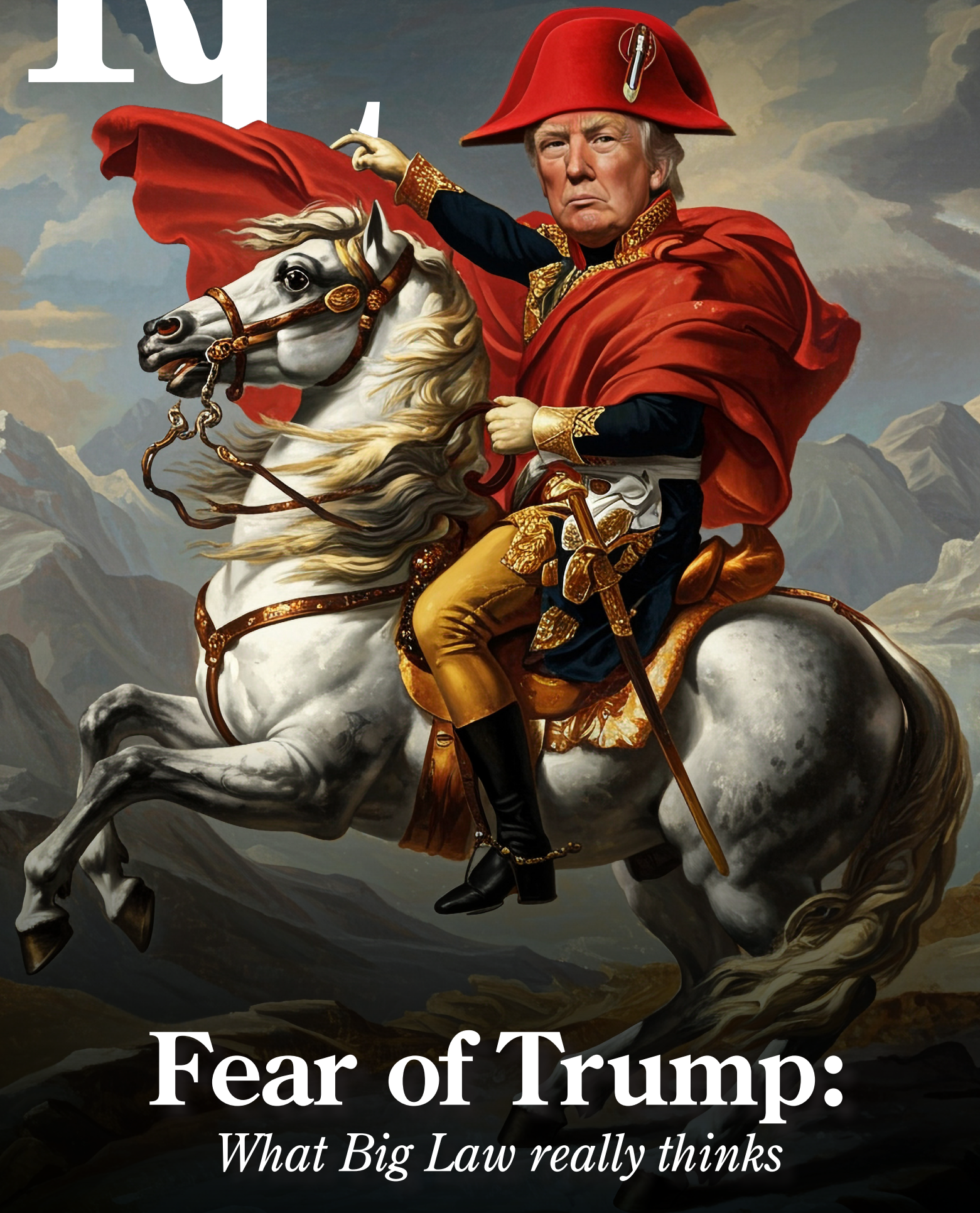


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The Rule of Law | April 2025



Fear of Trump:

What Big Law really thinks

REPORTS LEGAL

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Fear of Trump:

What Big Law really thinks about the Rule of Law



Big US law firms have agreed almost \$1bn+ in pro bono deals with the White House. So, what do senior lawyers think about threats to the rule of law?

By **Dominic Carman**

Over the past 80 years, free trade and the rule of law have become intertwined – globally, the US has consistently championed both. A cornerstone of the US Constitution, the rule of law sets the standard against which Americans judge their government. But like free trade, the concept has been fundamentally subverted by President Trump.

