

New York Court Awards Loss of Use Damages to Dredge for Repair Period



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Great Lakes Dredge & Dock Company was recently awarded loss of use damages from a 2008 allision, in which the dredge NEW YORK was hit by an outbound orange juice tanker. The allision caused the partial submergence of the dredge, damaging the vessel's excavator and hydraulic, electrical, and electronic systems, and requiring almost seven months of repairs. While the tanker's owners conceded liability for the allision, they opposed paying for the loss of use, arguing that the dredge ultimately completed its dredging project and earned the revenues from that contract. Following well-established precedents, the court held that the dredge's owners proved their lost revenues to a reasonable certainty by proving that the dredge was employed in an active, ready market before and after the allision repairs. Similarly, in rejecting the defendants' challenge to the length of the repair period, the court noted that the burden rested with the defendants to show that the actual repair period was unreasonable, and the failure of the defense to point to any unreasonable conduct was fatal to the defense arguments. Great Lakes was represented in the matter by a team of attorneys from Winston & Strawn, Freehill Hogan & Mahar, and in-house counsel.

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