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Kenneth Obel: Donald Trump's attacks against law firms follow in the footsteps of Joseph McCarthy



U.S. Sen. Joseph McCarthy, right, speaks to his chief counsel, Roy Cohn, during a hearing of the Senate Investigations Subcommittee in Washington on April 22, 1954. (Byron Rollins/AP)

By **KENNETH OBEL**PUBLISHED: April 23, 2025 at 5:00 AM CDT

In February 1950, Wisconsin U.S. Sen. Joseph McCarthy began a four-year crusade of baseless accusations against alleged communists in government, academia and the entertainment industry. It was an era marked by fear, suppression of dissent and ruined careers.

Roy Cohn, a New York lawyer, served as chief counsel to McCarthy's Senate subcommittee. Cohn played a central role in directing its investigations, many of which relied on unsubstantiated or misleading claims.

If this seems familiar today, it may be because Cohn was one of President Donald Trump's early and most influential mentors. As portrayed in the movie "The Apprentice," Trump absorbed many lessons from Cohn: Attack relentlessly, never admit error and always claim victory.

As promised during his campaign, Trump has launched a McCarthy-esque effort to retaliate against the private law firms he blames for investigations of his personal misconduct. This is just one of many attacks: against the federal workforce, immigrants, the courts, Democratic-led cities, major universities, transgender Americans and student protesters. These attacks aim to punish dissent and consolidate power by forcing institutions that could challenge his authority into submission.

In the popular imagination, McCarthy's crusade was halted at a particular moment in 1954, on live television, during the Army-McCarthy hearings. Army counsel Joseph Welch famously [rebuked McCarthy](#), "Have you no sense of decency, sir, at long last?" — puncturing his aura of invincibility.

But other institutions also stepped up to oppose McCarthy. Courageous journalists exposed McCarthy's tactics, most notably Edward R. Murrow in his "[See It Now](#)" broadcast. Federal court decisions affirmed constitutional protections. Even the U.S. Senate — which, then as now, had a narrow Republican majority — grew uneasy with McCarthy's unchecked power and finally voted to censure him by a margin of 67-22.

Today, the president himself plays the role of McCarthy and has thus far maintained lockstep loyalty from a Republican-controlled Congress. Maybe the Senate will eventually stand up to Trump; four years elapsed between McCarthy's emergence and his censure. Until then, the work of challenging the president's abuses of power must be undertaken by law firms, the courts, journalists, academic institutions, states, and cities — the very institutions the president is assaulting.

Law firms such as Jenner & Block, Perkins Coie, WilmerHale and Susman Godfrey have shown courage in the face of unconstitutional executive orders barring their lawyers from federal buildings and stripping them of security clearances, and their legal challenges have secured preliminary victories, with one judge [characterizing](#) the administration's actions as a "shocking abuse of power." More than [500 firms](#) have joined a legal brief challenging the president's actions. In standing up for their constitutional rights, these firms vindicate the rule of law for everyone.

Regrettably, not one of [the top 20 firms](#) ranked by revenue has yet stood up in opposition to the administration. Indeed, as a lawyer, it is distressing to me to see the country's most powerful law firms yield to presidential pressure rather than join battle alongside their peers. When the president targeted Paul, Weiss, the firm folded within days, agreeing to a variety of the president's demands. Not to be outdone in the capitulation Olympics, Skadden, Arps, Slate, Meagher & Flom surrendered to the president in advance of any executive order being issued — a textbook example of what professor Timothy Snyder terms "[anticipatory obedience](#)."

Skadden has now been joined by several other Big Law titans, including [Kirkland & Ellis](#), the wealthiest law firm in the world by partner profits; Simpson Thacher & Bartlett; Latham & Watkins; and others. ([The Above The Law](#) blog helpfully maintains a "Big Law Spine Index.") As part of their terms of surrender, these firms have promised a reported [\\$1 billion](#) in free legal services to the president's favored causes.

The president is [clearly satisfied](#) with his results: “They’re all bending and saying: ‘Sir, thank you very much.’ ... ‘Where do I sign? Where do I sign?’” It’s not clear whether the U.S. government or Trump personally (as if this is even a meaningful distinction in the current administration) is the party to these “settlements.” Recent reporting from Crain’s Chicago Business has called into question whether [any enforceable agreements](#) even exist. Regardless, given the power the president wields, it’s evident that these firms have subordinated themselves to the president in ways they are likely to regret.

I worked briefly at Paul, Weiss some years ago. I remember the firm’s pride in its role in advancing civil rights, most notably as advisers to Thurgood Marshall in the case of *Brown v. Board of Education*, which ended legal segregation in public schools. During the first Trump administration, Kirkland (where I have also worked) represented a nationwide class of immigrant teens held in Immigration and Customs Enforcement detention centers. One can only imagine the legal causes that lawyers from these firms will now be called upon to support. Suing the federal government [on behalf of the recently pardoned Jan. 6 insurrectionists](#), perhaps?

This concerning trend extends beyond law firms. Public companies such as [Meta](#) and [Disney](#) have already modeled submission as an acceptable strategy, settling baseless Trump lawsuits in return for multimillion-dollar payments. Under [threat of an illegal and pretextual cutoff](#) of federal funding, Columbia University shocked its faculty by allowing the administration to dictate university procedures and staffing decisions. However rational these individual concessions may be, collectively, they normalize the president’s domination tactics and embolden him to keep going.

Those who have not yet been targeted bury their heads in the sand, pretending that not looking is the same as not being seen. But that doesn’t make you safe — it just makes you easier to pick off. As in nature, survival depends on sticking together.

Will institutions finally find their spines? Just recently, the Trump administration summarily imposed nearly \$2 billion in Columbia-style funding freezes on [Northwestern](#) and Cornell. It’s gotten to be like an authoritarian edition of “The Oprah Winfrey Show”: “You lose funding, and you lose funding! Everybody loses funding!”

If there's one clear lesson from the McCarthy era, it is that bullies keep bullying until people fight back. Silence isn't neutral — it's an invitation for more of the same. Institutions should remember how McCarthy's crusade was finally stopped: not through cautious compliance, but through courage, solidarity, and a collective insistence on freedom and fairness. The question facing America's institutions today isn't whether they can afford to resist, but whether they can afford not to.

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