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United States District Court, E.D. California.

Caravel/Woodwind Charters Inc. vs. Tahoe Key Marina

TOPIC:

Synopsis: Company recovers damages following sinking of vessel due to submerged concrete in channel
Case Type: Maritime; Vessel/Cargo Damage; Premises Liability; Negligent Repair/Maintenance

DOCKET NUMBER: 05CV01435(FCD)
STATE: California
COUNTY: Not Applicable
Verdict/Judgment Date: January 8, 2008

JUDGE: [Frank C. Damrell Jr.](#)

ATTORNEYS:

Plaintiff: [Joshua E. Kirsch](#), Gibson, Robb & Lindh, San Francisco.
Defendant: John Cotter, Diepenbrock & Cotter, Sacramento.

SUMMARY:

Verdict/Judgment: Plaintiff
Verdict/Judgment Amount: \$847,771
Range: \$500,000-999,999
\$847,771 cost to salvage, repairs, and loss of business income; \$69,707 pre-judgment interest; \$18,959 costs.
Defendant was found 100 percent liable.
Trial Type: Bench
Trial Length: 5 days.

EXPERTS:

Plaintiff: [Mary Furst](#), C.P.A., certified public accountant/forensic accountant, RGL Gallagher, San Francisco.; [Jack MacKinnon](#), marine surveyor, San Lorenzo.
Defendant: [David L. Grant](#), marine surveyor, Admiralty Marine Surveyors Inc., Wilmington, (310) 835-7139.; [Kim Onisko](#), C.P.A, certified public accountant/forensic accountant, Long Beach.

TEXT: CASE INFORMATION FACTS/CONTENTIONS

According to Plaintiff: Plaintiffs Caravel/Woodwind Charters Inc. and St. Paul Fire and Marine **Insurance** Company alleged defendant Tahoe Keys Marina was negligent in allowing a submerged hazard (derelict concrete) to remain below the surface of the water in a navigational channel, without warning of the hazard or otherwise making it safe. Plaintiff Caravel's vessel sank when it struck the hazard. The vessel had to be salvaged and repaired. Defendant argued that the hazard was "open and obvious" and thus, there was no duty to warn or make safe.

CLAIMED INJURIES NA

CLAIMED DAMAGES According to Plaintiff: Plaintiff Caravel claimed costs of repairs, plus loss of business income. Plaintiff St. Paul was partially subrogated to the loss.

SETTLEMENT DISCUSSIONS According to Plaintiff: Demand: \$775,000; Offer: \$400,001 (FRCP § 68).

EXPERT TESTIMONY According to Plaintiff: Plaintiff Caravel's expert, Mary Furst, a forensic accountant, testified to plaintiff Caravel's loss of business income. Plaintiff Caravel's expert Jack MacKinnon, a marine surveyor, testified to the costs of repairs to the vessel.
Defense expert, Kim Onisko, a forensic accountant, testified to plaintiff Caravel's loss of business income claim.
Defense expert, David Grant, a marine surveyor, testified regarding vessel valuation.

Trials Digest, A Thomson/West business
Eastern District Federal Court/Sacramento
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