

Navigating law firm business strategy amid political pressures

Recent executive actions against firms like Perkins Coie and Covington & Burling underscore the rising political risks, pushing law firms to rethink strategies, reputations, and talent retention in an unpredictable environment.

By Marci Taylor

The legal industry has long been shaped by political currents, but recent executive actions targeting major law firms have intensified the stakes. With high-profile firms such as Covington & Burling and Perkins Coie facing political scrutiny and executive restrictions, law firm leaders must consider how their firm's client engagements, reputation, and strategic planning align with the evolving landscape. Developing and effectively implementing a law firm strategy can be challenging at the best of times. Today, law firm leaders have to consider multiple, challenging factors.

Recent, well-publicized case studies demonstrate the implications and potential fallout from political engagement. Perkins Coie, a prominent Pacific Northwest firm with a significant Washington DC presence, has been challenged via executive order by the Administration for its work on the 2016 Presidential election on behalf of Hillary Clinton's campaign and its diversity, equity, and inclusion (DEI) program. Perkins Coie has also faced Republican scrutiny, particularly due to its involvement in opposition research, such as the Steele dossier. President Donald Trump's executive order revoking security clearances for Perkins Coie lawyers has limited the firm's ability to handle sensitive government work. The firm responded that the executive order was "unlawful" and expressed its intention to challenge the order. Reputable litigators at Williams & Connolly have been retained to represent Perkins Coie to challenge the order and filed a complaint against multiple parties, including the U.S. De-



Shutterstock

partment of Justice, Federal Communications Commission, Office of Management and Budget, other agencies and current cabinet members. The court swiftly put a halt to the executive order, pending further consideration.

Covington & Burling's representation of clients in politically charged cases has led to executive actions restricting its attorneys' access to government contracts and security-sensitive cases, as well. The firm represented Special Counsel Jack Smith, who led the prosecution in cases related to the Jan. 6, 2021 insurrection at the U.S. Capitol, as well as Trump's alleged mishandling of classified security documents. The executive order cited this work as "the weaponization of the judicial process." Although the firm noted it represented Smith in a personal

capacity as the potential subject of government investigations, it must now navigate reputational damage while mitigating the business impact of losing government-related work.

It is not only Democratic-friendly firms that have been affected. Jones Day, a firm with historical ties to Republican administrations, faced backlash from corporate clients and internal dissent from lawyers over its work on election litigation. Externally, the firm faced public criticism and pressure campaigns. The Lincoln Project, a group of anti-Trump Republicans, actively urged Jones Day employees to resign in protest of the firm's legal work related to the election challenges. Additionally, some clients and the broader public scrutinized the firm's role in these controversial cases, leading to reputational challenges.

Most law firms have remained silent regarding the impact of public challenges on the aforementioned law firms and others based on their political representations. Others in the legal industry are beginning to speak publicly about the impact of the executive orders and other recent actions on the rule of law, citing law firms' First Amendment rights to due process and freedom of association; the 1963 Supreme Court Case *NAACP v. Button*, which protects the right to use litigation to pursue political goals; and a lawyers' ability to exercise independent, professional judgment and make legal decisions based solely on their client's best interests, without undue influence from outside parties.

Notably, Georgetown University School of Law Dean William Trainor pushed back on threats from the in-

terim U.S. Attorney for Washington D.C. to refuse to hire Georgetown students if it continued with its DEI program. Trainor noted that “the university was founded on the principle that serious and sustained discourse among people of different faiths, cultures, and beliefs promotes intellectual, ethical, and spiritual understanding.” He went on to say, “The First Amendment...guarantees that the government cannot direct what Georgetown, and its faculty teach and how to teach it.”

More and more, members of the legal profession are raising profound concerns about the ability of law firms to represent government and political clients without fear of retaliation. Will there be a chilling effect on law firms based on executive actions? Will firms avoid representing politically sensitive clients to prevent government pushback? Will clients, including government agencies and political organizations, struggle to find experienced counsel because of their current or former political affiliations, curbing their access to justice? Will the legal profession’s role as a check on government power be weakened when firms fear political retribution?

These recent developments, volatile global markets, economic uncertainty, and the ongoing war for talent in the legal industry require law firm leadership to revisit their existing strategic plans and evaluate ongoing business and brand strategies to position their firms for the future.

Law firms are no strangers to representing politically connected clients. Most firms involved in government relations, government contracting, and regulatory practices have successfully struck a balance over time - hiring professionals from both sides of the aisle and representing clients from a myriad of political backgrounds. However, overt alignment with one party or administration can pose significant risks:

Client backlash: Firms may alienate current or potential clients with opposing political views, leading to the loss of business opportunities.

Reputation management challenges: A firm’s identity can become politicized, impacting hiring, client retention, and public perception. More on this follows below.

