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'Bachelor In Paradise' Might Be Headed To Court



Legal Entertainment Contributor

[Hollywood & Entertainment](#)

POST WRITTEN BY

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I litigate various employment matters, including wrongful discharge, discrimination and harassment, tort claims, and contractual matters.

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Both contestants caught on film during the June 4, 2017 “Bachelor in Paradise” pool incident have hired lawyers, which means the debacle could end up in court. The incident

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Reality show contestants of this type are paid a stipend contingent on how many episodes they last, usually between \$8,000 and \$15,000 total, and employee or independent contractor status is dependent on control: “whether the person to whom the service is rendered has the right to control the manner and means of accomplishing the result desired.” On “Bachelor in Paradise,” an argument can be made that the producer has the right to control the manner and means of accomplishing the desired result, so the contestants may be classified as employees, regardless of how they are paid, thus exposing the producers.

If Olympios is the production company’s employee, then any physical injuries resulting from its failure to provide a safe work environment may be compensable only in workers’ compensation proceedings (even where the injury is caused by a co-worker, as would be the claim against Jackson). However, if Olympios was intentionally injured by Jackson, the employer may be responsible if it can be proven that they either condoned it or failed to take the necessary precautions to prevent it. Workers’ comp is the exclusive remedy when injuries are caused by employer negligence or without employer fault, and also where injuries are caused by serious/willful misconduct by the employer. Citing

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What if Olympios and Jackson were independent contractors (think “1099”)? Although an independent contractor is generally not protected by Fair Employment and Housing Act (FEHA), many states have extended certain employee protections to independent contractors especially since employers are under close scrutiny regarding employee classification. Nonresidents employed outside of California are not protected by FEHA generally. If Olympios is not a California resident, then she may be prohibited from suing the employer for sexual assault/harassment (regardless of whether she is an employee or independent contractor) under FEHA for acts occurring in Mexico.

Further, the Division of Occupational Safety and Health (Cal-OSHA) was implemented to assure safe and healthful working conditions for all California working men and women. Every employer has the general obligation per Cal-OSHA to furnish safe and healthful employment to its employees (regardless of classification), and they must do everything reasonably necessary to protect employees’ safety and health, including using safeguards and safety devices and preventing employees from entering unsafe work places. *Labor Code 6400-6404* sets forth these general duty clauses.

What is the duty of the production company to its contestants? Assuming the contestants

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Ultimately, there are two directions this situation is headed (and neither is Paradise): a workers' compensation case against the production team, or a case involving conduct beyond these boundaries, into the territory of egregious conduct (past what would be considered a "normal risk.") In the case of egregious conduct, which would include a willful assault by a co-worker during the course of employment, the employee may file a civil action against the employer. Either way, any legal action would include Jackson as the causation, but he might not necessarily be the target of the suit. Lawyers will be carefully scrutinizing the contract, reviewing any evidence, and navigating employment loopholes to set the course.

As we all know, sometimes reality bites.

Philip Bonoli, Partner at [Brutzkus Gubner](#), works with employers to provide strategic and tactical counsel on all types of employment matters, including severance and employment agreements, government investigations and employment policies. In addition, Philip has significant experience with complex litigation and commercial disputes, and has represented businesses in corporate ownership disputes, accounting-related litigation and financial institutions litigation

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