

DOCKET NO: NNHCV236133247S

SUPERIOR COURT

D'ANIELLO, KURT Et Al
V.
GREEN, JEANETTE Et AlJUDICIAL DISTRICT OF NEW HAVEN
AT NEW HAVEN

1/29/2026

ORDER

The following order is entered in the above matter:

ORDER:

JUDMGENT AFTER TRIAL

This action was tried to the court on October 2, 2025. The matter was returnable on June 27, 2023. The operative pleadings are the Complaint, filed on June 5, 2023 and the Answer filed July 24, 2023 at Entry No. 102.00.

The case involves allegations of trespass and negligence related to the extensive trimming of trees by agents of the defendants on the property of the plaintiffs on November 4, 2022.

The court finds the following facts based upon admissions in the pleadings and/or proven by a fair preponderance of the evidence at trial:

- The plaintiffs, Kurt D'Aniello and Annalisa Paltauf, at all relevant times, were the owners of 70 Chauncey Road, Hamden, Connecticut, and lived at the premises.
- The defendants, Gregory Lesperance and Jeanette Green, at all relevant times, were the owners of 1173 Main Street, Hamden, Connecticut, and lived at the premises.
- As of the time of trial, the parties continued to own and occupy the above premises.
- The defendants grew concerned about the possibility of falling tree limbs from trees located on the plaintiffs' property after a storm in October, 2022 when the defendants were occupying their home on weekends while they completed a move from another state.
- During said storm, according to defendant Lesperance, a limb fell from one of the plaintiffs' trees, causing a loud noise, the house to shake and frightening the defendants' young daughter.
- Thereafter, the defendants began to search for suitable contractors to potentially trim the trees.
- On November 2, 2022 defendant Lesperance approached plaintiff D'Aniello and asked for permission to have tree contractors enter onto plaintiffs' property and trim five (5) trees that had limbs overhanging defendants' property.
- On November 4, 2022, the contractor hired by defendants, Antonio Landscaping Services, LLC ("Antonio") came to the parties' properties and removed every branch from the five (5) subject trees and "topped" each tree and leader. ("Tree topping" is the practice of removing whole tops of trees or large branches and/or trunks from the tops of trees" Wikipedia, last searched 1/28/26. The court notes that a definition from a recognized dictionary was not found, but there was agreement on the term at trial.)

- Antonio was an agent of the defendants.
- The defendants gave instructions to Antonio.
- Antonio acted upon the instruction of the defendants or beyond the scope of the instruction of the defendants.
- After Antonio completed its work, what remained of the five (5) subject trees were the stalks of seven (7) leaders or trunks, there being two (2) trees with double leaders.
- Said stalks had no limbs remaining whatsoever, and had been topped as described above.

The defendants did not challenge liability at trial. In fact, during closing arguments, defense counsel characterized the trial as a “battle of experts” and essentially a hearing in damages. In light of the nature of the trial and counsel’s characterization, the court will not dwell on the elements of the torts alleged, and the facts proving those, but rather conclude that the defendants are liable to the plaintiffs for damage to the subject trees.

The court agrees with defendants' counsel that this matter comes down to the opinions of three expert witnesses. The plaintiff retained two (2) experts who testified, James R. White, an arborist who testified about the value of the trees and David Severino, also an arborist, who testified about the health of the subject trees. The defendants retained David Schwartz, an arborist who testified about the value of the trees.

The court found all three experts to be credible in their testimony about their findings, based upon their observations, methodology, knowledge, training and experience. Both experts who assigned values to the trees used the same method, the “trunk formula method.” This method combines objective measurements with subjective judgments. Among the subjective judgments are values assigned to the location on the property, the neighborhood and the shade potential. The fundamental disagreement between Mr. White and Mr. Schwartz concerns the viability of the trees. Mr. Schwartz discounted the value of four (4) of the five (5) trees by 50% because these are alive; he concluded the fifth had died between his visits to the property. The court does not conclude that Mr. White was untruthful in his assessment, applying his judgment, but rather concludes that the better, weightier evidence was offered by the plaintiffs, especially regarding the viability of the trees.

Mr. Severino testified that the severe pruning of the trees, combined with the topping of them, has killed one tree and rendered the remaining four (4) irreparably harmed and doomed to eventual, premature death. The court credits, in particular, Mr. Severino’s testimony opining that the trees, absent their limbs, cannot adequately feed themselves through photosynthesis. Further, Mr. Severino testified that that the numerous cuts created by topping the trees and removing all limbs results in a great number of entry points for water, fungus and insects, all which can harm the health of the trees. He testified that the trees will crack from the top down, in part due to the entry of water, snow and ice that will split the wood, pointing out existing cracks at the point of topping, visible in images entered into evidence. Mr. Severino also noted that as the sprouting branches grow they will destabilize the weakened trunks, causing further splitting and destruction. He characterized the new growth of sprouting branches as a desperate attempt by the trees to obtain energy and adequate nutrition.

The court concludes that the actions of the defendants’ agent resulted in the death of one tree and the eventual, premature death of the other four, and discounts Mr. Schwartz’s opinion that the trees retain fifty (50) percent of their value.

The court awards Mr. White’s assigned value of \$66,000 for the total loss of the trees.

General Statutes Sec. 52-560 provides in full:

“Any person who cuts, destroys or carries away any trees, timber or shrubbery, standing or lying on the land of another or on public land, except on land subject to the provisions of section 52-560a, without

license of the owner, and any person who aids therein, shall pay to the party injured five times the reasonable value of any tree intended for sale or use as a Christmas tree and three times the reasonable value of any other tree, timber or shrubbery; but, when the court is satisfied that the defendant was guilty through mistake and believed that the tree, timber or shrubbery was growing on his land, or on the land of the person for whom he cut the tree, timber or shrubbery, it shall render judgment for no more than its reasonable value.”

The court makes two observations regarding the statute. First, the “mistake” provision does not apply in this case because “mistake” is limited to location—if the person cutting the tree erroneously believed the tree was on their land or the land of the person who employed them. This issue was not raised at the trial, but the court wishes to clarify, if needed in further proceedings, that this provision does not apply here. Second, the language regarding triple damages is mandatory, not discretionary. The court is not given a choice by the legislature to impose the value of the trees, double or triple damages depending on the nature of the harm claimed. Rather, the language is that the responsible party “. . . shall pay to the party injured . . . three times the reasonable value of any other tree, timber or shrubbery”

In light of the foregoing, total damages are \$66,000 x 3 or \$198,000.

The court declines to award damages for the removal of the existing, damaged or dead subject trees because there was no reliable evidence on which to base such an award. Plaintiff Paltauf testified that she estimated a cost of \$10,000 as a lay witness; the court allowed the testimony, but said it would consider the weight. The plaintiff is not an arborist or other expert on trees and their cost. Tree removal is not an ordinary consumer item like furniture, food or appliances. The defendant’s expert estimated \$2,000 for the removal of one of the trees. The evidence was not offered by the plaintiff, and only concerned one tree.

Judgment shall enter for the plaintiffs in the amount of \$198,000.

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Judge: JAMES FIELD SPALLONE

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