IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY
AND ETHICS IN WASHINGTON,
P.O. Box 14596
Washington, DC 20044,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION
1050 First Street NE
Washington, D.C. 20463,

Defendant.

Case No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. Plaintiff Citizens for Responsibility and Ethics in Washington ("CREW") brings this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, seeking records from the Federal Election Commission ("the FEC" or "the Commission") in response to CREW's June 25, 2025 and August 7, 2025 FOIA requests.

2. Public oversight of the FEC through FOIA is vital to ensuring the agency charged with enforcing our campaign-finance laws and ensuring transparency in federal elections is acting impartially and effectively. By failing to respond to CREW's requests within FOIA's statutorily prescribed deadlines, Defendant has fundamentally impaired the public's transparency into the Commission's operations.

3. Following the D.C. Circuit's opinion in *End Citizens United PAC v. FEC* requiring FEC commissioners to issue "contemporaneous statement[s]" when closing files of FEC enforcement actions, CREW submitted a FOIA request on June 25, 2025 seeking records concerning the FEC's still undisclosed procedures for making these statements available to the public. 69 F.4th 916, 921 (D.C. Cir. 2023).

4. CREW also submitted an expedited FOIA request on August 7, 2025, seeking records concerning former FEC Commissioner James E. Trainor III's decision not to recuse himself from consideration of the June 11, 2024 FEC complaint filed by America First Legal, which alleged that the Manhattan District Attorney coordinated his office's ultimately successful criminal prosecution of then-former President Trump for various financial crimes with President Biden and his campaign committee and then Vice President Harris's campaign committee, in violation of the Federal Election Campaign Act. That expedited request described the public's need for timely information regarding Commissioner Trainor's refusal to recuse given his widely-perceived bias in favor of President Trump and against the respondents.

5. CREW now seeks declaratory and injunctive relief requiring the FEC to process CREW's FOIA requests, grant expedited processing for CREW's August 7, 2025 FOIA request, preserve all records potentially responsive to CREW's requests, and promptly disclose the requested records.

JURISDICTION AND VENUE

6. This Court has subject matter and personal jurisdiction over this action pursuant to 5 U.S.C. §§ 552(a)(4)(B), 552(a)(6)(C)(i), and 552(a)(6)(E)(iii). The Court also has jurisdiction under 28 U.S.C. §§ 1331, 2201(a), and 2202.

7. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(b).

8. Because Defendant has failed to comply with the applicable time-limit provisions of FOIA, CREW is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

PARTIES

9. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under FOIA and widely disseminates those records to the public.

10. Defendant FEC is an agency within the meaning of 5 U.S.C. § 552(f)(1). Defendant has possession and control of the requested records and is responsible for fulfilling CREW's FOIA requests.

STATUTORY BACKGROUND

11. FOIA, 5 U.S.C. § 552, requires federal agencies to release requested records to the public unless one or more specific statutory exemptions apply.

12. An agency must respond to a party making a FOIA request within 20 working days of receipt of the request, notifying the requester of the agency's determination of which of the requested records it will release, which it will withhold and why, and the requester's right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

13. An agency's failure to make this determination within 20 days is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

14. Moreover, FOIA provides that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules . . . shall make the records promptly available to any person." 5 U.S.C. § 552(a)(3)(A).

15. After a FOIA request is received by an agency, it must "make reasonable efforts to search for the records." 5 U.S.C. § 552(a)(3)(C). If the agency identifies any responsive records, the agency must make them "promptly available." *Id.* § 552(a)(3)(A).

16. Further, agencies shall grant requesters' requests for expedited processing of their FOIA requests when they demonstrate a "compelling need," as well as "in other cases determined by the agency." 5 U.S.C. § 552(a)(6)(E)(i). Demonstrating a "compelling need" requires requesters to show that they are "primarily engaged in disseminating information" with an "urgency to inform the public concerning actual or alleged Federal Government activity." *Id.* § 552(a)(6)(E)(v)(II).

17. The FEC's FOIA regulations require expedited processing when a requester shows a "compelling need," meaning, among other things, "[w]ith respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal government activity." 11 C.F.R. § 4.7(g)(1)(ii).

18. FOIA requires agencies to determine whether to provide expedited processing, and to provide notice of the determination to the requester, within 10 days after the date of the request. 5 U.S.C. § 552(a)(6)(E)(ii)(I). FEC regulations mirror this requirement. *See* 11 C.F.R. § 4.7(g)(3).

