

## Overview: Lawsuit Challenging Proxy Voting in the House

- Over 231 years, the House of Representatives has never permitted a Member to vote by proxy from the floor of the chamber.
- Through the Yellow Fever of 1793, the Civil War; the burning of the Capitol during the War of 1812, the Spanish Flu of 1918, and 9/11, Congress has never flinched from its constitutional duty to assemble at the Nation's Capital and conduct the People's business. Congress assembles.
- Defying this unbroken record, Democrats, over unified Republican opposition, voted on May 15, to adopt H. Res. 965 authorizing Members to vote by proxy.
- Voting by proxy is flatly prohibited by the Constitution. It is impossible to read the Constitution and overlook its repeated and emphatic requirement that Members of Congress physically assemble:
  - Article I, Section 4, Clause 2 states: "The Congress *shall assemble* at least once in every Year, and such *Meeting* shall . . . ."
  - Article I, Section 5, Clause 1 states: "Each House shall be the Judge of the Elections . . . and a Majority of each shall constitute a Quorum to do Business; . . . and may be authorized to compel the *Attendance* of absent Members."
  - Article I, Section 6, Clause 1 states: "The Senators and Representatives . . . shall . . . be privileged from Arrest during their *Attendance* at the Session of their respective Houses"
- The constitution clearly contemplates the physical gathering together of representatives as a deliberative body. As the Supreme Court has held, to constitute a "quorum" necessary to "do business," the Constitution requires "the *presence* of a majority, and when that majority are *present* the power of the house arises." *United States v. Ballin*, 144 U.S. 1, 6 (1892)
- 18 Democrats have already written a letter to the House purporting to give their vote to a different Member of Congress.
- The Democrats in the House may be willing to ignore what the Constitution demands of them, but we will not. We have joined with concerned constituents to file a constitutional challenge in the D.C federal district court seeking to enjoin the use of proxy voting in the United States House of Representatives.

## Background

- On May 15, Democrats voted to authorize Proxy Voting on the floor of the House
- On May 20, Speaker Pelosi claimed that we were in a “covered period” allowing for the proxy voting authorized in H.Res. 965 to proceed.
- Beginning on May 20, Democrat members of Congress began writing letters to the Clerk of the House giving their vote to different members of congress.
- We will file suit in the D.C. Federal District Court to enjoin the use of proxy voting.
- Leader McCarthy, along with 20 additional members of Congress and 4 constituents are the plaintiffs in the suit:

Chip Roy (TX-21)	Mark Green (TN-07)
Steve Scalise (LA-01)	Jody Hice (GA-10)
Liz Cheney (WY)	Debbie Lesko (AZ-08)
Rodney Davis (IL-13)	Andy Harris (MD-01)
Tom Cole (OK-04)	Jeff Duncan (SC-03)
Jim Jordan (OH-04)	Ron Wright (TX-06)
Mike Johnson (LA-04)	Scott Perry (PA-10)
Andy Biggs (AZ-05)	Clay Higgins (LA-03)
Bradley Byrne (AL01)	Clayton Campbell (constituent of CA-23)
Russ Fulcher (ID-01)	Bella Rubio (constituent of TX-21)
Warren Davidson (OH-08)	Lorine Spratt (constituent of LA-04)
Michael Cloud (TX-27)	Mickie Niland (constituent of AZ-05)

- The defendants are Speaker Pelosi, the Clerk of the House Cheryl Johnson in her official capacity who is responsible for conducting a record vote or quorum call under the rules of the House, and Paul Irving, the House Sergeant at Arms, in his official capacity who is responsible for determining whether a public health emergency has begun and has ended.