

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

SUSMAN GODFREY LLP,

Plaintiff,

v.

EXECUTIVE OFFICE OF THE PRESIDENT, *et al.*,

Defendants.

NO. 1:25-cv-01107-LLA

**BRIEF OF *AMICI CURIAE* 777 SOLO AND SMALL FIRM LAWYERS IN SUPPORT
OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND FOR
DECLARATORY AND PERMANENT INJUNCTIVE RELIEF**

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Another Big Law Firm Reaches Agreement with Trump, The New York Times (Apr. 2, 2025), <https://www.nytimes.com/2025/04/02/business/trump-law-firms-milbank-deal.html> 3

American Bar Association, Professionalism Codes,
https://www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes/ 6

Massachusetts Bar Association, Civility and Professionalism Guidelines (2016),
<https://www.massbar.org/docs/default-source/publications-document-library/ejournal/2016-17/civilityandprofessionalismguidelines.pdf> 6

Executive Order No. 14237, competitors sought to exploit the situation by attempting to poach the firm's clients. See Tatyana Monnay, Paul Weiss Chairman Accuses Rival Firms of Pursuing Its Clients, Bloomberg Law (Mar. 23, 2025)..... 7

IDENTITY AND STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici Curiae are 777 independent solo practitioners and small firm lawyers from across the United States who represent individuals, small businesses, nonprofits, and community organizations across diverse practice areas.¹ We join this brief not only to support Plaintiff Susman Godfrey LLP (“Susman Godfrey”) but to warn that the challenged Executive Order dated April 9, 2025 entitled *Addressing Risks from Susman Godfrey*² has repercussions extending far beyond one large law firm. Of particular concern, the Order empowers the President to target any attorney or law firm who represent politically disfavored clients. This includes denying access to federal buildings, agency personnel, and security clearances. These actions threaten the livelihood of solo and small firm practitioners as well as the rights of the millions of clients who depend on *amici* for access to justice.

Amici are all attorneys actively practicing or retired from solo ventures and small law firms. These attorneys account for 75% of law firms in the United States.³ *Amici*’s practices span a wide variety of specializations, including family law and estate planning, criminal defense, personal injury, bankruptcy, immigration, intellectual property, construction, energy and environmental justice, regulatory and compliance, corporate start-ups, ERISA, social security disability,

¹ *Amici* are listed in Appendix A at the back of this brief. *Amici* Andrea Goldman co-authored this brief and *Amici* Kimberly Russell edited this brief and drafted the Motion for Leave to File.

² Online at <https://www.whitehouse.gov/presidential-actions/2025/04/addressing-risks-from-susman-godfrey/>.

³ Embroker Team, *50 Surprising Solo Law Firm Statistics for 2025*, EMBROKER (Mar. 13, 2025), <https://www.embroker.com/blog/solo-law-firm-statistics/> (last visited April 3, 2025) (noting that solos account for 40 percent of law firms while firms of six attorneys or fewer comprise 75 percent of all law firms).

employment law, whistleblower representation and civil rights and constitutional law. More than half of *Amici* represent clients in some federal matters and roughly 20% of *Amici* represent clients in federal courts or federal agencies exclusively.

In the spirit of Atticus Finch in *To Kill a Mockingbird*, many lawyers in solo practices and small firms uphold a proud tradition of representing marginalized, controversial, or unpopular clients against the government – not merely as occasional *pro bono* matters but as the bread and butter of their practices.⁴ Solo and small firm lawyers accept court-appointed criminal defense assignments in federal court and comprise the vast majority of the more than 12,000 panel appointments.⁵ Solo practitioners also account for 42% of immigration lawyers who practice exclusively in federal court.⁶ With the looming specter of the Executive Order, these lawyers would have to “toe the line” for fear that they are “next.” For these reasons, *Amici*’s brief focuses on the very real and disruptive consequences that we—the proverbial foot soldiers of the legal profession—face if the Executive Order stands.

BACKGROUND AND SUMMARY OF ARGUMENT

The legal profession was shaken in early 2025 when the President Donald J. Trump and his Administration (“Trump Administration”) launched an unprecedented campaign against law firms deemed adversarial to the President. The opening salvo came on March 6, 2025, with the issuance

⁴ Andre Wharton, *Representing the Unpopular Client of Cause*, 31 GPSolo 62 (2014) (“The job of solo and small firm practitioners is difficult but invaluable to our system of justice; nowhere is this clearer than in the representation of ‘sensitive’ or ‘high-profile’ (read: unpopular) cases or clients.”).

