

Cancer patient with lawsuit against Cotton sawmill says company workers tried to kill him with intentionally dropped log

By Phil Demers

WESTHAMPTON -- A log suspended high in the air above Northwest Road came crashing down and nearly struck an approaching vehicle Wednesday, and the outraged driver says it was no accident.

He is Tim Fondakowski, a brain cancer patient with an active lawsuit against, among others, the town and the tree removal company whose name appeared in block lettering along the sideboards of the offending truck.

At about 10:12 a.m., Fondakowski drove his vehicle up to 109 Northwest Rd., where a Cotton Tree Service crew was cutting and stacking trees for removal. Because the truck faced east, obstructing oncoming traffic, Fondakowski steered into the left lane to pass.

That's when, he says, the boom swung and a 12-foot-long by 12-inch-thick tree was loosed from the machine's jaws and cracked down onto the pavement, a mere 8 feet in front of his vehicle.

"Do you know how freaky that is?" Fondakowski said Wednesday around 4 p.m., after he filed a police report concerning the incident. "I drove a mile away and pulled over in a panic."

Without hesitation, he said he believes the log drop was purposeful. It only "missed my car by one second," he added. In his report to police, he described the event as "attempted murder."

The lawsuit Fondakowski filed last June targets a special permit David Cotton, the owner of Cotton Tree Service, received to operate a commercial sawmill along the same town road on which Wednesday's incident occurred: Northwest Road.

Cotton needed his variance because the street is zoned residential. The two-car garage where Fondakowski spends the majority of his time, 335 Northwest Rd., sits roughly 400 feet from the start of Cotton's sawmill property.

States Fondakowski's lawsuit, "The noise from Cotton Tree Service trucks and workers causes me painful anxiety and unbearable acoustic pain, worsens my overall health and negatively affects the prognosis for my brain cancer treatments."

The lawsuit demands the permit "annulled" because the sawmill is "not compatible" with the surrounding neighborhood and because its issuance came under irregular circumstances. Hampshire Superior Court granted Cotton's special permit after the Westhampton Planning Board voted down Cotton's application once in 2015 and a second time on May 23, 2017.

Since filing the lawsuit, Fondakowski said Cotton's employees have made no secret of their feelings towards him.

"I've been getting harassed by these people constantly," he said. "They throw empty beer bottles and trash at the end of my driveway, and in my yard. They flip me off as I go by. They hate me. Am I supposed to believe for a second (the tree drop) wasn't intentional?"

Employees of the town, meanwhile, whose Planning Board members are defendants in the Fondakowski suit, have also endeavored to make Fondakowski's life difficult, he claims.

As evidence, he produced two "inspection announcements," he received from the Board of Health, one last week, the other earlier in 2017.

In July of that year, town health inspectors and police joined Building Inspector Tom Quinlan in a perusal of Fondakowski's property. The search, Fondakowski later learned, was supposedly a response to an "anonymous complaint" that he was living in the garage. He does not hold a certificate of occupancy. Some day he intends to live on site, he said, but he does not yet due to the hardship of his ongoing cancer treatments.

To the new notice received this week, Fondakowski replied in writing, saying he thought it "motivated by the intent to harass, annoy, and strike fear."

"Your willful infliction of pain on a cancer survivor is repugnant and threatening," he concluded. "Stop harassing me."

The town responded with a summons ordering Fondakowski to a housing court in Hadley, where he will appear Monday.

He also says he's caught Quinlan and his girlfriend camped out in his driveway taking pictures of the house.

Though he's come to expect the worst, Fondakowski said Wednesday's events surprised even him.

"This is getting crazy," he said.