



Written by [Raven Clabough](#) on May 28, 2015

## Judge Hears Arguments in House ObamaCare Lawsuit

On Thursday, U.S. District Judge Rosemary Collyer appeared skeptical of the Obama administration's position during arguments in an ObamaCare lawsuit filed by the U.S. House of Representatives against the White House. The suit, which marks the first by the full House against a sitting president, comes as the American people await a Supreme Court ruling on a separate lawsuit that challenges ObamaCare's health insurance subsidies.



Attorneys for the House and for the Obama administration clashed on Thursday over whether Judge Collyer should toss out the lawsuit.

Administration attorneys claim that the House has no proof that the Obama administration's actions directly provoked injury and that the lawsuit is instead based on general objections to the implementation of the law, an unjustifiable cause for suit. "This novel tactic is unprecedented, and for good reason: the House has no standing to bring this suit," Justice Department attorneys argued. "The House here asserts only that the executive branch is implementing statutory provisions, which were enacted by a previous Congress, in a manner different from what the current House would prefer."

But the House attorneys assert that the crux of the case is enforcing the Constitution. "This case addresses fundamental issues regarding the limits of executive power under our constitutional form of government," attorneys for the House said in court. "One fundamental tenet of our divided-power system of government is that all legislative power is vested in Congress, and Congress alone."

According to the Associated Press, Judge Collyer "seemed more receptive to the House's position that the administration has acted unconstitutionally in how it has implemented the law," during Thursday's arguments.

House Republicans officially adopted the resolution to sue President Barack Obama last July by a vote of 225-201, marking the first time in U.S. history that a chamber of Congress has endorsed a lawsuit against a president. Five Republicans — Representatives Thomas Massie (R-Ky.), Walter Jones (R-N.C.), Paul Broun (R-Ga.), Steve Stockman (R-Texas), and Scott Garrett (R-N.J.) — joined a unanimous Democratic conference to vote against the measure.

Democrats argued that the vote was merely designed to distract from the GOP's real agenda, which they contended was to ultimately impeach Obama. House Majority Leader John Boehner was compelled to insist repeatedly that Republicans have "no plans" and "no future plans" to impeach Obama, and eventually denounced talks of impeachment as ["a scam started by Democrats"](#) at the White House.

According to the House lawsuit, the Obama administration overreached by acting administratively to approve certain payments to insurers and delay deadlines in the law without congressional approval.

*Forbes* provides some background on the suit:

*House [v. Burwell]* claims the president cannot issue "cost-sharing subsidies" in *any* state, because



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Congress never appropriated funds for those subsidies. Spending federal dollars not pursuant to a congressional appropriation is [a federal crime](#). It would block \$3 billion in subsidies this year, and \$175 billion over the next 10 years. (The House also claims the president violated the law by unilaterally delaying the obligations the PPACA imposes on employers by delaying the onset of the employer mandate past the date specified in the statute.)

And though Congress did not authorize money to make such payments in its annual appropriations, the Department of Health and Human Services, with the help of the U.S. Treasury, made the payments anyway.

On Thursday, lawyers for the Obama administration argued that lawmakers do not have the right to pursue a lawsuit against the president in this case, reports the Associated Press. "The House cannot sue the executive branch over the implementation of existing federal law," said Justice Department attorney Joel McElvain.

Collyer's response revealed reluctance to accept the administration's stance. "You don't really believe that, do you? I have a hard time taking that statement seriously," she remarked.

The lead attorney for the House, prominent George Washington University Law School professor Jonathan Turley, told Collyer, "We believe we have established what can only be viewed as a concrete injury."

House attorneys warn that a decision by the court to reject the case would send a detrimental message to the Obama administration. "Defendants' extreme position, if accepted, would neuter Congress, enlarge the power of the Executive to dangerous levels, and seriously distort the balance of powers between the political branches," the House's attorneys wrote. "Such a concentration of unchecked power in one branch is precisely what the Framers sought to avoid in designing our tripartite system."

As observed by *Government Executive*, House Republicans are not opposed to postponing the employer mandate, but oppose the president's unilateral move to do so. "We are focusing specifically on executive actions relating to the Affordable Care Act, but don't lose sight of the critical importance of these issues at the core of our representative democracy," Representative Peter Roskam, chairman of a Ways and Means subpanel said at a hearing last week. "The question before us is not whether the administration is implementing the health care law. It's whether the administration is undermining the rule of law. And the answer is yes."

"It's not about health care," Pennsylvania Republican Representative Mike Kelly added. "It's about the health care of our Constitution."

Prior to Thursday's hearing, House Speaker John Boehner (R-Ohio) remarked on the administration's push to have the lawsuit dismissed. "The very fact that the administration wants to avoid scrutiny — judicial or otherwise — shows you why this challenge is so important. No one — especially no president — is above accountability to the Constitution and the rule of law."

After the 90-minute hearing, Collyer stated she did not know how or when she would rule, the *Washington Post* reports. "I just haven't decided yet," Collyer said, after praising the rigor of both sides' arguments. "We will get to work on it."

The Associated Press reports that the lawsuit represents a significant opportunity for Republicans to prevail in the fight against ObamaCare: "House Republicans have voted more than 50 times to uproot all or pieces of the law known as 'Obamacare,' but have no hope of prevailing legislatively as long as



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President Barack Obama is in the White House.”



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