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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

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October 28, 2011

The Honorable Eric H Holder  
Attorney General  
United States Department of Justice  
Washington, DC 20530

Dear Attorney General Holder,

I am writing with regard to the October 27, 2011, letter I received from Assistant Attorney General Ronald Weich responding to my July 6, 2011, letter to you in which, on behalf of 49 members of Congress, I requested that the Department produce certain documents and make two individuals available to the Committee. This request was made in connection with U.S. Supreme Court Associate Justice Elena Kagan's involvement in healthcare legislation or litigation while serving as United States Solicitor General.

After waiting nearly four months for a response, the Department, in a one page response, denied both my request for documents and authorization to interview the two individuals. In so doing, the Department did not assert any legal privilege to support the decision, but instead concluded it would be "unseemly" to comply with my request.

This is not an acceptable basis for denying my request. Accordingly, I ask that the Department produce the documents and make the two individuals available by Friday, November 4, 2011.

If the Department does intend to assert a legal privilege as a basis for denying the Committee access to the requested information, then I ask that I be so advised by November 4.

I look forward to your response.

Sincerely,



Lamar Smith  
Chairman

CC: The Honorable John Conyers, Jr.