GOVERNMENTAL LIABILITY FOR TREE CLAIMS



GENERAL LIABILITY PRINCIPLES



Property Owner Liability

Property owners are generally responsible for maintaining the trees on their property and ensuring they do not pose a danger to others.



Negligence

If a property owner was negligent in maintaining a tree that subsequently fell and caused damage, they may be liable for the damages.



Foreseeable Danger

Property owners must be aware of any potential hazards on their property, such as a diseased or damaged tree, and take reasonable steps to address them.



Natural Disasters

In the event of a natural disaster, such as a storm or high winds, a property owner may not be liable if the fallen tree was not a known hazard.

Determining liability for damages caused by a fallen tree can be complex and may depend on the specific circumstances of the case. Property owners should be proactive in maintaining the trees on their property to avoid potential liability.

MASSACHUSETTS RULE

DUTY OF CARE

Property owners must exercise reasonable care to inspect and maintain trees to prevent foreseeable harm

KNOWLEDGE OF HAZARD

Liability is contingent on the property owner having actual or constructive knowledge of the tree's hazardous condition

REASONABLE ACTIONS

Property owners must take reasonable actions address known hazards, such as pruning or removing dangerous trees or actions

MELNICK V. CSX 540 A.2D 1133 (1988)



Melnick v. CSX 540 A.2d 1133

This is the seminal case in Maryland that adopted the Massachusetts Rule in 1988.



Encroaching Vegetation

The case dealt with a landowner whose property was impacted by fallen tree branches and encroaching vines and vegetation from the adjacent property.



The Massachusetts Rule

This rule allows a landowner to cut encroaching branches, vines, and roots back to the property line as a self-help remedy.

The Melnick case established that landowners in Maryland have the right to use self-help to address encroaching vegetation from neighboring properties.

SELF-HELP RULE

1

In CSX, a landowner sued the owner of the adjacent property for damage caused by trees and vines originating falling onto his property and encroaching from the neighboring property

2

The landowner had attempted self-help by cleaning his gutter and cutting back the growth on several occasions, but the trees and vines grew back - requiring constant maintenance. The owner of the adjacent land was notified of the problem.

3

The appellate court reasoned that the remedy of "self-help" is generally the most efficient way in which to prevent injury from occurring to property due to encroaching vegetation. The highest appellate court, now known as the Maryland Supreme Court, affirmed

HENSLEY V. MONTGOMERY COUNTY



Massachusetts Rule

The Massachusetts Rule is a legal principle that governs the liability of landowners for injuries caused by trees on their property.



Hensley v. Montgomery County

This case further clarified the application of the Massachusetts Rule in Maryland, establishing that the landowner must have known or should have known about the dangerous condition of the tree.