“He who saves his Country does not violate any Law,” posted Trump triumphantly on

Truth Social in February. He was referencing Napoleon who, according to Balzac, said the same thing in French: “Celui qui sauve sa patrie ne viole aucune loi”. It is also worth recalling that on 2nd December 1804, Napoleon crowned himself Emperor in Notre Dame Cathedral. A formidable figure, fear of Napoleon was widespread. But history tells us that things did not end well for the man who proclaimed he would be emperor for life.

Even by the standards of the formidable President Trump, the first fortnight in April was chaotic.

When announcing the highest US tariffs across the world since the disastrous Smoot-Hawley Tariff Act of 1930, he proclaimed 2nd April 2025 as “Liberation Day”.

But a week later, the bond markets forced Trump to make a strategic volte face: he announced a 90-day pause on most tariffs – except for those already levied on China, where a further hike took them up to 145%, followed days later by the announcement of a ‘brief’ tech tariff exemption for smartphones and computers.

“NOBODY is getting ‘off the hook’ for the unfair Trade

Amici Curiae brief filed in support of Perkins Coie – 4th April 2025

This amicus brief is filed on behalf of many of this Nation's leading law firms. Although we do not take this step lightly, our abiding commitment to preserving the integrity of the American legal system leaves us no choice but to join together to oppose the March 6, 2025 Executive Order entitled "Addressing Risks from Perkins Coie LLP" that is at issue in this litigation. The Executive Order (which is now subject to a temporary restraining order) should be permanently enjoined as a violation of core First, Fifth, and Sixth Amendment guarantees, as well as bedrock separation-of-powers principles.

But something even more fundamental is at stake. In recent weeks, the President has issued not one but five executive orders imposing punitive sanctions on leading law firms in undisguised retaliation for representations that the firm, or its former partners, have undertaken, and more may be in the offing. Those Orders pose a grave threat to our system of constitutional governance and to the rule of law itself. The judiciary should act with resolve – now – to ensure that this abuse of executive power ceases.

between the US and the rest of the world.

Divisions have also become acutely apparent in the US legal profession thanks to a series of executive orders issued in March 2025 by the president against several US law firms. These orders were based on claims that their work on a range of progressive causes has undermined the judicial system and that their pro-diversity hiring policies are illegal.

In effect, the orders banned these firms from appearing in federal courts and cases – by threatening to revoke lawyers' security clearances, restricting their access to federal buildings, and cancelling their clients' government contracts.

On 4th April, in the midst of the tariff maelstrom, 504 US law firms offered their "unconditional support" for Perkins Coie in its action against the US Department of Justice in the District Court of Columbia. Formally, they were signatories as Amici Curiae (not parties to the case, but permitted to assist the court by offering

Balances, and Non Monetary Tariff Barriers, that other Countries have used against us," wrote Trump on his Truth Social platform on 13th April, adding: "Especially not China which, by far, treats us the worst!" By then, Chinese President Xi had already imposed reciprocal tariffs, urging the European Union to join Beijing in resisting Trump's

