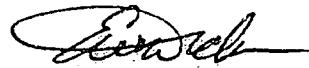




hazard caused by its condition. This is true even considering that the Court is required to liberally construe the SC Tort Claims Act as a whole, where possible, to limit the liability of the State. SC Code Section 15-28-20-(f).

By denying the Motion for Summary Judgment, the Court is not subjecting SCDOT to strict liability for merely failing to keep its roadways free from debris or hazards, but the Court is simply finding that a genuine issue of material fact exists as to whether SCDOT had constructive notice of this tree and the hazard it caused and therefore failed to meet its duty by protecting the highway from the hazard caused by this tree. Defendant SCDOT cited SC Code Section 15-78-60(10) in its argument as excluding SCDOT for liability; however, the Court notes that this exclusion of liability is not applicable if the defect is not corrected "within a reasonable time after actual or constructive notice of the defect or condition." SC Code Section 15-78-60(10). There exists a genuine issue as to SCDOT's notice, specifically any constructive notice, of the tree and the hazardous condition that it presented. Therefore, SCDOT is not entitled to Summary Judgment. Marsh v. SCDOT, 298 SC 420, 422, 380 SE2d 867 (Ct. App. 1989).

For the foregoing reasons, Defendant SCDOT's Motion for Summary Judgment is denied.



Honorable Edgar Dickson  
Circuit Court Judge

Orangery, SC  
August 30, 2013