19. Agency action to deny a request for expedited processing, and failure by an agency to respond in a timely manner to such a request, is subject to judicial review. 5 U.S.C. § 552(a)(6)(E)(iii).

FACTUAL BACKGROUND

CREW's June 25, 2025 FOIA Request Concerning FEC's Disclosure Policy

20. The FEC is charged with enforcing campaign-finance and election transparency laws by investigating and remediating unlawful conduct within its purview, some of which is brought to its attention through public complaints. The FEC is empowered to remediate unlawful conduct through enforcement proceedings that can result in, among other things, monetary penalties, criminal referrals, and civil claims brought by the FEC.

21. FEC enforcement proceedings are initiated by the Commissioners, who vote on whether there is sufficient reason to support the enforcement action. Only if at least four Commissioners vote in the affirmative will the FEC initiate an enforcement action. If an enforcement action is not initiated, the FEC Commissioners vote on whether the case should be closed, which the FEC refers to as "closing the file."

22. On June 9, 2023, the U.S. Court of Appeals for the District of Columbia ruled that when FEC Commissioners cannot reach the four-vote threshold and a majority thereafter vote to close the file, the Federal Election Campaign Act requires the Commissioners who voted against the enforcement action to issue a "contemporaneous statement" explaining their votes to facilitate judicial review of the FEC's decision. *End Citizens United PAC*, 69 F.4th at 921.

23. On April 3, 2024, the FEC issued a press release stating that it was "adopting new procedures for public disclosure of closed enforcement cases" to "bring the Commission into compliance" with *End Citizens United PAC*.[1]

24. The FEC has not published a written copy of the new procedures. Apart from the press release, it has not published any other documents describing the procedures.

25. The FEC appears to have adopted the procedures without notice and comment or other prior public discussion.

26. In order to better understand the new procedures, how and whether they fully comply with *End Citizens United PAC*, and whether the FEC complied with the Administrative Procedure Act in creating them, CREW submitted a FOIA request to the FEC on June 25, 2025 seeking:

a. From January 1, 2023 to May 3, 2024, all communications between or among FEC Commissioners, their staff, and FEC employees regarding the disclosure procedure for closed enforcement cases referenced in the FEC press release published on April 3, 2024 (the "Disclosure Policy").

b. From January 19, 2024 to the date this request is processed, all documents related to the development, adoption, or implementation of the Disclosure Policy including but not limited to those that reference the January 19, 2024 decision of the U.S. Court of Appeals for the District of Columbia Circuit in *End Citizens United PAC v. FEC*.

Exhibit A.

27. CREW's request sought a fee waiver. Exhibit A at 2.

28. On June 26, 2025, the FEC emailed CREW acknowledging receipt of the FOIA request and assigning it tracking number 2025-281.

29. The FEC has not otherwise responded to the request and has not produced the requested records.

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[1] Press Release, Fed. Election Comm'n, FEC Implements New Enforcement Case Closure Procedures (Apr. 3, 2024), https://www.fec.gov/updates/fec-implements-new-enforcement-case-closure-procedures/.

CREW's August 7, 2025 Expedited FOIA Request Concerning Recusal Decision

30. On June 11, 2024, America First Legal filed a complaint ("America First Legal Complaint") with the FEC seeking enforcement action against Manhattan District Attorney Alvin Bragg, who had prosecuted and convicted then-former President Donald Trump for falsifying business records when he was running for president in the 2016 election, as well as the Biden for President campaign.[2] It generally alleged that Mr. Bragg unlawfully coordinated with the Biden campaign in the course of the prosecution.

31. At that time, James E. Trainor III was Commissioner of the FEC. Commissioner Trainor's public statements and conduct before and during his tenure as Commissioner raised significant public concerns that he was impermissibly biased in favor of President Trump.

32. For example, between November 2021 and May 2024, Commissioner Trainor used his X account, @TXElectionLaw, to publicly like and repost a number of messages and videos supporting President Trump or denigrating his political opponents.[3]

33. In addition, on June 13, 2024, Commissioner Trainor made misleading statements to the House Judiciary Committee regarding the FEC's decision not to investigate President Trump following his conviction for falsifying business records in connection with his first presidential campaign. Commissioner Trainor asserted that the Department of Justice had informed the FEC that it "found no illegal activity" by President Trump and that the FEC could not investigate the matter further because the FEC's "statute of limitations ha[d] run." Neither of these statements were consistent with FEC records.[4]

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[2] Complaint, *Matter of Alvin L. Bragg* (2025) (MUR #8274), https://www.fec.gov/files/legal/murs/8274/8274_01.pdf.