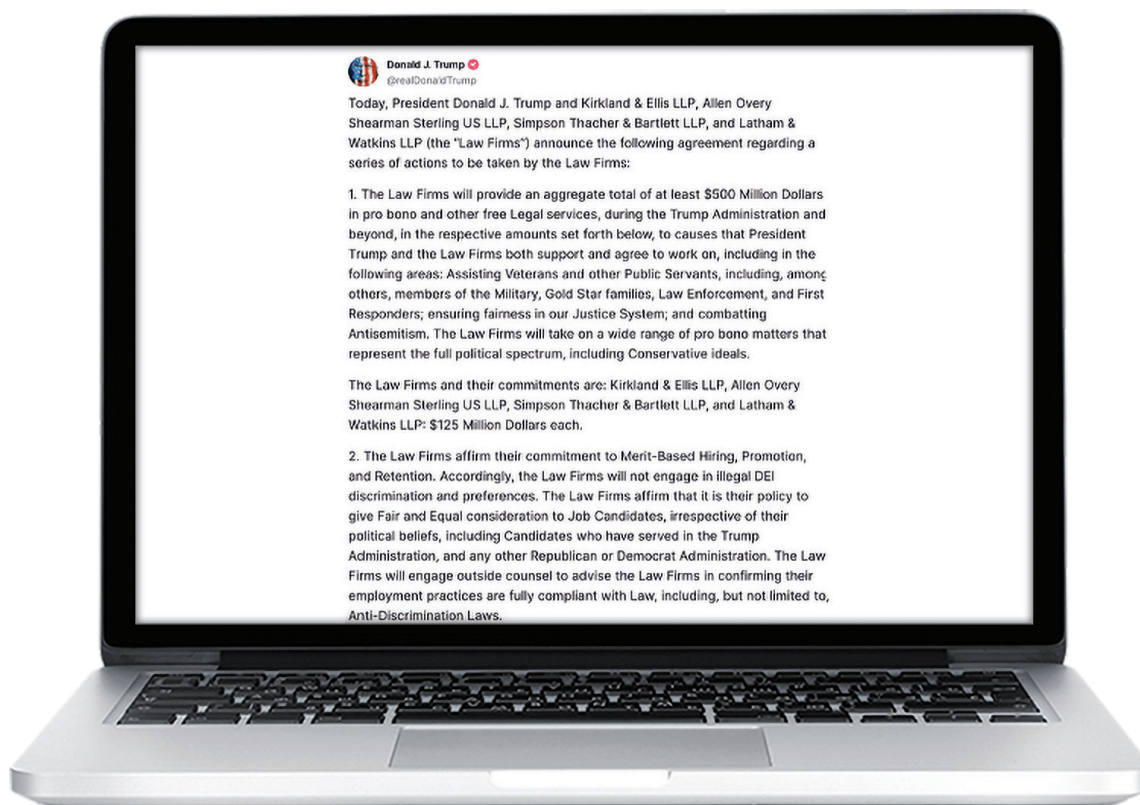
"unilateral bullying". We have yet to see whether this trade battle will end well – and if so, for whom.

"Unconditional support"

Although ostensibly unrelated, Trump's actions over tariffs and his attitude to the rule of law symbolise the deep divisions both within the US, and

In Trump's crosshairs: Perkins Coie represented Hillary Clinton in her failed 2016 bid for the presidency ▼





insight that has a potential bearing on the issues at hand).

The 35th largest US law firm, Perkins Coie was one of three firms, together with Jenner & Block and WilmerHale, to launch successful court challenges and obtain restraining orders as US federal judges temporarily blocked parts of executive orders against them. A fourth firm, Susman Godfrey, has also filed a lawsuit in Washington fighting the order against it. In response to a more limited executive order, Covington & Burling has yet to take action.

According to media reports, Perkins Coie initially reached out to Quinn Emanuel, which has previously represented Elon Musk and the Trump Organisation. But Quinn Emanuel declined to take Perkins Coie as a client, "as its top partners decided not to become involved in a politically sensitive issue that could make themselves a target by association just as they have been on the rise as a power center in Washington DC," according to the Guardian.

The amicus brief (see *box on page 4*) was submitted by Munger, Tolles & Olson to the court in conjunction with formal court papers to challenge the executive order.

Big Law fears Trump

Prominent firms that signed the brief included Arnold & Porter, Crowell & Moring, Fenwick & West and Freshfields US. Notably, no top 25 firm [by profits per partner (PEP), as listed by the AM Law 100] appeared on the list of firms giving support to Perkins Coie. Instead, the big players have largely remained silent. According to the Financial Times, organisers of the amicus brief struggled to convince America's most profitable law firms to sign up "amid concerns over retaliation by the Trump administration."

Several of them did, however, appear on Trump's executive order list. By the first week in April, four of those firms – all of which feature in the Top 25 by PEP – had reached an agreement with the White House to avoid the impact

▲ Trump's 11th April post on Truth Social – \$500m in pro bono from four big law firms

of Trump's orders: Paul, Weiss, Rifkind, Wharton & Garrison; Willkie, Farr and Gallagher; Milbank; and Skadden, Arps, Slate, Meagher & Flom.

Following discussions with the White House, an executive order was rescinded and the first deal was reached:

- Paul Weiss promised to abandon diversity policies and provide \$40m worth of pro bono legal services to support White House initiatives. Following Paul Weiss' lead, three other firms made a pre-emptive move before executive orders were issued against them:
- Milbank agreed to perform at least \$100m worth of pro bono legal services during the Trump administration and beyond.
- Skadden agreed to provide \$100m in pro bono legal services to support causes aligned with the Trump administration.
- Willkie Farr agreed to provide \$100m in pro bono legal services for causes that the Trump administration supports.

