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Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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November 22, 2011

Kathryn Ruemmler, Esq.
White House Counsel
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Ms. Ruemmler,

Since this past July, at the request of 49 Members of Congress, I have sought certain information from the Department of Justice with respect to U.S. Supreme Court Associate Justice Elena Kagan's involvement in health care legislation or litigation while she was serving as United States Solicitor General between March 20, 2009 and August 7, 2010.

My request was made pursuant to the Judiciary Committee's oversight authority over the Department of Justice and the Office of the Solicitor General. The results of that oversight would have a bearing on whether Justice Kagan's involvement with healthcare reform legislation and related litigation while she served as the United States Solicitor General created a conflict of interest. Considerable concern exists that her service as Solicitor General might preclude her from participating in litigation in the Supreme Court challenging the constitutionality of the Patent Protection and Affordable Care Act (PPACA).

A review of available documents has led to the conclusion that then Solicitor General Kagan may not have been "walled off" from this matter to the extent as first believed. She may have, in fact, attended meetings at the White House or had communication with White House personnel about the health care legislation or related litigation.

As Chairman of the House Committee on the Judiciary, I request that the White House produce to the Committee the following materials for the period between March 20, 2009 and August 7, 2010:

1. All documents referring to any meetings or conversations (personal or electronic) about potential or actual health care legislation or litigation in which Solicitor General Kagan was involved, mentioned or copied.

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2. All documents referencing potential or actual health care legislation or litigation in which Solicitor General Kagan was involved, mentioned or copied.
3. All documents referencing excluding Ms. Kagan from any matters involving health care legislation or litigation while she was Solicitor General.
4. All documents referencing possible recusal by Solicitor General Kagan from any matters relating to health care legislation or litigation if she were to be confirmed as a Supreme Court Justice.

I would ask that these materials be provided to the Committee by December 16, 2011.
Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman

cc: The Honorable John Conyers, Jr.