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Appellate Division Clarifies Standard for Property Nuisance Claims

Christopher John Stracco, Katharine A. Coffey and Jennifer Gorga Capone wrote an article, "Appellate Division Clarifies Standard for Property Nuisance Claims," for *The New Jersey Law Journal*. This article addresses the significance of the Appellate Division in *Scannavino v. Walsh, Docket No. A-0033-14T1 App. Div., April 14, 2016*. The case involved a claim by an adjoining property owner that the "careless, negligent and grossly negligent maintenance" of his neighbor's trees caused damage to a retaining wall on his property. The Law Division held that because the defendants did not plant or preserve the trees, they constituted a "naturally occurring condition" for which the defendants were not liable. The precedential decision, clarified that the Restatement (Second) of Torts—(as opposed to the Restatement (Third) of Torts—governs property nuisance claims in New Jersey.

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