

Limb falls, man is hurt – landlord pays

Property owner ignored warnings that damaged tree posed a danger, testimony shows

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A Berkeley County man who was severely injured when a tree limb crashed through the roof of his trailer has reached a nearly \$1 million settlement with the owner of the mobile home park where he was living.

Franklin J. Dangerfield had just stepped out of the shower on July 28, 2008, when a large limb fell from a pine tree above his trailer. Rescuers found a critically injured Dangerfield, then 22, trapped beneath the collapsed rafters of his trailer in the Pine Ridge Mobile Home Park, according to a report from *The Post and Courier* newspaper in Charleston.

Dangerfield was in a coma for nine days and stayed in the hospital for a month after the incident. He also underwent a month of outpatient physical therapy and speech therapy, according to his attorneys, Benjamin W. Akery of The Steinberg Law Firm in Goose Creek and Howard W. Taylor of the Law Offices of J. Van Wyck Taylor in Charleston.

Dangerfield's personal injury suit alleged that the owner of the mobile home park knew that the pine tree above Dangerfield's trailer had been damaged during previous storms and was an accident waiting to happen. The settlement agreement called for keeping the owner's name confidential, but the Berkeley County Court of Common Pleas docket identifies him as L.A. Driggers.

Driggers' attorney, Michael A. Timbes of Thurmond Kirchner Timbes & Yelverton in Charleston, did not respond to phone messages seeking comment.

According to Akery and Taylor, Driggers denied having any knowledge about the tree being damaged, even



Franklin Dangerfield's home after the storm: Mobile home park's owner had been warned that damaged tree posed a danger to the homes below. *Submitted photo*

though it had a large lightning scar extending up its trunk. But Akery and Taylor were able to find two former park managers who testified that they had warned Driggers about the tree being a hazard. One of the former managers gave her deposition from her deathbed in Tennessee.

"She was important," Akery said. "For the landlord to be held responsible for a tenant's injury under South Carolina's residential landlord-tenant act, he has to know about a dangerous condition at the property and fail to do something about it."

Akery and Taylor also brought in a neuropsychologist, Dr. L. Randolph Waid

of Mount Pleasant, and an economist, Dr. Oliver G. Wood Jr. of Columbia, to testify about Dangerfield's brain injuries and his total financial losses. Dangerfield had been a construction worker before the incident but was unable to return to work afterward. He continues to experience short-term memory problems, Akery said.

Both sides hired forensic meteorologists who tried to reconstruct the weather on the day the limb fell through Dangerfield's trailer. Driggers' expert said there was a powerful storm with strong winds in the area, while

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Dangerfield's expert agreed that a thunderstorm had passed through the area but said the winds were of average strength, Taylor said.

"None of these experts got to inspect the tree before the limb fell, so nobody could really say why the limb fell," he said. "It could have been a tornado that came through. But had the landlord complied with his duty, then the tree would have been taken care of and the weather would have never mattered at all."

That assertion was bolstered by an arborist who testified for Akery and Taylor that, based on photos of the reported pre-existing trunk damage, he would have cut down the tree because it was dangerous.

Driggers initially refused to negotiate with Dangerfield, but during the early stages of litigation he made an offer of judgment for \$225,000, Akery and Taylor said. They wanted to settle for the \$1 million policy limit on Driggers' insurance. Dr. Woods, the economist, had estimated that Dangerfield's medical costs and lost income totaled nearly \$1.5 million.

During mediation, Akery and Taylor told Driggers that they would go after his personal assets if the case went to trial and a jury awarded Dangerfield a verdict in excess of the insurance coverage on the mobile home park.

"We kind of hammered on that during mediation," Akery said, "and I think it helped."

Driggers and Dangerfield agreed to settle the case for \$895,000 on May 24. They finalized the settlement on Oct. 3.



Falling limb put Franklin Dangerfield in the hospital for a month. *Submitted photo*

Settlement Report

Type of action: Personal injury, negligence and violation of the residential landlord-tenant act

Injuries alleged: Traumatic brain injury, upper extremity and lower extremity orthopedic injuries

Case name: *Franklin J. Dangerfield v. L.A. Driggers*

Case number: 09-CP-08-3730

Court: Berkeley County Court of Common Pleas

Judge: N/A

Verdict or settlement: Settlement

Date: Mediation agreement May 24; settlement finalized Oct. 3

Amount: \$895,000

Demand: \$1 million (policy limit)

Insurer: Confidential

Most helpful experts: Dr. L. Randolph Waid, neuropsychiatrist (Mt. Pleasant); Dr. Oliver G. Wood Jr., economist (Columbia)

Plaintiff's attorney: Howard W. Taylor (North Charleston); Benjamin W. Akery (Goose Creek)

Defendant's attorneys: Michael Timbes (Charleston)



Taylor



Akery