

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

**AARON TYLER CLARK, TYLER
BLAKE FLOYD, KAITLYN
HELMUTH, HARLEE REWIS, and
HALEIGH REWIS,**

Plaintiffs,

v.

Civil Action No. **4:22-cv-53-RSB-CLR**

**WEEKS MARINE, INC.; JOHN
BRENTS HUFFMAN; DAVID
SAMPSON; JAMES FERGUSON
and RYAN WELCH,**

Defendants.

PLAINTIFFS’ FIRST AMENDED AND RECAST COMPLAINT

COME NOW Aaron Tyler Clark, Tyler Blake Floyd, Kaitlyn Helmuth, Harlee Rewis, and Haleigh Rewis, Plaintiffs in the above-styled action, and, pursuant to the Court’s November 2, 2022 Order (Doc. #47), file this, their First Amended and Recast Complaint against Defendants Weeks Marine, Inc., John Brents Huffman, David Sampson, James Ferguson, and Ryan Welch showing this Honorable Court as follows:

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiffs are citizens and residents of Georgia.
2. Defendant Weeks Marine, Inc. (“Weeks”) is a New Jersey corporation that is principally located in Cranford, New Jersey. Weeks is registered with the Georgia Secretary of State and can be served through its registered agent, Cogency Global Inc., located at 900 Old Roswell Lakes Parkway, Suite 310, Roswell, Gwinnett County, Georgia 30076.

3. Defendant Weeks has regularly transacted business in this state, has committed one or more tortious acts or omissions in this state (including within the confines of Chatham County, Georgia) and/or has committed a tortious injury in this state caused by an act or omission outside this state.

4. Defendant Weeks owns, uses, or possesses real property situated within this state.

5. Defendant Weeks has established minimum contacts with the State of Georgia and Chatham County such that the maintenance of this action does not offend traditional notions of fair play and substantial justice.

6. Defendant Weeks has purposefully availed itself of the privilege of conducting activities within this state, thus invoking the benefits, protections, and application of its laws.

7. Defendant Weeks has an office and transacts business in Chatham County, Georgia.

8. Upon information and belief, Defendant John Brents Huffman is a resident of the State of Florida and may be served with process at 23880 Flora Parke Boulevard, Fernandina Beach, Florida 32034.

9. Defendant Huffman is subject to the jurisdiction of this Court by virtue of having committed negligent acts and/or omissions causing, or contributing to, Plaintiffs' injuries and damages complained of herein while in the State of Georgia.

10. Upon information and belief, Defendant David Sampson is a resident of the Commonwealth of Virginia and may be served with process at 754 Michelle Drive, Newport News, Virginia 23601.

11. Defendant Sampson is subject to the jurisdiction of this Court by virtue of having committed negligent acts and/or omissions causing, or contributing to, Plaintiffs' injuries and damages complained of herein while in the State of Georgia.

12. Upon information and belief, Defendant James Ferguson is a resident of Florida and may be served with process at 231 N. 14th Street, Fernandina Beach, Florida 32034.

13. Defendant Ferguson is subject to the jurisdiction of this Court by virtue of having committed negligent acts and/or omissions causing, or contributing to, Plaintiffs' injuries and damages complained of herein while in the State of Georgia.

14. Upon information and belief, Defendant Ryan Welch is a resident of Alabama and may be served with process at 83 Baylee Drive, Killen, Alabama 35645.

15. Defendant Welch is subject to the jurisdiction of this Court by virtue of having committed negligent acts and/or omissions causing, or contributing to, Plaintiffs' injuries and damages complained of herein while in the State of Georgia.

16. Jurisdiction and venue are proper in this Honorable Court pursuant to Georgia law, including O.C.G.A. § 9-10-91 and O.C.G.A. § 14-2-510.

II. FACTUAL ALLEGATIONS

17. Defendant Weeks provides maritime construction and dredging services throughout North and South America.

18. On or about November 7, 2019, Defendant Weeks was awarded a \$151.3 million contract by the U.S. Army Corps of Engineers to provide dredging services in connection with the Savannah Harbor Expansion Project.

19. Since 2020 until at least the time of the subject incident described below, Defendant Weeks regularly conducted dredging operations in the Savannah River.

