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'Shocking Abuse of Power': Judge Issues TRO Against Trump's Executive Order Targeting Susman Godfrey

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A federal judge in Washington, D.C., on Tuesday temporarily blocked enforcement of President Donald Trump's executive order targeting Susman Godfrey.

U.S. District Judge Loren AliKhan said that the executive order likely violates the law firm's First and Fifth Amendment rights.

"Frankly, I think the framers of our constitution would see this as a shocking abuse of power," said AliKhan, adding that other law firms have been making deals with the Trump administration out of fear they will be the next targets, calling it "coercion plain and simple."

"I admire firms like Susman for standing up," the judge said, even when it does threaten the "very existence of their business."

AliKhan said Susman Godfrey is entitled to a restraining order against sections one, three and five of the executive order, which relate to the firm's work with government contractors and its access to government buildings.



Photo: Diego M. Radzinski/ALM

The E. Barrett Prettyman U.S. Courthouse, home of the U.S. Court of Appeals for the District of Columbia Circuit and the U.S. District Court for the District of Columbia.

"The firm has shown that the order was issued with no process whatever, and it also raises viable concerns that the order is intimately vague," AliKhan said. She said the court agrees that the firm will suffer "certain and imminent injury" unless a TRO is granted.

AliKhan noted, when issuing her ruling, that every law firm that has challenged

an executive order in recent weeks has received a TRO.

Susman Godfrey, which filed suit against the administration on Friday, became the fourth law firm to obtain a temporary restraining order against the administration over executive orders, following Perkins Coie, Jenner & Block, and Wilmer Cutler Pickering Hale and Dorr. The other three firms are also now seeking permanent relief.

Signed last Wednesday, Trump's executive order against Susman Godfrey suspended security clearances of firm lawyers, eliminated any government contracts with the firm, and limited the firm's access to government buildings and resources. Government contractors are also required to disclose their work with the firm, and the government is barred from hiring firm employees.

The executive order accuses Susman Godfrey of spearheading efforts "to weaponize the American legal system and degrade the quality of American election" as well as funding "groups that engage in dangerous efforts to undermine the effectiveness of the United States military."

During the Tuesday hearing, the law firm's lawyer, Donald Verrilli of Munger, Tolles & Olson, said the firm is "completely mystified" about some language in the order. "We don't even know in some cases what they are talking about," he said, but adding the firm appears to be targeted for its representations for client Dominion Voting and others in election litigation.

"Maybe it's a coincidence" that this executive order dropped right on the eve when Susman Godfrey was about to go to trial for Dominion

against Newsmax based on defamatory statements, Verrilli said, "but that's what happened."

The executive order is one of the most "brazenly unconstitutional exercises of executive power in the history of this nation," he said.

Verrilli nodded to the deals the Trump administration has with nine other Big Law firms, including the \$940 million in pro bono and other "free legal services" commitments from those firms.

"We're sliding very fast into the abyss here," Verrilli said, adding that the "only way to stop that slide" is for the court to act decisively.

When pressed by the judge about the executive order language, the government's lawyer, Richard Lawson, a deputy associate attorney general, said "regrettably," he didn't have any information about what some parts of the executive order referred to.

The judge pressed the government specifically about language in section 1 of the executive order, which claims Susman Godfrey "funds groups that engage in dangerous efforts to undermine the effectiveness of the United States military through the injection of political and radical ideology."

Lawson said he had "no further information" he could provide on that part, later arguing that section one had no "real operative effect."

Lawson pointed to sections of the law and past rulings to support the executive order's finding to cut off any government contracting work with Susman Godfrey and ask contractors to disclose their work with the law firm. There is a "large body" of case law of the use of procurement power to promote social policy, he said, describing section one of the order as "well thought out".

“You said it’s thought out, but you don’t know what the second sentence” about funding groups that harm the military means, the judge shot back at Lawson at one point.

While several law firms have reached deals with the Trump administration to avoid an executive order, Verrilli said Susman Godfrey had no notice or outreach from the government about the executive order before it was issued.

When the judge asked Lawson why the administration reached out to some firms ahead of time, but not Susman Godfrey, Lawson said he couldn’t “answer that.”

In Susman Godfrey’s court papers, firm co-managing partner Kalpana Srinivasan said, at least a third of the firm’s active matters require access to federal court — access that has been threatened by the executive order.

“Susman will suffer irreparable harm absent immediate relief, both because the ongoing violation of its constitutional rights is irreparable and because the order sets out to tarnish Susman’s reputation, permanently damage its relationship with clients, and inflict economic harm,” said the firm’s court papers seeking a TRO.

The firm also describes the executive order as blatantly retaliatory and a direct threat to Susman Godfrey’s business, claiming that nearly twenty of the firm’s clients are government contractors or otherwise do business with the federal government.

Previously, Susman Godfrey has engaged in litigation against the administration’s interest. The firm represented Dominion Voting Systems in its defamation lawsuit against Fox News, securing a \$787.5 million settlement from Fox. The firm is continuing to represent Dominion in defamation cases against Newsmax Media, former New York City mayor Rudy Giuliani, former federal prosecutor Sidney Powell, One America News Network, Overstock CEO Patrick Byrne, and MyPillow founder Mike Lindell.

Susman Godfrey was also a signatory on an amicus brief filed in support of Perkins Coie’s suit against the federal government. Only eight Am Law 100 firms signed onto the brief.

Additionally, Susman Godfrey helped a group of 27 former senior government officials file their own amicus in support of Perkins Coie.

“This fight is bigger and more important than any one firm. Susman Godfrey is fighting this unconstitutional executive order because it infringes on the rights of all Americans and the rule of law,” Susman Godfrey said in a statement after the TRO hearing. “This fight is right, it is just, and we are duty-bound to pursue it. We are grateful the court directly addressed the unconstitutionality of the executive order by recognizing it as a ‘shocking abuse of power.’”