

Court appears sceptical of Trump's EO targeting Perkins Coie

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A federal judge has said she finds the US government's interpretation of DEI "puzzling and jarring" during a hearing in Perkins Coie's lawsuit against an executive order targeting the firm.



The US District Court for the District of Columbia heard oral arguments on 23 April 2025 on Perkins Coie's motion for summary judgment in its challenge to US President Donald Trump's 6 March 2025 executive order (EO), Addressing Risks from Perkins Coie LLP. Judge Beryl Howell questioned the constitutionality of the EO which, among other things, cites the law firm's diversity, equity and inclusion (DEI) practices as reason to suspend its security clearances and terminate its federal contracts.

Perkins Coie filed its lawsuit against the US Department of Justice (DOJ) on 11 March 2025. The district court granted a temporary restraining order (TRO) the next day to prevent the DOJ from enforcing Sections 1, 3, and 5 of the EO. Section 1 alleges the firm "racially discriminates against its own attorneys and staff, and against applicants."

The firm filed for summary judgment on the entire EO on 2 April 2025. The DOJ immediately filed a motion to dismiss and argued in its 16 April 2025 memorandum in opposition that the EO is a legitimate exercise of the government's procurement power and not a punitive measure.

Perkins Coie is one of four law firms currently challenging Trump's EOs targeting the legal industry. Another DC district court judge, Richard Leon, also heard oral arguments on 23 April on WilmerHale's motion for summary judgment.

EEOC investigations into law firms

Howell said on Wednesday that she wanted to focus most of the hearing on Sections 2 and 4 of Trump's EO, as she had "not gotten the chance to speak with the parties" about the provisions. Section 4 directs acting chair of the US Equal Employment Opportunity Commission (EEOC) Andrea Lucas and the US attorney general to investigate the DEI practices of "representative large, influential, or industry leading law firms."

Lucas began implementing Trump's directive on 17 March 2025, when she sent letters to Perkins Coie and 19 other law firms demanding information about the firms' employment practices based on their public statements and announced the creation of an email – lawfirmDEI@eoc.gov – "where whistleblowers can submit information to the EEOC about potentially unlawful DEI practices at law firms."

Howell questioned deputy associate attorney general Richard Lawson about the metrics the government used to identify "representative large, influential, or industry leading law firms." Lawson said he believed the EEOC is investigating firms on the Am Law 100, though he was unsure how the government "discerned" the 20 firms from this list.

Howell specifically noted the word "influential" as used to describe firms in Section 4 of Trump's EO. She argued that firms "who have Trump's trust would be quite influential," and asked Lawson if any of the firms Trump has turned to "in the past or even currently" received letters from the EEOC. Lawson said he could not "speak as to which of the president's current or former law firms may have received letters."

Lawson continued to argue that the EEOC had the authority to send the letters, despite not having filed formal charges beforehand. He described the EEOC's investigation as the agency "kick[ing] the tires."

In its 2 April motion, Perkins Coie said Section 4 in particular “retaliates against the Firm and its clients for expression and discriminates based on perceived viewpoints.” Butswinkas elaborated on Wednesday, arguing Trump’s allegations that Perkins Coie’s discriminates against its employees and applicants are “a pretext for retaliation.” He said that, despite the government’s claims that the EEOC’s actions were not connected to the EO, the timing was “a heck of a coincidence.”

Butswinkas said Section 1 of the EO “already concluded” that Perkins Coie violated Title VII of the Civil Rights Act 1964. He also acknowledged other law firms, such as Paul Weiss and Skadden, that have reached agreements with the government to roll back their DEI practices to avoid being targeted. Butswinkas said the administration’s intentions were made clear through these deals.

Howell prompted Lawson to clarify what the government views as “illegal DEI.” Lawson pointed to the US Supreme Court’s 2023 ruling in *Students for Fair Admissions v Harvard* and argued that Perkins Coie’s DEI initiatives, such as its Mansfield Certification and commitment to racial equality, “run afoul” of that precedent and Title VII.

Howell asked Lawson and Butswinkas if the district court's ruling needs to address whether the Mansfield Rule complies with the "very murky jurisprudence surrounding what's allowable and what isn't." Butswinkas said the court doesn't "need to get to that question" if it rules that Section 4 of the EO is retaliatory. Lawson agreed, saying that the court only needs to decide if Section 4 may be "a valid provision."

Counsel to Perkins Coie

Dane Butswinkas, Christopher Manning, Amy Saharia, Eden Schiffmann, Ryan Scarborough, F. Lane Heard III, Charles Davant, David Kurtzer-Ellenbogen, Jesse Smallwood, Matthew Nicholson, Carol Pruski, Charles McCloud, Krystal Durham and Malachi Jones in Washington, DC.

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