20. Defendant Weeks' dredging operation involved the use of numerous vessels, including the M/V RONNIE R ("RONNIE R"), barges, buoys, and pipelines, the dredger JS

CHATRY, the dredging vessel/equipment barge WEEKS 187, and other appurtenances and equipment in the Savannah River along the Georgia/South Carolina border.

21. Defendant Weeks' dredging operation typically occurred around the clock, with boats, including the RONNIE R, regularly transporting employees and equipment to and from the dredging vessel and other auxiliary vessels along the Savannah River.

22. In connection with its dredging operation, on or about November 9, 2020, Defendant Weeks requested permission from the U.S. Coast Guard to move a red channel marker in the Savannah River near Fields Cut ("Red Buoy No. 40"). Communication from Defendant Weeks to the Coast Guard stated that Weeks would return Red Buoy No. 40 to its original position within a few days.

23. The Coast Guard granted Weeks permission to temporarily move Red Buoy No. 40 the following day and Weeks then moved the buoy shortly thereafter approximately 365 feet from its original location. (See diagram attached hereto as Exhibit "A").

24. As a result of this relocation, boaters traveling on the Savannah River near Fields Cut were directed to travel closer to the north bank of the Savannah River. As required by 33 CFR § 83.09, boaters are required to travel "as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable." This path would also bring boaters much closer to Weeks' dredging operations.

25. Although the relocation of Red Buoy No. 40 was represented by Weeks as being "temporary", Weeks did not move this buoy back to its original location after a few days. Instead, Red Buoy No. 40 remained in the wrong location for approximately 15 months until February 2022.

26. Upon information and belief, Defendant Weeks never published its relocation of Red Buoy No. 40 in any local notices to mariners. The boating public was therefore not notified that Red Buoy No. 40 had been moved and remained in the wrong position for over a year.

27. On the evening of August 27, 2021, Plaintiffs were passengers in a pleasure boat that was traveling from South Carolina to Georgia on the Savannah River near Fields Cut.

28. Plaintiffs' boat was in a seaworthy condition and was being operated in a manner consistent with all applicable maritime navigation rules and regulations.

29. At approximately 8:30 that evening, the RONNIE R was operating on the Savannah River, traveling downriver near Savannah, Georgia.

30. At that time, Defendants Huffman and Sampson were acting as agents and employees of Defendant Weeks, serving as the captain and sole crewmember, respectively, of the RONNIE R.

31. At and around that time, Defendants Ferguson and Welch were acting as agents and employees of Defendant Weeks, serving as the project managers on site for the dredging operation.

32. At that time, the RONNIE R was in violation of established rules of navigation and was traveling on the wrong side of the Savannah River as it neared Fields Cut.

33. At that time, the pleasure craft in which Plaintiffs were riding had exited Fields Cut and was traveling upriver on the Savannah River in the direction of the RONNIE R and the WEEKS 187 and its appurtenances.

34. Due to the RONNIE R's improper manner of travel, its improper and inadequate lighting, as more fully set forth below, it was not observable by the operators and occupants of Plaintiffs' boat until the vessels were in close proximity.

35. Additionally, due to Defendant Weeks' relocation of Red Buoy No. 40 approximately 365 feet from its original position, Plaintiffs vessel was traveling closer to the north bank of the Savannah River on a course towards Weeks' dredging activities, including the path of the RONNIE R and the activity of the booster barge.

36. When the operator of Plaintiffs' boat observed the RONNIE R, he correctly steered the boat in a starboard manner as required by maritime navigation rules and regulations.

37. When Defendant Huffman, as the captain of the RONNIE R, observed Plaintiffs' boat, he improperly steered his vessel to port and into the path of Plaintiffs' boat.

38. The vessels then collided resulting in the deaths of two passengers in Plaintiffs' boat and serious physical and emotional injuries to Plaintiffs.

III. CAUSES OF ACTION

Count I – Negligence (Unseaworthiness)

39. At the time of the collision described above, the RONNIE R, the WEEKS 187, and/or other Weeks' equipment used in the dredging operation were in an unseaworthy condition as a result of the following:

- a. Said vessels were in the charge of incompetent officers and crew;
- b. Defendant Huffman and/or Defendant Sampson were inadequately trained and/or supervised as the captain and crew of the RONNIE R;
- c. Said vessels failed to have sufficient crew on board and/or lookouts under the circumstances;
- d. Said vessels failed to display the proper lights required under the circumstances.

