

## **Broward Judge Has Never Seen Anything Like This: Awards \$5.2M**

"This court has presided over many non-compete cases over the past 19 years. None were as egregious as this one," Broward Circuit Judge Jack Tuter ruled.

August 16, 2023 at 02:20 PM



(l-r) Robert Zarco, Mary Nikezic, and Robert Einhorn of Zarco Einhorn Salkowski.  
Courtesy photos



**Michael A. Mora** [→](#)

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## What You Need to Know

- The case involved former employees of a healthcare servicer to children suffering from autism who violated a non-compete.
- An attorney said the technique under the meet and confer requirements played a key role in this action.
- The Broward Circuit Court entered final judgment, before interest, in the amount of \$4.5 million and punitive damages totaling \$700,000.

A Fort Lauderdale chief judge did not mince words in a final judgment order entered in favor of Therapies 4 Kids Inc., a healthcare servicer to children who have autism.

Broward Circuit Judge Jack Tuter found T4K's former employees attempted to use a non-compete to obtain hundreds of thousands of dollars in salary while diverting "revenue and patients from their employer, T4K, for their own profit and gain."

“This court has presided over many non-compete cases over the past 19 years,” Tuter wrote in the 11-page final judgment. “None were as egregious as this one.”



Broward Circuit Chief Judge Jack Tuter (Photo: J. Albert Diaz/ALM)

Robert Zarco, Robert Einhorn and Mary Nikezic, partners at Zarco Einhorn Salkowski in Miami, represented T4K, against the defendants, Maria Santoro and Maria Santoro VP, LLC, as well as Victoria Sobrino-Sanchez, along with her entities, Connecting the Puzzle LLC and Palm Beach Autism Specialists LLC.

“There is a national legislative movement to try and erase non-competes between employers and employees,” Zarco said. “Those laws would not protect these defendants from their conduct. No legislation would ever

be created in this country to extend the elimination of the non-compete laws to permit the egregious conduct that existed here.”

William Beamer, a solo practitioner based in Fort Lauderdale and who represented certain defendants, did not respond to a request seeking comment.

Now, Tuter entered a final judgment of nearly \$4.5 million against all the defendants, which includes compensation T4K can “claw back” from Santoro and Sobrino-Sanchez during their “period of disloyalty.”

And Tuter entered punitive damages of \$350,000 separately against Santoro and her business, as well as Sobrino-Sanchez and her entities, for their “willful, malicious, intentional” misconduct that constituted “gross negligence.”

The dispute dates back to when Noel Pace, the chief administrative officer of T4K, was cleaning out the office previously occupied by Santoro, court records show. Pace discovered documents in Santoro’s former desk that reflected the diversion of T4K’s patients as well as money derived from such patient accounts.

This was a problem because, according to court documents, while Santoro and Sobrino-Sanchez worked at T4K, their “high-level and well-compensated positions” were subject to a non-compete agreement.

Tuter ruled that the evidence established the defendants targeted T4K’s highest revenue-generating clients to benefit their own businesses, in disregard of T4K’s relationship with such clients; that they unlawfully and knowingly diverted insurance reimbursements belonging to T4K to

their competing businesses; and that they substantially profited from the operation of their parallel competing businesses while earning a substantial salary from plaintiff.

Zarco said that one of the challenges during the litigation was dealing with prior opposing counsel that obstructed and did not allow the discovery to proceed in accordance with the rules of civil procedure.

To this end, Zarco followed the court's meet and confer requirements, prior to filing motions for sanctions, and then documented in correspondence what happened during the meet and confer discussions. Thereafter, he filed motions to compel against the defendants and relied on his meet and confer summaries as support for the relief he sought in the motions for sanctions.

And he noted even though courts generally do not wish to be burdened by discovery disputes, it may be necessary to bring the court into the process.

"The court will quickly realize who is obstructing the discovery process," Zarco said. "The lawyer who is in the right should never fear the judge and should never fear the pursuit of obtaining proper discovery. The court will eventually get it and realize your frustration and will stop the obstructing party from interfering in the discovery process."