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**From:** jeffrey E. [jeevacation@gmail.com]  
**Sent:** 8/15/2016 12:09:58 PM  
**To:** Kathy Ruemmler [REDACTED]  
**Subject:** Re: Press: AmLaw Litigation Daily on Emirates Bank win

Did you write this ?☺

On Monday, August 15, 2016, Kathy Ruemmler <[REDACTED]> wrote:

Begin forwarded message:

**From:** <[REDACTED]>  
**Date:** August 15, 2016 at 6:00:12 AM EDT  
**To:** <[REDACTED]>  
**Subject:** FW: Press: AmLaw Litigation Daily on Emirates Bank win

From: Schecter, Daniel (CC) <[REDACTED]>  
Date: Monday, Aug 15, 2016, 12:57 AM  
To: #C-M EMIRATES NBD - LW TEAM  
<[REDACTED]>, Cleaves, John  
(LA) <[REDACTED]>  
Subject: FW: Press: AmLaw Litigation Daily on Emirates Bank win

AmLaw Daily story just posted. See below.

From: Pizzurro, Frank (LA) <[REDACTED]>  
Date: Sunday, Aug 14, 2016, 9:51 PM  
To: Schecter, Daniel (CC) <[REDACTED]>, Dunlavey, Dean (OC) <[REDACTED]>, Mohebbi, Nima (LA) <[REDACTED]>, Ruemmler, Kathy (DC) <[REDACTED]>, Bauer, Steve (SF-BR) <[REDACTED]>  
Cc: #L&W BD PR (US) <[REDACTED]>, Wine, Jamie (NY) <[REDACTED]>, Bruno, Nicole (NY) <[REDACTED]>, Harris, Nicole (CH) <[REDACTED]>, Greenberg, Jeffrey (LA-NY) <[REDACTED]>, Bauer, Steve (SF-BR) <[REDACTED]>, Moore, Wendy (OC) <[REDACTED]>, Jennings, Alex (LA) <[REDACTED]>, Robins, Greg (LA) <[REDACTED]>, Brearton, Chris (CC) <[REDACTED]>

<[REDACTED]>>, Lee, Frank (SF)  
<[REDACTED]>>, Fisher, Alice (DC)  
<[REDACTED]>>

Subject: Press: AmLaw Litigation Daily on Emirates Bank win

I'll soon send a cleaner version of this and other coverage, but wanted to share the article just posted in the AmLaw Litigation Daily. A personal thanks to Dan for speaking to the reporter, and Nima for feeding us case documents and insights.

<http://m.litigationdaily.com/#/article/1202765052511/1/A%20Master%20at%20Work:%20Dissecting%20the%20Closing%20Argument%20in%20Latham's%20Huge%20Win%20for%20Middle%20Eastern%20Bank>

A Master at Work: Dissecting the Closing Argument in Latham's Huge Win for Middle Eastern Bank  
Jenna Greene08/14/2016

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For Latham & Watkins, defending a Middle Eastern bank accused of stealing trade secrets from a plucky American entrepreneur could have been a tough sell to a federal jury in Orange County, California.

[<http://www.law.com/image/LitDaily/DailyDicta.jpg>]The stakes were high--more than half a billion dollars in damages--and some of the facts were, ahem, challenging.

How did Latham lawyers turn a potentially unsympathetic narrative into a unanimous win for Dubai-based Emirates NBD Bank PJSC on Thursday?

A look at closing arguments by Latham partner Kathryn Ruemmler, who made her first in-court appearance since she stepped down as White House counsel in 2014, is revealing in a watch-the-master-at-work kind of way.

Along with Latham partners Daniel Schecter and Dean Dunlavey, she faced off against an equally formidable opponent: Boies, Schiller & Flexner partner William Isaacson, who was named a litigator of the year<<http://www.americanlawyer.com/id=1202745123270/Litigator-of-the-Year-William-Isaacson-of-Boies-Schiller>> by The American Lawyer in 2015.

Ruemmler parachuted into the case on May 20, replacing Steven Bauer. He had another case (on behalf of Pacific Gas & Electric<<http://www.therecorder.com/id=1202764714611/Split-Verdict-in-PGE-Pipeline-Blast-Case?slreturn=20160712215338>>) going to trial at the same time and couldn't convince U.S. District Judge James Selna to push back the trial date, which had already been delayed several times.

