

THE AMERICAN CONTRACT BRIDGE LEAGUE INC.
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 TD pay complaints. The ACBL denied all 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. Following oral arguments in September 2020, the Court issued a pre-trial opinion in March 2021 (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), but that the ACBL had improperly classified the TD position as exempt. The misclassification was deemed 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 Court also granted summary judgment in favor of the ACBL as to the individual retaliation claim asserted by Peter Marcus. TDs are nonexempt – they must be paid on an hourly basis including overtime. The damages due to the full-time opt-in TDs amounted to \$10,970 plus attorneys’ fees and costs of \$217,530 (total \$228,500).

Procedural Posture. The matter is now fully briefed before the First Circuit Court of Appeals. We are awaiting a decision by the court as to whether it will hear oral argument and, if so, a date for that to occur. Should the Court decide that oral argument is not needed, it can render a decision based on the briefs alone. In any event, we expect a decision in the next 5 or 6 months.

ALLAN SIEBERT v. ACBL

On October 4, 2022, Allan Siebert filed a demand for arbitration with the American Arbitration Association naming the ACBL as the respondent. Siebert is contesting the degree of punishment

he received when found responsible for an ethical violation. ACBL's insurance carrier is providing defense and has assigned counsel who will be responding on the behalf of ACBL.

On February 13, 2023 the matter was closed by the American Arbitration Association when Mr. Siebert withdrew his claim.

Respectfully submitted,

Paul L. Cuneo

Interim Executive Director