More specifically, the RONNIE R was, at the time of the collision, utilizing a directional searchlight which, because of its location relative to the navigation

lights and its greater intensity, obscured the required navigational lighting as well as impaired, or interfered with, the visibility of other vessels to the captain of the RONNIE R. This condition also prevented other vessels from accurately discerning the RONNIE R's direction of travel, especially at the speeds routinely utilized by the RONNIE R;

- e. Said vessels failed to display the proper lights required under the circumstances in violation of United States regulations. Specifically, the RONNIE R was, at the time of the collision, utilizing port and starboard navigation lights and a directional searchlight mounted along the same horizontal plane, which did not take into account the environment and surrounding lighting conditions. More specifically, the presence of numerous lights existing on the WEEKS 187 and on Elba Island, which houses a large LNG facility, obscured the RONNIE R and directly impacted the ability of other vessels to see it;
- f. Said vessels failed to utilize proper navigational equipment required under the circumstances. Specifically, the RONNIE R was, at the time of the collision, utilizing outdated navigational software and electronic charts and had disabled its collision warning system(s) while failing to employ adequate measures to compensate for such non-operational system(s);
- g. The radar on the RONNIE R was either not working properly or was not functioning properly as Defendant Huffman claimed that he never saw the Plaintiffs' pleasure craft until immediately before the collision when it allegedly entered the lights of the WEEKS 187;
- h. The agents and employees of Defendant Weeks engaged in performing the work of the dredging operations, including, but not limited to Defendants Huffman,

Sampson, Ferguson and Welch, were inexperienced and unqualified to perform the work they were directed to do, of which Defendant Weeks had full knowledge;

40. Defendant Weeks had privity and knowledge of the unseaworthy conditions set forth in the preceding paragraph.

41. As a proximate result of the unseaworthiness of the vessels described herein, the RONNIE R collided with Plaintiffs' boat, causing Plaintiffs serious physical and emotional injuries.

*Count II – Negligence/Negligence Per Se
(Vessel Operation)*

42. At all times relevant to this action, the officers, crew, and operators of the RONNIE R, WEEKS 187, and other equipment involved in the dredging operation owed duties under both federal and state laws to Plaintiffs and others traveling on the navigable waterways to exercise ordinary care in the operation of their vessels and/or their marine equipment.

43. Defendants Sampson and Huffman, as the crew and operators of the RONNIE R, and other crew and operators of the WEEKS 187 and/or other marine equipment, violated such duties in several respects, including the following:

- a. While operating on the evening of August 27, 2021, the crew of the RONNIE R was obligated by applicable maritime navigation rules, including 33 C.F.R. § 83.5, to maintain a proper lookout by sight and hearing, as well as by all available appropriate means, so as to make a full appraisal of the situation and the risk of collision. The crew of the RONNIE R negligently failed to maintain such a lookout and failed to detect Plaintiffs' boat until it was in close proximity.

- b. The RONNIE R, at the time of the collision and regularly, utilized an improper course upon the Savannah River by failing to keep as near to the outer limit of the channel or fairway at her starboard side as was safe and practicable, and Defendant Weeks had full knowledge thereof. The RONNIE R was directed, or allowed, to follow this dangerous route frequently, which required the vessel to traverse the Savannah River at the direction of Defendant Weeks on the wrong side of the channel, opposing traffic at night and at high speed, while checking Defendant Weeks' equipment. The route further required the RONNIE R to jut into the channel and into the pathway of inbound vessels traveling on the proper side of the channel so that the RONNIE R could avoid Defendant Weeks' own equipment as it passed near or by the WEEKS 187 and its equipment and appurtenances. Defendant Weeks, through Defendants Ferguson and/or Welch, knew or reasonably should have known of this dangerous and ongoing activity as the RONNIE R is outfitted with monitoring devices, which information was readily accessible;
- c. The RONNIE R, at the time of the collision, was traveling at a high rate of speed given the conditions, including the numerous back lights from Elba Island and the WEEKS 187, the significant blind spots created by the WEEKS 187 and the shoreline, and the RONNIE R's travel down the wrong side of the channel against the direction of vessel traffic. Upon information and belief, Defendant Huffman was directed by Defendants Welch, Ferguson and/or other employees of Defendants Weeks to utilize this course and speed to check the sub buoy lights attendant to the overall dredging operation. Defendant Weeks, through Defendants Ferguson and/or Welch, knew or reasonably should have known of

this dangerous and ongoing activity as the RONNIE R is outfitted with monitoring devices, which information was readily accessible;

