JOYCE LOVE : NUMBER: 561,041-B

VERSUS : FIRST JUDICIAL DISTRICT COURT

GEORGE MARCUS SHIPLEY

AND JEAN SHIPLEY : CADDO PARISH, LOUISIANA

 **REASONS FOR JUDGMENT**

Trial was held June 19, 2013. The Court heard testimony from Richard Love, Joyce Love, Helen Graham and George Marcus Shipley and received into evidence exhibits, specifically conveyance records evidencing current ownership and photographs reflecting the tree at issue. In addition, the undersigned judge has viewed the premises of 2715 – 2719 Murray, Shreveport, Caddo Parish, Louisiana For reasons that follow, the Court concludes that the plaintiff, Joyce Love, has proven her case by a preponderance of the evidence as to the defendants, George Marcus Shipley and Jean Shipley.

The Shipleys and Joyce Love own adjacent properties – the Shipleys at 2719 Murray Street and Ms. Love (a co-owner) at 2715 Murray Street. The Shipleys own a large hardwood tree, located in close proximity to the property line, which extends over a significant portion of Ms. Love’s home. Both Ms. Love and her son, Richard Love, testified that the tree regularly shed leaves, branches, and debris – some of which land on Ms. Love’s roof and in her gutters – and that shedding is exacerbated by bad weather. Ms. Love lives in her home with her son, Richard, who previously suffered a heart attack making roof and gutter clean-up challenging, if not impossible. Both Ms. Love and her son testified that the tree situation, as described above, interferes with their enjoyment of the property as they like to regularly have social gatherings which necessitate the clean-up from the tree and they have some level of apprehension regarding safety. Mr. Shipley testified of his concerns that if the branches overhanging Ms. Love’s property are cut that such act would create an imbalance which might be deleterious to the tree. He also spoke of a prior tree which he cut at Ms. Love’s request leading the Court to the inference of a developing pattern and that Ms. Love is possibly a difficult neighbor.

The applicable law is Louisiana Civil Code Article 668 which provides as follows:

LSA-C.C. Art. 688

Art. 688. Branches or roots of trees, bushes or plants on neighboring property

A landowner has the right to demand that the branches or roots of a neighbor’s trees, bushes, or plants, that extend over or into his property be trimmed at the expense of the neighbor.

A landowner does not have the right if the roots or branches do not interfere with the enjoyment of his property.

 The Court concludes from the evidence the several large branches of Mr. Shipley’s hardwood tree do in fact interfere with Ms. Love’s enjoyment of her property, as envisioned by Article 688. Accordingly it will be the order of the Court that within 60 days Mr. and Mrs. Shipley shall have the overhanging branches of their hardwood tree cut back at least to the property line and in suitable appearance. All court costs are assessed against the Shipleys.

Counsel shall submit a formal Judgment on or before July 8, 2013 consistent with this ruling and in accordance with La. D. Ct. R. 9.5.

Signed this 27th day of June, 2013, in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

Lee Aronson, Counsel for Joyce Love

David Turansky, Counsel for George Marcus Shipley and Jean Shipley