This was the lay of the land: Two weeks before, the Los Angeles Times on May 8 had run a lengthy feature<<http://www.latimes.com/business/la-fi-infospan-lawsuit-20160508-story.html>> that was distinctly sympathetic to the plaintiff, Farooq Bajwa. A former computer components manufacturer/ El Pollo Loco franchise owner, his latest venture was a company called InfoSpan Inc.

Bajwa is portrayed as a visionary who had an idea to allow foreign workers to easily and cheaply send funds back to relatives in their home country via the internet or cell phone.

"I realized I might make a big difference in this world not only helping these underprivileged people who don't have bank accounts, I will also be helping bring an economic revolution," Bajwa, 64, told the paper. "I had very big dreams."

But after he struck a deal with Emirates NBD to roll out his product, SpanCash, he claimed the bank stole his proprietary technology, killed the deal and ruined his company. (Though it's hard to feel too sorry for him--he's pictured in front of his house, a mansion that would put Versailles to shame. In this David-and-Goliath story, he's a David from the 1 percent.)

Bajwa sought \$554 million plus punitive damages on trade secret misappropriation and misrepresentation claims.

Trial began on July 26 in U.S. District Court for Central District of California. On Aug. 10, Ruemmler and Isaacson summed up their opposing positions in closing arguments.

Let's take a look.

Isaacson, who did not respond to a request for comment, led with one of his strongest cards: USA! USA!

"We as a country, made up of flawed people, come together as one of the greatest countries on Earth, because we are a nation of laws," he said, according to a transcript of the proceedings. "This was about hard work and what happens when your work is destroyed and taken, how you're entitled to be treated under the laws of the United States."

For Ruemmler, the appeal was not emotional or jingoistic. It was rational all the way.

Her first line: "Mr. Bajwa has come up with an interesting story, but it's not what happened."

And then, in the most matter-of-fact, conversational way, she annihilated his case.

"There are at least five fatal flaws in Mr. Bajwa's case, and any one of those alone sinks his case. Any one," she said, according to the transcript.

Bajwa couldn't prove that SpanCash was ever fully functional and commercially ready, Ruemmler said. In fact, she argued, it was never even a real product.

Further, she said, Bajwa didn't prove that the technology or platform was comprised of any trade secrets; or that Emirates Bank stole SpanCash; or that it ever used it. Finally, Bajwa didn't prove InfoSpan suffered any damages, she said.

Some of her turns of phrase are refreshingly non-lawyerly. "Sham is going down there... It's not as if these guys were exactly rubes... This is some flimflam thing... One of the many, many dog-ate-my-homework excuses.... This is an absolute double-down lie."

The overall effect: she simplified without being condescending.

But there was still a hurdle for Emirates. Or as Latham's Schechter put it in an interview, "There are some facts we wouldn't script."

After the bank terminated its agreement with InfoSpan and demanded its investment back, Infospan's deputy CEO, Larry Scudder, was arrested when he tried to leave the UAE.

"At the Dubai Airport that day, the Dubai police arrested Mr. Scudder after he presented his passport at an electronic terminal. Police told Mr. Scudder that a charge of criminal fraud had been filed against him for \$1,465,000. Mr. Scudder was handcuffed and marched through the airport and then held in police detention facilities and interrogated," the complaint states.

He was handcuffed to a chair, then transferred to a cell with 30 people before being released 19 hours later, at 1 am. And then, the police kept his passport for six months before he could finally leave the country.

On the stand, he cried when he spoke about the ordeal.

Isaacson in his closing repeatedly called it extortion. "Because when the bank held Mr. Scudder's passport--I'm sorry, caused his passport to be held, that just didn't cause personal pain for Mr. Scudder," he said. "What it did was give the opportunity for the bank to control the technology, to control the situation, because now InfoSpan couldn't compete in the UAE because of the fears that this type of thing would happen. And it also gave him the opportunity to try and extort money and control of the technology from InfoSpan."

How do you counter that?

Ruemmler was not available for an interview, but Schecter said pretrial research showed people expect that if you do business overseas, you'll comply with the laws of the foreign country. And in UAE, this is how they handle fraud.

