

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PERKINS COIE LLP,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL COMMUNICATIONS
COMMISSION, OFFICE OF
MANAGEMENT AND BUDGET,
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,
OFFICE OF PERSONNEL
MANAGEMENT, GENERAL
SERVICES ADMINISTRATION,
OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE, THE
UNITED STATES OF AMERICA, and in
their official capacities, PAMELA J.
BONDI, BRENDAN CARR, RUSSELL
T. VOUGHT, ANDREA R. LUCAS,
CHARLES EZELL, STEPHEN
EHEKIAN, and TULSI GABBARD,

Defendants.

NO. 1:25-cv-00716-BAH

**AMICUS CURIAE BRIEF OF
WASHINGTON, ARIZONA,
CALIFORNIA, COLORADO,
CONNECTICUT, DELAWARE,
DISTRICT OF COLUMBIA,
HAWAI‘I, ILLINOIS, MAINE,
MARYLAND,
MASSACHUSETTS,
MICHIGAN, MINNESOTA,
NEVADA, NEW JERSEY, NEW
MEXICO, NEW YORK,
OREGON, RHODE ISLAND,
AND VERMONT
SUPPORTING PLAINTIFF’S
MOTION FOR A
TEMPORARY RESTRAINING
ORDER**

NICHOLAS W. BROWN
*Attorney General
State of Washington*

EMMA GRUNBERG, WSBA 54659
KELLY A. PARADIS, WSBA 47175
CRISTINA SEPE, WSBA 53609
Deputy Solicitors General
MAUREEN JOHNSTON, WSBA 50037
First Assistant Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
Emma.Grunberg@atg.wa.gov
Kelly.Paradis@atg.wa.gov
Cristina.Sepe@atg.wa.gov
Maureen.Johnston@atg.wa.gov

(Additional Counsel Listed on Signature Page)

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I. INTRODUCTION AND INTEREST OF AMICI STATES

Amici States of Washington, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawai‘i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Vermont file this brief in support of Plaintiff’s Motion for a Temporary Restraining Order and to underscore the bedrock rule of law principles and free speech imperatives at issue in this case. *See* LCvR 7(o)(1) (permitting a state to file an amicus curiae brief without the consent of the parties or leave of Court). We have a significant interest in protecting those principles and imperatives. We run what are often the largest law offices in our states, in our respective attorney generals’ offices, collectively employing thousands of attorneys. Our attorneys repeatedly appear in state and federal courts: prosecuting criminal offenses, defending against civil lawsuits, and representing the States’ interests in affirmative litigation, including litigation challenging federal policy adopted across multiple administrations. Amici States also have their own state court systems that hear cases ranging from civil disputes to criminal dockets to constitutional challenges to state and federal laws.

Amici States therefore know from experience that our court system depends on the willingness of lawyers to take on difficult cases and unpopular clients without retribution. “An informed, independent judiciary presumes an informed, independent bar.” *Legal Servs. Corp v. Velazquez*, 531 U.S. 533, 534 (2001). Lawyers should be driven by justice and loyalty to their clients. When those in power demand fealty to themselves instead, the system is undermined.

Yet the President of the United States recently issued an Executive Order singling out and targeting a law firm, Perkins Coie LLP, for representing clients that he personally does not like. This order runs roughshod over the First Amendment and the basic principles underlying our adversarial justice system, and “threatens severe impairment of the judicial function.” *Id.* The

President's efforts do more than disadvantage private attorneys at a single law firm. Through official action, the President has attempted to exclude certain lawyers and certain viewpoints from reaching a court of law at all. It is a menacing message to attorneys nationwide: unless they advance positions or represent clients favorable to the current administration, their livelihood may be at risk and their patriotism will be called into question. The Supreme Court has made clear that "[l]imiting speech based on its 'topic' or 'subject' favors those who do not want to disturb the status quo." *Reed v. Town of Gilbert*, 576 U.S. 155, 174 (2015) (Alito, J., concurring). In this case, that is clearly the President's goal: "to insulate the Government's laws from judicial inquiry." *Velazquez*, 531 U.S. at 534.

This Court cannot allow the President's campaign of personal and political retribution to cut off effective advocacy. Such actions undercut our system of justice itself. Clients are entitled to the counsel of their choice, and for their interests to be represented as effectively as possible, regardless of whether those interests are popular or whether they align with those of state or federal governments. Indeed, Perkins Coie has filed lawsuits against Washington, one of the Amici States here, including challenges to the validity of our state laws. Amici States nonetheless know the importance of ensuring the continued vitality of these principles. We know that ensuring that all sides of a case are represented effectively, so courts can reach fair and reasoned decisions, is crucial for litigants, for judges, and for the judicial system. The President's Executive Order challenged here presents dangerous incentives to lawyers to quiet their voices, limit their arguments, or forgo the legal process at all.

