

RECEIVED

DEC 10 2013

TONY R. MOORE, CLERK  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA, LOUISIANA



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

WEYERHAEUSER CO.

CIVIL ACTION NO. 13-0837

-vs-

JUDGE DRELL

BURFORD'S TREE, INC.

MAGISTRATE JUDGE KIRK

---

---

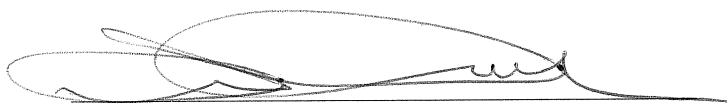
**JUDGMENT**

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and after independent (de novo) review of the record including the objections filed herein, and having determined that the findings and recommendations are correct under the applicable law;

IT IS HEREBY ORDERED that Defendant's motion to dismiss (Doc. 9) is GRANTED as to treble damages, attorney's fees, and costs under La. R.S. 3:4278.1, but it is DENIED as to Plaintiff's claims for trespass damages.

In so ruling, we note Weyerhaeuser's strained interpretation of the statutory exclusion in La. R.S. 3:4278.1. It is obvious to the Court that, while the right of way clearing activities and storm work are indeed different situations, the "Act of God" is not a "requirement" but merely a descriptive situation. Thus, the first instance (right of way clearing) is obviously to be read independently and correctly stands alone. The Magistrate Judge was correct.

SIGNED on this <sup>10<sup>th</sup></sup> 10 day of December, 2013 at Alexandria, Louisiana.



DEE D. DRELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT