

Andreas Dracoulis in the Underwater Technology Podcast: A Common-Sense Approach to Consequential Loss

August 27, 2020 Andreas Dracoulis

PRACTICES Litigation, Energy, Power and Natural Resources, Construction Litigation, Offshore Oil and Gas

Haynes Boone Partner [Andreas Dracoulis](#) discussed consequential loss in a recent episode of the Society for Underwater Technology's (SUT's) Underwater Technology Podcast. SUT's CEO Steve Hall interviewed Dracoulis about the subject.

Here is an excerpt of the interview:

Steve Hall: Why are we concerned with the phrase “consequential loss”?

Andreas Dracoulis: We are talking about consequential loss, sometimes called consequential damage, because for better or for worse, it is a phrase that comes up a lot in contracts, particularly in the context of exclusion clauses.

In the offshore sector, you'll often see parties agree mutual exclusion clauses sometimes included in indemnity provisions. It is very common to see parties refer to consequential loss as one of several different types of losses that are excluded. Sometimes contracts will also try to give the phrase “consequential loss” a specific defined meaning within the contract. As we will see, that is a better way to use the term if you really have to use the term at all.

When it used as several types of losses, that's when the problems arise. When commercial parties think about consequential loss, they will most likely think about it in terms of its natural and ordinary meaning, but that is not the same meaning courts have given to the term and that has caused some confusion and some uncertainty.

Happily, some recent decisions have given some clarity on this issue and that's really what I want to talk about today.

To listen to the full episode, click [here](#).