

During trial, plaintiff conceded that she did not know what caused the branches to fall, nor could she state with certainty whether the branches in photo exhibits had come from the defendant's property or that of a vacant lot next door. She admitted that she did not own the 2 vehicles that had been damaged. The defendant produced a document by plaintiff's homeowner's insurance carrier that insurance had paid for 2 of the incidents.

The trial court ruled for the defendant and the plaintiff appealed.

The trial court's verdict was affirmed with the court stating that plaintiff failed to prove any negligence from the defendant and there was no evidence with regards to damages sustained.

Plaintiff appealed to the Supreme Court of Rhode Island and the superior court judgment was also affirmed.

The plaintiff represented herself throughout the entire case.

835 A.2d 206 (Sup. Ct.R.I. 2000)

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Pierce v Casady (1985)

Plaintiff asked the court for permission to either trim or have a 75 year old pecan tree removed that was on the defendant's property because of a severe lean and about three-fourths of it was over the plaintiff's land and if it failed it would hit his garage.

The trial court ruled for the plaintiff and ordered that the defendant should abate the nuisance by removal or cutting the tree to a point where it crossed the property line. The defendant appealed.

The appellate affirmed the decision that if a tree is a nuisance, a landowner may force a tree owner to abate the nuisance or, if any damages occur, look to the neighbor for damages. After reviewing decisions from other states, the court decided to follow the Hawaii rule that a tree becomes a nuisance when its overhanging branches do substantial harm or create imminent dangers.

11 Kan.App2d 23 (Ct. App.Kan. 1985)

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Beals v Griswold & Adrian's Tree Service, Inc. (1985)

Defendant tree company, under contract to the Griswolds, cut and removed several limbs of a 130 year old oak tree located on the

plaintiff's property that were overhanging the Griswold property. While the trimming was taking place, the plaintiff excitedly protested and the work was stopped. She sued alleging trespass, conversion and negligence.

The court ruled for the defendant and plaintiff appealed.

The verdict was affirmed. Plaintiff had stated that a trespass had occurred even though she had given oral permission because she stated it was not given in writing according to the Louisiana Horticulture Commission requirements. The court disagreed stating that a tree service does not need written permission to enter an adjoining property.

Plaintiff also contended that not giving her the trimmings for firewood amounted to conversion. Because of Beal's "irate and irrational" behavior at the time, the tree service left the wood at the Griswold property. The court concluded that the plaintiff had access to the wood and that the tree company merely refused to haul the wood to her.

The court also rejected plaintiff's testimony from 2 tree service companies that the tree was not cut in conformity with local and horticultural commission standards. The jury did inspect the tree during the trial.

468 So.2d. 641 (Ct.App.4th Cir.La. (1985)

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Meyers v Delaney (1995)

A large catalpa tree on the defendant's property, but between the 2 homes, had limbs overhanging plaintiff's driveway. One evening a large limb cracked and fell injuring plaintiff's foot. Plaintiff sued claiming negligence in failing to properly maintain the tree and failing to warn of the dangerous condition of the tree that the defendant knew, or should have known, to exist.

The court held that one who maintains their trees owes a duty to avoid injuring persons on adjoining properties. The court also held that there is no duty to consistently and constantly check all trees for non-visible decay. The decay must be readily observable in order to require a landowner to take steps to prevent harm. The court further held that a tree owner may only be liable if he had actual or constructive notice of the defect condition. In this case, prior to the accident a dead limb had been removed in the tree by a friend who had tree