



FEDERAL ELECTION COMMISSION

Washington, DC 20463

SENSITIVE

AGENDA DOCUMENT NO. X23-24

AGENDA ITEM

For the meeting of July 11, 2023

SUBMITTED LATE

July 7, 2023

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Kevin Deeley *KD*
Harry J. Summers *HJS*

SUBJECT: Litigation Status Report

The attached litigation report consists of four parts:

- A list of all court cases opened or closed during the previous month.
- A "Pre-Litigation Report" that lists all cases for which the Commission has authorized civil litigation, but for which no court complaint has yet been filed. The list identifies the names of the primary respondents, MUR numbers, dates on which contingent and/or final suit authority was approved, and the staff assigned to the matter.
- A "Pending Litigation Report" that lists all litigation cases that are open as of the date of this report. This list identifies the name of the court case, the case number assigned by the court, the staff working on the case, the related MUR number (if any), and the applicable litigation budget category.
- A "Litigation Activity Report" that lists all court filings for the previous month. Each case for which there has been court activity is listed on a separate page, and each filing is identified by date and name, with further explanation in italics when appropriate. At the top of the first page for each individual case, the report includes information that does not change each month, such as the case name and number, the judge's name, when and where the case was filed, and a description of the issues in dispute. Because we occasionally learn of court filings several days, or even weeks, after they have been submitted to the court, we will sometimes list activity from an earlier month.

CASES OPENED AND CLOSED

Court

Docket No.

Date

CASES OPENED:

CASES CLOSED:

Pending Litigation Report as of July 1, 2023

NAME OF CASE	CASE NUMBER/COURT	STATUS	FEC NUMBER	LITIGATION STAFF	TEAM LEADER	BUDGET
AB PAC v. FEC	22-2139	Prelim. mot.		S. Ward		30109-DEF
Campaign Legal Center, et al. v. FEC	19-2336 (D.D.C.) 22-5336 (D.C. Cir.)	Appealed Briefing	MUR 7146 (Correct the Record)	Mueller		30109-DEF
Campaign Legal Center v. FEC	21-406 (D.D.C.) 22-5140 / 22-5167 (D.C. Cir.)	Appealed/Stayed Post-decis'n	MUR 7516 (Heritage Action for Am.)		Summers	30109-DEF
Campaign Legal Center v. FEC	22-1976 (D.D.C.) 22-5339 (D.C. Cir.)	Appealed Briefing	MUR 7784 (Trump MAGA)	Mueller	Summers	30109-DEF
Campaign Legal Center, et al. v. FEC, et al.	22-3319 (D.D.C.)	Prelim. mot.	MUR 6927 (Right to Rise II)	Bell		30109-DEF
Castro v. FEC	22-2176 (D.D.C.) 22-5323 (D.C. Cir.)	Appealed Post-decis'n		S. Ward		30109-DEF
CREW v. FEC	22-35 (D.D.C.)	Default	MUR 7465 (Freedom Vote, Inc.)			30109-DEF
CREW v. FEC	22-3281 (D.D.C.)	Prelim. mot.	MUR 6589R (AAN)	Mueller		30109-DEF
Common Cause Georgia, et al. v. FEC	22-3067 (D.D.C.)	Briefing	MUR 7894 (True the Vote)	Bell	Summers	30109-DEF
Defend Louisiana PAC; FEC v.	21-346 (M.D. La.)	Post-judg't	MUR 7610	S. Ward		30109-OFF
End Citizens United PAC v. FEC	21-1665 (D.D.C.) 22-5176 (D.C. Cir.)	Appealed Post-decis'n	MUR 7609 (Donald J. Trump for President, Inc.)			30109-DEF
End Citizens United PAC v. FEC	21-2128 (D.D.C.) 22-5277 (D.C. Cir.)	Appealed Argued	MUR 7370 (New Republican PAC) MUR 7496 (New Republican PAC)	Mueller	Summers	30109-DEF
Free Speech for People, et al. v. FEC	22-666 (D.D.C.)	Prelim. mot.	MUR 7207 (Russian Federation)	S. Ward	Summers	30109-DEF
Freedman v. FEC et al.	22-1542 (D.D.C.)	Prelim. mot.	MUR 7811 (Reddit, Inc.)	Mueller	Summers	30109-DEF
Great America PAC v. FEC	23-1027 (D.D.C.)	Complaint	MUR 7722 (Bloomberg)	Golvach	Summers	30109-DEF

