

THE AMERICAN CONTRACT BRIDGE LEAGUE INC.

LITIGATION REPORT

PETER MARCUS, et. al. v. ACBL

On or about June 2017, a former ACBL Tournament Director (“TD”) Peter Marcus, 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. 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 plaintiff. The court found that the ACBL had improperly classified the TD position as exempt. TDs are nonexempt – they must be paid on an hourly basis including overtime. The misclassification was deemed not willful. 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. 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.

Bronia Jenkins

Executive Director