SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 6D2025-2288
Lower Tribunal No. 2022-CA-003712

RICHARD VAUGHAN,

Appellant,

v.

USMI PROPERTIES FIVE, LLC,

Appellee.

Appeal from the Circuit Court for Polk County.
Michael P. McDaniel, Judge.

November 6, 2026

MIZE, J.

Appellant, Richard Vaughan ("Vaughan"), appeals from a final judgment entered in favor of Appellee, USMI Properties Five, LLC ("USMI"), following the trial court granting USMI's motion for judgment on the pleadings. Vaughan brought a claim against USMI for negligence after a decayed tree located on USMI's property fell over and landed on Vaughan's house, causing significant damage. The trial court granted USMI's motion for judgment on the pleadings based on its conclusion that USMI did not owe Vaughan any legal duty to prevent

the decayed tree on USMI's property from causing harm on Vaughan's property. Because the trial court erred in concluding that USMI owed no legal duty to Vaughan when USMI was aware of the decayed condition of the tree, we reverse the final judgment and the trial court's order granting the motion for judgment on the pleadings.

Background and Procedural History

Vaughan's complaint filed in the trial court alleged that Vaughan and USMI own adjacent properties that share a boundary line. In 2022, a large, rotten oak tree on USMI's property fell over and onto Vaughan's house, causing significant damage. The complaint alleges that USMI "knew that the tree was rotten for years prior to the tree falling into [Vaughan's] property" and that the tenant that resides at USMI's property in fact complained to USMI several times about falling limbs before the tree ultimately fell on Vaughan's house. Vaughan's house was in a location at which it was reasonably foreseeable to USMI that the house could be damaged by the rotten tree. Vaughan alleged that, based on those allegations, USMI owed a legal duty to Vaughan and that USMI breached that duty by failing to remove the tree, thereby causing Vaughan to suffer damages to his home and his home-based business.

In his complaint, Vaughan asserted a claim against USMI for negligence.[1] After filing its answer, USMI filed a motion for judgment on the pleadings. In the motion, USMI argued that, based on the allegations of the complaint, even if the rotten tree created a foreseeable zone of risk, USMI did not owe a legal duty to Vaughan to prevent the tree from causing harm on Vaughan's property. Specifically, USMI argued that Florida had adopted a categorical rule mandating that an owner of land is not liable when a tree on his land causes harm on adjacent property, even when the tree is diseased, the owner has knowledge that the tree is diseased, and it is reasonably foreseeable that the tree will cause harm on an adjacent property. For this purported rule, USMI cited *Gallo v. Heller*, 512 So. 2d 215 (Fla. 3d DCA 1987), and *Scott v. McCarty*, 41 So. 3d 989 (Fla. 4th DCA 2010). USMI argued that these cases provide a special exception to the normal rule of foreseeability for determining whether a defendant owes a legal duty to a plaintiff.

In response, Vaughan argued that under Florida's negligence jurisprudence, where a landowner has actual knowledge that a tree on his property is diseased, the landowner has a duty to exercise reasonable care to prevent the diseased tree from causing harm to adjoining property owners. Vaughan further argued that *Gallo*

[1] Vaughan also asserted a claim for "negligence per se" based on USMI's alleged violation of a statute. The trial court granted summary judgment on the "negligence per se" claim and Vaughan does not appeal that ruling.

and *Scott* only adopted a rule by which landowners could not be held liable when the limbs or vegetation of *healthy* trees grow onto or over a neighbor's property, and that these cases had no applicability to a diseased tree where it is reasonably foreseeable that the tree will cause harm on a neighbor's property.

After a hearing, the trial court entered an order adopting the position of USMI and granting the motion for judgment on the pleadings. Vaughan moved for reconsideration, which the trial court summarily denied. The trial court then entered final judgment in favor of USMI, and this appeal followed.