Heritage Action for America v. FEC	22-1422 (D.D.C.)	Argued	Multiple	Mueller/Bell	Summers	N-FECA-DEF
Legacy Foundation v. FEC	19-1389 (D.D.C.)	Briefing	FOIA 2019-43	S. Ward	Summers	N-FECA-DEF
LatPAC; FEC v	21-6095 (S.D.N.Y)	Post-judg't	MUR 7318	H. Ward	Summers	30109-OFF
Leopold, et al. v. FEC	20-1331 (D.D.C.)	Complaint	FOIA 2020-60	Mueller		N-FECA-DEF
NRSC, et al. v. FEC, et al.	22-639 (S.D. Ohio)	Discovery		Mueller/S. Ward/ Bell	Summers	O-FECA-DEF
NRA of America Political Victory Fund, et al. v. FEC	22-1017 (D.D.C.)	Complaint	FOIA 2022-015	Mueller/Bell	Summers	N-FECA-DEF
Palmer v. FEC	22-2876 (D.D.C.)	Prelim. mot.	MUR 7946 (Center for Tech and Civic Life)	S. Ward		30109-DEF
Ready for Ron v. FEC	22-3282 (D.D.C.)	Discovery	AO 2022-12	Mueller/Bell		N-FECA-DEF
Reform Party; FEC v	04-79 (N.D. Fl.)	Post-judg't		Mueller	Summers	T-26-OFF
Rivera; FEC v.	17-22643 (S.D. Fla.) 22-11437 (11th Cir.)	Appealed Briefing	MUR 6655	Mueller/S. Ward		30109-OFF
Stein, et al. v. FEC	21-1213 (D.C. Cir.)	Argued	LRA No. 1021	S. Ward		T-26-DEF

Case: Campaign Legal Center v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 21-406

Judge: Kelly **Magistrate:** **Complaint filed:** 02/16/21

Staff: Summers **FEC #:** MUR 7516
(Heritage Action for Am.)

Related case: Campaign Legal Center v. FEC, No. 22-5140 (D.C. Cir.); Campaign Legal Center v. FEC, No. 22-5167 (D.C. Cir.)

Description:

In this case brought under 52 U.S.C. § 30109(a)(8)(A), the Campaign Legal Center claims that the FEC has unlawfully failed to act on an administrative complaint alleging that Heritage Action for America violated FECA by failing to disclose who paid to further the group's independent expenditures in disclosure reports required after it aired election advertising during the 2018 election cycle.

Previous: Order granting plaintiff's motion for default judgment.
Heritage Action's appeals were unsuccessful.

Court filings for: June 2023

Date	Action
06/12/23	Minute Order staying Heritage Action's Motion for Relief from Judgment. It is also ordering that this matter is stayed pending the resolution of Action's motion to dismiss in Campaign Legal Center v. Heritage Action, 22-cv-1248. It is further ordered that the parties file a joint status report.

Case: Campaign Legal Center, et al. v. FEC

Court: U.S. Court of Appeals for the District of Columbia**Docket number:** 22-5336

Judge:**Magistrate:****Complaint filed:** 12/21/22

Staff: Mueller**FEC #:** MUR 7146
(Correct the Record)

Related case: Campaign Legal Center, et al. v. FEC, No. 21-5081 (D.C. Cir.),
Campaign Legal Center, et al. v. FEC, No. 19-2336 (D.D.C.)

Description:

This is an action brought by Campaign Legal Center and Catherine Hinckley Kelley under 52 U.S.C. § 30109(a)(8), challenging the Commission's dismissal of their administrative complaints in MUR 7146 (Correct the Record/Hillary for America). The administrative complaints alleged that these committees violated FECA by engaging in a multi-million dollar coordination scheme and failing to report coordinated expenditures. The District Court granted Plaintiffs' Motion for Summary Judgment; denied Defendant-Intervenor's Motion for Summary Judgment; and entered judgment in favor of the Plaintiffs. As a result, the FEC appealed.

Court filings for: June 2023

Date	Action
06/02/23	Corrected Brief Amicus Curiae of Lee E. Goodman, Former FEC Chair and Commissioner, in Support of Appellant
06/23/23	Plaintiffs-Appellees' Response Brief

Case: Castro v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 22-2176

Judge: Contreras **Magistrate:** **Complaint filed:** 07/25/22

Staff: S. Ward **FEC #:**

Related case: Castro v. FEC, No. 22-5323 (D.C. Cir.)

Description:

In this case, John Anthony Castro seeks declaratory and injunctive relief pursuant to 52 U.S.C. 30109 for the FEC's alleged failure to act on an administrative complaint alleging that the FEC should declare Donald J. Trump a "candidate" for president based on his electoral activities, but also refuse to accept his FEC Form 2 on the grounds that his involvement in the events of January 6, 2021, renders him constitutionality ineligible for that office. Plaintiff alternatively alleges that the FEC's "testing the waters" regulation at 11 C.F.R. 100.72 is invalid under the Administrative Procedure Act.