On 10th April, Trump suggested he would "try to use these very

prestigious firms to help us out with the trade” by providing legal advice on trade negotiations with multiple countries. “I think part of the way I’ll spend some of the money that we’re getting from the law firms in terms of their legal time will be — if we can do it, I think we can do it — using these great law firms to represent us with regard to the many, many countries that we’ll be dealing with,” Trump said in a televised Cabinet meeting.

In response, some commentators argued that the president was executing a “semi nationalisation” of big law in the US by coercing firms to do pro bono trade negotiation work.

On 11th April, Trump announced on his social media platform that four more US law firms including the two largest – Kirkland & Ellis and Latham & Watkins – had agreed a deal with the White House.

Together with Simpson Thacher & Bartlett and A&O Shearman, they each pledged to contribute \$125m through pro bono agreements with a further commitment not to engage in “illegal DEI discrimination”.

According to Reuters, Kirkland’s executive committee and Simpson Thacher chairman Alden Millard said in internal memos that their agreements “would not force them to relinquish control over the pro bono cases they handle.” How this will dovetail with Trump’s radical agenda remains to be seen. Meanwhile, a White House statement said that all four firms “have affirmed their strong commitment to ending the weaponization of the justice system and the legal profession.”

In return, Trump agreed to end workplace discrimination investigations bought by the Equal Employment Opportunity Commission (EEOC) against the legal quartet in March. An additional agreement with Cadwalader, Wickersham & Taft,

“Once Trump discovered that many big law firms were cowards and that he could extort free legal services from them by illegally threatening them, I think he decided, why limit himself to firms that had actually done things to piss him off?”

Mark Lemley, professor at Stanford Law School, speaking to Bloomberg

which was not an EEOC target, netted a further \$100m. Under new White House agreements, these five firms add a further \$600m+ in collective bono legal services to causes advocated by Trump. It brings the total of all pro bono agreements made by big law firms to at least \$940m.

“Once Trump discovered that many big law firms were cowards and that he could extort free legal services from them by illegally threatening them, I think he decided, why limit himself to firms that had actually done things to piss him off,” Mark Lemley, a professor at Stanford Law School, told Bloomberg.

Critically, the new agreements mean that Trump has created a panel of nine major law firms over which he now has significant leverage. Fearful that they would lose major clients, they chose what they perceived to be the only pragmatic option: cut a deal.

Paul Weiss: no dice

Unsurprisingly, the deals done by big law firms have polarised opinion. Perhaps the harshest criticism has been levelled at Paul Weiss, a firm that has a longstanding reputation for its commitment to pro bono work

and providing its associates with opportunities to engage in social justice issues, reflecting the firm’s broader values and impact.

Defending the controversial deal which he struck with the Trump administration to avert the consequences of an executive order, Paul Weiss chair Brad Karp issued a statement to the firm’s staff. He noted that the firm had hoped the legal industry would rally to its side, despite that not happening when earlier executive orders were issued targeting Perkins Coie and Covington & Burling.

“We had tried to persuade other firms to come out in public support of Covington and Perkins Coie. And we waited for firms to support us in the wake of the president’s executive order targeting Paul Weiss,” wrote Karp. “Disappointingly, far from support, we learned that certain other firms were seeking to exploit our vulnerabilities by aggressively soliciting our clients and recruiting our attorneys.”

Karp noted that Paul Weiss had been preparing to challenge the executive order in court, but “it became clear that, even if we were successful in initially enjoining the executive order in litigation, it would not solve the fundamental problem, which was that clients perceived our firm as being persona non grata with the administration”. Karp also warned his colleagues that the executive order “could have easily destroyed our firm” and clients “had told the firm they would not be able to stay with it despite wanting to do so.”

Outraged, a number of Paul Weiss alumni penned an open letter protesting against Karp’s deal. It stated: “Instead of a ringing defense of the values of democracy, we witnessed a craven surrender to, and thus complicity in, what is perhaps the gravest threat to the independence of the legal profession since at least the days of Senator Joseph McCarthy.” ●

Big Law on the Rule of Law

By Dominic Carman

Towards the end of Trump's first administration, I spent a week in New York, meeting with and interviewing senior figures at many of the most prominent US law firms.