Analysis

On appeal, the parties make the same arguments to us that they made to the trial court. As explained below, we disagree with the trial court that *Gallo* and *Scott* carved out an exception to Florida's negligence law and created a categorical rule that an owner of land is not liable when a tree on his land causes harm on adjacent property, even when the tree is diseased, the owner has knowledge that the tree is diseased, and it is reasonably foreseeable that the tree will cause harm on an adjacent property. Instead, as Vaughan argues, *Gallo* and *Scott* merely adopted the so-called "Massachusetts rule," which provides that landowners are not liable when the limbs or vegetation of healthy trees grow onto or over a neighbor's property. Because the Massachusetts rule adopted by *Gallo* and *Scott* is not applicable to the facts of this case and does not support the trial court's decision to

grant the motion for judgment on the pleadings, we need not and do not decide whether we agree with our sister courts that Florida law recognizes the rule. Rather, we only decide that: (1) the common law of negligence as applied in Florida imposed a duty on USMI to exercise reasonable care to prevent the tree that it (as alleged in the complaint) knew was rotten from causing harm on adjacent properties such as Vaughan's; and (2) with there being no "exception" that negates this duty, the trial court erred in granting the motion for judgment on the pleadings on the ground that USMI owed no duty to Vaughan.

I. Standard of Review

The standard of review for an order granting a motion for judgment on the pleadings is de novo. *Henao v. Pro. Shoe Repair, Inc.*, 929 So. 2d 723, 725 (Fla. 5th DCA 2006). "A motion for judgment on the pleadings is governed by the same legal test as a motion to dismiss for failure to state a cause of action." *Id*. Thus, "a motion for judgment on the pleadings must be determined only on the pleadings and without the aid of outside matters such as affidavits, depositions or other showings of fact." *Salazar v. Ortiz*, 431 So. 3d 566, 570 (Fla. 6th DCA 2026) (quoting *Turner v. Turner*, 599 So. 2d 765, 766 (Fla. 5th DCA 1992)). Further, "[w]here a defendant moves for judgment on the pleadings, a court must take as true all of the material allegations in the plaintiff's complaint and must disregard all of the denials in the defendant's answer." *Talcott Resol. Life Ins. Co. v.*

Novation Cap. LLC, 261 So. 3d 580, 584 (Fla. 4th DCA 2018) (quoting *Miller v. Finizio & Finizio, P.A.*, 226 So. 3d 979, 982 (Fla. 4th DCA 2017) (emphasis removed)). A judgment on the pleadings should be granted "only if the pleadings establish that the movant is entitled to judgment as a matter of law." *Perez Escalona v. City of Miami Beach*, 227 So. 3d 722, 724 (Fla. 3d DCA 2017).

II. Negligence and the Element of Duty

To state a claim for negligence, a plaintiff must allege ultimate facts which establish that: (1) the defendant owed a legal duty to the plaintiff; (2) the defendant breached that duty; (3) the plaintiff was injured as a result of the defendant's breach of duty; and (4) the injury caused the plaintiff damages. *Jackson v. Sweat*, 783 So. 2d 1207, 1207 (Fla. 1st DCA 2001); *Graulau Maldonado v. Orange Cnty. Pub. Libr. Sys.*, 273 So. 3d 278, 279-80 (Fla. 5th DCA 2019).

Whether a duty exists in a negligence case is a matter of law to be decided by the court, not a jury. *Sierra Orlando Props., Ltd. v. Allen*, 419 So. 3d 283, 286 (Fla. 6th DCA 2025) (citing *McCain v. Fla. Power Corp.*, 593 So. 2d 500, 504 (Fla. 1992)). The standard for determining when a defendant owes a common law duty to a plaintiff was set forth by the Florida Supreme Court in *McCain*. 593 So. 2d at 503. In *McCain*, the Court held that "a legal duty will arise whenever a human endeavor creates a generalized and foreseeable risk of harming others." *Id*. "The *McCain* court described 'reasonable, general foresight' as the core of the duty

