

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

END CITIZENS UNITED PAC
100 M Street SE
Washington, DC 20003,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION
1050 First Street NE
Washington, DC 20463,

Defendant

and

NEW REPUBLICAN PAC
815 Slaters Lane
Alexandria, VA 22314

Proposed
Defendant-Intervenor

Civil Action No. 1:21-cv-2128

Motion to Dismiss

CORRECTED MOTION TO DISMISS¹

Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6), Defendant-Intervenor New Republican PAC, by and through undersigned counsel, hereby moves to dismiss Plaintiff's Complaint ("FAC") against Defendant Federal Election Commission in the above-captioned matter. Plaintiff's Complaint against Defendant Federal Election Commission should be dismissed because Plaintiff lacks Article III standing to maintain this lawsuit and because the underlying decision by the FEC to dismiss an enforcement matter on the basis of prosecutorial

¹ Intervenor-Defendant inadvertently filed a draft version of its motion to dismiss. See ECF 21. This filing represents the correct motion. Intervenor-Defendant regrets the error.

discretion is not subject to judicial review. A supporting memorandum of points and authorities and a proposed order accompany this motion.

Dated: December 27, 2021

Respectfully submitted,

/s/ Jason Torchinsky

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J. Michael Bayes (DC Bar No. 501845)
Jessica F. Johnson (DC Bar No. 976688)
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Attorneys for Proposed Defendant-Intervenor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all counsel of record through the Court's CM/ECF system on December 27, 2021. I also HEREBY CERTIFY that a true and correct copy of the foregoing was served to the FEC by USPS First Class Mail on December 28, 2021.

/s/ Jason Torchinsky