- d. The RONNIE R, by and through its captain and crew, Defendants Huffman and/or Sampson, failed to utilize all means at its disposal to avoid the collision, including, negligently switched the vessel's collision alarm to the "OFF" setting without undertaking adequate substitute measures;
- e. The RONNIE R failed to follow the rules of the navigable waters, including 33 C.F.R. § 83.15, when it turned to port and directly into the path of the pleasure vessel;
- f. Said vessels failed to give sufficient and proper aid to the passengers in Plaintiffs' vessel, which reasonably can be expected to have mitigated the injuries to Plaintiffs.

44. The maritime navigation rules and regulations violated by Defendants during this incident, including 33 C.F.R. § 64.01, *et seq* (Marking of Structures, Sunken Vessels and Other Obstructions), 33 C.F.R. § 83.05 (Rule 5 – Look-out); 33 C.F.R. § 83.06 (Rule 6 – Safe Speed), 33 C.F.R. § 83.07 (Rule 7 – Risk of Collision), 33 C.F.R. § 83.09 (Rule 9 – Narrow Channels), 33 C.F.R. § 83.14 (Rule 14 – Head-on Situation), 33 C.F.R. § 83.15 (Rule 15 – Crossing Situation); 33 C.F.R. § 83.19 (Rule 19 - Conduct of Vessels in Restricted Visibility), 33 C.F.R. § 83.20 (Rule 20 – Application (Lights and Shapes)), 33 C.F.R. § 83.22 (Rule 22 – Visibility of Lights), and 33 C.F.R. § 83.23 (Rule 23 – Power-Driven Vessels Underway) are intended to protect persons such as Plaintiffs from collisions and resulting injuries such as those that occurred in this matter.

45. The collision, and Plaintiffs' resulting injuries, were the proximate result of Defendants' failure to comply with all applicable maritime navigation rules and regulations.

46. Defendants' negligent acts and omissions constitute negligence and/or negligence *per se* which proximately resulted in Plaintiffs' injuries for which they are entitled to recover damages.

*COUNT III – Negligence
(Dredging Operation Generally)*

47. Defendant Weeks, through Defendants Ferguson and Welch as the project managers for Defendants Weeks, caused or allowed the WEEKS 187, and its equipment and appurtenances, to be positioned in such a manner as to pose an unreasonable hazard to navigation in the following respects:

- a. The WEEKS 187 was positioned so as to block visibility of other vessels where Fields Cut converges with the Savannah River, such that vessels coming from Fields Cut and headed upriver on the Savannah River were required to alter their course toward the southern side of the Savannah River while at the same time lacking the ability to see vessels which may be coming downriver.
- b. The dredging operation, including the WEEKS 187, created numerous and large blind spots for any inbound vessel traversing the proper side of the channel.
- c. Defendants failed to account for the substantial amount of lighting on and around the WEEKS 187 and Elba Island, which obscured the visibility of the RONNIE R.
- d. there was a significant section of submerged and above-water dredge piping that projected from the WEEKS 187 toward the center of the channel that created an obstruction, forcing the RONNIE R and the Plaintiffs' vessel toward a bend in the Savannah River in the vicinity of the incident collision. The blind spots, coupled with the obstruction created by the WEEKS 187 and its associated submerged and above-water dredge piping and other appurtenances caused a sudden "unmasking"

of the RONNIE R (headed on the wrong side of the channel at a high speed at night) to the Plaintiffs' vessel at the nexus in the dogleg;

- e. The dredging operation, including the illegal and dangerous path required or knowingly allowed to be taken regularly by the RONNIE R, was set up at a bend in the Savannah River and in a manner which posed great risk to any pleasure vessel traversing the Savannah River, and, in fact, was set up in the most dangerous manner possible for pleasure vessels traversing the Savannah River at night;
- f. Defendant Weeks, through Defendants Ferguson and/or Welch, improperly arranged, positioned and/or maintained the dredging equipment, the WEEKS 187, JS CHATRY, the buoys and buoy lights attendant to the dredging operation such that they created a dangerous situation for boats traveling the intracoastal waterway; and
- g. Defendant Weeks, through Defendants Ferguson and/or Welch, improperly arranged, positioned and/or maintained the dredging equipment, the WEEKS 187, JS CHATRY, the buoys and buoy lights attendant to the dredging operation such that the RONNIE R had to use a directional searchlight in conducting its inspections of same.

48. The collision, and Plaintiffs' resulting injuries, were the proximate result of Defendants' failure to design and conduct the dredging operation in a reasonably safe manner.

49. Defendants' negligent acts and omissions constitute negligence and/or negligence *per se* which proximately resulted in Plaintiffs' injuries for which they are entitled to recover damages.

*COUNT IV – Negligence
(Relocation of Red Buoy No. 40)*

50. At all times relevant to this incident, Defendant Weeks and/or Defendants Ferguson and Welch owed a duty to the boating public to conduct dredging operations in a prudent and reasonably safe manner.

51. Defendant Weeks and/or Defendants Ferguson and Welch breached this duty when they relocated Red Buoy No. 40 to a position much closer to the northern bank of the Savannah River.

52. Defendant Weeks and/or Defendants Ferguson and Welch further breached this duty when they failed to promptly return Red Buoy No. 40 to its original location after only a few days and allowed the buoy to remain in the incorrect position for approximately 15 months.

53. Defendant Weeks and/or Defendants Ferguson and Welch further breached this duty when they failed to publish the relocation of Red Buoy No. 40 to the boating public.

54. Defendant Weeks and/or Defendants Ferguson and Welch knew or should have known that their relocation of Red Buoy No. 40 steered boaters directly towards their dredging operations and made a collision with dredging vessels or equipment more likely.

55. As a proximate result of Defendant Weeks and/or Defendants Ferguson and Welch's relocation of Red Buoy No. 40, Plaintiffs' vessel was directed along a path that placed it on a collision course with the RONNIE R.

56. As result of such collision, Plaintiffs suffered physical and emotional harm.

COUNT V – Punitive Damages

57. Defendant Weeks' relocation of the Red Buoy No. 40 for approximately 15 months without notice to the public and in a manner that steered boaters into the path of its dredging operations constituted more than ordinary negligence and demonstrated willful

misconduct, malice, wantonness, recklessness and/or that entire want of care which raises the presumption of a conscious indifference to consequences.

58. Plaintiffs are therefore entitled to punitive damages against Defendant Weeks in order to punish and/or deter such conduct.

COUNT VI – Attorneys’ Fees and Costs

59. Defendants have acted in bad faith, have been stubbornly litigious, and/or have caused the plaintiff unnecessary trouble and expense, thereby entitling Plaintiffs to collect all reasonable and necessary attorneys’ fees and costs associated with this action.

WHEREFORE, Plaintiffs pray for the following relief:

- a. That Plaintiffs receive a trial by a jury of their peers;
- b. That Plaintiffs be awarded an adequate sum to compensate them for their injuries and damages, both special and general;
- c. That Plaintiffs be awarded punitive damages against Defendant Weeks;
- d. That Plaintiffs be awarded attorney’s fees and expenses of litigation; and
- e. That Plaintiffs receive such other and further relief that the Court deems proper.

This 4th day of November, 2022.

/s/ Jeremy S. McKenzie
Jeremy S. McKenzie
Georgia Bar No. 436655
C. Dorian Britt
Georgia Bar No. 083259

KARSMAN, McKENZIE & HART
21 West Park Avenue
Savannah, Georgia 31401
(912) 335-4977 Telephone
(912) 388-2503 Facsimile

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

**AARON TYLER CLARK, TYLER
BLAKE FLOYD, KAITLYN
HELMUTH, HARLEE REWIS, and
HALEIGH REWIS,**

Plaintiffs,

v.

**WEEKS MARINE, INC.; JOHN
BRENTS HUFFMAN; DAVID
SAMPSON; JAMES FERGUSON
and RYAN WELCH,**

Defendants.

Civil Action No. **4:22-cv-53-RSB-CLR**

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing via this Court’s electronic filing system, which will automatically serve all parties of record.

This 4th day of November, 2022.

/s/ C. Dorian Britt
C. Dorian Britt
Georgia Bar No. 083259

KARSMAN, McKENZIE & HART
21 West Park Avenue
Savannah, Georgia 31401
P: (912) 335-4977
F: (912) 388-2503

EXHIBIT A

