

**MISSOURI COURT OF APPEALS**  
Western District

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**DANNY M RAYMOND AND VICKI RAYMOND, APPELLANTS,**  
v.  
**DAVID YOUNG AND RHONDA YOUNG, AND NEMO CONSTRUCTION, INC.,**  
**RESPONDENTS.**

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WD69176

DATE: December 9, 2008

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Appeal From:

Andrew County Circuit Court  
The Honorable Daniel Fred Kellogg, Judge

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Appellate Judges:

Joseph M. Ellis, Presiding Judge, Ronald R. Holliger, Judge, and Joseph P. Dandurand, Judge

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Attorneys:

Steven E. Raymond, Shelbyville, MO, for appellant.  
Mark Douglas Chuning, Kansas City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

DANNY M. RAYMOND and  
VICKI RAYMOND, Appellants,

v

DAVID YOUNG and RHONDA YOUNG, and  
NEMO CONSTRUCTION, INC., Respondents.

No. WD69176

Andrew County

During the construction of a new bridge adjacent to Danny and Vicki Raymond's land David Young removed trees on the Raymond's property that was not in the right of way for the bridge. The Raymonds sued Young and his company, Nemo Construction, for statutory trespass. The trial court found against Young and Nemo Construction for trespass and awarded actual damages. However, the trial court found that defendants had a reasonable or good faith belief that they had the right to remove the trees from the Raymonds's property, and denied treble damages. The Raymonds appeal the denial of treble damages.

REVERSED AND REMANDED.

Division Three holds:

The trial court erred when it did not award treble damages for the statutory trespass. To avoid treble damages the defendant must show that he had a reasonable belief that he had a right to remove the trees from another's land. Young presented no evidence suggesting that he had a reasonable belief that he had a right to remove the trees. Young is incorrect that the Raymonds cannot complain that he presented no evidence because of an objection they made at trial, because no answer to the question could in any way suggest that Young had the required reasonable belief. Young made no attempt to present any evidence in this regard, so the trial court's denial of treble damages was incorrect.

Opinion by: Ronald R. Holliger, Judge

Date: December 9, 2008

Before: Joseph M. Ellis, Presiding Judge, Ronald R. Holliger, Judge, Joseph P. Dandurand,  
Judge

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