FT. I MEMMUS LECUINES

Going out on a limb requires knowledge of tree law

copy of an article concerning this A s county attorney and as a private hattorney I have received many concerning these situations. again explain the law in Kentucky ago. I thought it may be helpful to topic that was run a couple of years received several calls asking for a neighbor's property. Recently I have grow or hang over from an adjoining problems with trees or bushes that bor concerning damages from or calls through the years by one neigh-

tucky has adopted what is known as tucky Court of Appeals in 1985, Kenwhat is known as the "California imposes very limited liability versus County that was decided by the Kening property owners. This rule the "Massachusetts' Rule" governing problems with trees between adjoin-By a case arising out of Kenton



JUSTIN WERST

where the tree is bility upon the Kentucky, a proper-"Massachusetts" growing. owner of the land Rule" as adopted in Under

and roots over and into the adjoining CAMPBELL ATTORNEY COUNTY liable for, and is not required to remove, ty owner is not extensions of limbs

over onto another's property. owner should be able to grow all the regardless of how much they extend trees he wants on his own property behind the rule is that a property property of others. The theory

erty owners trees were hanging over own property. For example, if a propcut off intruding limbs or roots on his way, then you would be permitted to cut the roots and the limbs back to were buckling your sidewalk or drivethe trees, the neighbor has the right to the property line if necessary. problems or the roots from the tree your driveway or your house causing

However, although the neighbor of nuisance requesting that the could also file a lawsuit on the theory the dead or damaged tree. And you negligence against the adjoining line, but you could also file a suit for dead or damaged tree to the property tree that is likely to fall and cause are dealing with a dead or damaged property owner for injuries caused by injury. You could still cut back the However, the law is different if we

Rule" which impos- cannot force the owner to cut back adjoining property owner be required to remove the dead or damaged portions of the tree.

of a large portion of the total tree to neighbor to remove a portion of a that it would be futile to require the dead and dangerous tree back to the in the law as to alive or dead trees is property line while leaving the hazard

together to eliminate the problems. consent, I would certainly suggest contacting the neighbor, explaining your property without the neighbor's neighbor's tree that extend over onto trim back the limbs and roots from a explained above, you have the right to the problems and trying to worl Although under Kentucky law as

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remain in a threatening position. The theory behind the difference

jdvcca@tuse.net

RECORDER

FORT THOMAS RECORDER . A9



Landowners have rights and responsibilities tree limbs and back the trees, the neighbor move the dead or damaged

explain the law in Kentucky adjoining neighbor's property cerning problems with trees. especially given the effects concerning these situations grow or hang over from an years by one neighbor conour trees. bushes or other vegetation that ceived many calls through the tions this past winter had on the extreme weather condithought it may be helpful to As an attorney, I have re-

ing problems with trees beadopted what is known as the "Massachusetts' Rule" governtween adjoining property own In 1985, Kentucky has

Simply, a property owner is

COLUMNIST RECORDER GUEST COMMUNITY

and into the

not liable to a neighbor for

property from extend into the a tree that is neighbor's roots that alive. Moreover,

Franzen Steven J.

and roots that extend over remove limbs not required to the owner is

wants on his own property be able to grow all the trees he that a property owner should adjoining property of others. The theory behind the rule is

not force the owner to cut without repercussion Although the neighbor cantree is dead and likely to fall ty owner be required to requesting the adjoining proper and cause injury, a neighbor ages caused by your actions. can file a nuisance suit re-On the other hand, if the

ing limbs or roots on his own way, then you would be perroots from the tree were buck over your driveway or your property. For example, if a ceed past the property line, mitted to cut the roots and the house causing problems or the neighbor's trees were hanging has the right to cut off intrud you can be liable for civil dam line. Nevertheless, if you exlimbs back to the property ling your sidewalk or driveory behind this is that it would portions of the tree. The theof a large portion of the total ready fallen, you can also file position. If the tree has alline while leaving the hazard dead tree back to the property be futile to require the neighsuit for the damages caused by tree to remain in a threatening oor to remove a portion of a the fallen tree.

starting point to resolving a problem would be contacting together to eliminate the prob problems and trying to work the neighbor, explaining the In most cases, the best

sues involved including for There may be several is-

> property line is actually located or if the property is owned example where exactly the by the government. If in doubt assist and advise you with or an issue arises, it is always being developed. best to consult an attorney to your specific problem because the law in this area is still

interesting and helpful. If you nave any topics you would like phone at 491-7700 or by reg campbellcoatty@gmail.com, by tact my office by e-mail at to have covered, please con-York Street, Newport, KK ular mail addressed to 319 I hope this information is

Steven J. Franzen is Campbell County Attorney

Rights of adjoining landowners

Last week I did an article dealing with burning and the requirements and legal issues. Since tree trimming and brush clearing go hand in hand with the spring clean up which we all so look for ward to, I thought this week we could talk about some issues of tree trimming and tree maintenance.

As a private attorney, I have received calls through the years by one neighbor concerning damages from or problems with trees or bushes that grow or hang over from an adjoining neighbor's

property.

With the season upon us and with prior issues having been raised, I thought it may be helpful to again explain the law in Kentucky concerning these situations.

By a case arising out of Kenton County that was decided by the Kentucky Court of Appeals in 1985, Kentucky has adopted what is known as the "Massachusetts' Rule" governing problems with trees between adjoining property owners.

This rule imposes very limited

liability versus what is known as the "California Rule" which imposes much more liability upon the owner of the land where the

tree is growing. Under the "Massachusetts' Rule" as adopted in Kentucky, a property owner is not liable for, and is not required to remove extensions of limbs and roots over and into the adjoining property of others.

The theory behind the rule is that a property owner should be able to grow all the trees he wants on his own property regardless of how much they extend over onto another's property.

However, although the neighbor cannot force the owner to cut back the trees, the neighbor has the right to cut off intruding limbs



vanico A.

njury. You could still Daley cut back the dead Community or damaged tree to the property line, but you guest could also file a columnist suit for negligence

to fall and cause

or roots on his

The law is different if we are dealing with a dead or damaged tree that is likely

own property.

against adjoining property owner for injuries caused by the dead or damaged tree and you could also file a law suit on the theory of nuisance requesting that the adjoining property owner be required to remove the dead or damaged portions of the tree.

The theory behind the difference in the law as to alive or dead trees is that it would be futile to require the neighbor to remove a portion of a dead and dangerous tree back to the property line while leaving the hazard of a large portion of the total tree to remain in a threatening position.

Although under Kentucky law as explained above, you have the right to trim back the limbs and roots from a neighbor's tree that extend over onto your property without the neighbor's consent, I would certainly suggest contacting the neighbor, explaining the problems and trying to work

together. If you have any topics you would like to have covered in this column, please mail to me at 331 York Street, Newport, Kentucky 41071 or fax to me at 491-5932

or e-mail jadcca@fuse.net.

James A. Daley is the Campbell County Attorney.