

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, and one opt-in plaintiff was ultimately dismissed from the lawsuit. 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 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 the Massachusetts District Court.

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. 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. There has been no movement on this matter since June 2021 other than the September 15, 2021 oral arguments on the procedural motion mentioned above and discussions with plaintiffs’ counsel regarding agreement on the damages calculation methodology and damages amount.

Respectfully submitted,



Linda J. Dunn, Esq.

Dated: October 25, 2021