

Madeleine Bassett

v

The Spode Group

In 2010, Sir Roderick Spode, Chairman and founder of The Spode Group, a corporate entity. Established the Spode Hall Aesthetic and Wellness Institute ('Spode Hall') in Market Snodsbury. Spode Hall is a private hospital/clinic which offers a wide variety of health and 'wellness' treatments, beauty therapies and cosmetic surgical procedures, and its corporate mantra is: 'Be the best you can be'. It is an extremely 'high end' institution. Spode Hall itself is a beautiful stately home, set in pristine grounds and is decorated and furnished in an extremely tasteful and expensive fashion. From the start, Sir Roderick decided that he wished Spode Hall to have similarly high standards with respect to its staff; and all of the doctors, nurses and therapists employed at the Hall were exceptionally well-qualified, good looking and in absolutely tip-top physical condition.

Before being employed by the Group at Spode Hall, all staff had to complete a 10-page pro forma health questionnaire and undergo a medical examination. The medical examinations were conducted by Dr. Bertram Wooster at consulting rooms at his home. The Spode Group would send out a letter to potential employees informing them of the date, time and place of their medical examination. Following the examination, Dr. Wooster would complete a standard report and return it to the Spode Group. Sir Roderick would read the report and, provided that it was satisfactory, the candidate would be offered employment. Dr. Wooster was not a salaried employee of the Spode Group, and was paid a set fee for each examination.

Madeleine Bassett, a specialist nurse in aesthetic surgery, applied for a job at Spode Hall in January 2015. Following an interview, she was asked to attend a medical examination at Dr. Wooster's premises on the 14th February 2015. At the examination, which was conducted without a chaperone being present, Dr. Wooster required Madeleine to strip down to her pants and spent some minutes inappropriately examining her breasts. Following the examination, he completed the report to the satisfaction of Sir Roderick and Madeleine was offered employment at Spode Hall.

Madeleine commenced employment at Spode Hall on the 1st March 2015. However, she had been extremely disturbed by the medical examination and felt that she had been sexually assaulted by Dr. Wooster. This preyed on her mind, and she began to feel very depressed and mentally unwell. She attended her GP, who diagnosed depression and PTSD and prescribed medication for these conditions. This medication effectively treated these conditions and Madeleine began to feel much better.

On the 5th June 2015, Madeleine was in a kitchen at Spode Hall, making herself a cup of coffee during a work break and taking her medication. Whilst she was taking her tablets, Dr. Augustus Fink-Nottle, a physician at Spode Hall, came into the kitchen and saw her taking them. He asked her what medication she was taking. Madeleine showed him the tablets and told him that she was taking them for depression and PTSD. Dr. Fink-Nottle advised her that: "My dear, those tablets are just poison and doing you no good at all. Psychiatrists and head doctors are just a bunch of charlatans. Do yourself a favour. Stop filling your body with toxic

pharmaceutical products and eat healthily, exercise more and make sure that you get enough sleep. That will sort out all of your problems”. Dr. Fink-Nottle was a handsome and charismatic character, and Madeleine was very impressed by his advice, so she immediately stopped taking her medication.

Unfortunately, as soon as she stopped taking her medication, Madeleine’s mental health rapidly declined. On the 10th July 2015, whilst assisting in a surgical procedure at the clinic, she suffered a severe episode of psychosis and attacked an anaesthetist with a scalpel, causing their death. She was dismissed from her job and charged with murder, but in the light of forensic psychiatric opinion, the prosecution accepted a plea to manslaughter on the basis of diminished responsibility. She was sentenced to a hospital order under s.37 of the Mental Health Act 1983, with a restriction order under s.41 and has been detained pursuant to the Mental Health Act 1983 since then. When sentencing Madeleine, the judge, Emsworth J was extremely critical of Dr. Fink-Nottle, and commented that Madeleine’s culpability was at the ‘very lowest end of the scale for offences of this type’.

Madeleine sued The Spode Group in negligence, claiming that they were vicariously liable for the conduct of Dr. Wooster and the advice given by Dr. Fink-Nottle. She claimed general damages for psychiatric injury, loss of earnings and the loss of her liberty as a result of her being compulsorily detained in hospital. She also claimed the cost of future psychotherapy and of a care manager/support worker.

At first instance, Potter-Pirbright J ruled that the Spode Group were not vicariously liable for the conduct of Dr. Wooster, on the basis that he was never an employee of the Group, or in a position akin to an employee. He ruled that the Spode Group were vicariously liable for the conduct of Dr. Fink-Nottle, who had given Madeleine negligent advice, but that he was bound by *Clunis v Camden and Islington Health Authority* [1998] QB 978 and *Gray v Thames Trains Ltd.* [2009] UKHL 33, [2009] AC 1339, and that her claim was barred by operation of the defence of illegality.

The Court of Appeal dismissed her appeal. Madeleine now appeals to the Supreme Court on the following grounds:

- (i) That the Spode Group are vicariously liable for the assault perpetrated by Dr. Wooster in the course of the medical examination carried out at the Spode Group’s request.
- (j) That her claim for damages was not barred by the operation of the defence of illegality,