Previous: The Court granted the Commission's motion to dismiss for lack of standing and denied plaintiff's motion for a preliminary injunction.

Court filings for: May 2023

Date	Action
06/02/23	USCA Case Number 22-5323 for Notice of Appeal to DC Circuit Court filed by John Anthony Castro
06/02/23	Mandate

Case: Castro v. FEC

Court: U.S. Court of Appeals for the District of Columbia

Docket number: 22-5323

Judge:**Magistrate:****Complaint filed:** 12/07/22

Staff: S. Ward

FEC #:

Related case: Castro v. FEC, No. 22-2176 (D.D.C.)

Description:

In this case, John Anthony Castro seeks declaratory and injunctive relief pursuant to 52 U.S.C. 30109 for the FEC's alleged failure to act on an administrative complaint alleging that the FEC should declare Donald J. Trump a "candidate" for president based on his electoral activities, but also refuse to accept his FEC Form 2 on the grounds that his involvement in the events of January 6, 2021, renders him constitutionality ineligible for that office. Plaintiff alternatively alleges that the FEC's "testing the waters" regulation at 11 C.F.R. 100.72 is invalid under the Administrative Procedure Act. The Court granted the FEC's motion to dismiss the complaint and denied Castro's motion for a preliminary injunction. Plaintiff appealed.

Court filings for: June 2023

Date	Action
06/02/23	Mandate

Case: End Citizens United PAC v. FEC

Court: U.S. Court of Appeals for the District of Columbia

Docket number: 22-5176

Judge:

Magistrate:

Appeal filed: 06/23/22

Staff:

FEC #: MUR 7609
(Donald J. Trump for President, Inc.)

Related case: End Citizens United PAC v. FEC, No. 21-1665 (D.D.C.)

Description:

End Citizens United challenges the dismissal of its administrative complaint in MUR 7609, which alleged that Donald J. Trump for President, Inc. violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61 by soliciting and directing funds to America First Action without regard to FECA's source prohibitions and contribution limits.

Previous: The district court denied plaintiff's motion for default judgment, concluding that the court lacked jurisdiction to review the dismissal.

Court filings for: June 2023

Date	Action
06/09/23	Per Curiam Judgment; Opinion; Clerk's Order

Case: Great America PAC v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 23-1027

Judge: Cooper **Magistrate:** **Complaint filed:** 04/13/23

Staff: Summers/Golvach **FEC #:** MUR 7722
(Bloomberg)

Related case:

Description:

In this case brought under 52 U.S.C. § 30109(a)(8)(A), Great America PAC (“GAP”) alleges the FEC’s failure to act on its administrative complaint was contrary to law. GAP alleges that the transfer by Michael Bloomberg of over \$18 million of his personal funds through his presidential campaign account, MB2020, to the DNC resulted in excessive contributions and contributions in the name of another.

Court filings for: June 2023

Date	Action
06/12/23	FEC’s Notices of Appearance of Counsel (K. Deeley, H. Summers)
06/13/23	FEC’s Notice of Appearance of Counsel (S. Golvach)
06/19/23	Proof of Service (FEC)
06/19/23	Proof of Service (U.S. Attorney General)
06/19/23	Proof of Service (U.S. Attorney)
06/19/23	Joint Motion to Change Deadlines
06/21/23	Order Granting Joint Motion to Change Deadlines

Case: Leopold, et al. v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 20-1331

Judge: Reyes **Magistrate:** **Complaint filed:** 05/19/20

Staff: Mueller **FEC #:** FOIA 2020-060

Related case:

Description:

This FOIA matter filed by Jason Leopold and BuzzFeed, Inc. asks the court to require Transportation Security Administration, U.S. Department of Homeland Security, U.S. Agency for International Development, Office of the Director on National Intelligence, and the Commission to respond to their FOIA request and produce various records regarding the COVID-19 pandemic and the government's response to it.

Court filings for: June 2023

Date	Action
06/28/23	The Department of Homeland Security, FEC, Office of the Director of National Intelligence, Transportation Security Administration, and the U.S. Agency for International Development's Joint Status Report

Case: NRSC, et al. v. FEC, et al.

Court: U.S. District Court for the Southern District of Ohio**Docket number:** 22-639

Judge: Cole **Magistrate:** Litkovitz**Complaint filed:** 11/04/22

Staff: Summers/Mueller/S. Ward/Bell**FEC #:**

Related case:

Description:

In this case, the National Republican Senatorial Committee, National Republican Congressional Committee, James David Vance, and Steven Joseph Chabot allege that the Federal Election Campaign Act's limits on coordinated party expenditures, including those under 52 U.S.C. § 30116(d), violate the First Amendment.

