

Ploughing the seas

General Information

Background

Trans Sea Cables are a cable-laying company specialising in communications cabling under sea. It owns some ships and hires others, depending on the demand. In this particular case it hired the Caribbean Star, a massive ship owned by Alpha Charterhire, as the cable laying ship for a large project in the Gulf of Mexico. The Star was fitted out for the work by TSC in a USA dry dock. The fitting out involved a 65 ton tow winch which was welded to the deck, a huge cable drum which housed 4km of 38mm tow cable and a plough, which was trailed at the end of the tow cable and which laid the telecoms cable either on the surface of the sea bed or, in more shallow waters, in ploughed trenches. Of course, there was a huge amount of control equipment as well, but the significant equipment in this dispute is the tow winch, cable drum and plough.

At the end of the charterhire period the Caribbean Star returned to port. The normal arrangement in these circumstances is that the firm hiring the vessel returns the ship in the state it was in at the start of the hire; in other words, the fitting out is unfitted and the vessel returned in its bare state. In this case the stripping was a two week exercise because the heavy equipment needed to be unwelded and craned onto another ship. Unfortunately, this was not a straightforward matter with the Caribbean Star because TSC owed a significant amount in hire charges and so Alpha impounded the vessel and prevented TSC removing their equipment when it docked.

After several days of negotiation, it was agreed that TSC could have access to remove their equipment on the understanding that the outstanding hire charges would be paid in three equal monthly instalments. However, two days later Alpha informed TSC that the Caribbean Star was now on a short-notice charter for three months, leaving port for fitting out elsewhere the next day. Although TSC worked overnight to remove equipment that was easily transportable, in the end Caribbean Star sailed with the tow winch, cable drum and plough still on board. TSC objected to the unreasonable time given by Alpha for stripping out and withheld payment of the outstanding balance in compensation for the equipment that was still on board the Caribbean Star.

The dispute

The applicable law was UK and Alpha sued TSC in England. 18 months later Alpha obtained judgement for the outstanding hire payments of \$210,000 (equivalent to ten week's hire) plus Alpha's legal costs of £35,000. However, the execution of the judgement was stayed pending a second court action on TSC's counterclaim of:

Tow winch	£200,000
Cable drum	£110,000
Plough	£ 50,000

Lost hire (18 months) £120,000
With interest and costs, TSC's total counterclaim was £550,000.

The parties agreed to mediate the counterclaim to avoid legal costs (estimated at £80,000 each to judgement).

Attending the mediation

Alpha's US vice-president
Alpha's UK lawyer

Trans Sea Cable's Commercial Director
TSC's in-house lawyer

Mediator
Assistant Mediator (if available)