

FOUL ON THE PLAY: 6 TAKEAWAYS FOR EMPLOYERS AS NY KNICKS SUE TORONTO RAPTORS FOR TRADE SECRET MISAPPROPRIATION

Insights
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The New York Knicks just sued their former employee and his new employer, the Toronto Raptors, in a case that can teach employers a lot about trade secret misappropriation. The August 21 lawsuit accuses their Eastern Conference rivals of conspiring to steal confidential information from the Knicks' computer systems that would help the Raptors' new first-time head coach put systems into place in his new role. So it's Knicks vs. Raptors in a whole different court – the Southern District of New York. What are the six things employers can take away from this case?

The Opponents

Let's start by sizing up the two opponents in this battle.

New York Knicks

Long gone are the days of New York Knicks stars like Patrick Ewing and Willis Reed dazzling crowds in Madison Square Garden, but the team has recently established itself as a squad on the upturn. They have young talent led by an experienced coach who is renowned for attention to detail, defensive strategy, player development, and creative offensive sets. Last season they won their first playoff series since 2013 and they are primed for a deeper run in the 2023-2024 campaign.

Toronto Raptors

They're only four years removed from winning an NBA title, but recent seasons have been tougher going – they missed

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the playoffs in 2021, were bounced in the first round in 2022, and missed the playoffs again in 2023. The Raptors recently fired their head coach and brought on first-time head coach Darko Rajakovic in June 2023.

The Preview: Long History of Teams Accusing Each Other of Foul Play

Sports teams have accused opponents of poaching information from them since the dawn of professional sports. It can't always be proved – but occasionally it is. Remember when Major League Baseball [sanctioned](#) the Houston Astros for using in-stadium video technology to steal the signs used by opposing teams' catchers to signal pitchers about the next pitch to help Astros batters predict what pitch was coming?

Occasionally things go beyond such in-game maneuvering. In 2016, former St. Louis Cardinals Director of Baseball Development Christopher Correa received a federal prison sentence and multi-hundred thousand dollar fine (and later a lifetime ban from MLB) [after pleading guilty](#) to crimes stemming from illegally hacking into the computer systems of the Houston Astros. The 'Stros have long been known for their extensive use of data and metrics for both player acquisition and game strategy. Correa is said to have figured out an Astros employee's log-in credentials and used them to repeatedly access everything from their assessment of potential draft picks in the upcoming draft, to internal trade discussions, information about injuries and player performance, and potential bonus information. In a separate MLB investigation, the Cardinals were not found to have been aware of his activities, but nevertheless were penalized with loss of their top two draft picks and \$2 million to be turned over to the Astros.

The civil litigation brought by the Knicks last week against the Raptors is yet another example of these ongoing sagas in professional sports. But it also is a reminder that professional sports is more than sports. It's a very big business, and in many ways the Knicks case looks much like hundreds of lawsuits filed in federal courts all over the country when employees leave for a key competitor and are accused of taking confidential business information with them.

The Play-by-Play: Facts and Allegations

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Sports

Ikechukwu Azotam worked for the Knicks from October 2020 until August 2023, starting out as an Assistant Video Coordinator and then moving up to Director of Video/Analytics/Player Development Assistant.

In late July 2023, approximately two months after the Knicks' 2023 playoff run had ended, Azotam gave notice to the Knicks that he had a job offer from the Raptors. His employment was slated to end on August 14 when his current contract expired. That much is undisputed.

What will form the crux of the case is the Knicks' assertion as to what Azotam did in the time period leading up to his August 14 departure. The Knicks allege that he funneled confidential and proprietary team information to the Raptors, including its new head coach Darko Rajakovic. According to the Complaint filed on August 21, Azotam was being recruited to join the Raptors beginning in or around June 2023 and began to secretly forward proprietary information from his Knicks e-mail account to his personal Gmail account. The Knicks claim he even forwarded some materials directly from his Knicks email account to his new Raptors email account.

In addition to the baseline legal duties any employee owes to an employer to refrain from using or disclosing the company's confidential business information, Azotam had an Employment Agreement which contained confidentiality provisions specifically prohibiting him from doing so.

The materials Azotam is alleged to have forwarded are claimed to consist of scouting reports, play frequency data, opposition research, opposing play tendencies, lists of opponents' key plays, diagrams of opponents' key plays, and the Knicks' prep book for opposing teams. This information is said to have included highly particularized data regarding the Knick's pre-game preparation and scouting for games against the Indiana Pacers, Dallas Mavericks, and current NBA Champion Denver Nuggets. It also is alleged to have included information related to the Knicks' process for planning its season, including the template and organizational structure that the Knicks used to plan and assign scouting responsibilities.

The Complaint also alleges that the Raptors directed Azotam to misuse his access to the Knicks internal systems to create and then transfer to the Raptors via a Knicks-operated Sharepoint file sharing website over 3,000 files consisting of

film information and data from a third-party vendor. The Knicks alleged that they were able to detect that Raptors personnel accessing that information via the Sharepoint site over 2,000 times.

The complaint also alleges that Azotam gave the Raptors access to information from the Knicks' account with Synergy Sports, a third-party vendor of sports analytics data that says it has contracts with every NBA team. But the allegation appears to be that Azotam gave the Raptors access to the Knicks' account, which would allow the Raptors and their rookie head coach to see just how the Knicks use and customize Synergy data for their own competitive purposes.