Amici States urge the Court to grant Plaintiff Perkins Coie's request for a temporary restraining order to stop this illegal action.

II. ARGUMENT

Amici States know that the principle that every person deserves competent legal representation is nonpartisan, longstanding, and fundamental to the rule of law. And it applies just as strongly when the clients and interests represented are unpopular, controversial, or opposed to the government. Our commitment to this principle is deeply rooted in our Nation's history, exemplified by John Adams's defense of British soldiers in the Boston Massacre murder trial, Abe Fortas's willingness to represent an indigent habeas corpus petitioner named Clarence Earl Gideon, and Samuel Leibowitz's commitment to work four years without pay on behalf of nine Black teenagers accused of rape in Scottsboro, Alabama. This principle has come to define the American legal system and lawyers' obligations to their clients. As the New York State Bar Association Committee on Attorney Professionalism recently wrote: "One of the signal achievements of the American legal profession is that the profession as a whole has been successful in making representation available to everyone who needs it, even the deeply despised, and it is unquestioned that once a lawyer undertakes to represent a client, the lawyer has a duty to do so diligently and competently."¹

The President's Executive Order turns this principle on its head, punishing Perkins Coie for taking cases the administration disagrees with. The Order attacks core political speech, including the firm's representation of President Trump's former opponent in the 2016 presidential election, Hillary Clinton. It singles out the firm's defense of particular viewpoints, such as bringing challenges to voter-identification and other election laws. It denigrates the firm's own employee initiatives to support diversity in the workplace. It impairs the firm's ability to practice law by

¹ New York State Bar Ass'n, *Report and Recommendations of the Committee on Attorney Professionalism* (Jan. 2025), <https://nysba.org/new-york-state-bar-association-condemns-executive-orders-punishing-lawyers-for-representing-causes-the-trump-administration-doesnt-like/>.

suspending its lawyers' security clearances and denying them access to government buildings and officials. And it does all this without affording Perkins Coie notice or an opportunity to respond. Exec. Order No. 14230, 90 Fed. Reg. 11,781, § 1 (Mar. 6, 2025).² An accompanying fact sheet makes clear the President "will not tolerate" various actions, including that Perkins Coie "has filed lawsuits against the Trump Administration." The White House, *Fact Sheet: President Donald Trump Addresses Risks from Perkins Coie LLP* (Mar. 6, 2025).³

The Executive Order repudiates the time-honored tradition that, as lawyers across the political spectrum have recognized, the justice system functions best when there is zealous, high-quality advocacy on all sides. In 2007, a senior Department of Defense official resigned after criticizing law firms who represented Guantanamo Bay detainees.⁴ In his apology to the law firms in question, he said, "I believe firmly that a foundational principle of our legal system is that the system works best when both sides are represented by competent legal counsel" and "that our justice system requires vigorous representation."⁵ This sentiment was echoed in a different political context by then-Attorney General Eric Holder in defense of former U.S. Solicitor General Paul Clement, who resigned from his law firm to continue defending the Defense of Marriage Act—defining marriage as being between a man and a woman—after his firm and the U.S. Department of Justice withdrew from defending the law. Holder said that, as with those government lawyers who previously represented Guantanamo detainees, Clement—by taking on

² Available at: <https://www.whitehouse.gov/presidential-actions/2025/03/addressing-risks-from-perkins-coie-llp/>.

³ Available at: <https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-adresses-risks-from-perkins-coie-llp/>.

⁴ Sarah Abuzzese, *Official Quits After Remark on Lawyers*, N.Y. Times (Feb. 3, 2007), <https://www.nytimes.com/2007/02/03/washington/03gitmo.html>.