element and instructed that the focus is 'whether the defendant's conduct foreseeably created a broader "zone of risk" that poses a general threat of harm to others.'" *Sierra Orlando Props.*, 419 So. 3d at 286 (quoting *McCain*, 593 So. 2d at 503). "[T]he zone of risk created by a defendant defines the scope of the defendant's legal duty and the scope of the zone of risk is in turn determined by the foreseeability of a risk of harm to others." *Id.* (quoting *Smith v. Fla. Power & Light Co.*, 857 So. 2d 224, 229 (Fla. 2d DCA 2003)). "[T]he duty then placed upon the defendant is to either lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk poses." *Id*.; *see also McCain*, 593 So. 2d at 503 ("Where a defendant's conduct creates a foreseeable zone of risk, the law generally will recognize a duty placed upon defendant either to lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk poses." (quoting *Kaisner v. Kolb*, 543 So. 2d 732, 735 (Fla. 1989))); *Williams v. Davis*, 974 So. 2d 1052, 1056 (Fla. 2007) ("[W]here a person's conduct is such that it creates a 'foreseeable zone of risk' posing a general threat of harm to others, a legal duty will ordinarily be recognized to ensure that the underlying threatening conduct is carried out reasonably."). The *McCain* standard has been applied "to a countless variety of factual circumstances in order to determine the existence of a duty under our negligence law," including numerous cases concerning whether landowners owed a duty arising from conditions on their property that created a

risk to persons or property outside their property.[2] *Williams*, 974 So. 2d at 1056-57, 1057-60 (discussing cases where the *McCain* standard was applied in such cases); *see also Hardin v. Jacksonville Terminal Co.*, 175 So. 226, 228 (Fla. 1937) ("[T]here is no liability on the part of a landowner to persons injured outside his lands . . . , unless the owner has done or permitted something to occur on his lands which he realizes or should realize involves an unreasonable risk of harm to others outside his land, and therefore imposes on him, as an owner or possessor of the land, the duty of abating or obviating the use or condition from which the risk is encountered.").

In this case, USMI does not dispute that knowingly maintaining a large rotten oak tree on its property foreseeably created a zone of risk of harm to its neighbors, and it is obvious that it did so. Thus, under the *McCain* standard, Vaughan's complaint adequately alleged that USMI owed a common law duty to Vaughan to exercise reasonable care to prevent the rotten tree from causing harm on Vaughan's property. Having not disputed that the *McCain* standard is satisfied

[2] In line with our sister courts, we find *McCain*'s articulation of the standard by which to determine whether a legal duty exists in a negligence case to be a holding that is generally applicable to common law negligence actions in Florida, as the Florida Supreme Court decided the proper standard to resolve the issue of when a duty is owed in a negligence action and then applied that standard on a chosen decisional path that led from the facts of the case to the judgment, thereby making the standard a holding applicable to the cause of action of common law negligence. *See Crecelius v. Rizzitano*, 430 So. 3d 268, 286-87 (Fla. 6th DCA 2026) (Gannam, J., concurring).

by Vaughan's complaint, USMI's sole argument is that the rule recognized in *Gallo* and *Scott* created an exception to the *McCain* standard in the form of a categorical rule that an owner of land is not liable when a tree on his land causes harm on adjacent property, even when the tree is diseased, the owner has knowledge that the tree is diseased, and it is reasonably foreseeable that the tree will cause harm on an adjacent property. Thus, we turn to the supposed exception.

III. The Massachusetts rule and alternative rules recognized by other states.

In beginning our discussion of the Massachusetts rule, we note that both parties to this appeal addressed the rule in their briefing by doing what we have repeatedly cautioned litigants not to do – both parties assumed that we would follow our sister courts' decisions recognizing the Massachusetts rule without addressing whether our sister courts' decisions were correct. The parties argue over the correct scope of the Massachusetts rule and whether it applies to this case, but neither party addressed whether Florida law in fact recognizes the Massachusetts rule, "despite our repeated statements that we will only follow the decisions of our sister courts when those decisions are correct." *Ruffenach v. Deutsche Bank Nat'l Tr. Co. as Tr. for Ameriquest Mortg. Sec. Inc., Asset-Backed Pass-Through Certificates Series 2005-R8*, 431 So. 3d 1055, 1072 (Fla. 6th DCA 2026) (Mize, J., concurring) (collecting cases in which the Sixth District has stated that it will only follow the decisions of our sister courts when those decisions are

correct). Litigants should take this opinion as yet another cautionary statement that parties cannot assume we will follow decisions of our sister courts with no examination of whether those decisions are correct. *See Pardo v. State*, 596 So. 2d 665, 667 (Fla. 1992) ("[A]s between District Courts of Appeal, a sister district's opinion is merely persuasive.") (quoting *State v. Hayes*, 333 So. 2d 51, 53 (Fla. 4th DCA 1976)).

