

Haynes and Boone in Law360: Wey Case Called Welcome Pushback on Warrants

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PRACTICES Litigation

Law360 cited the recent court win that Haynes Boone Partner David Siegal secured for client Benjamin Wey as the start of a “welcome trend” of courts giving greater scrutiny to search warrants seeking electronic data in criminal investigations.

The [Law360 article](#) said that, “while the government can still indict a ham sandwich, applications to search homes, phones and computers will be subjected to a deeper review.”

In the case of *United States v. Wey*, U.S. District Judge Alison Nathan in June suppressed all evidence the government had obtained during 2012 searches of Mr. Wey’s home and office. After Mr. Wey was indicted on allegations of securities fraud and other charges, Siegal successfully argued that the government’s search warrants were unconstitutionally drafted and that the FBI agents executing the searches indiscriminately seized virtually every scrap of paper and electronic device in the home and office of Mr. Wey, a high-profile private equity executive and CEO of New York Global Group.

Judge Nathan agreed that the government’s searches violated Mr. Wey’s Fourth Amendment right against unreasonable searches and seizures. As a result, the U.S. Attorney’s Office for the Southern District of New York in August dropped all criminal charges against Mr. Wey. In September, the Securities and Exchange Commission dismissed its civil fraud suit against Mr. Wey and his wife, Michaela.

“The government’s decision not to appeal in *Wey* may have been prescient,” the *Law360* article said. “Only days later, in *United States v. Griffith*, a three-judge panel of the Court of Appeals for the District of Columbia — one of the nation’s most respected courts — reached a similar result in a firearm case linked to a gangland murder. The case established that wealthy, high-profile defendants are not the only beneficiaries of the growing trend toward enhanced scrutiny of search warrants.”

The *Wey* and *Griffith* cases “not only flagged constitutional violations but also remedied them by suppressing the fruits of the defective warrants — a rare and powerful admonition to the government that its conduct in the context of electronic searches is not excusable and must change,” the authors wrote. “That constitutes a welcome trend in its own right, but has the added benefit of rendering the government’s good-faith defense even less credible in the future, when the government is indisputably on notice of the growing trend toward more reasonable judicial views on abuse of electronic warrants.”

Excerpted from *Law360*. To read the full article, click [here](#). (Subscription required)