

Federal Court Rules that Virginia Landlord has No Liability for Wrongful Death Where a Tree falls on Mobile Home

MCLEAN, VA, UNITED STATES, December 17, 2020 /EINPresswire.com/ -- Premises Liability – Federal Court Rules that Virginia Landlord has No Liability for Wrongful Death Where a Tree falls on Mobile Home

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In a recent Federal Court decision, a Federal District Court dismissed a wrongful death case filed against a mobile park owner when a decaying tree fell on the Plaintiff's mobile home and crushed her son to death. *Darlington v. Harbour E. Vill, LLC*, Law No 3:20 cv 157-HEH, 2020 WL 3979664 (E.D. Va. 2020)

The court ruled that even though there was evidence of prior residents in the park who had warned of decaying trees, in absence of a statutory or common law duty to maintain the safe condition of the lot, there could be no wrongful death claim. The Court found that the landlord tenant relationship, standing alone, was insufficient to confer such a duty. In this particular lease agreement, various responsibilities, including landscaping responsibilities, fell to the tenant.

The Court also clarified a prior precedent involving the [Virginia Residential Landlord and Tenant Act](#). It found that the General Assembly did not intend to abolish common law rules and make a landlord liable in tort for a tenant's injuries sustained on leased premises within the tenant's control and possession. As for Plaintiff's separate claim for intentional infliction of emotional distress, the Court found that in contractual situations, such recovery can only occur where the conduct is so outrageous and extreme in degree, as to go beyond the bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized society, citing *Russo v. White*, 241 Va. 23 (1991). □

To review Virginia law on premises liability, [click here](#). The legal term premises liability refers generally to legal liability that can result in situations where one is injured on another's property due to the property owner's failure to keep the premises safe. It could be a commercial store or someone's private residence, although private property owners may not have legal liability where one trespasses on their land uninvited. Cases can range from a slip-and-fall in a department store to an electrocution at a construction site. Property and business owners have a duty to keep their property safe for their customers and invited guests. They may also have a

duty to warn of a potentially hazardous condition, so their guests can take appropriate precautions. Property owners do not owe the same duty to trespassers, with the only duty being to avoid intentional or willful harm. *Appalachian Power Co. v. LaForce*, 214 Va. 438, 441 (1974).

If you are injured on another's property, it is important that you take immediate steps to preserve your rights. You should photograph the area in question, file an incident report and seek timely treatment for any injuries. If there is a video camera in the area, make an immediate request to preserve that evidence, preferably through your attorney, and put the facility on notice of your legal claim.

Jeffrey Downey is an experienced trial attorney who previously defended premises liability cases for insurance companies. Now he uses his 30 years of experience to benefit those filing claims against insurance companies. He practices in the states of Virginia, Maryland and the District of Columbia. If you have a question about a potential case, call our office for a free consultation.

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