

Washington D.C. (Dec. 19, 2012)—Today, Rep. Elijah E. Cummings, Ranking Member of the House Committee on Oversight and Government Reform, filed an [amicus brief](#) in the contempt lawsuit brought by House Republicans against Attorney General Eric H. Holder relating to Operation Fast and Furious. Cummings was joined by three House Members who all served previously as Chairmen of the Oversight Committee—Rep. John Conyers, Jr., Rep. Henry A. Waxman, and Rep. Edolphus Towns—as well as Rep. Louise Slaughter, the Ranking Member of the House Committee on Rules.

The brief, which was submitted in the case of Committee on Oversight & Government Reform v. Holder, contends that the Court should exercise its discretion and dismiss the lawsuit because the Committee failed in its Constitutional obligation to avoid unnecessary conflict, to take reasonable measures to accommodate the legitimate interests of the Executive Branch, and to seek information from other available sources.

For example, as the brief states, the Committee failed to obtain testimony from former ATF Acting Director Kenneth Melson:

The intentional decision by the Chairman not to gather pertinent information from perhaps the single most important official in the investigation is relevant here. Amici are not merely second-guessing minor steps of an investigation; Director Melson’s hearing testimony was fundamental to this investigation, and was requested more than 10 separate times by Members of the Committee. The Committee’s decision not to call Director Melson denied Committee Members the opportunity to pursue one of the most critical avenues of information-gathering that remains available to this day, and caused many to question whether the Committee was truly in search of the facts. Although it is certainly the Committee’s prerogative to forego these basic investigative steps, the Committee may not then claim in this litigation that it pursued all available sources of information prior to holding the Attorney General in contempt.

The Committee also disregarded a comprehensive [report](#) by the Department of Justice Inspector General that undermined the Committee’s two key allegations. It found that the Attorney General Holder did not authorize, approve, or know about gunwalking in Operation Fast and Furious, and it found that the Department officials did not deliberately mislead Congress.

The brief also explains how House Republicans rushed the contempt vote in the Oversight Committee, rushed it again on the House floor, and then rushed to the courthouse to file this lawsuit. As the brief argues, the Committee's actions raised concerns "that it was and is more focused on the partisan goal of holding the Attorney General in contempt than on the legislative goal of obtaining information pertinent to its investigation."

Significantly, the brief sides with House Republicans in arguing that Congress has the authority to demand documents as part of legitimate oversight and may seek enforcement of duly authorized subpoenas in Article III courts. In this case, however, it proposes that the Court direct the Committee and the Department to go back to the negotiating table to resolve this conflict in a manner that recognizes and accommodates the legitimate interests of both parties.

As part of the Committee's investigation, Ranking Member Cummings issued a [report](#) in June 2011 highlighting testimony from numerous law enforcement field agents who warned Congress that they need stronger law enforcement tools to combat the illegal flow of firearms. Specifically, these agents called for stronger penalties for illegal straw purchases, a reporting requirement for multiple long gun sales, and the enactment of a dedicated firearms trafficking statute.

To read the full amicus brief, click [here](#).

To read the documents referenced in the brief, click [here](#).