

THE WHITE HOUSE

WASHINGTON

August 8, 2008

Dear Chairman Conyers:

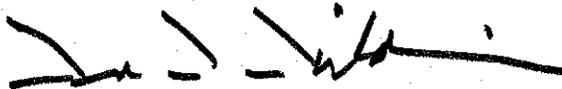
Thank you for your letter of August 1, 2008, following the July 31 decision of the U.S. District Court in *Committee on the Judiciary, U.S. House of Representatives v. Miers*, Civ. No. 08-0409 (JDB), concerning the immunity of close Presidential advisors from appearance in response to Congressional subpoenas.

As I know you appreciate, this litigation is very important in determining constitutional contours governing certain relations between the Executive and Legislative Branches in the Congressional oversight setting. Accordingly, the Department of Justice has now filed an appeal in this matter, and is also seeking a stay of the decision pending review by the U.S. Court of Appeals for the D.C. Circuit. That course of action will provide appellate consideration of the novel questions at stake in this matter and will enable the parties to obtain, if it should prove necessary, a final decision in this important matter. Our stay request is necessary to make such an appeal meaningful.

However, the fact that the Executive has noticed an appeal in this matter does not signify that we think further litigation is the exclusive path forward. During the life of the 110th Congress, this Administration has responded to more than 650 Congressional inquiries and investigations, and through negotiation and accommodation with Congressional committees has been able to resolve all but a very few of them. This commitment to the accommodation process also obtains in the instant dispute, and we agree that such a process should continue simultaneously with the litigation. Toward that end, and hopefully as a prelude to meaningful discussions between us, I propose that members of our respective staffs meet as early as next week to re-commence discussing possibilities for reaching an accommodation between the Branches in this matter. In anticipation of your agreement I have asked Emmet Flood, Special Counsel to the President, to reach out to Committee counsel as soon as possible.

With kind regards,

Sincerely,



Fred F. Fielding
Counsel to the President

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

cc: The Honorable Lamar Smith