⁵ Admin. Office of the U.S. Courts, *Defender Services*, U.S. Courts, <https://www.uscourts.gov/about-federal-courts/defender-services> (last visited Apr. 4, 2025).

⁶ *Building Dreams*, The Practice (Harvard Law Sch. Ctr. on the Legal Profession), Mar./Apr. 2024, <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/immigration-lawyering/building-dreams/>.

of the Executive Order which targeted Perkins Coie by imposing sweeping penalties on the firm, including potential suspension of security clearances and denial of access to federal buildings and federal personnel.⁷ The Executive Order quickly progressed into a broader attack on more law firms. Within weeks, a series of orders followed and took aim at Paul Weiss,⁸ Jenner & Block,⁹ and WilmerHale.¹⁰ Most recently, on April 9, 2025, the Executive Order challenged here was issued against Susman Godfrey, accusing the firm of “weaponizing” the legal system and threatening to bar its attorneys from accessing federal agencies, contracting with government entities, or engaging with federal personnel.

For now, the Trump Administration’s assault on lawyers has been largely confined to large law firms, but could easily expand to any lawyer—including lawyers who frequently serve as adversaries to the government in their solo practices or as employees of small firms. Solo and small firm lawyers face even greater vulnerability because they lack the financial buffers, institutional protections, and diversified client bases needed to withstand such governmental pressure.

To shield solo and small firm lawyers and the clients we serve from the disastrous, real-world consequences of the Executive Order, *Amici* file this brief urging the court to grant Susman

⁷ Executive Order No. 14230, *Addressing Risks from Perkins Coie*, 90 Fed. Reg. 11,781 (March 6, 2025), Section 2a and 5.

⁸ Executive Order No. 14237, *Addressing Risks from Paul Weiss*, 90 Fed. Reg. 13,039 (March 14, 2025). The Order was withdrawn when Paul Weiss entered into a settlement with the Administration. See Matthew Goldstein, “Another Big Law Firm Reaches Agreement with Trump,” *The New York Times* (Apr. 2, 2025).

⁹ Executive Order No. 14246, *Addressing Risks from Jenner & Block*, 90 Fed. Reg. 13,997 (March 25, 2025).

¹⁰ Executive Order No. 14250, *Addressing Risks from WilmerHale*, 90 Fed. Reg. 14,549 (March 27, 2025).

Godfrey’s Complaint for Declaratory and Injunctive Relief for the following reasons: **First**, the Order undermines constitutional protections—particularly the First and Sixth Amendments—and forces lawyers to choose between ethical advocacy and professional survival. **Second**, the Order invites political manipulation by enabling opposing parties to exploit disqualification tools, undermining the professional norms that sustain legal practice. **Third**, the Order exceeds executive authority by imposing new legal constraints without legislative approval. For these reasons, the Court must declare the Order unconstitutional.

ARGUMENT

I. The Executive Order Endangers Access to Justice for Solo and Small Firm Clients by Eviscerating Constitutional Guarantees and Ethics Imperatives that Protect Free Advocacy and the Right to Counsel.

The Executive Order leverages government power to intimidate or punish attorneys for advocating on behalf of clients whose positions are adverse to the Trump Administration. This contravenes established precedent in *NAACP v. Button*, 371 U.S. 415, 431 (1963), holding that the First Amendment protects litigation as “the most effective form of political association” for many groups. It also undermines the Sixth Amendment right to counsel of choice articulated in *United States v. Gonzalez-Lopez*, 548 U.S. 140, 146 (2006), which “commands, not that a trial be fair, but that the accused be defended by the counsel he believes to be best.” Although the President attempted to justify the Order as necessary to protect national interests, the government may not “under the guise of prohibiting professional misconduct ignore constitutional rights.” *Button*, 371 U.S. at 439.