Regulatory and government scrutiny: The political climate can shift unexpectedly, exposing firms to heightened government investigations and oversight.

Evaluating your firm’s commitment to and communications regarding DEI: Dismantling DEI programs in all sectors - private, public, education and more - has been the hallmark of the current Administration to date. Some law firms have quietly rolled back their communications regarding DEI, but many have decided to double down on DEI despite significant pressure and recent targeting of firms for the same reason.

Law firms routinely evaluate their current and potential client base, industry/market sector penetration and practice mix as part of their ongoing business strategy. In reality, firms like Perkins Coie rely on a large percentage of its client base of corporations and other business entities as a much higher percentage of firm revenue than government-related clients. For firms for whom political clients account for a significant percentage of the firm’s overall book of business, a focus on diversification is prudent in the short and long term. Having said that, based on recent weeks, it appears that there will be no shortage of government-related litigation in the coming months and years. Firms will need to conduct a thoughtful analysis and make potentially difficult decisions consistent with their overall growth strategy, core values and culture.

To recruit and retain talent, firms must address concerns among current and prospective attorneys about political entanglements affecting their careers. Highlighting a firm’s commitment to legal principles over political agendas can help reassure talent. Career communications, both digital and otherwise, should be reviewed and adjusted to reflect the firm’s stance and acknowledge the concerns of current and potential professionals in light of the current political climate. Regularly assessing employee engagement and adjusting policies as needed will be required to ensure a satisfied and loyal team of professionals. Understanding generational differences about the political landscape and social justice concerns will be critical.

Global firms have their own unique set of challenges given current geopolitical issues and the recent tumult between the U.S. and its trade partners and historical allies. Strong reactions from businesses, governments, and citizens abroad may impact a firm’s client relations, particularly with companies and organizations headquartered outside the United States, as well as with current and existing legal talent in markets outside the U.S. A thoughtful review,

market by market, will be necessary to ensure that communications to international clients reflect a commitment to ongoing relationships and services. Communications with existing and potential talent will need to allay concerns about affiliations with U.S. headquartered firms in the current political and economic environment.

Firms currently facing political controversy and firms that may in the future should adopt a structured approach to reputation management. Specifically, firms should develop a clear communications strategy that includes pre-approved communications to address an array of potential scenarios. Messaging should affirm their commitment to legal ethics, professionalism and client representation. Firms should proactively shape narratives by issuing public statements when appropriate and engaging directly and openly with concerned clients. Law firms should also leverage their existing media relationships and engage with the legal and business press to counter politicized narratives. Law firms may also consider developing or refining internal policies and communicating them clearly to ensure they can mitigate reputational risks when handling politically sensitive clients.

A well-executed crisis communication plan can help firms navigate reputational threats while maintaining client confidence.

Zach Olsen, president of strategic communications firm Infinite Global, reinforced the need for law firms to invest time and resources into building reputational resilience through preparation. “If a firm has not invested in a communications program that highlights and reinforces its excellence, culture, values and integrity, when a reputational threat inevitably presents itself, there is a real risk that the crisis event will swallow up their first page of Google results and dominate public perception.”

“Without a plan, and the buy-in from leadership, the risk that a firm’s story will be told for it rather than by it, increases exponentially,” Olsen said.

Law firm leaders must anticipate how political maneuvers may impact their ability to advocate for clients and protect their firm’s independence. They also have a responsibility to assess the firm’s business and brand strategy and ensure that mounting challenges to law firms engaged in government-related legal matters do not negatively impact the firm’s business. Suggested tactics include:

Assess your political exposure: Conduct an internal review of the firm’s client base and practice areas to identify potential political vulnerabilities.

Develop or update your firm’s strategic plan: Diversify your practice areas and client base to avoid being too reliant on government-related representation. Expand practice groups that are insulated from political fluctuations. Identify clients with significant federal government contracts and develop legal strategies to advise them on how to deal with the potential impact of executive action on their business operations. Consider increasing your international presence to offset domestic political risks.

Establish crisis and reputation management plans: Develop communication protocols for handling politically charged situations, and train leadership and attorneys on media engagement best practices.

Strengthen internal governance: Define clear policies on accepting politically sensitive cases and clients. Consider forming an ethics or risk committee to evaluate potential representation issues.

Monitor legal and political developments: Stay informed about executive actions, legislative changes, and legal challenges that may impact firm operations.

By proactively addressing these challenges, law firm leaders can navigate the complexities of today’s political environment while safeguarding their firm’s reputation, client relationships, and business success.

Marci Taylor is a legal industry veteran with 25 years’ experience in the business of law. Her firm, Mantra Legal Consulting, provides strategy, management and marketing consulting services to law firms throughout the United States.

