

# JONES DAY

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GEORGE T. MANNING  
PARTNER - IN - CHARGE

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JP269370

July 10, 2007

Honorable John Conyers, Jr.  
Chairman, Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

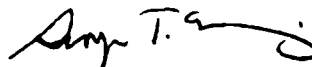
Honorable Linda T. Sanchez  
Chairwoman, Subcommittee on Commercial and Administrative Law  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Re: Congressional Inquiry into U.S. Attorneys Matters

Dear Mr. Conyers and Ms. Sanchez:

I am in receipt of your July 10, 2007 letter. With all due respect, in my conversation with Elliot Minberg, the majority committee counsel with whom I spoke, I did not confirm that Ms. Miers will appear on Thursday to testify before the Subcommittee on Commercial and Administrative Law. Rather, at committee counsel's suggestion, I discussed some logistical arrangements should Ms. Miers appear. The President's previous instructions to Ms. Miers are set forth in my July 9, 2007 letter. In addition, the Counsel to the President has recently informed Ms. Miers that in view of the immunity of the President's senior advisors "from testimonial compulsion by a Congressional committee" ... the President has directed [Ms. Miers] not to appear at the House Judiciary Committee hearing on Thursday, July 12, 2007." Letter from Fred F. Fielding to George T. Manning, July 10, 2007 (attached hereto). Accordingly, I must respectfully inform you that Ms. Miers will not appear at the July 12, 2007 hearing.

Very truly yours,



George T. Manning

cc: Hon. Lamar S. Smith  
Hon. Chris Cannon  
Fred F. Fielding, Esq.

THE WHITE HOUSE

WASHINGTON

July 10, 2007

Dear Mr. Manning:

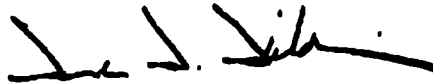
On behalf of your client, former Counsel to the President Harriet E. Miers, you have asked us whether, in view of the President's assertion of Executive Privilege over Ms. Miers' testimony relating to the U.S. Attorneys matter, she must appear at the House Judiciary Committee meeting scheduled for Thursday, July 12, 2007.

We have been advised by the Department of Justice that Ms. Miers has absolute immunity from compelled Congressional testimony as to matters occurring while she was a senior advisor to the President. See Attachment A (*Memorandum for the Counsel to the President re: Immunity of Former Counsel to the President from Compelled Congressional Testimony*, dated July 10, 2007). As the Department's opinion points out, "[t]he President and his immediate advisors are absolutely immune from testimonial compulsion by a Congressional committee." *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 4 (1999) (opinion of Attorney General Janet Reno). That immunity arises from the President's position as head of the Executive Branch and from Ms. Miers' former position as a senior advisor to the President. Ms. Miers cannot be compelled to appear before Congress because "[s]ubjecting a senior presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters relating to his constitutionally assigned functions." 23 Op. O.L.C. at 5. As Congress is aware, this constitutional immunity exists to protect the institution of the Presidency and, as the Department's opinion illustrates, this position has been shared by numerous Administrations, Republican and Democratic, for more than 60 years.

Therefore, in view of this constitutional immunity, I respectfully request that you inform Ms. Miers that the President has directed her not to appear at the House Judiciary Committee hearing on Thursday, July 12, 2007.

Please contact me if you have any questions or would like to discuss these issues.

Sincerely,



Fred F. Fielding  
Counsel to the President

George T. Manning, Esq.  
Noel J. Francisco, Esq.  
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Washington, DC 20001