"Judge Selna has instructed you that filing a criminal complaint in Dubai for fraud is a common practice and that if you've been cheated, that's what you're supposed to do," Ruemmler said.

What about Scudder's emotional testimony?

She undercut it without coming across as callous--a fine line.

"Now, I have to mention the tears. And this is the only thing I'm going to say about it," Ruemmler said. "He was detained for less than 24 hours, nine years ago; and then, he was in his corporate apartment and had \$300,000 to live for, like, about six months. I'm just going to say this: I will leave to you to evaluate the sincerity of those tears in light of all the other evidence that you have heard in this case."

And then she immediately talked about how he "basically, had faked a document."

It worked. After about a day of deliberation, the jury found across the board for Emirates NBD Bank.

"It was a binary case--either they lied or we lied," said Schecter. "The plaintiff's strategy was all or nothing. There were no off-ramps for the jury."

The Latham team also included counsel Andrew Fossum and associates Nima Mohebbi, Stephanie Grace, Jonathan Sandler, Jacquelyn Levien, Elizabeth Greenman, Pushkal Mishra and Tom Rickeman.

In a statement to The Lit Daily, Lubna Qassim, chief group general counsel and company secretary of the Emirates NBD, said, "While there was no basis for this case being tried in U.S. courts, Emirates NBD Bank is deeply gratified by the jury's decision and appreciates the court's commitment to ensuring a fair trial."

Contact Jenna Greene at [REDACTED] or on Twitter@jgreenejenna.

Sent from my BlackBerry 10 smartphone.

From: Schecter, Daniel (CC)

Sent: Saturday, August 13, 2016 1:34 PM

To: Pizzurro, Frank (LA); Dunlavey, Dean (OC); Mohebbi, Nima (LA); Ruemmler, Kathy (DC)



Cc: #L&W BD PR (US); Wine, Jamie (NY); Bruno, Nicole (NY); Harris, Nicole (CH); Greenberg, Jeffrey (LA-NY); Bauer, Steve (SF-BR); Moore, Wendy (OC); Jennings, Alex (LA); Robins, Greg (LA)  
Subject: RE: Press: LA Times - Federal jury decides Middle East bank did not defraud Orange County entrepreneur

OC Business Journal article with a nice shout out to Dean:

<http://www.ocbj.com/news/2016/aug/12/jury-decides-against-sjc-firm/>

From: Pizzurro, Frank (LA) <[REDACTED]>  
Date: Thursday, Aug 11, 2016, 7:41 PM  
To: Dunlavey, Dean (OC) <[REDACTED]>, Schechter, Daniel (CC) <[REDACTED]>, Mohebbi, Nima (LA) <[REDACTED]>, Ruemmler, Kathy (DC) <[REDACTED]>  
Cc: #L&W BD PR (US) <[REDACTED]>, Wine, Jamie (NY) <[REDACTED]>, Bruno, Nicole (NY) <[REDACTED]>, Harris, Nicole (CH) <[REDACTED]>, Greenberg, Jeffrey (LA-NY) <[REDACTED]>, Bauer, Steve (SF-BR) <[REDACTED]>, Moore, Wendy (OC) <[REDACTED]>, Jennings, Alex (LA) <[REDACTED]>, Robins, Greg (LA) <[REDACTED]>

Subject: Press: LA Times - Federal jury decides Middle East bank did not defraud Orange County entrepreneur

The LA Times appears to be the first media to report on the verdict. Latham references are highlighted:

BUSINESS

Federal jury decides Middle East bank did not defraud Orange County entrepreneur<<http://fw.to/aXv1QHI>>

[Farooq Bajwa]  
Farooq Bajwa

By Andrew Khouri  
August 11, 2016

A federal jury decided Thursday that one of the Middle East's most prominent banks did not commit fraud and steal technology from an Irvine firm that sued it for half a billion dollars in damages after their partnership collapsed.

Orange County company InfoSpan had alleged that Emirates NBD ended a partnership for a mobile payment system because it didn't want to share revenue and stole InfoSpan's technology to launch its own service. The Dubai-based bank, in turn, denied it stole or ever used InfoSpan's technology. It argued that it cancelled the partnership because InfoSpan couldn't produce a working product and misled it into thinking it was an established company, not one with little to no track record.

