

Perkins Coie's Opposition to DOJ's Motion to Dismiss in District Court: What to Know

April 16, 2025

What was filed? Today, Perkins Coie filed a response in federal court opposing the government's motion to dismiss our lawsuit to block permanently the President's Executive Order targeting our firm. Our 45-page response makes clear that the Order has nothing to do with national security. It is a nakedly unconstitutional effort to intimidate and muzzle the independent legal profession. Our response explains why the Executive Order is destined to fail.

What are we asking the Court to do? We ask the Court to reject the government's motion to dismiss because of the threat the unconstitutional Executive Order poses to core constitutional freedoms and our adversarial system of justice. The Court temporarily blocked the Executive Order's enforcement on March 12, finding that we are likely to succeed on the merits of our claim and would suffer irreparable harm if it was not enjoined. We are asking the Court to extend this ruling and grant our April 2 motion seeking a final injunction to block permanently the unconstitutional Executive Order targeting our firm.

Why is the Executive Order unconstitutional? The Executive Order violates First Amendment rights protecting speech, association, and petitioning; sanctions us without even a pretense of due process; interferes with rights to counsel; violates the separation of powers; and jettisons guarantees of equal protection.

What comes next? Reply briefs are due on April 18. The Court will decide whether to hold oral argument sometime during the week of April 21.

Notable excerpts

- “The government’s motion to dismiss attempts to obscure the unprecedented nature of the Executive Order and pretends there is nothing to see here . . . But the government is the one whistling past the graveyard. Unsurprisingly, four judges in this District have clearly seen the President’s executive orders singling out law firms for what they are: a personal vendetta that is antithetical to our constitutional order.” (Response p. 1)
- “The reality, which becomes starker with each successive executive order against a major firm, is this: The President has embarked on an unconstitutional mission to retaliate against Perkins Coie and, more generally, to intimidate and muzzle the independent legal

profession . . . It is plain as day that the Order and those that have followed are an attempt to quash the independent bar as a check on the Executive Branch.” (Response pp. 2-3)

- “As the President’s public statements confirm, the Order’s purpose is to chill the Firm and the independent legal profession from representing clients he dislikes or advocating positions he disfavors. The entire Order is a flagrant First Amendment violation and an assault on the rule of law.” (Response p. 6)
- “As this Court observed, the Order is so lacking in process that it amounts to ‘a bill of attainder, a punishment for a singled-out entity deemed to be disloyal, without any formal investigation, trial, or even informal process.’ TRO Tr. 89:10-13 . . . The government nowhere responds to this Court’s prior holding that the Order amounts to a bill of attainder.” (Response pp. 28-29)
- “[The Order’s] interference in the attorney-client relationship patently violates the Sixth Amendment rights to effective assistance of counsel, and counsel of choice, as well as the Fifth Amendment right to freedom from arbitrary interference in the lawyer-client relationship.” (Response p. 32) (citations omitted)
- “There is no constitutional basis for a President to unilaterally punish a law firm, with no process whatsoever. In doing so, the President improperly usurps judicial power.” (Response p. 33) (citation omitted)
- “The government suggests the Order is justified by the President’s inherent powers over ‘national security.’ As discussed in Perkins Coie’s summary-judgment brief, however, any purported ‘national security’ concern is merely a pretext for retaliation. . . [W]hatever the scope of the President’s national-security powers, they certainly do not include the power to unilaterally punish private parties with no process whatsoever.” (Response p. 35) (citation omitted)

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