Court filings for: June 2023

Date	Action
06/07/23	FEC's Notice of Filing Exhibits to Opposition to Plaintiffs' Motion to Certify Question to En Banc Court of Appeals
06/07/23	FEC's Opposition to Plaintiffs' Motion to Certify Question to En Banc Court of Appeals
06/21/23	Plaintiffs' Reply in Support of Motion to Certify Question to En Banc Court of Appeals

Case: NRA of America Political Victory Fund, et al. v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 22-1017

Judge: Sullivan **Magistrate:** **Complaint filed:** 04/12/22

Staff: Summers/Mueller/Bell **FEC #:** FOIA 2022-015

Related case:

Description:

In this FOIA challenge, plaintiffs seek to compel the disclosure of certain materials from the file in MURs 7427, 7497, 7524, and 7553 that were withheld pursuant to FOIA Exemption 5.

Court filings for: June 2023

Date	Action
06/14/23	Joint Status Report

Case: Ready for Ron v. FEC

Court: U.S. District Court for the District of Columbia **Docket number:** 22-3282

Judge: Moss **Magistrate:** **Complaint filed:** 10/27/22

Staff: Bell **FEC #:** AO 2022-12

Related case:

Description:

Plaintiff Ready for Ron (“RFR”) filed this lawsuit asserting constitutional and regulatory challenges to the Commission’s conclusion in AO 2022-12 to the extent that it prohibits RFR from providing a petition -- with supporters’ contact information -- encouraging Ron DeSantis to run for president in the 2024 election.

Court filings for: June 2023

Date	Action
06/23/23	Plaintiff’s Motion to Amend the Case Caption to Reflect Its Name Change to “Ready to Win”
06/23/23	Plaintiff’s Motion for Entry of Judgment for FEC Under Fed. R. Civ. P. 12(c), 56(f)(1), 58(d), or in the Alternative for Entry of Partial Judgment for FEC Under Fed. R. Civ. P. 54(b) and/or to Stay This Case Pending Interlocutory Appeal
06/25/23	Minute Order granting Plaintiff’s Motion to Amend the Case Caption to Reflect Its Name Change to “Ready to Win” and permitting the Plaintiff to litigate this case as “Ready to Win” going forward

Case: FEC v. Rivera

Court: U.S. District Court for the Southern District of Florida

Docket number: 17-22643

Judge: Cannon **Magistrate:** Goodman

Complaint filed: 07/14/17

Staff: Mueller/S. Ward

FEC #: MUR 6655

Related case: FEC v. Rivera, No. 22-11437 (11th Cir)

Description:

This is an offensive suit against former U.S. Congressman David Rivera alleging knowing and willful violations of the ban on contributions in the name of another at 52 U.S.C. § 30122. The Commission alleges that Rivera engaged in a scheme to secretly fund more than \$55,000 in in-kind contributions to the primary election campaign of a rival of the candidate Rivera would eventually face in the general election to represent Florida's 26th Congressional District.

Previous: The court granted the FEC's motion for summary judgment and awarded a civil penalty in the amount of \$456,000.

Court filings for: June 2023

Date	Action
06/22/23	Clerk's Order of Dismissal from USCA for want of prosecution because the appellant David Rivera failed to file an appendix within the time fixed by the rules
06/28/23	Order of the Court granting Appellant's Motion to Set Aside Dismissal and Remedy Default

Case: FEC v. Rivera

Court: U.S. Court of Appeals for the Eleventh Circuit**Docket number:** 22-11437

Judge:**Magistrate:****Appeal filed:** 05/02/22

Staff: Mueller/S. Ward**FEC #:** MUR 6655

Related case: FEC v. Rivera, No. 17-22643 (S.D. Fla.)

Description:

The defendant, former U.S. Congressman David Rivera, appeals the district court's order granting summary judgment to the FEC, which found that Rivera committed knowing and willful violations of the ban on contributions in the name of another, 52 U.S.C. § 30122, and assessed a civil penalty in the amount of \$456,000.

Court filings for: June 2023

Date	Action
06/14/23	Appellant's Brief
06/16/23	Notification: Telephonic extension granted by clerk to Attorney Greg J. Mueller for Appellee Federal Election Commission to file its Appellee's Brief due on 08/14/2023
06/22/23	Appellant's Motion to Set Aside Dismissal and Remedy Default
06/23/23	FEC's Response to Motion to Set Aside Dismissal and Remedy Default
06/24/23	Appellant's Reply to Response to Motion to Set Aside Dismissal and Remedy Default
06/28/23	Appellant's Appendix
06/28/23	Order of the Court granting Appellant's Motion to Set Aside Dismissal and Remedy Default
06/30/23	Appellant's Notice Regarding Motions Mooted by the Dismissal of the Appeal