As part of research for a book, these face-to-face interviews were extensive and wide-ranging. What follows are the verbatim comments of prominent interviewees at some of these firms in response to my questions about the rule of law, which are also reproduced for context.

Those interviewed included three of the four firms that initially reached settlements with the Trump administration: Paul Weiss, Willkie Farr, and Milbank

For balance, I have also included interviews with two firms that have recently worked with the Trump administration: Quinn Emanuel, which, as noted above, has advised Elon Musk and the Trump Organisation, and Sullivan & Cromwell.



“ President Donald J. Trump’s appeal is important for the rule of law

*Robert Giuffra,
Sullivan & Cromwell*

In January 2025, Trump hired a team of defence lawyers from S&C to appeal against his criminal conviction for hiding a \$130,000 hush-money payment to the pornographic film actress, Stormy Daniels. Robert (Bob) Giuffra, the firm's co-chair, leads the appeals team. “President Donald J. Trump's appeal is important for the rule of law, New York's reputation as a global business, financial and legal center, as well as for the presidency and all public officials,” said Giuffra in a statement.

A final US law firm, arguably the most prestigious, is also included: Cravath, Swaine & Moore.

Although the answers outlined below were given to questions asked several years ago, these extracts from previously unpublished interviews provide invaluable insight into what some of the major players in Big Law firms really think about the rule of law and potential threats under a Trump administration. ►



▲ Donald Trump with Stephanie Clifford (stage name Stormy Daniels) in a 2006 photo uploaded to her Myspace.com account



Dominic Carman with Evan R. Chesler, former Presiding Partner and Chairman, Cravath, Swaine & Moore ▼

▲ Dominic Carman with Brad Karp, chairperson of Paul, Weiss



▲ Dominic Carman with Kathleen Sullivan, former chair of appellate practice, Quinn Emanuel Urquhart & Sullivan (until January 2025)

Dominic Carman with Rodge Cohen, Senior Chair, Sullivan & Cromwell ▼



BRAD S. KARP

Chairperson of Paul, Weiss, Rifkind, Wharton & Garrison

DC: The rule of law – you have often spoken out where others do not, and the firm has a culture of doing that. Lawyers are taught: they have a duty to their client, to the court, to their profession, and to democracy – all the things that matter. And yet the rule of law has been and remains under threat. Your views on how lawyers can uphold the rule of law and speak out when appropriate to do so, whilst remaining loyal to their corporate clients?

BK: I believe personally, and this may be a minority view, that we have a fundamental obligation as members of the legal profession to protect the rule of law, to protect our system of justice, to make sure that fundamental liberties and rights that have been guaranteed by the constitution, as applied by the courts over the decades, are maintained.

And it's very easy to ensconce yourself in your corporate law bubble and be impervious to what is going on in the world around you, and if we do that, we have, in my view, violated our fundamental fiduciary duty to society. I believe that we have the ability, the tools and the obligation to stand up for what is fundamental and right in our democracy. I speak about it all the time.

Arthur Liman and Judge Rifkind taught me that, they were courageous, they took on case after case, cause after cause, that were unpopular because it was the right thing to do. And I really tried in the years I have been chair of the firm and for the 23 years before that, to follow in those footsteps.

I talk to our partners, to our associates, literally every week about our obligations to protect the rule of law and protect individual liberties. Even if it's unpopular and even if you might antagonise someone temporarily in power and they are arrogantly trampling over rules, and rights and protections, and safeguards, that were put in place to protect the democracy. And if they want to screw around with them, they do so at their own peril, they are going to have to go through us because we will protect as best as we can our democracy.

SCOTT A. EDELMAN

Chairman, Milbank

DC: The rule of law – many commentators say it's under threat. What's your view on the rule of law, what it means for clients, what it means for the country?

SE: What is the point of being a lawyer if you don't believe in the rule of law? We are in an environment where our leadership doesn't understand the rule of law, it doesn't understand the value, because he (Trump) just does whatever he wants to do at any given point of time and then "we'll just fight about it... when somebody else is in office, it's not my problem." It's a dispiriting time for the rule of law.



RODGE COHEN

Senior Chair, Sullivan & Cromwell

DC: In terms of potential threats to the rule of law, what lessons can be drawn from the current era?

RC: We should have learned our lesson from the 1930s.

The lesson we should draw is that we may not be there yet, but there are clear dangers, because if you are an absolutist, far left or far right, you believe you have the avenue to the betterment of mankind and that law is an impediment, not a guardrail. I think the rule of law is very threatened.