As to the scope of the Massachusetts rule, Vaughan is correct that the rule simply does not encompass diseased trees. In our own review of jurisprudence throughout the United States, we have found numerous special rules various states have adopted governing a landowner's liability to adjacent property owners for harm or encroachments caused by trees on the landowner's property. There are at least five such rules: the Massachusetts rule, the Virginia rule, the Hawaii rule, the Pennsylvania rule, and the Restatement rule. *See Michalson v. Nutting*, 175 N.E. 490, 491 (Mass. 1931) (recognizing the Massachusetts rule in Massachusetts); *Hasapopoulos v. Murphy*, 689 S.W.2d 118, 119-21 (Mo. Ct. App. 1985) (discussing the Restatement rule and then adopting the Massachusetts rule); *Lane v. W.J. Curry & Sons*, 92 S.W.3d 355, 356-64 (Tenn. 2002) (discussing the Restatement rule, the Virginia rule, the Hawaii rule, and the Pennsylvania rule before adopting the Hawaii rule); *Jones v. Wagner*, 624 A.2d 166, 171 (Pa. 1993) (adopting the Pennsylvania rule); *Melnick v. C.S.X. Corp.*, 540 A.2d 1133, 1136-38

(Md. 1988) (discussing the Restatement rule, the Virginia rule, and the Hawaii rule before adopting the Massachusetts rule). Without going into unnecessary detail, the rules vary in what liability they impose (or do not impose) depending on various factors. For example, under the Restatement rule, liability turns on whether the tree is natural to the land or artificial in the sense of having been planted or influenced by human activity in some way. *Lane*, 92 S.W.3d at 361-62; *Melnick*, 540 A.2d at 1136. Under the Virginia rule, liability depends on whether a tree is "noxious" and causes actual harm to an adjoining property. *Lane*, 92 S.W.3d at 362; *Melnick*, 540 A.2d at 1137. Under the Hawaii rule, liability turns on whether the tree causes actual harm or poses an imminent danger of actual harm to adjoining property other than casting shade or dropping leaves, flowers or fruit. *Lane*, 92 S.W.3d at 362-63; *Melnick*, 540 A.2d at 1137. Under the Pennsylvania rule, it appears that a landowner bears liability for any encroachment by a tree on his property onto an adjoining property, even in the absence of any actual harm to the adjoining property. *Lane*, 92 S.W.3d at 363 (citing *Jones*, 624 A.2d at 171).

The Massachusetts rule originated in *Michalson v. Nutting*. In *Michalson*, the plaintiff alleged that the roots from a tree on the defendant's property had penetrated the plaintiff's land and caused damage to plaintiff's house, including damaging the foundation and the sewer and drain pipes. 175 N.E. at 490. The plaintiff sought injunctive relief and damages. *Id*. Despite the trial judge finding

that the facts were just as the plaintiff alleged, he found the defendant was not liable for any damage caused by the defendant's tree to the plaintiff's property, nor was the defendant required to remove the roots from the plaintiff's property. *Id*.

On appeal, the appellate court affirmed the trial court's ruling, reasoning that an owner of a property is entitled to grow trees anywhere on his property, and the growth of trees naturally will result in the extension of branches and roots over and into adjoining properties. *Id*. "It would be intolerable to give an action in the case of an innoxious tree whenever its growing branches extend so far as to pass beyond the boundary line and overhang a neighbor's soil. It would be equally intolerable where roots penetrate the neighbor's soil." *Id*. (quoting *Countryman v. Lighthill*, 24 Hun 405, 407 (N.Y. 1881) (internal quotations omitted)). While the plaintiff had no cause of action, he was not without a remedy. *Id*. The court stated that property owners such as the plaintiff are entitled to engage in self-help and cut off any branches or roots that grow over or into their property from a tree on an adjoining property. *Id*. at 490-91. The court concluded that:

> The common sense of the common law has recognized that it is wiser to leave the individual to protect himself, if harm results to him from this exercise of another's right to use his property in a reasonable way, than to subject that other to the annoyance, and the public to the burden, of actions at law, which would be likely to be innumerable and, in many instances, purely vexatious.

