

**THE AMERICAN CONTRACT BRIDGE LEAGUE INC.****IN-HOUSE COUNSEL LITIGATION REPORT****PETER MARCUS, et al v. ACBL**

On or about June 2017, Peter Marcus, a former ACBL Tournament Director (“TD”), and current TDs Matthew Koltnow and Dianne Barton-Paine filed a class action lawsuit 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. Marcus also alleged that the ACBL constructively discharged him in retaliation for his past complaints regarding TD pay, seeking reinstatement, promotion, payment of lost wages, damages, and costs. The ACBL denied the allegations and defended against them, covering the litigation defense expense after October 2019.

Following an unsuccessful mediation during May 2018, depositions were taken by both parties during 2018 and 2019 in addition to extensive document discovery by plaintiffs.

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 the Massachusetts District Court. Plaintiffs’ motion to substitute a party for a deceased opt-in plaintiff was denied because it was untimely, and the court dismissed that plaintiff from the lawsuit in early November 2020.

**Ruling on Summary Judgment Motions.** 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 nine 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 exempt from overtime, but the misclassification was not willful. Accordingly, a two-year (rather than three-year) statute of limitations will apply to the nine 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.

Finally, the Court agreed with the ACBL that any overtime wages due to the nine TDs should be calculated using the fluctuating workweek method, limiting any money to be paid now to one-half of the TDs regular rate for each overtime hour worked (0.5 x regular hourly rate).

The Court also granted summary judgment in favor of the ACBL as to the individual retaliation claim asserted by Peter Marcus.

**Procedural Posture.** The ACBL has recently 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.

Respectfully submitted,



Linda J. Dunn, Esq.

Dated: June 14, 2021