[3] Letter from Citizens for Responsibility and Ethics in Washington to James E. Trainor III, Comm'r, Fed. Election Comm'n 9-22 (July 26, 2024), https://www.citizensforethics.org/wp-content/uploads/2024/07/Commissioner-Trainor-Recusal-Letter.pdf [hereinafter CREW's Recusal Letter].

[4] *Id*. at 4-5.

34. Moreover, Commissioner Trainor made inflammatory statements regarding District Attorney Alvin Bragg in a June 14, 2024 appearance on *Lou Dobbs Tonight*. He agreed with the host's statement that Mr. Bragg was "doing the bidding of George Soros and the other Marxists who want to destroy this country." He accused Mr. Bragg of searching for a crime with which to charge President Trump instead of following the law. And he voiced conspiracy theories that the Department of Justice colluded with the Manhattan District Attorney's office to prosecute President Trump. He offered no evidence in support of these statements.[5]

35. Finally, Commissioner Trainor publicly disparaged New York Supreme Court Judge Juan Merchan, who had presided over President Trump's criminal trial. On *Lou Dobbs Tonight*, he stated: "Judge Merchan suffers from having not been born in the United States and growing up with a civics education to understand the strength of constitutional rights and how important they are." He expressed similar sentiments in an opinion piece published with the *Daily Caller*, evidently aiming to discredit Judge Marchan's education and understanding of the law.[6]

36. Based on the public record created by Commissioner Trainor, on July 26, 2024, CREW sent a letter to Commissioner Trainor requesting that he recuse himself from consideration of the America First Legal Complaint due to his apparent partiality against the respondents as political opponents of then-former President Trump.[7]

37. CREW received no response to this letter.

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[5] *Id*. at 5.
[6] *Id*. at 6.
[7] CREW's Recusal Letter, *supra* note 3.

38. Commissioner Trainor did not recuse himself from considering the America First Legal Complaint.[8] He made no public statement about this decision. There are no other public records of his decision-making process.

39. The Commission split two to two on whether to bring an enforcement action, and ultimately voted four to zero to dismiss the complaint and close the file.[9]

40. To answer questions regarding Commissioner Trainor's decision to hear the complaint and FEC recusal policy more generally, CREW submitted a FOIA request to the FEC on August 7, 2025 seeking any records created after February 20, 2020 meeting the following descriptions:

a. Any and all records that mention, reference, or relate to CREW's July 26, 2024 letter to Commissioner James E. Trainor III requesting his recusal from FEC's consideration of America First Legal's June 11, 2024 complaint seeking enforcement action against Manhattan District Attorney Alvin Bragg and the Biden for President campaign.

b. Any and all records that mention, reference, or relate to Commissioner Trainor's eligibility to consider or participate in the FEC's handling of the Complaint, including whether he should recuse himself.

c. Any and all communications between Commissioner Trainor and FEC or external agency ethics officials regarding recusals.

d. Any and all records that mention, reference or relate to communications between Commissioner Trainor and FEC or external agency ethics officials regarding recusals, including the agreements discussed in the Commissioner's March 10, 2020 confirmation hearing.

Exhibit B at 1.

41. CREW's expedited request sought a fee waiver. Exhibit B at 2.

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[8] *See* Statement of Reasons of Vice Chairman James E. "Trey" Trainor, III and Commissioner Allen J. Dickerson, *Matter of Alvin L. Bragg* (2025) (MUR #8274), https://www.fec.gov/files/legal/murs/8274/8274_12.pdf.
[9] Fed. Election Comm'n, MUR #8274: Alvin L. Bragg, Jr. (Apr. 29, 2025), https://www.fec.gov/data/legal/matter-under-review/8274/.

42. CREW also requested the FEC process the request on an expedited basis because CREW is primarily engaged in disseminating information to the public and Commissioner Trainor's decision not to recuse himself was a matter of current exigency to the American people, arguing in part:

a. The requested records concern a matter of current exigency to the American public insofar as they are the subject of a currently unfolding story about government action: the influence of Commissioner Trainor's widely perceived bias in favor of President Trump on the actions and activities of the FEC. That bias has been a source of major public concern as far back as [] Commissioner Trainor's initial nomination as an FEC Commissioner in 2017. The pressing need for Commissioner Trainor to comply with his legal obligations and recuse himself from matters concerning President Trump's campaign was the subject of intense public discussion and media coverage during his confirmation hearing.