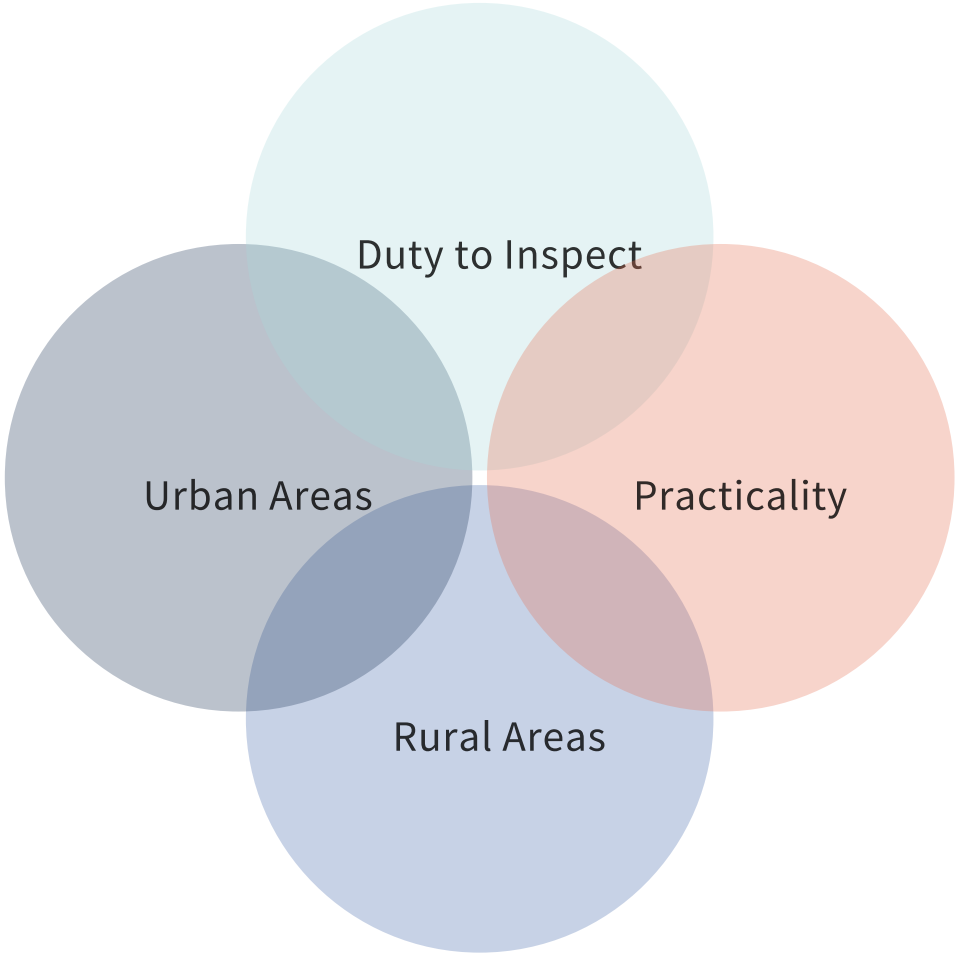


Lack of Notice

In Hensley, the evidence showed that neither the county nor the landowner had actual notice of the tree's deteriorated condition before the accident.

The Hensley v. Montgomery County case emphasizes the importance of landowners being aware of the condition of trees on their property, as they may be held liable for any resulting injuries if they fail to address known or obvious dangers.

RURAL RULE V. URBAN RULE



BOOKHULZ V. MARYLAND MIDLAND RAILWAY

688 F. Supp. 1061 (D. Md. 1988)

Bookhulz was struck by part of a dead tree while riding in an open gondola car of a train operated by Maryland Midland Railway. He sued, and the railway brought an indemnification action against the owners of the property abutting the track - where presumably the trees originated.

HOLDING - Essentially, even for decaying or dead trees, a landowner is not liable if **(1)** he has no notice of the tree's propensity for harm, and **(2)** his tree is rural or suburban/rural, as opposed to urban. Urban tree-owners are deemed to have constructive notice of dead or decayed trees, but the duty upon urban dwellers is an exception both general rule that a rural landowner does not have the duty to inspect for dangerous trees.

TYPES OF TREE CLAIMS

- Property Damage - trees falling and damaging homes, vehicles, or other property
- Bodily Harm
- Obstruction and Nuisance
- Root damage claim