After deliberating for a day, the jury unanimously decided that InfoSpan did not prove its case of fraud and theft of trade secrets.

InfoSpan had asked for \$540 million in damages. An attorney for InfoSpan declined to comment on the

possibility of an appeal.

The verdict capped a two-week trial that involved dueling accusations of fraud levied by high-profile attorneys on both sides, including the former White House counsel to President Obama.

At the center of the high-stakes battle was San Juan Capistrano resident and entrepreneur Farooq Bajwa and a mobile payment system that he said would allow migrant workers in the Middle East to send remittances back home through text messages.

Bajwa contended that InfoSpan, with support from outside investors, spent \$87 million developing the business and technology.

To launch the system, known as SpanCash, Bajwa partnered in 2007 with Emirates Bank, which is controlled by the United Arab Emirates' sovereign wealth fund.

It seemed the ideal collaboration for the Pakistani immigrant, who earned millions operating another Irvine company that manufactured computer components in the 1980s and 1990s.

The Gulf States rely heavily on migrants to work construction and other low-wage jobs, offering a ready-made market for SpanCash. InfoSpan aimed to allow migrants to transfer money back home far more cheaply than Western Union or hawala, a traditional Middle Eastern broker-to-broker money transfer system.

A study from McKinsey & Co., cited in court records, projected annual revenue of \$3.5 billion by the deal's fifth year, with InfoSpan receiving more than \$2.8 billion in fees.

But the relationship between InfoSpan and Emirates Bank soured and the bank cancelled the deal in 2009.

A few days later, Emirates filed a criminal complaint in Dubai against Bajwa and a partner alleging that they defrauded the bank and misrepresented InfoSpan as an established business with a working technology.

Two years later, InfoSpan sued in U.S. District Court in Santa Ana and alleged that its technology was working and that it delivered its source code to the bank on servers. Emirates ended the deal, InfoSpan said, to launch its own mobile payment system after stealing InfoSpan's technology.

In court, an attorney for InfoSpan argued that Emirates torpedoed the InfoSpan relationship because it abhorred how much money it would have to share with the Irvine firm.

"They wanted SpanCash and they wanted the money," attorney William A. Isaacson said in his closing arguments Wednesday.

Isaacson – a partner with powerhouse law firm Boies Schiller & Flexner, chaired by high-profile litigator David Boies – argued that the bank resorted to "pure extortion" in an attempt to get its way.

As a result of the bank's criminal complaint, InfoSpan alleged Bajwa's partner, Larry Scudder, was detained at the Dubai International Airport and taken to a cell where he was locked in with 30 other men for 19 hours until he secured his release by turning over his passport.

According to the lawsuit, Bajwa tried to resolve the situation but was told Scudder's passport would be released and he could leave the country only if InfoSpan gave up ownership and control of SpanCash to the bank.

Six months later, the bank withdrew the fraud accusations and Scudder got his passport back, but SpanCash's reputation was tarnished and it collapsed, Bajwa previously told The Times.

The bank disputed that it acquired InfoSpan's source code or used it at any time.

Former White House counsel and an attorney for the bank, Kathryn Ruemmler, said that Emirates never would have acquired source code in a joint-partnership deal like the one reached with InfoSpan. She said such technology would instead be held by a third-party escrow company for the length of the partnership.

In her closing arguments, the partner with global firm Latham & Watkins told the jury that Bajwa and InfoSpan sold the bank a "bill of goods," arguing that despite promises to Emirates, the technology never worked and InfoSpan wasn't as big a company as it claimed.

The bank cancelled the deal and filed a criminal complaint, not as a form of extortion but simply to regain the bank's money after it was misled and doubts grew about the character of InfoSpan's employees, Ruemmler told the jury.

"They concluded, definitively, that they had been defrauded," she said.

Lubna Qassim, group general counsel for Emirates Bank, said in a statement after the verdict that "Emirates Bank is gratified by today's decision and the opportunity to receive a fair trial in U.S. courts."

Bajwa said the trial has taken a toll on him and he doesn't know his next steps.

"I am just beat up," he said.

Phil Hirschhorn contributed to this report.

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Latham & Watkins LLP  
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