b. Public concern over Commissioner Trainor's apparent bias in favor of President Trump has continued throughout his time in office. In 2021, for instance, he was listed as a member of the "Trump Elections Team" in an advertisement for a Republican Party event, causing the FEC Office of the Inspector General to formally investigate Commissioner Trainor for this incident. In short, Commissioner Trainor's apparent bias in favor of President Trump is the subject of national concern, media coverage. and controversy, and rightly so—the public needs information on whether government officials charged with regulating the democratic process are biased in favor of particular candidates and elected officials.

c. The American people urgently need information about Commissioner Trainor's decision not to recuse from consideration of the Complaint to understand whether he, in his position of public trust to ensure the fairness of federal elections, is complying with federal law requiring impartiality in the execution of his duties. Although public reporting had indicated that Commissioner Trainor was considering resigning from the FEC, thereby alleviating some of the urgency for public disclosure of these records, his recent announcement that he will remain an FEC commissioner indefinitely makes the public's need to understand the risks associated with his apparent bias [is] stronger than ever. While the FEC currently lacks a quorum, it still wields substantial powers, the exercise of which Commissioner Trainor will play a central role in overseeing. The legitimate and widespread concern over Commission Trainor's apparent bias as he influences the work of the Commission is even more pronounced as the Trump Administration openly attempts to end the FEC's independence and politicize election administration. Accordingly, CREW's FOIA request seeks records that will inform the public on how the bias of one of the FEC's commissioners will affect

> the agency's response to these unprecedented attacks. The consequences of delaying a response to CREW's request are serious.

Exhibit B at 3-5 (citations omitted).

43. The FEC acknowledged receipt of the FOIA request on August 7, 2025 and assigned it tracking number 2025-288.

44. The FEC has not otherwise responded to the request and has not produced the requested records to CREW.

CLAIMS FOR RELIEF

COUNT ONE
Violation of FOIA - Wrongful Failure to Grant Expedited Processing
(5 U.S.C. § 552; 11 C.F.R. § 4.7)

45. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

46. On August 7, 2025, CREW properly submitted an expedited processing request and FOIA request seeking records within the possession, control, and custody of the FEC.

47. CREW properly sought expedition from Defendants because of the urgency to inform the public about an actual or alleged federal government activity.

48. CREW is primarily engaged in disseminating information.

49. The FEC wrongfully denied CREW's request for expedited processing by failing to respond to CREW's expedited processing request within 10 days and failing to process CREW's request on an expedited basis.

50. CREW has constructively exhausted its administrative remedies.

51. By denying CREW's request for expedited processing and failing to timely release all requested non-exempt records in full to CREW, the FEC is in violation of FOIA and its implementing regulations.

52. Accordingly, CREW is entitled to injunctive and declaratory relief with respect to expedited processing of its August 7, 2025 FOIA request.

COUNT TWO
Violation of FOIA - Wrongful Withholding of Records
(5 U.S.C. § 552)

53. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

54. In its June 25, 2025 and August 7, 2025 FOIA requests, CREW properly asked for records within the possession, custody, and control of the FEC.

55. Defendant wrongfully withheld agency records requested by CREW by failing to make determinations on CREW's requests within the statutorily prescribed time period of 20 business days, as required by 5 U.S.C. § 552(a)(6)(A), and by continuing to withhold documents that are non-exempt and responsive to CREW's FOIA requests.

56. CREW has constructively exhausted its administrative remedies.

57. Accordingly, CREW is entitled to injunctive and declaratory relief requiring Defendants to immediately process and disclose all non-exempt requested records to CREW.

REQUESTED RELIEF

WHEREFORE, CREW respectfully requests that this Court:

(1) Declare that Plaintiff is entitled to expedited processing and disclosure of the non-exempt records it has requested in its August 7, 2025 FOIA request;

(2) Enter a preliminary and permanent injunction directing Defendants to expeditiously and fully process Plaintiff's June 25, 2025 and August 7, 2025 FOIA requests and disclose all non-exempt records and a Vaughn index to Plaintiff;

(3) Order the Defendants to preserve all records, in whatever form they exist, potentially responsive to all of CREW's pending FOIA requests prior to and during the processing of these requests;

(4) Order Defendants to grant CREW's requests for fee waivers;

(5) Provide for expeditious proceedings in this action;

(6) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;

(7) Award CREW its costs and reasonable attorneys' fees in this action; and

(8) Grant such other relief as the Court may deem just and proper.

Date: 11/24/2025

Respectfully Submitted,

/s/ Kayvan Farchadi

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