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LEGAL OPINION

Collision – Liability or not when no physical contact exists

A vessel was permanently moored in the port of Zea, and had no sailing capacity. She was constantly taking on water, which was being pumped to avoid her sinking.

A yacht entered the same port and performed berthing action close to this vessel, on the instructions of the local port authority and also under the assistance of the port's barge.

However a little earlier, the moored vessel had started to sink, because the water she had taken on had not been pumped overboard, and indeed she finally sunk. Her owners sued the yacht owners alleging waves created during mooring procedure had caused the sunk vessel to hit the pier and sustain damages, including holes in the hull, which allowed water to penetrate.

The court found the alleged holes were due to corrosion and not to alleged wave created by the yacht berthing manoeuvres. Further, the sinking of the vessel was due to her condition and not to the yacht mooring action, and had started before the yacht reached the port.

Also it was found the port authority's instructions to the arriving yacht were legal, and possible omissions regarding the mooring were irrelevant to the sinking of the vessel.

Accordingly the claim was rejected.

Piraeus Court of Appeal Judgment no 145/ 2014, President: P. Tsandekidou, Rapporteur Judge: A. Theofanis, Attorneys at law: Chr. Stefas, Ev. Tsouroulis, N. Lygouris, Aik. Ploumidou, Maritime Law Review vol. 42, p. 120.

NOTE: The claim was one for collision damages. Regardless of not applying in this case, it is possible to have collision effects in a case when no physical contact exists. Some examples are damages to a vessel due to waves created by another vessel leading one to strike the pier, taking evasive action to avoid dangerous manoeuvres of another vessel, etc.

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