POSSIBLE DEFENSES FOR LOCAL GOVERNMENTS

LACK OF NOTICE

DEMONSTRATING NO PRIOR NOTICE OF THE HAZARDOUS CONDITION

CONTRIBUTORY NEGLIGENCE

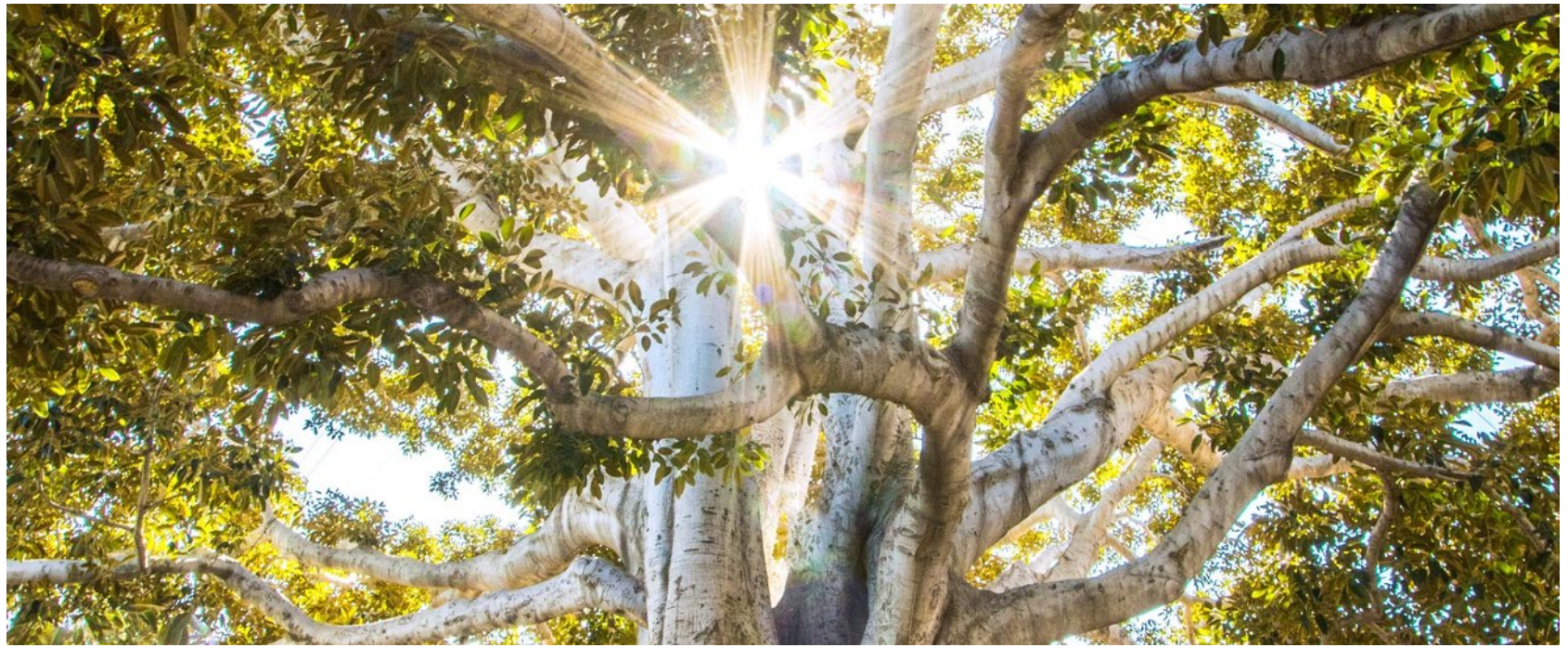
CLAIMING THE PLAINTIFF'S OWN ACTIONS CONTRIBUTED TO THE DAMAGES OR INJURY

ACT OF GOD

ARGUING THAT NATURAL EVENTS, LIKE SEVERE STORMS, CAUSED THE DAMAGE

COMPLIANCE WITH STANDARDS

SHOWING ADHERENCE TO INUSTRY STANDARDS AND MUNICIPAL POLICIES



DEFENSE STRATEGIES

DOCUMENTATION

PUBLIC AWARENESS

RISK MANAGEMENT

POTENTIAL FINANCIAL IMPACT

Direct Costs

Property damage and personal injury claims resulting from tree-related incidents.

Indirect Costs

Legal fees, increased insurance premiums, and administrative expenses associated with tree-related incidents.

Mitigation

Investing in proactive tree maintenance can reduce long-term costs by preventing costly incidents.

Property Damage

Trees falling on buildings, vehicles, or infrastructure can result in significant property damage claims.

Personal Injury

Falling trees or branches can cause serious injuries or even fatalities, leading to liability claims.

Legal Fees

Defending against liability claims and lawsuits related to tree-related incidents can incur substantial legal fees.

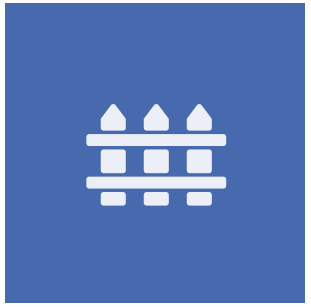
SUMMARY

Three Takeaways to Reduce and Diminish the Expenses of Tree Liability Cases



Proactive tree management

Regularly inspect and maintain trees to prevent potential hazards, promote healthy growth, and ensure the safety of the surrounding environment.



Understanding and analyzing available defenses in litigation involving trees

Evaluate legal options and strategies to protect against liability or disputes related to tree-related incidents, such as property damage or personal injury.



Balancing risk management with financial considerations

Weigh the costs of proactive tree care and legal protection against the potential financial risks and liabilities associated with tree-related issues.

By focusing on these three key areas, organizations can effectively manage the risks and challenges associated with trees, ensuring the safety and well-being of their properties and communities.