KATHLEEN SULLIVAN

*Former chair of appellate practice, Quinn Emanuel Urquhart & Sullivan (until January 2025)
The first woman-name partner in the AM Law 100*

DC: The rule of law is under threat in many different respects. How do you envisage the responsibility of the next generation to counteract extremist forces that potentially pose a threat to the rule of law?

KS: It's pivotal. The next generation is going to have an obligation and a responsibility to preserve the notions of judicial independence and the notion that no ruler is above the law. The fundamental aspects of rule of law, especially in a democracy like ours: the people govern, rulers don't, and there's accountability in government. Judicial independence is a huge part of this. When President Trump said "There are Obama judges and there are Bush judges and there are Trump judges,"

Chief Justice Roberts responded: “We don’t have Obama judges, or Trump judges; we have judges who are conscientiously doing the best they can to come out right.”

I see instances of judicial independence all the time in my practice. I’ll get a highly conservative judge to vacate a conviction and order a judgment of acquittal, or I’ll get a highly liberal judge to rule for a corporation in an environmental dispute where the law takes you there.

These are qualities that make the system trustworthy. If we give up on that, and if law just becomes another species of politics, then it’s fine when you’re the winner; it’s not fine when you’re the loser. Our whole constitutional system is built on this foundation that we obey the rule of law because while we might lose in the short term, having the rule of law means that we’ll keep our victories when we win in the long term. Unless you buy into that bargain, I think it will undermine the prosperity of our culture as well as the stability.



EVAN R. CHESLER

Former Presiding Partner and Chairman, Cravath, Swaine & Moore

DC: How do you see the rule of law being challenged?

EC: There is a level of divisiveness, hostility, anger in the world that transcends politics, that threatens the rule of law. It’s universal. Therefore, there has never been a more important time to be a lawyer, because if not the lawyers, then who?

It’s what de Tocqueville said in *Democracy in America* [published in two volumes in 1835 and 1840]: “The only established religion of America is the rule of law, and the lawyers are the high priests.” He was struck by their dedication to the rule of law, and I was struck by his observation that in place of an established religion in America, we had this reverence for the rule of law that



had almost the same role that established religions had in Europe at that time.

Now is the most important time. 99 times out of a hundred, you don’t need a pilot on a plane to take off and land, they put the computers on and you just sit there watching the world go by. It’s that one time out of a hundred, when you need to turn the autopilot off and take the controls. This is that time.

STEVEN J. GARTNER

Chair Emeritus, Willkie Farr & Gallagher

DC: Much has been said about the rule of law being under threat in America. Some argue it is the duty of lawyers to be brave and speak out. But if you’re in a corporate law firm, it’s the last place you want to stand up and speak out because you may lose clients. What’s your view?

SG: I don’t agree with that. Big law does more pro bono work than any other sector of the entire legal profession. However you want to measure it, by hours, by number of matters, and those, almost by definition are fairly controversial matters. So, Willkie Farr was involved in some litigation, some injunctions against some of Trump’s activities: we went to the airport and collected somebody when the first immigration order came out.

And we’re not alone – Paul Weiss, all of our big peers do lots of this kind of work. I have a very passionate view about pro bono, that as a legal profession, we shouldn’t be picking matters because we agree with it or disagree with it.

I’m really firm and I tell my partners that I’m not going to be the referee on which pro bono matters we do, unless they are really at the extreme and I have never seen it that far, if someone came in and said we represent the KKK, we’re not going to do that. No one is going to dispute me on that.

Almost above everything else, I would say: this is what lawyers do, and we should be doing it and we should encourage it. I think there is a corporate pride that our clients take in seeing that Willkie Farr did something, even if they don’t politically agree with what we are doing.

Our clients ask us about diversity: what are we doing to make the world a better place other than we make a lot of money and we do quality work for them? Shouldn’t we have something more to our soul? ●



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Dominic has been involved in legal publishing for 30 years in London, New York and Hong Kong. A regular media contributor, he was a legal feature writer for *The Times*. Dominic undertakes diverse projects for international law firms, speaks at events, and judges the British Legal Awards and the Legal Week Innovation Awards.

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James has extensive experience in dealing with international law firms. Previously at *Legal Business*, where he spent five years engaged in producing a wide variety of reports on diverse legal markets, he understands the commercial objectives of law firms in a challenging, competitive market.

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