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OPINION

Trump, Perkins Coie, and John Adams

The President breaks a bedrock legal principle by targeting the law firm for representing clients he doesn't like.

BY THE EDITORIAL BOARD

As he campaigned for a second term, Donald Trump often said his retribution against opponents would be “success.” But now that he’s back in power, it’s clear the President’s definition of success includes retribution.

That’s the only way to read his extraordinary executive orders targeting big Washington law firms for federal punishment and investigation. Mr. Trump’s decision to use government power to punish firms for representing clients breaks a cornerstone principle of American justice going back to John Adams and the Founders.

Mr. Trump’s first EO against Big Law hit Covington & Burling on Feb. 25. The order suspends the security clearances of firm employees “who assisted former Special Counsel Jack Smith.” It also takes steps to bar the firm from government contracts.

That was mild compared to the hammer blow against Perkins Coie on March 6. That order strips security clearances from the firm’s employees, bars government contractors from retaining the firm, and even bars its lawyers from government buildings.

The order also accuses Perkins Coie of racial discrimination and calls for a federal investigation of the firm by the Attorney General and the Equal Employment Opportunity Commission “in consultation with State Attorneys General.” Mr. Trump is targeting the firm with the full enforcement power of the federal government. We can’t recall a similar White House order from any President.

On Tuesday Perkins Coie sued the Administration, calling the order an illegal use of executive power that has already harmed the firm and its clients.

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Mr. Trump gives away his motive for this EO in Section I. Purpose: “In 2016 while representing failed Presidential candidate Hillary Clinton, Perkins Coie hired Fusion GPS, which then manufactured a false ‘dossier’ designed to steal an election.” That was the infamous Steele dossier that some in the press took seriously. The order adds that the firm “has worked with activist donors including George Soros to judicially overturn popular, necessary, and democratically enacted election laws,” including voter ID.

Few wrote more often or critically than we did about Fusion GPS and the Steele dossier, and in real time when it was unpopular to do so. Perkins Coie has shown it’s a partisan firm, and its former partner Michael Sussmann was charged but acquitted of a crime related to the phony Russia collusion scandal. Its role in that episode was shameful.

But Mr. Trump’s order is now targeting the law firm for representing clients Mr. Trump dislikes. He is trying to defenestrate Perkins Coie to intimidate elite law firms from representing his opponents or

plaintiffs who challenge his policies. This violates a bedrock principle of American law, which is that even the worst clients deserve representation.

Mr. Trump’s former Labor secretary, the appellate litigator Eugene Scalia, made the point well in a 2019 speech to the Federalist Society: “One of the great traditions of the legal profession is to respect the right to representation of those we disagree with, and even to undertake that representation ourselves.”

Mr. Scalia cited John Adams’s famous defense of British soldiers charged with the Boston Massacre as “one of our most important stories about the practice of law.”

As Mr. Scalia noted, it has typically been conservatives who have had a hard time getting representation from elite firms that fear political retribution from the left. Paul Clement, the premier Supreme Court litigator of our time, famously resigned from King and Spalding after that firm dropped the U.S. House of Representatives as a client in connection with the Defense of Marriage Act.

Some on the right will say that turn-about now is fair play, but it’s the opposite. It’s one more step toward making the legal system wholly political. Mr. Trump told voters he wouldn’t seek political retribution if he won. His attack on law firms violates that promise, and it won’t do him or the country any good.

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