

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HON. ERIC SWALWELL,

Plaintiff,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 1:21-cv-00586-APM

**RESPONSE OF OFFICE OF GENERAL COUNSEL FOR THE
U.S. HOUSE OF REPRESENTATIVES**

Pursuant to this Court’s July 7, 2021 Minute Order, the Office of General Counsel for the U.S. House of Representatives (“Office”) hereby responds to the motion filed by Defendant, the Honorable Mo Brooks, U.S. Representative for the 5th Congressional District of Alabama, seeking certification that Representative Brooks was acting within the scope of his office or employment for the activity put at issue in Plaintiff’s complaint. *See* Mot. to Certify Defendant Mo Brooks was Acting Within the Scope of his Office or Employment (July 2, 2021) (ECF No. 20).

Given that the underlying litigation was initiated by a current Member of the U.S. House of Representatives individually suing another current House Member individually and does not challenge any institutional action of the House or any of its component entities, the Office has determined that, in these circumstances, it is not appropriate for it to participate in the litigation. Pursuant to the Rules of the House of Representatives, the Office “shall” provide legal assistance to the House, which includes all Members of the House, “without regard to political affiliation.”

See Rule II.8(a), Rules of the House of Representatives, 117th Cong. (2021).¹ The Office has adopted this same non-participation approach in other similarly situated litigation arising between currently serving Members. See, e.g., *Boehner v. McDermott*, 484 F.3d 573 (D.C. Cir. 2007) (both Members represented by private counsel).

The Office has been informed that the attached letter from the Chairwoman of the Committee on House Administration was provided directly to the Department of Justice.

Respectfully submitted,

/s/ Douglas N. Letter
Douglas N. Letter (D.C. Bar No. 253492)
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July 27, 2021

¹ Available at <https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf>.

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2021, I caused the foregoing Response of Office of General Counsel, U.S. House of Representatives to be filed via the CM/ECF system for the U.S. District Court for the District of Columbia, which I understand caused a copy to be served on all registered parties.

/s/ Douglas N. Letter
Douglas N. Letter