⁵ Cully Stimson, *An Apology to Detainees' Attorneys*, Wash. Post (Jan. 17, 2007), <https://www.washingtonpost.com/wp-dyn/content/article/2007/01/16/AR2007011601383.html>.

an unpopular cause—was “doing that which lawyers do when we are at our best.”⁶ Clement made the same comparison: “It’s not that different from representing Guantanamo detainees. This isn’t a left or right issue; it’s something lawyers should stand together on Defending unpopular positions is what lawyers do.”⁷

By contrast, the Executive Order rejects these fundamental principles and retaliates against Perkins Coie for representing clients and ideas with which the current administration disagrees. Amici States know the importance of these principles to a fair and functioning legal system. We are repeat litigants in state and federal courts, and we support independent state court systems. Indeed, Perkins Coie, which is headquartered in Seattle, has represented clients in filing lawsuits against some of the Amici States, including challenges to the validity of State laws and the interpretation of State constitutional provisions. But while our positions in litigation may differ, the states, the courts, and the public all benefit when all sides to a dispute are effectively represented. We know from experience that when a government’s positions are challenged in court, the best response is a vigorous legal defense—not to attack or punish the law firms willing to mount the challenge. And some types of lawyering, including public defense, already face a recruitment crisis, particularly in rural areas.⁸ Eroding the American value that all clients deserve effective representation—and that lawyers should not be attacked for providing it—will only exacerbate this state of affairs.

⁶ Jeffrey Goldberg, *When Lawyers Aren’t Allowed to Defend Unpopular Positions*, The Atlantic (May 5, 2011), <https://www.theatlantic.com/national/archive/2011/05/when-lawyers-arent-allowed-to-defend-unpopular-positions/238315/>.

⁷ Natalie Singer, ‘*Defending unpopular positions is what lawyers do*’ says Paul Clement ’92, Harvard Law Bulletin (Jan. 31, 2012), <https://hls.harvard.edu/today/defending-unpopular-positions-is-what-lawyers-do-says-paul-clement-92/>.

⁸ See Colin Rigley, *Confronting a Crisis: The State of Public Defense*, NW Sidebar (Jan. 29, 2024), <https://nwsidebar.wsba.org/2024/01/29/confronting-a-crisis-the-state-of-public-defense/>; U.S. Dep’t of Justice, Office of Access to Justice, *Fact Sheet: Access to Justice is Rural Access* (Feb. 20, 2025), <https://www.justice.gov/atj/fact-sheet-access-justice-rural-access>.

Legal professional organizations around the country agree that strong advocacy reinforces public trust in the legal system and helps prevent injustice by ensuring fair and informed legal decisions. Threats to lawyers, law firms, or the judiciary undermine these values and constitute assaults on the rule of law itself. Recognizing these dangers, legal professional organizations have reaffirmed their commitment to the rule of law and condemned government actions that seek to undermine it.⁹ Their statements reinforce that the rule of law “is a central pillar of any democratic government,”¹⁰ “essential for maintaining a just society,”¹¹ and “essential to the functioning of our democratic society, justice, and the protection of individual rights and liberties.”¹² They emphasize

⁹ See, e.g., American Bar Ass’n, *The ABA rejects efforts to undermine the courts and the legal profession* (Mar. 3, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/03/aba-rejects-efforts-to-undermine-courts-and-legal-profession/>; American College of Trial Lawyers, *ACTL Opposes Government Retaliation Against Lawyers for Representing Clients* (Mar. 7, 2025), <https://www.actl.com/news/actl-opposes-government-retaliation-against-lawyers-for-representing-clients/>; Susan DeSantis, *New York State Bar Association Condemns Executive Orders Punishing Lawyers for Representing Causes the Trump Administration Doesn’t Like* (Mar. 10, 2025), <https://nysba.org/new-york-state-bar-association-condemns-executive-orders-punishing-lawyers-for-representing-causes-the-trump-administration-doesnt-like/>; Maine State Bar Ass’n, *Statement on Rule of Law from MSBA Leadership* (Feb. 24, 2025), <https://www.mainebar.org/news/694579/Statement-on-Rule-of-Law-From-MSBA-Leadership.htm>; Vermont Bar Ass’n, *Board of Managers Issues Statement in Support of Rule of Law* (Feb. 27, 2025), <https://www.vtbar.org/board-of-managers-issues-statement-in-support-of-rule-of-law/>; Rhode Island Bar Ass’n, *Statement of RIBA President Christopher S. Gontarz Related to Attacks on Chief Judge John J. McConnell, Jr. of the United States District Court for the District of Rhode Island*, <https://ribar.com/news/article/7892>; Connecticut Bar Ass’n, *A Message from the CBA Leadership on Judicial Independence* (Feb. 11, 2025), <https://www.ctbar.org/news/cba-news/latestnews/cba-news/news/2025/02/11/a-message-from-the-cba-leadership-2-11-2025>; Delaware Bar Ass’n, *The Delaware Bar Stands with the Delaware Judiciary*, <https://www.dsba.org/> (last visited Mar. 11, 2025); Illinois State Bar Ass’n, *Illinois State Bar Association Statement Upholding Judicial Independence and the Rule of Law* (Feb. 21, 2025), <https://www.isba.org/barnews/2025/02/illinoisstatebarassociationstatementupholdingjudic>; Iowa State Bar Ass’n, *President’s Letter* (Feb. 18, 2025), <https://www.iowabar.org/?pg=IowaBarBlog&blAction=showEntry&blogEntry=120588>.

