



<b>Clients:</b>	Joe Samuel Bailey, Laserscopic Spinal Centers of America Inc., et al.
<b>Industry:</b>	Health care
<b>Area of Law:</b>	Business torts; unfair trade practices
<b>Venue:</b>	District Court of Appeal of Florida, Second District
<b>Result:</b>	On appeal, damages award increased from \$1.6 million to \$277 million, with a final judgment entered at \$370 million, including interest

## Major Damages Awarded in Business Tort Case

When our clients' entire business was misappropriated, a legal team from Pillsbury's Miami office delivered a \$370 million judgment, and at the same time helped to further define the law in Florida on disgorgement damages.

In 2004, Arkansas businessman Joe Samuel Bailey formed and opened a noninvasive spine surgery venture. His would-be funders, who were engaged in due diligence, conspired with certain officers of the newly formed business to steal the business lock, stock and barrel. The putative funders approached Mr. Bailey and made a lowball offer to take control of the business. "You're going to accept this offer, or we're going to take your doctors and we're going to take your company," they told him, according to testimony in the case. "And we're going to go up the street, and we're going to do it ourselves."

Then they did exactly what they said they would do. They hired two of the company's officers, as well as other key personnel, stole the business plan and other materials, and set up their own laser spine surgery operation up the street. It became a very successful business financially. Meanwhile, in effort to ensure that Mr. Bailey's venture could not compete, the defendants discredited Mr. Bailey by falsely suggesting, among other things, that the FBI was investigating him for various nefarious activities.

Mr. Bailey and his affiliated companies sued, claiming breach of fiduciary duty, conspiracy, defamation, tortious interference and violation of the Florida Deceptive and Unfair Trade Practices Act. In 2012, after a six-week bench trial, a court found in Mr. Bailey's favor and awarded compensatory disgorgement damages. But it calculated those damages at only \$1.6 million. The Second District Court of Appeal, calling the award "grossly insufficient," remanded the case with instructions to review the damages awarded and further held that plaintiffs established entitlement to a punitive damage award. The trial court added \$5.75 million in punitive damages, but it left the compensatory damages unchanged.

Finally, after years of proceedings, the appellate court—in an unprecedented decision—not only reversed and remanded, but this time required the trial judge to enter a judgment for our team's disgorgement demand of \$264 million, plus \$6.8 million in out-of-pocket losses for one of the plaintiffs. These amounts were in addition to the \$5.75 million in punitive damages. In July 2019, the trial court entered a final judgment that, with interest, exceeded \$370 million.

**"[T]he 'business model' to which the court attributes the appellees' success is the one it stole from the appellants along with its doctors, key employees and everything else."**

—Judge Patricia J. Kelly, District Court of Appeal of Florida