

Litigator of the Week: Patricia Millett of Akin Gump Strauss Hauer & Feld

By Andrew Longstreth

When the government announced its insider trading case against Galleon Group founder Raj Rajaratnam, it looked like a slam dunk. Among other evidence, prosecutors had recorded phone conversations obtained from wiretaps. Lots of them.

But the outcome of the case seems less clear today, thanks in part to Rajaratnam's legal team at Akin Gump Strauss Hauer & Feld. Although the team is led by John Dowd, others have played significant roles. In the criminal case, for example, Terence Lynam [made the arguments](#) that led to the granting of a "Franks" hearing—scheduled to start on Monday—that will examine whether the government disclosed enough information to judges who approved applications for the wiretaps.

And Akin Gump partner Patricia Millett argued before the U.S. Court of Appeals for the Second Circuit that Rajaratnam should not have to turn over thousands of wiretapped conversations to the Securities and Exchange Commission, which is pursuing a parallel case. As we reported on Wednesday, a Second Circuit panel granted Rajaratnam's application for a writ of mandamus against Manhattan federal district court judge Jed Rakoff, who ordered Rajaratnam and his co-defendant, Danielle Chiesi, an employee with another hedge fund, to turn over the tapes. The

Second Circuit vacated the order, finding that Judge Rakoff abused his discretion.

At the oral argument in July, Millett, an appellate specialist who spent 11 years in the Office of the Solicitor General, argued that the statute authorizing wiretaps required that they remain under seal and not be shared. (Read the transcript [here](#)) "[The seal] was imposed because Congress understood the profound privacy and Constitutional implications involved in wiretapping," she said.

Although the Second Circuit panel found that the SEC may have a right to wiretap materials, it ruled that Judge Rakoff's order did not balance the privacy interests of those on the taped conversations with the SEC's needs for the material. As a result of the appellate court's ruling, it may be harder for civil government agencies to obtain possession of wiretapped materials before the conclusion of a criminal proceeding.

For Millett, it was another win in already impressive year. Earlier this year, she was on the winning side in two Supreme Court cases: *United States v. Stevens*, a First Amendment case involving animal cruelty, and *Samantar v. Yousuf*, over the Foreign Sovereign Immunities Act.



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