¹⁰ American College of Trial Lawyers, *ACTL Opposes Government Retaliation Against Lawyers for Representing Clients* (Mar. 7, 2025), <https://www.actl.com/news/actl-opposes-government-retaliation-against-lawyers-for-representing-clients/>.

¹¹ Rhode Island Bar Ass’n, *Statement of RIBA President Christopher S. Gontarz Related to Attacks on Chief Judge John J. McConnell, Jr. of the United States District Court for the District of Rhode Island*, <https://ribar.com/news/article/7892>.

¹² Vermont Bar Ass’n, *Board of Managers Issues Statement in Support of Rule of Law* (Feb. 27, 2025), <https://www.vtbar.org/board-of-managers-issues-statement-in-support-of-rule-of-law/>.

the need for lawyers to “perform their ethical duty without fear of retribution,”¹³ to “advocate for all causes, to represent those in need of representation, and to challenge government actions that may violate statutory and constitutional norms.”¹⁴ They caution that vilifying lawyers and law firms for representing various causes “threaten[s] to upend a bedrock principle of the American legal system” and undermines our system of justice.¹⁵ And they stress that government actions denying clients access to justice “betray our fundamental values.”¹⁶ As the New York State Bar Association warns, “[i]f all members of our society do not have access to justice, there is no justice.”¹⁷

Targeting lawyers and law firms for representing unpopular clients or legal positions violates the law and can have cascading effects. When speaking out about attempts to intimidate judges, Chief Justice John Roberts recognized that “[p]ublic officials . . . should be mindful that intemperance in their statements when it comes to judges may prompt dangerous reactions by others.”¹⁸ As with judges, no lawyer should have to fear for their safety or livelihood for carrying out their ethical duties to vigorously represent their client. Concerns about retaliation may cause

¹³ American Bar Ass’n, *The ABA rejects efforts to undermine the courts and the legal profession* (Mar. 3, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/03/aba-rejects-efforts-to-undermine-courts-and-legal-profession/>.

¹⁴ American College of Trial Lawyers, *ACTL Opposes Government Retaliation Against Lawyers for Representing Clients* (Mar. 7, 2025), <https://www.actl.com/news/actl-opposes-government-retaliation-against-lawyers-for-representing-clients/>.

¹⁵ Susan DeSantis, *New York State Bar Association Condemns Executive Orders Punishing Lawyers for Representing Causes the Trump Administration Doesn’t Like* (Mar. 10, 2025), <https://nysba.org/new-york-state-bar-association-condemns-executive-orders-punishing-lawyers-for-representing-causes-the-trump-administration-doesnt-like/>.

¹⁶ American Bar Ass’n, *The ABA rejects efforts to undermine the courts and the legal profession* (Mar. 3, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/03/aba-rejects-efforts-to-undermine-courts-and-legal-profession/>.

¹⁷ Susan DeSantis, *New York State Bar Association Condemns Executive Orders Punishing Lawyers for Representing Causes the Trump Administration Doesn’t Like* (Mar. 10, 2025), <https://nysba.org/new-york-state-bar-association-condemns-executive-orders-punishing-lawyers-for-representing-causes-the-trump-administration-doesnt-like/>.

¹⁸ Chief Justice Roberts, *2024 Year End Report on the Federal Judiciary*, <https://www.supremecourt.gov/publicinfo/year-end/2024year-endreport.pdf>.

some lawyers to be unwilling to take on certain cases or clients altogether. And as the Supreme Court has observed, “under the conditions of modern government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances.” *NAACP v. Button*, 371 U.S. 415, 430 (1963). While government officials may dislike being the subject of criticism by lawyers in court, they may not use their power to punish or deter such speech. The right to verbally oppose government action without reprisal “is one important characteristic by which we distinguish ourselves from a police state.” *City of Houston v. Hill*, 482 U.S. 451, 463 (1987).

To be sure, lawyers do not always live up to their ethical and professional responsibilities. When lawyers (including lawyers for state and federal governments) are accused of misconduct, including pursuing frivolous litigation, courts may order sanctions; when the rules of professional conduct are violated, lawyers may be subject to disciplinary proceedings. And, of course, if the government is unhappy with the result in a particular case, it may appeal.

