

## Trials Group Of The Year: Latham & Watkins

By Y. Peter Kang

*Law360, Los Angeles (January 25, 2017, 5:10 PM EST)* -- Adding to its long history of success in high-stakes trials, Latham & Watkins locked down some unexpected and come-from-behind victories over the past year for Emirates Bank, chipmaker Nvidia and Philip Morris, earning it a spot among Law360's 2016 Trials Groups of the Year.

The firm's 613-attorney litigation and trial department working out of 23 offices around the world is known by its clients for taking bet-the-company litigation to trial and winning. The team's success over the past year is a reflection of the firm's deep bench of experienced trial attorneys, according to department chair Jamie Wine.

"We're really proud of the trial lawyers we've amassed over the years," Wine said. "You'll find folks across the firm that are capable of trying cases in all sorts of different forums, and we have an ability to try cases wherever our clients need us to be. We are proud of what we've accomplished and we think we are the best at it."

Wine said one of the team's strengths is its "one firm" approach to cases in which attorneys work collaboratively among Latham's many offices, allowing it to assemble the best teams regardless of location.

"Our cultural values are strong and we are able to work together across offices seamlessly and provide a quality of service to our global clients that is unmatched," Wine said. "We don't think about prioritizing one office over the other, we think about how to best service our clients."

This approach was on full display when the firm tasked three partners working out of three different offices to lead the trial team defending client Emirates NBD Bank in a trade secrets suit brought by financial technology company InfoSpan Inc. With more than \$550 million at stake, the partners were able to convince a California federal jury that InfoSpan misrepresented the capabilities of its product, as well as show that InfoSpan's witness testimony was contradicted by the evidence.

Los Angeles-based Dan Schecter, who served as a lead partner along with Orange County, California-based Dean Dunlavey and Kathryn Ruemmler in D.C., said they were able to achieve the favorable August verdict due to a great team effort, which also included exceptional work done by associates Nima Mohebbi, Stephanie Grace and Jonathan Sandler, each of whom worked out of a different California office.

"This team worked extremely well together," said Schecter. "We had a very short time to try the case, as the judge gave us 10 days, so we were under immense time pressure. We are from different offices but none of that matters when it came down to it, which strikes me as fairly unique in the way we work."



Dunlavey said one challenge the case presented was overcoming InfoSpan's "lurid" narrative that depicted the Dubai bank as being in cahoots with the United Arab Emirates government to steal technology.

"There were numerous references to things that we don't do in this country, suggesting that there is no rule of law in the UAE and our client could do whatever it wanted," he said. "It was all very lurid; opposing counsel spun it as 'they are a bunch of thugs in the Middle East who stole all our technology.'"

But in the end the jury got it right, said Schecter.

"Even when there's a very daunting theory that the other side is deploying effectively, if you have the facts on your side and make a clear presentation to the jury, you can win," he said. "Don't be afraid to try your case under those circumstances."

Another big trial win Latham snagged was for graphics chipmaker Nvidia, which Korean tech giant Samsung had accused of stepping on its patents covering graphics chips in mobile devices.

After eventually whittling down the eight asserted patents to three, Latham's team, led by Silicon Valley partner Ron Shulman, was able to get an additional two tossed on the second day of trial due to misconduct by Samsung's expert. After less than a day of deliberation, the jury issued a verdict of noninfringement for the remaining patent and also determined that the asserted claim was invalid. The result proved to be a catalyst for a global settlement reached by the parties three months later, according to Shulman.

The most challenging aspect of the case, Shulman said, was dealing with a judge who was "dead set against us."

He added: "One of the lessons that I learned is that you can overcome the circumstance of a judge who appears to have judged the case ahead of time. Eight months before this case went to trial, when we had a good taste of what was going on, we concluded that the only friend in that courtroom was the jury. And we won the hearts and minds of the jury despite the best efforts of our opponents."

Another jury won over by Latham's trial attorneys found last February that cigarette giant Philip Morris USA need not pay for annual lung screenings for a large class of currently healthy Marlboro smokers. Led by Boston-based partner Ken Parsigian, the trial team was able to tell "a story about grownups being able to make choices about legal products, whether those products are healthy or not," Parsigian said.

The toughest part of the trial, he said, was trying to find an opening to tell the jury that through health coverage under the Affordable Care Act and elsewhere, smokers would be 100 percent covered for such lung screenings.

"That was such a powerful fact: They were suing for relief that they could all get for free," Parsigian said. "I spent every minute of trial, every day, looking for an opening. I tried nine different ways and the judge shut me down nine different ways. The tenth time, the plaintiffs' lawyer asked a question in a slightly different way, which allowed me a slightly different angle and the judge let me in."

Latham was also able to garner a victory before the U.S. Supreme Court when it defended the University of Texas against a rejected student applicant's challenge of the school's affirmative action policy. The case was spearheaded by D.C.-based appellate whiz and former U.S. solicitor general Greg Garre, who was able to achieve an outcome that shocked many court observers.

Garre told Law360 in December that it was the biggest "upset win" of his career.

"It's fair to say that we were a big underdog — to prevail against the views of most court watchers, that's a great win," Garre said. "The fact that the decision was a complete affirmation of the constitutionality of the admissions plan, coupled with the fact that it came as a big surprise to court observers, makes it quite unique."

Looking ahead, Wine said the future looks bright for Latham's trial attorneys.

"We have a robust pipeline for 2017 and we expect to replicate the activity we saw in 2016 and hope to get the same wonderful results for our clients," she said.

--Additional reporting by Emily Field, Vin Gurrieri, Jack Newsham, Cara Salvatore and Vince Sullivan.  
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