

LEAGUE COUNSEL REPORT

Peter Rank – October 26, 2004

1. Blubaugh v. ACBL

FACTS (Previously Reported): On March 15, 2001 Mr. Blubaugh brought an action in the U.S. District Court in Indianapolis, Indiana for damages and equitable relief against the League in connection with the Determination of the Ethical Oversight Committee, as affirmed by the Appeals and Charges Committee, that Mr. Blubaugh intentionally shuffled and manipulated cards such that his partner would receive known high cards in team games. Mr. Blubaugh was sentenced to an 18 month suspension and a five year probation.

Mr. Blubaugh moved for a TRO to prevent the suspension from taking effect. After a hearing on March 16, 2001 (in which the League was represented by the Indianapolis law firm of Baker & Daniels), the court orally denied such relief. Mr. Blubaugh then amended his complaint two times and filed a motion for preliminary injunction. Mr. Blubaugh's second amended complaint raised new legal theories regarding his claim for relief, including the Sherman Act (antitrust), the Americans with Disabilities Act, breach of contract, defamation, tortious interference with contracts, tortious deprivation of livelihood and gross negligence in handling of confidential evidence. The League's insurance company provided new legal counsel (James S. Stephenson, Esq. of Stephenson Daly Morow and Kurnik in Indianapolis, Indiana) and issued a reservation of rights.

A full day evidentiary hearing was held by the court on the motion for preliminary injunction on May 11, 2001. After Mr. Blubaugh presented his evidence, but before the League presented evidence, the ACBL moved for a denial of preliminary injunction. On May 17, 2001 in an 18-page opinion, the Court granted the ACBL's motion. The Court's denial of equitable relief was based on the facts that Mr. Blubaugh was unlikely to succeed on the underlying case, that the League had afforded Mr. Blubaugh due process under its disciplinary rules and that, under Indiana law, courts do not interfere in the governance of voluntary membership associations like the ACBL unless the association infringes upon a personal liberty or property right having its origins outside the association itself.

Mr. Blubaugh has added the following defendants to the complaint: Chris Compton, Joan Gerard, Dan Morse, John Sutherlin, Peggy Sutherlin, Howard Weinstein and Jeffrey Polisner (all represented by the same insurance appointed counsel as represents the League); and Robert Hamman and Bobby Wolff (represented by other insurance appointed counsel). Mr. Blubaugh has just dismissed the complaint against Dan Morse. All individual defendants have moved the court to dismiss the individual defendants. This motion will probably be heard in March 2002. Because of the new

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defendants, the court has vacated the September, 2002 trial date and will set a subsequent date. In addition, Mr. Blubaugh made a renewed motion for preliminary injunction (based on evidence he obtained in discovery), which was denied by the court without hearing.

The insurance company representing the League made a cash only settlement offer to Mr. Blubaugh, which was rejected. Mr. Blubaugh deposed two ACBL directors, the results of which were favorable to the ACBL.

The court has granted defendants' motions to dismiss individual defendants and denied plaintiffs subsequent motions to reconsider the dismissal. Plaintiff continues depositions and has informed ACBL defense attorney that at least six more depositions will be taken.

Mr. Blubaugh has requested that the court extend his time for discovery until April 15, 2003. After that time, League attorney will file a motion for summary judgment which, if granted, would end the case favorably for the League.

The ACBL attorney has filed the League's motion for summary judgment, Mr. Blubaugh has filed his response (along with a proforma three page motion for summary judgment) and ACBL attorney has filed a response. The judge is expected to rule on the ACBL motion in September 2003.

On February 18, 2004, the court granted the ACBL motion for summary judgment and dismissed all 19 counts remaining in the Blubaugh complaint. Mr. Blubaugh has thirty days to file an appeal with the Federal Circuit Court of Appeals. Failing that, the matter is conclusively resolved in the League's favor.

STATUS: Mr. Blubaugh has filed an appeal with the Federal Circuit Court of Appeals. Written and verbal arguments will be made by the parties in November 2004. Decision by the Court is expected in March 2005.

2. Zipporah McKinney v. ACBL

FACTS (Previously Reported): In 1999 Mrs. McKinney sued the League for alleged wrongful termination and unequal treatment. Baker and Donaldson, legal counsel for the League ("Memphis Counsel"), indicates that this is a very thin lawsuit and plaintiff's attorney has withdrawn. The case is in discovery stage and no activity has occurred. A local rule in the Tennessee Chancery Court requires a dismissal hearing in a matter in which no activity has occurred for 18 months or more. On advice of Memphis Counsel, we are waiting for the court to set this matter on its dismissal docket.

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Memphis counsel determined that the case is still dormant as of February 17, 2004. He will make an informal request to the court clerk to have the case set for the dismissal calendar.

STATUS: Nothing heard from the court.

3. **Logan v. ACBL**

FACTS (Previously Reported): On October 2, 2002, ACBL member John W. Logan sued the League in U.S. District Court in Philadelphia under the Americans with Disabilities Act of 1990. He claims that the League has improperly denied him the use of his decks of cards for the partially sighted, even though the League accepts Braille cards and other decks specifically for the partially sighted. League Counsel has filed an answer to Mr. Logan's complaint. League Counsel and ACBL staff has met with Mr. Logan and his attorney in an attempt to reach a settlement in this matter. Response to matters discussed in this meeting is expected in March 2003.

Settlement negotiations have not succeeded. Counsel for League is being obtained in Philadelphia to proceed with case. League Counsel has received written confirmation from carrier that it will cover these legal expenses.

Counsel for League has filed a motion for summary judgment. Counsel for Mr. Logan did not file a timely answer to this motion. League counsel has requested that the judge dismiss the action with prejudice to Mr. Logan. This request is pending.

STATUS: The Judge granted our motion for summary judgment. However, subsequently, Mr. Logan moved to reopen the case claiming that he was not properly represented. We opposed his motion on the basis that the summary judgment was entered by the judge after reviewing evidence in the case. On October 21, 2004, the judge agreed with us and denied Mr. Logan's motion. Mr. Logan has until November 20, 2004 to appeal the decision to the 3rd U.S. Court of Appeals or the judgment will be final.

4. **Lyddon v. ACBL**

FACTS: On March 19, 2004, John Lyddon filed an action against the League in the New York Supreme Court (Court of first jurisdiction), requesting the Court to order the League to amend its Bylaws to conform to New York law. Mr. Lyddon is not represented. No damages were requested. The League has retained Andrew Singer, Esq. who has filed an answer and denial on the League's behalf. On May 22, 2004, Mr. Lyddon requested a hearing in this matter. League's attorney will oppose this motion on a number of grounds, including the fact that Mr. Lyddon is currently under suspension resulting from his behavior at the table.

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STATUS: League Counsel has received confirmation from the carrier that it will cover legal expenses to the League's deductible. Mr. Lyddon is now attacking Board of Director election procedures by introducing affidavits of ACBL members allegedly prevented from voting because they did not receive ballots. Mr. Singer has responded to this with affidavits and argument, but it is uncertain as to what action will be taken by the Court at this time given the fact that Mr. Lyddon is representing himself.

Signed:



Peter Rank, Esq.