

**THE AMERICAN CONTRACT BRIDGE LEAGUE INC.
IN-HOUSE COUNSEL LITIGATION REPORT**

PETER MARCUS, et. al. v. ACBL

On or about June 2017, a former and two current ACBL Tournament Directors (“TDs”) Peter Marcus, Matthew Koltnow, and Dianne Barton-Paine filed a class action lawsuit in the Massachusetts District Court against the ACBL under the Fair Labor Standards Act (“FLSA”) seeking overtime pay for full-time TDs, damages, and attorneys’ fees. Sixteen additional TDs opted-into the lawsuit during 2019 (but one opt-in plaintiff was ultimately dismissed). Marcus also alleged that the ACBL constructively discharged him in retaliation for his past complaints regarding TD pay, seeking reinstatement, promotion, and damages. The ACBL denied the allegations and defended against them, covering the litigation defense expense after October 2019.

Following an unsuccessful May 2018 mediation, depositions and document discovery were undertaken. During May 2020, the parties filed cross motions for summary judgment, and the ACBL filed a motion to decertify the class. Oral arguments were held in September 2020.

In March 2021, the Court issued a pre-trial opinion (1) dismissing all claims brought by the named plaintiffs and seven of the 16 opt-in plaintiffs and (2) limiting the claims of the remaining eight opt-in plaintiffs. The court found that the ACBL had properly classified the National Tournament Director, Associate National Tournament Director, Field Supervisor, Area Manager and Mentor positions as exempt (without reaching the question of the proper classification of STaC Coordinator). However, the Court ruled that the ACBL had improperly classified the TD position as an exempt position, but the misclassification was not willful. Accordingly, a two-year (rather than three-year) statute of limitations applied to the eight TDs’ claims. Similarly, the Court denied plaintiffs’ motion for an award of liquidated (double) damages related to the ACBL’s classification decisions. The ACBL’s motion to decertify the class was denied. The Court also granted summary judgment in favor of the ACBL as to the individual retaliation claim asserted by Peter Marcus.

Procedural Posture. During the second quarter of 2021, the ACBL filed a procedural motion requesting that the court affirm on the ACBL’s behalf its denial of liquidated (double) damages related to the ACBL’s classification decisions. On September 15, 2021 oral arguments on the motion were heard. On February 8, 2022, the court rendered its final decision. The court held for the ACBL except that full-time TDs are nonexempt - they must be paid on an hourly basis including overtime. The damages due to the full-time opt-in TDs amount to \$10,970 plus attorneys’ fees and costs of \$217,530 (total \$228,500). The time for appeal began running as of February 8 (plaintiffs have said that they will appeal).

Respectfully submitted,



Linda J. Dunn, Esq.

Dated: February 18, 2022