The views expressed herein are presented on behalf of the Litigation, Health Law, District of Columbia Affairs, and Antitrust and Consumer Law Communities of the D.C. Bar Communities, a group of voluntary associations of individuals, most but not necessarily all of whom are members of the D.C. Bar. The D.C. Bar itself made no monetary contribution to fund the preparation or submission of this statement. Moreover, the views expressed herein have been neither approved nor endorsed by the D.C. Bar, its Board of Governors, or its general membership.

Litigation Community Steering Committee of the D.C. Bar Communities

Public Statement Condemning President Trump's Targeting of Lawyers

March 26, 2025

The Litigation Community of the D.C. Bar Communities condemns all efforts to target lawyers and staff at law firms because of whom they represent. Consistent with this position, we stand in opposition to President Trump's recent Presidential Actions (Executive Orders)[1] targeting lawyers and staff at the law firms of Covington & Burling LLP, Perkins Coie LLP, Jenner & Block LLP and any orders moving forward that target attorneys and law firms in this manner.

There is no justification for the president's February 25[2], March 6[3], and March 25[4] executive orders suspending the security clearances of all partners and employees at the firms and terminating any government contracts with the firms. The February 25 and March 6 orders were plainly designed as retribution against the firms and their lawyers' representation of the former Special Counsel Jack Smith and former Secretary of State Hillary Clinton, while the March 25 order was plainly designed as retribution for the re-hiring of former lead prosecutor in Robert S. Mueller's Special Counsel's Office, Andrew Weisman.

The Executive Orders unlawfully single out Covington & Burling LLP, Perkins Coie LLP, and Jenner & Block LLP for severe professional and financial penalties because of their legal work for certain political figures and campaigns or hiring of former federal employees. Such punitive treatment, without due process or

[1] "An executive order is a signed, written, and published directive from the President of the United States that manages operations of the federal government." American Bar Association (2021, January 25), https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/what-is-an-executive-order-/

[2] https://www.whitehouse.gov/presidential-actions/2025/02/suspension-of-security-clearances-and-evaluation-of-government-contracts/

[3] https://www.whitehouse.gov/presidential-actions/2025/03/addressing-risks-from-perkins-coie-llp/

[4] https://www.whitehouse.gov/presidential-actions/2025/03/addressing-risks-from-jenner-block/

legitimate legal authority, violates multiple constitutional guarantees—separation of powers[5], due process[6], equal protection[7], free speech[8], and the right to counsel.[9]

Lawyers who zealously advocate for their clients are the backbone of our independent legal system. Everyone deserves adequate legal representation regardless of their viewpoints, wealth, political affiliation, perceived guilt, or any other characteristic. These norms are enshrined in our constitutional right to counsel in criminal cases, and in various rules governing attorney conduct. For example, Rule 1.3 of the D.C. Rules of Professional Conduct requires zeal and

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[5] Fundamental to the Constitution is that the separation of powers prevents the "concentrat[ion] [of] the roles of prosecutor, judge, and jury in the hands of the Executive Branch." *SEC v. Jarkesy*, 603 U.S. 109, 140 (2024). The separation of powers "protects the liberty of the individual from arbitrary power." *Bond v. United States*, 564 U.S. 211, 222 (2011). The President's authority to act must "stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). There is no enumerated or inherent executive authority from the Constitution to regulate and to sanction lawyers for professional misconduct. That is not part of the President's "core constitutional power[]." *Trump v. United States*, 603 U.S. 593, 606 (2024). Nor is it one of his "incidental powers, belonging to the executive department, which are necessarily implied from the nature of the functions." *Nixon v. Fitzgerald*, 457 U.S. 731, 749 (1982) (quoting 3 Joseph Story, Commentaries on the Constitution of the United States § 1563 (1st ed. 1833)).

[6] The Due Process Clause of the Fifth Amendment to the U.S. Constitution guarantees that "no person shall . . . be deprived of life, liberty, or property, without due process of law." A federal law is unconstitutionally vague and thus violates due process if it "fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement." *United States v. Williams*, 553 U.S. 285, 304 (2008) (citing *Hill v. Colorado*, 530 U.S. 703, 732 (2000)); *see also Johnson v. United States*, 576 U.S. 591, 595 (2015).

[7] The Equal Protection Clause as incorporated by the Fifth Amendment to the United States Constitution prohibits the federal government, its agencies, its officials, and its employees from denying persons the equal protection of the laws. To justify discriminatory conduct, the government must put forward a "plausible reason" for its differential treatment, *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 313-14 (1993), which cannot be "so attenuated" from its conduct "as to render [it] arbitrary or irrational." *City of Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 446 (1985) (citing, *inter alia, United States Department of Agriculture v. Moreno*, 413 U.S. 528, 535 (1973)). "[A] bare desire to harm a politically unpopular group" is "not [a] legitimate state interest[]." *City of Cleburne*, 473 U.S. at 447.

[8] The First Amendment prohibits the regulation or censure of speech based on "'the specific motivating ideology or the opinion or perspective of the speaker.'" *Reed v. Town of Gilbert*, 576 U.S. 155, 168-69 (2015) (quoting *Rosenberger v. Rector and Visitors of Univ. of Va.,* 515 U.S. 819, 829 (1995)). Such government action is a "'blatant' and 'egregious form of content discrimination'" and is subject to strict scrutiny. *Reed*, 576 U.S. at 168, 171.

[9] The Sixth Amendment to the United States Constitution guarantees that "[i]n all criminal prosecutions, the accused shall enjoy the right … to have the Assistance of Counsel for his defense." U.S. Const. amend. VI. The Sixth Amendment affords criminal defendants the right to effective assistance provided by the counsel of one's choosing. *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Wheat v. United States*, 486 U.S. 153, 159 (1988). Actions that substantially interfere with, or deprive, the right to counsel constitute a violation of the Sixth Amendment.

diligence in representing clients. Rule 1.2 specifies that representing a client "does not constitute an endorsement of the client's political, economic, social, or moral views or activities."

Targeting lawyers with punitive actions because of who they represent is a threat to the rule of law. The steering committee is concerned that the orders may have a chilling effect on lawyers and the ability to operate their businesses. Lawyers should not be dissuaded from representing any client, including clients who face investigation or prosecution by the government, or have claims against the government.

We support the essential role that members of the D.C. legal community play in our independent judicial system.

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The members of the Steering Committee of the Litigation Community of the D.C. Bar Communities unanimously approved this statement on March 26, 2025. The Communities for Health Law, District of Columbia Affairs, and Antitrust and Consumer Law of the D.C. Bar Communities have joined us in this statement.

FOR MORE INFORMATION CONTACT:
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