

“No Fungus Among Us!”

School:

Lincoln Elementary School
Nutley
Grade 4

Teacher:

Miss Petti

Students:

Julian Chiarieri, Bryan Dieterle, Chad Morrison,
Dante Nunez, Julianne Tarrant, Sierra Van
Leuvan

The Case of “No Fungus Among US”

1. Facts:

On December 22nd 2007, Ivan Germfry went to Clean Marine Day Spa for a deep tissue full body hot stone massage. Lindsay Firmhands was the masseuse for the day and administered the treatment to Mr. Germfry. After the 90 minute session Mr. Germfry paid the receptionist and left the spa. On December 22nd, 2008 Mr. Germfry had developed a fungus on his back and on December 28th the spa was notified that they were being sued by Mr. Germfry in the amount of \$1,078. This was to cover doctor fees and help ease emotional damages.

2. Issue:

Did Mr. Germfry get the fungus from Clean Marine Day Spa?

3. Witnesses:

For the Plaintiff

Ivan Germfry

Ima Germfry, wife of Ivan Germfry

For the Defense

Crystal Marine, Owner of Clean Marine Day Spa

Lindsay Firmhands, Masseuse at Clean Marine Day Spa

4. Witness Statements:

Testimony of Ivan Germfry

My name is Ivan Germfry and I work at Germhoster Valley

Hospital. It had been a very stressful week. So on December 22nd 2007 I visited the Clean Marine Day Spa for a hot stone massage. I arrived at the salon at about 9:30 AM and was shown to the men's locker room where I was to change and soak in there mineral bath. Next, I went into the room where Ms. Firmhands was waiting and she gave me a 90 minute full body deep tissue hot stone massage.

I wondered how Ms. Firmhands so quickly cleaned the room, sterilized her utensils, and washed her hands after her last client. However, I thought I was in a safe relaxing place so I fell asleep. I was gently woken up at the end of the session and told to meet the receptionist at the front desk. I paid \$120 for the massage, plus an \$85 tip to Ms. Firmhands, and headed home. Two days later, on Christmas Eve, I broke out with a horrible rash on my back and feet! I was very concerned but all the doctors I knew were out of town, so I had to wait until after Christmas to get it checked out. By then it had spread up my neck and onto my cheek! The doctor diagnosed it as a fungus and not an allergic reaction. He said I must have come in contact with the fungus in a public place. I know where these types of infections come from. Unclean spas! I am suing the Clean Marine Day Spa for all my medical expenses as well as for my pain and suffering.

Testimony of Ima Germfry

Hello, I am Ima Germfry, Ivan's wife. After his busy week at the hospital Ivan visited a new spa for a massage. When he returned he said it was very enjoyable and would go back again. Then on Christmas Eve, my poor Ivan had a red blotchy mess all over his back and feet, which spread to his neck and cheek! He called many

doctor's offices but found no one to take him on the holiday. So he waited and when he finally went they said it was caused by a fungus! I was so embarrassed to have him around all the family and children! These things can be fatal to the elderly you know? So he spent most of Christmas by himself upstairs locked in our guest bedroom.

Testimony of Crystal Marine

My name is Crystal Marine. I own and manage Clean Marine Day Spa. Our motto is "No Fungus Among Us". We always have our clients take a cleansing mineral bath before any of their sessions. We also have all of our employees wash and sterilize their utensils and hands before and after every treatment they administer. Lindsay is one of my best therapists and I know she would never use unclean items on any of our clients. Also, as it says in our contract which Mr. Germfry signed, any complaints must be made within three days of the services rendered. There was a 6 day lapse between Mr. Germfry's visit and the day his lawyer contacted us. I believe there may be many things that have occurred in this time and may be liable for his discomfort. Also, according to our policy he does not have a legal right to sue!

Testimony of Lindsay Firmhands

My name is Lindsay Firmhands. I am a licensed massage therapist working at the Clean Marine Day Spa. I remember Mr. Germfry coming in that Saturday morning; he looked very pale and extremely tired. It was his first time to the salon so I showed him where the locker room was. He came out quite quickly, so I figured he

was eager to start the treatment. Never did I think he may not have spent any time in the mineral bath before our session, especially since I knew he worked in a hospital where the abundance of germs scares employees into constantly cleaning surfaces and exposed skin. He seemed to relax right away. When Crystal approached me after the holiday to tell me that Mr. Germfry was suing us, I was shocked! There was no way he could have gotten the fungus from our place because of the policies we have for keeping clean. I mean, "No Fungus Among Us" is our motto for Pete's sake! I think he needs to tell us if he truly went into the mineral bath before the massage! He did come straight from work...or should I say "Germ Valley"!

5. Instructions:

The plaintiff must prove that the fungus attained by Mr. Germfry was in fact from the Clean Marine Day Spa and not his job at the hospital.

6. Concepts

1. Negligence
2. Contributory Negligence
3. Liability
4. Pain and suffering

7. Laws

1. Negligence Torts- The breach of duty of care expected of reasonable people.
2. Contributory Negligence- If the plaintiff's negligence contributed to his/her injury and he/she failed to act responsibly for his/her own age,

then his/her carelessness may reduce the responsibility of both parties.

3. All Complaints against Clean Marine Day Spa must be made within three days of the services given.