

## **From the Basketball Court to Federal Court: The New York Knicks Sue the Toronto Raptors for Theft of Confidential Information**

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The New York Knicks made headlines last week when they sued the Toronto Raptors for theft of confidential and proprietary information, including scouting reports, play frequency reports, and other confidential information compiled by the Knicks coaching staff. According to the Complaint, which was filed in the Southern District of New York, former Knicks employee Ikechukwu Azotam illegally procured and disclosed confidential information to employees of the Raptors, including Raptors head coach Darko Rajaković and player development coach Noah Lewis (Azotam, Rajaković, and Lewis were all named as individual Defendants in the case).

The Complaint states that Azotam worked for the Knicks from October 2020 through August 2023. The Complaint also states that the Raptors began recruiting Azotam to join their organization in June 2023 and gave Azotam a formal offer of employment in July. The Knicks allege that prior to his departure from the Knicks organization, Azotam began forwarding confidential and proprietary Knicks information to his personal Gmail account, which he then shared with the Raptors. This information included not only scouting reports, but also data and analytics compiled by the Knicks regarding the play calls and play frequencies of other NBA teams – in other words, confidential materials the Knicks used and relied upon to compete with their rival NBA teams, including the Raptors. The Knicks further allege that the Raptors, including Rajaković and Lewis, conspired with, recruited and used Azotam as a “mole” to acquire this confidential information.

Notably, the Complaint states that Azotam’s employment with the Knicks was governed by an Employment Agreement that contained a confidentiality clause requiring him to maintain the secrecy of all confidential or proprietary Knicks information including, but not limited to, trade secrets, play books, scouting reports, draft strategies, and trade strategies. Confidentiality clauses are common provisions in employee contracts where, as here, an employee has access to his employer’s trade secrets or other confidential information and the disclosure of that information (particularly to a competitor, such as the Raptors) would damage the employer or, in this case, harm the employer’s competitive advantage. Although there is a growing trend throughout the country to ban noncompete agreements between employers and employees ([including in the Knicks’ home state of New York](#)), confidentiality clauses in employment contracts generally remain enforceable.

Lawsuits for breach of an employee’s confidentiality requirements, as well as for an employee’s theft

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of trade secrets and proprietary information, are quite common. However, such a lawsuit is uncommon for an NBA team (or any professional sports team for that matter). This is because professional sports leagues often have policies in place to resolve disputes internally. In fact, Article 24 of the NBA Constitution and By-Laws states that “[t]he Commissioner shall have exclusive, full, complete, and final jurisdiction of any dispute involving two (2) or more Members of the Association.” Furthermore, Article 35A of the NBA Constitution requires that each Member must provide and require in every contract with its employees “that they shall be bound and governed by the Constitution and By-Laws” of the NBA. Although arbitration provisions contained in employment contracts are generally enforceable, the Complaint filed by the Knicks is silent regarding the applicability of any relevant provisions of the NBA Constitution and By-Laws and whether Azotam’s employment contract included any internal dispute resolution requirements. Given the Commissioner’s broad authority over disputes between NBA Members, including their employees, it remains to be seen whether this case will remain in federal court.

In their federal court Complaint, the Knicks seek injunctive relief, as well as economic damages, including compensatory damages, exemplary damages, disgorgement damages, and an award of attorneys’ fees. If the proceedings do continue in federal court, it may be difficult for the Knicks to prove and calculate the economic damages they have suffered. In typical trade secret cases, the theft of an employer’s trade secrets or other confidential information might result clear economic damages – for example, the theft of confidential client information that results in the loss of clients to a competitor. Here, the Knicks potential damages concern a loss of their competitive advantage over their rival teams, as well as the Raptors gaining a competitive advantage in the league. Such damages might be difficult to prove and even more difficult to quantify.

Notably, the NBA Constitution and By-Laws contain relevant rules regulating misconduct. These rules set forth clear and calculable damages, including penalties, fines, and the possible loss of draft picks. Article 35A of the NBA Constitution includes the following relevant provisions:

(d) The Commissioner shall have the power to: (i) suspend for a definite or indefinite period, or to impose a fine not exceeding \$5,000,000, or inflict both such suspension and fine upon any person who, in his opinion, shall have been guilty of conduct prejudicial or detrimental to the Association, and (ii) impose the forfeiture of Draft picks held by the Member employing or otherwise affiliated with the offending person or the transfer of such Draft picks to another Member.

(e) No person may, directly or indirectly, (i) entice, induce, persuade or attempt to entice, induce or persuade any Coach, Trainer, General Manager or any other person who is under contract to any other Member of the Association to enter into negotiations for or relating to his services or negotiate or contract for such services or (ii) otherwise interfere with any such employer-employee relationship of any other Member of the Association. The Commissioner, either in his discretion or at the request of any Member who alleges that its employee has been tampered with, shall conduct an investigation into whether a person has violated the anti-tampering rule set forth in the prior sentence....

Penalties for violations of the NBA’s anti-tampering rule include, but are not limited to, fines (not to exceed \$10,000,000) and the forfeiture of Draft picks held by the Member employing or otherwise affiliated with the offending person or the transfer of such Draft picks to the Member aggrieved by the tampering.

Although the NBA Constitution provides for internal methods of dispute resolution and clearly defined damages, the Knicks may have strategic reasons for their desire to battle this case publicly in court rather than participate in a more confidential internal investigation conducted by the NBA. However,

the initiation of this lawsuit in court does not prevent the league from conducting its own internal investigation and does not prevent the Raptors from seeking to compel the internal dispute resolution mechanisms provided for in the NBA Constitution and By-Laws.

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