Inside the Paint: Details About the Lawsuit

The Knicks sued in Manhattan federal court for violations of the Computer Fraud and Abuse Act. As of 2021, this federal statute only covers situations when an individual or employee electronically hacks into, or otherwise breaches, a computer database to which the person was not granted access. The complaint also alleges a violation of the federal Defend Trade Secrets Act and claims for misappropriation of trade secrets under New York common law, breach of contract against Azotam only, tortious interference with contractual relations, conversion, law unfair competition, and unjust enrichment.

Interestingly, the Knicks at this point have only filed a complaint with the court. They have not sought any more urgent court intervention such as asking for a temporary restraining order, preliminary injunction, or leave to conduct expedited discovery to learn more about exactly what occurred at the Raptors' end of things.

It is not presently known whether the Knicks have also lodged any complaint with the league about the Raptors' alleged conduct.

With the complaint having just been filed, the Raptors have yet to file any formal answer with the court. But as [reported by The Athletic](#), the team promptly issued a statement strongly denying that the team had any knowledge of the activity alleged in the Knicks' complaint – but stopped short of addressing whether any individuals working for the team may or may not have known. The statement also asserted that, prior to the Knicks filing their complaint, Raptors

ownership advised the Knicks they would conduct an internal investigation after receiving a legal letter from their Atlantic Division opponent.

Chalk Talk: 6 Key Takeaways for Employers

This situation is a long way from being resolved, but employers in all industries stand to learn much from the dispute. Here are six key takeaways for employers.

1. Timely Internal Investigation and Digital Review is

Critical: After learning that Azotam was headed to the Raptors, it appears that the Knicks may have begun monitoring his electronic activity at some point prior to his final date with the team. They discovered critical information that was used as a basis for their complaint. Employers should take note of this critical step and be diligent when faced with departing employees who have access to confidential and trade secret information. Acting quickly will go a long way in protecting confidential information and laying the groundwork for future success in litigation if that becomes necessary.

2. Have Systems in Place to Detect Exfiltration of Data:

Azotam made it a bit easier on the Knicks than some employees do. His alleged methods were decidedly on the lower tech end of such activity, involving simply emailing things to himself and using a Knicks controlled Sharepoint site. Many departing employees are far more sophisticated and do a better job hiding their tracks. A review of email Sent Items usually is a good place to start investigating, but more often companies need to review USB port activities, patterns of pre-termination access to data, and sometimes more traditional control points such as security system video, premises access logs and the like.

3. Consider Your Litigation Approach: At least to date, the Knicks have not sought a temporary restraining order or preliminary injunction. They opted to file their complaint seeking a permanent injunction after a trial on the merits as well as damages associated with the alleged nefarious conduct. Although filing for a temporary restraining order or preliminary injunction is common in these situations, it can be a good strategic choice in some cases to forego those emergency remedies and proceed with litigation at a normal pace. Employers should consider their end goal and decide if it is desirable to incur the expense and

investment of company personnel resources involved with litigating requests for temporary restraining orders and engaging in expedited discovery at the very outset of a case.

- 4. Remember Your Additional Confidentiality Provisions and Provide Reminders:** The Knicks' complaint cites a confidentiality provision in Azotam's Employment Agreement and asserts a claim for breach of contract. When considering how to best protect their confidential information, companies should consider additional touchpoints to remind personnel of their duties of nondisclosure and the confidentiality of certain information such as embedding confidentiality and nondisclosure language into their Employee Handbook, or adding "pop-up" reminders that employees see each time they sign into their computers. These and other similar efforts would be further indicia that a company can cite in a complaint to show a court that the company takes is serious about its trade secret and confidential information and takes substantial measures to protect that data.
- 5. Establish Procedures for Onboarding Experienced Talent:** Regardless of what facts are proved or not proved in this case, the Knicks' allegations and the Raptors' statement in response highlight an important issue for any company onboarding experienced talent from a competitor. Sometimes people bring information with them from their prior employer when they switch companies, whether the new company wanted them to or not. Any hiring company should create policies and procedures – and train the right people on those procedures – to guard against unauthorized import of documents, information, or data that could give rise to claims of this type. Having policies, and sometimes making individualized assessments as to certain employees' rights or obligations, or whether a specific type of information is secret or not, can be essential to balancing the need to onboard new talent against the risk of this type of litigation.
- 6. For Sports Industry Employers: Remember Sports is Business:** Although many disputes between professional sports teams are resolved by league commissioners through investigations and disciplinary procedures (such as occurred with the Astros sign-stealing discipline in 2019), sometimes civil litigation between teams may be the right answer to a problem at hand – just like litigation

between any two competitor businesses becomes necessary under the right circumstances. Indeed, docket analytics from Lex Machina in its [annual trade secret litigation report](#) reveal that there were 1,156 trade secrets cases filed in the U.S. federal courts in 2022, 80% of which relied on the same Defend Trade Secrets Act invoked by the Knicks in this case. Professional sports are not immune from the business and cultural factors that have driven a steady flow of trade secrets litigation.

Conclusion

We will continue to monitor developments in this case and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact the authors of this Insight, your Fisher Phillips attorney, or any attorney in our [Employee Defection Trade Secrets Practice Group](#) or [Sports Team](#).