Id. at 491.

Michalson involved a healthy tree, and the court's stated reasoning was expressly limited to healthy, or "innoxious," trees and relied on a landowner's right to use his property in a "reasonable way" to grow healthy trees. Thus, the holding of *Michalson* – the Massachusetts rule – is that a landowner cannot be held liable when the branches or roots of a healthy tree on the landowner's property encroach over or onto an adjoining property. *See Crecelius*, 430 So. 3d at 274 ("The holding of a case consists of those propositions along the chosen decisional path or paths of reasoning that (1) are actually decided, (2) are based upon the facts of the case, and (3) lead to the judgment." (quoting *Pedroza v. State*, 291 So. 3d 541, 547 (Fla. 2020) (internal quotations omitted))).

Numerous courts that have adopted the Massachusetts rule have made clear that it applies only to healthy trees.[3] *See, e.g.*, *Hasapopoulos*, 689 S.W.2d at 121;

[3] Multiple courts have also noted that a plaintiff asserting a claim based on an allegation that a diseased or decayed tree on the defendant's property caused harm on the plaintiff's adjoining property must establish that the defendant knew or should have known that the tree was diseased or decayed. *Pesaturo v. Kinne*, 20 A.3d 284, 289 (N.H. 2011) ("[A] landowner who knows or should know that his tree is decayed or defective has a duty to maintain the tree to eliminate this dangerous condition. . . . [T]he manifestation of the tree's decay must be readily observable in order to require a landowner to take reasonable steps to prevent harm." (quoting *Ivancic v. Olmstead*, 488 N.E.2d 72, 74 (N.Y. 1985) (internal quotations, alterations omitted))); *Klein v. Weaver*, 593 S.E.2d 913, 914 (Ga. Ct. App. 2004) ("In regard to liability for a defective tree the ordinary rules of negligence apply. The owner of a tree is liable for injuries from a falling tree only if he knew or reasonably should have known the tree was diseased, decayed or otherwise constituted a dangerous condition." (quoting *Willis v. Maloof*, 361 S.E.2d 512, 513 (Ga. Ct. App. 1987))); *Meyers v. Delaney*, 529 N.W.2d 288, 290

Ivancic v. Olmstead, 488 N.E.2d 72, 73 (N.Y. 1985) ("[I]t is established that no liability attaches to a landowner whose tree falls outside of his premises and injures another *unless there exists actual or constructive knowledge of the defective condition of the tree*." (emphasis added)); *Schwalbach v. Forest Lawn Mem'l Park*, 687 S.W.2d 551, 552 (Ky. Ct. App. 1985) (adopting the Massachusetts rule and stating that "We are not confronted with a dead tree which is likely to fall and cause serious injury. A claim for damages or removal of such a tree might be based on the theory of negligence . . . .").

And indeed, the Florida cases that adopted the Massachusetts rule and on which USMI relies, *Gallo* and *Scott*, both involved healthy trees and articulated the rule as applying to healthy trees. In *Gallo*, the plaintiff alleged that the branches and roots from a tree on the defendant's property caused the plaintiff's driveway and walkway to crack, damaged the plaintiff's roof, and dropped leaves onto the plaintiff's property that caused the plaintiff's dog to have allergies. *Gallo*, 512 So. 2d at 216. In upholding the trial court's dismissal of the plaintiff's complaint, the

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(Iowa 1995) ("[W]e limit liability to those situations in which it is established that the tree's owner had actual or constructive notice of the tree's defective condition."); *see also Rowe v. McGee*, 168 S.E.2d 77, 81 (N.C. Ct. App. 1969) ("[W]here a landowner knows that he has a tree on his property which is in a dangerous condition and which is likely to fall and injure the property of an adjoining landowner, he has a duty to eliminate such danger."); *Vann v. Bailey*, 709 So. 2d 615, 615 (Fla. 5th DCA 1998) ("The record in the instant case contains sufficient evidence of actual or constructive knowledge regarding the defective or rotten condition of the laurel oak tree.").

