

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

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Civ. No. 16-1088 (RJL)
	)	
v.	)	
	)	RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY
FEDERAL ELECTION COMMISSION,	)	
	)	
Defendant.	)	

**FEDERAL ELECTION COMMISSION’S RESPONSE TO  
PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs have filed a Notice of Supplemental Authority calling this Court’s attention to a footnote in *CREW v. FEC*, No. 14-cv-1419 (CRC), 2016 WL 5107018 (D.D.C., Sept. 19, 2016) (Docket No. 16), another court challenge brought by plaintiff Citizens for Responsibility and Ethics in Washington to an administrative enforcement decision of the Federal Election Commission (“FEC”). Footnote 3 of that opinion rejected a defendant-intervenor’s argument that plaintiffs in that case lacked standing due to non-redressability because the applicable statute of limitations had already run and the FEC had “a practice of not pursuing stale enforcement actions.” *Id.* at \*4 n.3. However, nothing in that footnote or the remainder of the opinion in *CREW*, No. 14-cv-1419, affects the proper standing analysis in this case.

The supplemental authority plaintiffs provide is easily distinguishable. First, the cited argument in *CREW*, No. 14-cv-1419, was made by an intervenor, not the FEC. The opinion noted that it was “fatal to [intervenor’s] standing argument” that the FEC had not “admitted to such a practice or addressed this issue in its briefing or at the motions hearing.” *Id.* at \*4 n.3. By contrast, in this case, the FEC *has* stated — and shown — that its practice is not to order revised

disclosure reports in matters like this and doing so would be “a departure from past Commission practice and far too speculative to establish either causation or redressability.” (FEC’s Mem. in Supp. of its Mot. to Dismiss (“FEC Mem.”) (Docket No. 10) at 22.) The FEC listed numerous examples of administrative matters involving contributions made in the name of another in which the conciliation agreement did not require revised disclosure reports. (*Id.* at 20-21 n.4.)

In any case, as the FEC explained, plaintiffs’ purported informational injury here is not redressable for additional reasons. Plaintiffs now request revised disclosure reports, but their allegations are about other, non-reporting violations, some of which have no nexus to the release of information. (FEC Mem. at 20; FEC’s Reply in Supp. of its Mot. to Dismiss (Docket No. 15) at 17-18.) Furthermore, the specific information plaintiffs claim to seek does not currently exist in any form and it is unlikely that an investigation would produce it even if the FEC did decide to conduct one, particularly given the wide-ranging scope of the other violations plaintiffs have alleged. (*Id.* at 16-17.)

Thus, the supplemental authority plaintiffs provide does not alter the standing analysis in this case.

Respectfully submitted,

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