

Verdict upheld in tree warden case

A Connecticut Appellate Court has upheld the jury verdict in a personal injury case dating to July 11, 2006, when a tree within a town's right-of-way toppled onto a vehicle and injured its passengers.

Mieczyslaw Wisniewski and his wife, Jolanta, were injured during a midsummer drive down one of Darien's tree-lined residential streets when a massive sugar maple fell onto their car, according to a press release from **Koskoff, Koskoff & Bieder**, who represented the Misniewskis.

The Wisniewskis' car was crushed upon impact, trapping Mieczyslaw. Bleeding and in pain, he was extracted from the vehicle by emergency responders and rushed to the hospital. As a result of the accident, Mieczyslaw sustained a broken neck, among other injuries. Jolanta was also injured.

At trial, a Superior Court jury found in favor of the plaintiffs. The defendants, the town of Darien and Michael Cotta, the town's tree warden, appealed the verdict, claiming that the lower court should have directed the verdicts in their favor as a matter of law and according to evidence.

"Clearly, the jury came to the correct conclusion based on the preponderance of evidence," said

Alinor Sterling, of Koskoff, Koskoff & Bieder, who argued the appellate case. "As Darien's tree warden, Michael Cotta had a duty to inspect and maintain the trees under his care. His office had received three prior requests for him to inspect the tree in question because the homeowner and her arborist were concerned that the tree posed a safety threat. Mr. Cotta was alerted to the hazard, but Mr. Cotta failed to act appropriately on that information and, as a result, Mieczyslaw and Jolanta were severely injured when the tree fell on them."

The owner of 35 Ring's End Road had complained on numerous occasions to the tree warden's office that town trees near her home needed attention because they were "dead" or "hollow." Three of her calls specifically concerned the tree — a 100-year-old maple on a town right-of-way — that injured the Wisniewskis, according to the attorneys' release.

The jury found that the plaintiffs had established the negligence of the defendants. Jolanta Wisniewski was awarded \$200,000, and Mieczyslaw Wisniewski was awarded \$1.5 million in damages.

As a result of his injuries, Mieczyslaw Wisniewski could not continue in his construction job

as foreman at Stamford Wrecking and had to take a lower-paying position as a night-shift security guard.

Efforts to reach First Selectman Jayme Stevenson and Darien Town Attorney John Wayne Fox were unsuccessful.