Not only does the Executive Order eviscerate longstanding constitutional imperatives, but in doing so it disproportionately impacts solo and small firm lawyers—not to mention the millions of ordinary Americans who comprise the majority of the clients *Amici* serve. The Order would devastate the legal ecosystem by imposing crippling practical barriers through security clearance

revocations and denial of access to government buildings and officials. Unlike large firms with diversified practices, solo practitioners often specialize in one practice area such as bankruptcy, employment law, immigration or white-collar criminal defense that relies on access to federal agencies and courts. When a solo immigration attorney gets banned from USCIS offices or a small-firm bankruptcy lawyer cannot enter the federal courthouse, these lawyers cannot serve their clients and may be forced to shutter their businesses. The same holds true for the small law firm handling Veteran Affairs benefits and social security disabilities claims appeals, a solo specializing in challenging Internal Revenue Service collection actions on behalf of small businesses, or court-appointed federal criminal defense panel attorneys representing accused individuals. Loss of clearance to protected government data or access to federal officials and agency buildings would end these firms' ability to represent clients entirely. Even a seemingly benign matter like challenging an award of a trademark to a competing business could erupt into a political melee if one party is a political donor who taps into connections to bar the opposing attorney from access to the U.S. Patent and Trademark Office.

The Order also contravenes ethical mandates by violating the principle that "representation of a client does not constitute endorsement of the client's views" and manufacturing conflicts of interest between attorneys and clients. MODEL RULES OF PRO. CONDUCT R. 1.2(b) and R. 1.7 (AM. BAR ASS'N 2025). A small-firm attorney who takes on a politically controversial case could suddenly find their entire client base at risk as the Order forces lawyers to choose between zealous advocacy and professional survival. This ethical bind particularly impacts attorneys in smaller communities and legal deserts, where a solo practitioner might be the only lawyer willing to challenge government overreach. For example, the Order could brand a rural attorney who brings civil rights claims against local federal officials as untrustworthy or a threat to national security,

and the rural attorney could lose all access to the very courthouse where that attorney must file claims.

The Order disproportionately harms vulnerable clients who rely on solo and small firm lawyers to access justice. Solo and small firm practitioners often uphold the proud tradition of representing marginalized, controversial, or unpopular clients against the government. These attorneys are uniquely susceptible to targeted retaliation as they lack the institutional buffers of large firms. A solo practitioner who loses a security clearance has no colleague who can step in; a small partnership blacklisted from federal courthouses may lose a substantial income stream with no alternative practice area to fall back on. Consider the three-lawyer firm specializing in challenging denials of disability benefits, or the solo practitioner representing military whistleblowers—both serve clients who would find no representation elsewhere if these attorneys were intimidated into silence or forced to withdraw after being stripped of their ability to effectively represent clients.

II. The Executive Order Enables Gamesmanship and Weaponizes Disqualification to Silence Adverse Representation.

One of the tenets of working in litigation is the importance of collegiality within the Bar. The Massachusetts Bar Association, among others,¹¹ has established formal guidelines to promote civility and professionalism among attorneys.¹² Even in larger cities, solo and small firm lawyers in specific practice areas develop supportive networks amongst their peers. Today's attorneys build

¹¹ American Bar Association, Professionalism Codes, https://www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes/ (last visited Apr. 5, 2025).

¹² Massachusetts Bar Association, Civility and Professionalism Guidelines (2016), <https://www.massbar.org/docs/default-source/publications-document-library/ejournal/2016-17/civilityandprofessionalismguidelines.pdf>.

professional connections nationwide through legal organizations and social media groups.¹³ An Executive Order such as this encourages exactly the opposite kind of legal environment.

The Executive Order is the first step toward a return to the McCarthy Era pressure to “name names” that will result in attorneys being blacklisted from numerous practice areas. The potential for disqualification or agency retaliation creates a chilling effect on advocacy and encourages gamesmanship. The Order invites abuse by creating a pathway for opposing parties to weaponize politics against counsel—especially solo and small firm attorneys who frequently take on controversial cases. Lawyers will be motivated to snitch on their colleagues for failure to comply with the Order or taking action adverse to the Trump Administration in order to steal clients¹⁴ or curry favor with the President. They will feel the need to be more guarded and less candid with opposing counsel for fear of being “found out” or accused of noncompliance.

