

**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 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. Plaintiffs-appellants timely appealed, and their brief is due August 15.

Respectfully submitted,



Linda J. Dunn, Esq.

Dated: June 28, 2022