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LEGAL OPINION

Marine Insurance

A pleasure yacht was chartered to third parties; a few days later, one of the charterers was rescued as castaway in the sea from a nearby passing vessel. He alleged that, due to adverse weather conditions leading to influx of seawater, he had abandoned the yacht, which sank. The yacht wreck was never found. Insurers were not convinced by castaway's allegations and refused to pay insurance remuneration, so owners sued for total loss of the yacht.

The first instance court was not satisfied that the yacht was a total loss and rejected the claim. In the court of appeal, owners amended the lawsuit basis to include considered total loss. However, this was perceived as an unpermitted change of lawsuit basis and the appeal was also rejected.

Piraeus one-membered Court of Appeal Judgment no 141/2019, Judge: M. Daniil, Attorneys at law: D. Chasanakos, An. Koutsoukos, Maritime Law Review vol. 47, p. 364.

NOTE: Total loss is a peril covered. Considered total loss (which is different to constructive total loss), is also remunerated, however the basis of the lawsuit should cater for this, and the one presented did not cover this point. Here, the suit had focused on total loss and when it became apparent the evidence could not lead to this, it was too late to amend or supplement the basis of the lawsuit.

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