The Executive Order also directly affects *Amici*’s clients by placing attorneys in a position where their interests are in conflict with those of their clients. Lawyers may not be able to communicate with agency officials or access information necessary for effective representation. Lawyers may be forced to choose between their livelihood and service to their clients. Clients involved in cases impacted by the Trump Administration’s restrictions may have difficulty finding representation altogether if their lawyers are forced to withdraw. If allowed to stand, the Executive Order marks the start of a slippery slope that threatens the traditional collegiality of the legal profession and solo and small firms’ ability to zealously represent clients.

¹³ The authors of this *amicus* brief met through their involvement with the American Bar Association.

¹⁴ Reportedly, after Paul Weiss was targeted by Executive Order No. 14237, competitors sought to exploit the situation by attempting to poach the firm’s clients. *See* Tatyana Monnay, Paul Weiss Chairman Accuses Rival Firms of Pursuing Its Clients, *Bloomberg Law* (Mar. 23, 2025), <https://news.bloomberglaw.com/business-and-practice/paul-weiss-chairman-accuses-rival-firms-of-pursuing-its-clients>.

III. President Trump Exceeded His Authority by Issuing an Executive Order that Enacts New Regulations Interfering with Lawyers' Ability to Practice their Trade.

One of the basic tenets of our democracy is that we have three branches of government: the Legislative, the Executive, and the Judicial branches. our forefathers created a system of checks and balances to prevent any given branch from exceeding its authority.

The doctrine of the separation of powers was adopted by the convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy.

Myers v. United States, 272 U.S. 52, 293 (1926). Article II of the Constitution vests the President with executive power over the government, including the obligation to “take care that the laws be faithfully executed.” An executive order is a written directive, signed by the President, that orders the government to take specific actions to ensure “the laws be faithfully executed.”¹⁵

Executive orders are typically issued to ratify given laws, or during a time of national emergency. *Youngstown Sheet & Tube Co., et al. v. Sawyer*, 343 U.S. 579 (1952). In *Youngstown*, the President issued an order directing the Secretary of Commerce to seize control of the nation’s steel mills in order avert a strike and assure the continued availability of steel. The Court granted a preliminary injunction at the District Court level preventing the seizure. The United States Supreme Court affirmed the judgment of the District Court, holding that the President did not have the right to create new law.

¹⁵ Christopher Anders, *What Is an Executive Order and How Does it Work?*, ACLU (Feb. 4, 2025), <https://www.aclu.org/news/privacy-technology/what-is-an-executive-order-and-how-does-it-work>.

As stated in *Youngstown*, “It is clear that if the President had authority to issue the order he did, it must be found in some provisions of the Constitution.” *Id.* at 587. The Court explains:

Nor can the seizure order be sustained because of the several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad.

Id. at 579.

The Court reminds us, “In the framework of our Constitution, the President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker.” *Id.* at 587, *see also PFLAG, Inc., et al. v. Donald J. Trump, et al.*, Civil No. 8:25-cv-00337-BAH (D. Md. Feb. 4, 2025).

Through the Executive Order, President Trump has effectively created new law that restrains trade for lawyers—particularly solo and small firm practitioners disproportionately impacted by denials of access to federal buildings or security clearances. When the President circumvents Congress by enacting new law contrary to the separation of powers doctrine, solo and small firm lawyers bear the brunt of this unprecedented overreach.

CONCLUSION

The Executive Order represents an unconstitutional assault on the legal profession’s independence and the right to counsel. The Order paves a path for the President to threaten solo and small firm practitioners with professional ruin, for zealously advocating for clients and causes adverse to the Trump Administration’s policies.

Amici, solo and small law firm practitioners who serve as frontline defenders of the rights of millions of Americans, cannot be forced to “toe the line” to avoid governmental retaliation.

Unlike large firms, we lack the institutional resources to defend against these attacks. When our access is denied, our clients—often society's most vulnerable—are silenced.

The President has no authority to redefine attorneys' ethical obligations or erect barriers to federal buildings through bureaucratic fiat. Allowing this Order to stand would establish a dangerous precedent enabling future administrations to disqualify opposing counsel at will. To preserve our legal system's integrity and protect our clients' access to justice, the Court should grant Susman Godfrey's Complaint for Declaratory and Injunctive Relief, and find the Order unconstitutional.

Dated: April 25, 2025.

Respectfully submitted,

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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.

Respectfully submitted,
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ATTACHMENT A

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