

Perkins Coie's Reply to DOJ's Summary-Judgment Opposition: What to Know

April 18, 2025

What was filed? Today, Perkins Coie filed its reply in federal court rejecting the government's arguments against our summary judgment motion. Our 25-page reply completes the briefing in the case, lays bare the Executive Order's retaliatory purpose and pretextual nature, and concludes that "[i]t is time, once again, to call the Order what it is: unconstitutional." (Reply p. 1). Since our initial filing, we have been steadfast in our resolve to protect our firm, safeguard the interests of our clients, and uphold the rule of law.

What are we asking the Court to do? We ask the Court to grant our summary judgment motion and reject the flawed arguments in the government's opposition. 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 issue a final injunction to block permanently the unconstitutional Executive Order.

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? All briefing in the matter is now complete. The Court will hold oral argument on Wednesday, April 23, at 11 a.m. ET. A public access telephone line is available for the public to listen to the hearing, and can be accessed at: Number: 833-990-9400, Meeting ID: 491822013#.

Notable excerpts

- "In its summary-judgment opposition, the government goes to extraordinary lengths to disguise the Executive Order as anything but what it really is . . . The truth is plain to see. The Order is not merely government speech; it is an operative legal act that directs the entire Executive Branch to come down hard on [Perkins Coie] and its clients . . . The Order is not about national security; it is blatantly retaliatory, wildly overbroad, and transparently pretextual . . . And the Order does not merely tell agencies to do what they should already

be doing; it directs agencies what to do, how to do it, and to do it *to Perkins Coie.*” (Reply p. 1)

- “It is time, once again, to call the Order what it is: blatantly unconstitutional.” (Reply p. 2)
- “The government does not come close to raising a genuine dispute of material fact. Indeed, it admits that 120 facts offered by Perkins Coie are entirely undisputed . . . Rather than raise any genuine issue of material fact, the government spends much of its brief urging the Court *not* to reach the merits of Perkins Coie’s claims.” (Reply pp. 3, 5)
- “Perhaps most telling, the government nowhere responds to this Court’s holding that the Order is so devoid of process that it functions as a ‘bill of attainder, a punishment for a singled-out entity deemed to be disloyal, without any formal investigation, trial, or even informal process.’” (citation omitted) (Reply p. 10)
- “Each of [the other four Executive Orders issued against law firms] reinforces the retaliatory purpose of the Order in this case. And together, they confirm the President’s broader campaign to chill the independent legal profession from opposing his agenda.” (Reply p. 13)
- “The government’s main gambit (at 6) is to reframe the Order not as retaliation but as ‘a textbook example of protected government speech.’ If that were true, then one would expect the government to cite a textbook’s worth of examples where previous Presidents have issued executive orders sanctioning individuals or particular businesses (even law firms) for their association with ‘activists,’ or their advocacy relating to election laws, or their litigation against the preferred policies of the incumbent President. The government does not cite even one.” (Reply p. 14)
- “[T]he government invokes various general powers over security clearances, government contracts and property, and employment discrimination. But the government ignores a fundamental point: whatever the scope of those general powers, the government may not wield them to *retaliate* against private parties in violation of the First Amendment.” (citation omitted) (Reply p. 15)
- “[W]hile the government touts its supposed concerns over national security and employment discrimination, it does not submit *any* admissible evidence (by way of declaration or otherwise) that those issues genuinely motivated the Order.” (Reply p. 16)

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