In this case, however, the President has opted to take a different approach and attack lawyers not for their conduct but for their speech. This Court should not let him. As one writer put it more than a decade ago, those who sign up to defend unpopular clients cannot be “marginalized, silenced, demonized.”¹⁹ Those who have litigated difficult cases are, instead, “fulfilling a basic promise of America, which holds that every person and every cause gets their day in court.”²⁰ Amici States therefore strongly support Perkins Coie’s request for an order allowing it to represent its clients freely and without fear of reprisal.

¹⁹ Carl M. Cannon, *Paul Clement, DOMA and Legal Integrity*, RealClearPolitics (May 2, 2011), https://www.realclearpolitics.com/articles/2011/05/02/paul_clement_doma_and_legal_integrity.html.

²⁰ *Id.*

III. CONCLUSION

For the foregoing reasons, and those given in Plaintiff's Motion for a Temporary Restraining Order, Amici States respectfully request that the Court grant Plaintiff's Motion.

RESPECTFULLY SUBMITTED this 12th day of March, 2025.

NICHOLAS W. BROWN
Attorney General
State of Washington

s/ Emma Grunberg
EMMA GRUNBERG, WSBA 54659*
KELLY A. PARADIS, WSBA 47175*
CRISTINA SEPE, WSBA 53609
Deputy Solicitors General
MAUREEN JOHNSTON, WSBA 50037*
First Assistant Attorney General
1125 Washington Street SE
PO Box 40100
Olympia, WA 98504-0100
206-389-3105
Emma.Grunberg@atg.wa.gov
Kelly.Paradis@atg.wa.gov
Cristina.Sepe@atg.wa.gov
Maureen.Johnston@atg.wa.gov

*Admitted to the bar of this Court

KRIS MAYES
Attorney General
State of Arizona
2005 N. Central Ave
Phoenix, AZ 85004

ROB BONTA
Attorney General
State of California
1300 I Street
Sacramento, CA 95814

PHILIP J. WEISER
Attorney General
State of Colorado
1300 Broadway
Denver, CO 80203

WILLIAM TONG
Attorney General
State of Connecticut
165 Capitol Avenue
Hartford, CT 06106

KATHLEEN JENNINGS
Attorney General
State of Delaware
820 N. French Street
Wilmington, DE 19801

BRIAN L. SCHWALB
Attorney General
District of Columbia
400 6th Street, NW
Washington, D.C. 20001

ANNE E. LOPEZ
Attorney General
State of Hawai'i
425 Queen Street
Honolulu, HI 96813

KWAME RAOUL
Attorney General
State of Illinois
115 South LaSalle Street
Chicago, IL 60603

AARON M. FREY
Attorney General
State of Maine
6 State House Station
Augusta, ME 04333

ANTHONY G. BROWN
Attorney General
State of Maryland
200 Saint Paul Place
Baltimore, MD 21202

ANDREA JOY CAMPBELL
Attorney General
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108

DANA NESSEL
Attorney General
State of Michigan
P.O. Box 30212
Lansing, MI 48909

KEITH ELLISON
Attorney General
State of Minnesota
102 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

AARON D. FORD
Attorney General
State of Nevada
100 North Carson Street
Carson City, NV 89701

MATTHEW J. PLATKIN
Attorney General
State of New Jersey
25 Market Street
Trenton, NJ 08625

RAÚL TORREZ
Attorney General
State of New Mexico
408 Galisteo Street
Santa Fe, New Mexico 87501

LETITIA JAMES
Attorney General
State of New York
The Capitol
Albany, NY 12224

DAN RAYFIELD
Attorney General
State of Oregon
1162 Court Street NE
Salem, OR 97301

PETER F. NERONHA
Attorney General
State of Rhode Island
150 South Main Street
Providence, RI 02903

CHARITY R. CLARK
Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609

CERTIFICATE OF COMPLIANCE

Pursuant to LCvR 7(o), I hereby certify that this brief conforms to the requirements of LCvR 5.4, complies with the requirements set forth in Fed. R. App. P. 29(a)(4), and does not exceed 25 pages in length.

DATED this 12th day of March 2025.

s/ Emma Grunberg
EMMA GRUNBERG, WSBA 54659
Deputy Solicitor General

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2025, I electronically filed the original of this brief with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all attorneys of record by operation of the Court's electronic filing system.

DATED this 12th day of March 2025.

s/ Emma Grunberg
EMMA GRUNBERG, WSBA 54659
Deputy Solicitor General