reasonable fees; and

F. Grant such other and further relief as the Court deems just and proper.

NOTICE TO INTERESTED PARTIES

33. Plaintiff will provide notice of this action to the respondents named in the underlying administrative complaint, including Friends of John Thune (C00409581), John Thune, and Treasurer Nicole Weyers, in the manner required by FECA and the Federal Rules of Civil Procedure.

VERIFICATION

I, Peter Bernegger, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the facts stated in this First Amended Complaint are true and correct to the best of my knowledge, information, and belief.

Executed on: February 5, 2026



Peter Bernegger

Respectfully submitted,

Dated February 5, 2026



Peter Bernegger, *Plaintiff*
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PETER BERNEGGER,

Plaintiff,

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

v.

FEDERAL ELECTION COMMISSION,

Defendant.

CERTIFICATE OF SERVICE

I, Peter Bernegger, Plaintiff, hereby certify that on February 5, 2026, I served a true and correct copy of Plaintiff's First Amended Complaint for Declaratory and Injunctive Relief upon counsel of record for Defendant Federal Election Commission by Fedex overnight, postage prepaid, addressed as follows:

Michael D. Contino (D.C. Bar No. 1782269) Attorney
Federal Election Commission, Office of General Counsel
1050 First Street, NE, Washington, DC 20463 Email: mcontino@fec.gov

The foregoing counsel appeared on behalf of Defendant in the Notice of Lack of Quorum filed January 29, 2026 (Document 3, ECF) in this action.

Dated: February 5, 2026



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