Third District Court of Appeal stated that "the rule at common law and the majority rule in this country, which is followed in Florida, is that a possessor of land is not liable to persons outside the land for a nuisance resulting from trees and natural vegetation *growing* on the land."[4] *Id*. (emphasis added). Quoting *Michalson*, the court stated that the underlying rationale for this rule is that:

> [I]t is wiser to leave the individual to protect himself, if harm results to him from this exercise of another's right to use his property in a *reasonable way*, than to subject that other to the annoyance, and the public to the burden, of actions at law, which would be likely to be innumerable and, in many instances, purely vexatious.

Id. (quoting *Michalson*, 175 N.E. at 491 (emphasis added)). Thus, the *Gallo* court articulated the holding of *Michalson* – the Massachusetts rule – as applying to the natural *growth* of trees (i.e., healthy trees that are growing) and relying on a landowner's right to use his property in a "reasonable way" to grow such trees. The *Gallo* court did not articulate the Massachusetts rule as applying to rotten trees

[4] While the *Gallo* court cited multiple cases from other states to support its adoption of the Massachusetts rule, the court did not engage in any examination of the common law of England to determine that the Massachusetts rule was in fact "the rule at common law," nor did the court show that enough states had adopted the Massachusetts rule to establish that the rule was "the majority rule in this country." *Gallo*, 512 So. 2d at 216. The only Florida case that *Gallo* cited was *Richmond v. General Engineering Enterprises Co.*, a previous Third District case which adopted the Massachusetts rule but expressly stated that "there is substantial authority to the contrary, which may indeed represent the majority rule." 454 So. 2d 16, 17 (Fla. 3d DCA 1984). Like *Gallo* and *Scott*, *Richmond* involved a healthy tree. *Richmond*, 454 So. 2d at 17.

or as protecting a defendant that unreasonably allows a rotten tree to sit on his property until it falls over and causes harm on an adjoining property.[5]

The material facts of *Scott* were the same as *Gallo* except the plaintiff in *Scott* exercised her self-help option to remove the portions of her neighbor's tree that intruded on her property and then sought damages for the cost of that removal in addition to damages for the harm caused by the tree's encroaching branches and roots before she removed them. *Scott*, 41 So. 3d at 989. Just like *Gallo*, nothing in the Fourth District's articulation of the Massachusetts rule in *Scott* indicated that the rule applies to rotten trees or protects a defendant that unreasonably allows a rotten tree to sit on his property until it falls over and causes harm on an adjoining property.[6]

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[5] While this case involves alleged property damage, USMI's counsel conceded at oral argument that under USMI's proposed interpretation of the Massachusetts rule, a defendant that knowingly allows a rotten tree to sit on his property until it falls over and causes harm on an adjoining property would also be immunized from liability for any injuries or deaths caused by the falling tree.

[6] In *Balzer v. Ryan*, the First District Court of Appeal referenced the self-help portion of the Massachusetts rule in deciding that a trial court did not depart from the essential requirements of law by finding that an adjoining property owner that exercised their self-help remedy and cut off roots encroaching from a tree on their neighbor's property was not liable to the owner of the tree for damage to the tree that resulted from the removal of the roots. 263 So. 3d 189, 191 (Fla. 1st DCA 2018). In doing so, the First District articulated the rule as applying to healthy trees. *Id*. ("Under Florida law, it is well-established that an owner of a healthy tree is not liable to an adjoining property owner for damage caused by encroaching tree branches or roots, but the adjoining property owner is privileged to trim back, at his own expense, any encroaching tree roots or branches which has grown onto his

In sum, the Massachusetts rule adopted in *Scott* and *Gallo* simply does not apply to the facts of this case as they are alleged in Vaughan's complaint, i.e., where an owner of land had actual knowledge that a tree on his property was rotten and dangerous, the owner took no action to address the danger, and the tree fell over and caused damage on an adjoining property.

IV. We do not decide whether Florida recognizes the Massachusetts rule or any alternative tree related rule.

Since the Massachusetts rule, by its own terms, does not apply to the facts of this case, we need not decide whether Florida recognizes the Massachusetts rule as an exception to the duty normally imposed by the common law of negligence (now governed by the *McCain* framework).[7] To make such a decision would require significant historical research and would seem to hinge on whether the common law and statute laws of England recognized the Massachusetts rule (in some form previously articulated) as an exception to the general law of negligence as of July

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property." (quoting *Gallo*, 512 So. 2d at 216 (internal quotations, alterations omitted))).

[7] While *McCain* is the Florida's Supreme Court's most recent holding articulating the standard for determining when a defendant owes a common law duty in a negligence case, the common law of negligence long predates *McCain* as well as any states' adoption of the Massachusetts rule or any of the other special tree related rules other states have adopted. *See Warren v. Ind. Tel. Co.*, 26 N.E.2d 399, 403 (Ind. 1940) ("Actions for injuries to the person caused by the negligence of another were known under the common law of England, and triable by jury.").

4, 1776.[8] *See* § 2.01, Fla. Stat. (2024) ("The common and statute laws of England which are of a general and not a local nature . . . down to the 4th day of July, 1776, are declared to be of force in this state. . . ."). Given that neither party provided any briefing concerning whether the Third and Fourth District were correct to adopt the Massachusetts rule, and the significant historical research that would be required to determine whether they were correct to do so, we exercise our discretion not to decide this issue when it is not necessary to decide this case.

We have a duty to affirm the trial court's ruling if there is any theory or principle of law in the record which would support the ruling. *Caballero-Quinones v. Wilder*, 435 So. 3d 129, 138-40 (Fla. 6th DCA 2026), *reh'g denied*, (June 19, 2026). Therefore, if any of the other tree related rules – the Virginia rule, the Hawaii rule, the Pennsylvania rule, and the Restatement rule – would support the trial court's ruling if recognized as an exception to the *McCain* framework, then we would have a duty to determine if Florida law recognized such a rule. However, none of the special tree related rules recognized by other states would result in an affirmance of the trial court's order even if they were recognized in Florida.[9] Therefore, just like the Massachusetts rule, we need not decide whether

[8] Of course, any relevant holdings of the Florida Supreme Court concerning the common law of negligence or section 2.01, Florida Statutes, would also be crucial to answering this question.

[9] The allegations in Vaughan's complaint facially establish that the Virginia rule, the Hawaii rule, and the Pennsylvania rule, if they were recognized in Florida,

Florida recognizes any of these rules as an exception to the common law rule for determining when a defendant owes a duty in a negligence case.

Conclusion

Under the *McCain* framework, Vaughan's complaint adequately alleged that USMI owed a common law duty to Vaughan to exercise reasonable care to prevent the rotten tree on USMI's property from causing harm on Vaughan's property. The trial court erred in determining that the allegations of the complaint established that an exception applied which negated that duty. Accordingly, the trial court's final judgment and order granting USMI's motion for judgment on the pleadings are reversed, and this case is remanded to the trial court for further proceedings consistent with this opinion.

REVERSED and REMANDED for further proceedings.

PRATT, J., and BEAMER, D.K., Associate Judge, concur.

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would not bar Vaughan's negligence claim. The only special tree rule that the complaint does not facially establish would not apply is the Restatement rule, as nothing in the complaint indicates whether the rotten tree on USMI's property was "natural" or "artificial." However, the complaint states a cause of action for negligence and does not establish that the Restatement rule would apply to negate the duty element. Therefore, construing the allegations of the complaint in the light most favorable to Vaughan, the complaint would not fail to state a cause of action for negligence based on the Restatement rule. *See Laguerre v. City of Coral Springs*, 673 So. 2d 60, 61 (Fla. 4th DCA 1996) ("A motion to dismiss must be considered in the light most favorable to appellant."); *Henao*, 929 So. 2d at 725 ("A motion for judgment on the pleadings is governed by the same legal test as a motion to dismiss for failure to state a cause of action.").

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NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF TIMELY FILED