



No. S-153694  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

PERCY SHROFF

PLAINTIFF

AND:

SHIAMAK DAVAR

DEFENDANT

**RESPONSE TO CIVIL CLAIM**

Filed by: The Defendant, Shiamak Davar

**Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS**

**Division 1 – Defendant’s Response to Facts**

1. The facts alleged in paragraphs 3-5 of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged paragraphs 6, 7, 8-19, 20-23, 24-33, 34–38 and 39 - 52 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in all other paragraphs of the Notice of Civil Claim are outside of Mr. Davar’s knowledge.

**Division 2 – Defendant’s Version of Facts**

1. Mr. Davar categorically denies the allegations contained in the Notice of Civil Claim (“NOCC”). The false accusations contained therein have been made by the Plaintiff solely to take advantage of Mr. Davar’s celebrity and to injure his character, reputation and affiliated organizations.

## Background

2. Shiamak Davar is a performing artist most known for his dance and choreography work. He is internationally recognized as the "Guru of Contemporary Dance" in India, and is responsible for modernizing India's traditional dance scene.
3. Mr. Davar started teaching dance classes in Mumbai in 1985 to a small group of about 7 students. In 1987 Mr. Davar choreographed his first musical, and thereafter went on to choreograph and direct many more theatrical productions. With a small group of talented dancers, Mr. Davar formed The Shiamak Davar Dance Company in January, 1989 (the "Dance Company").
4. In 1991, Shiamak Davar's Institute for the Performing Arts (India) was created. Shiamak Davar International (India) Private Limited has operations in Mumbai, Delhi, Pune, Bangalore, Hyderabad and other cities teaching dance classes, performing shows & events and teaching dance as therapy classes to the underprivileged and special needs groups.
5. The SHIAMAK Group has a presence in 6 countries - India, Canada, Australia, UK, UAE and USA and provides dance education through their 150 talented dance instructors in 31 cities at over 600 locations (rented dance studios, schools and non-governmental / special needs organizations). Shiamak Davar International (Canada) Inc. was formed on December 28, 2006.
6. The Dance Company was at all material times a respected dance school and performance troupe in India and Internationally. The Dance Company has met with considerable success over the years in its efforts to share traditional Indian dance and culture to international audiences.
7. In the early 1980's Mr. Davar met and began following the teachings of Mrs. Khorshed Bhavnagri (deceased). Mrs. Bhavnagri is the sole founder of the VRRP Spiritual Learning Society (the "VRRP"), an organization developed after the death of her sons Vispi and Rattoo in a car accident. The VRRP are guided by the contents of a book *The Laws of the Spirit World* written and originally published by Mrs. Bhavnagri. The VRRP believes that there is One God, that the aim of the Earthly life is to be a good human being and in reincarnation. The process through which Mrs. Bhavnagri would receive and communicate messages with the spirit world is called Automatic Writing. In the book *The Laws of the Spirit World* it is stated that levels are indicators of one's spiritual progress. Individuals are encouraged to complete a self-analysis to

discover certain areas where one needs to grow to expand their spiritual understanding. Members were free to consult with Mrs. Bhavnagri regarding their levels, but it was not compulsory. Levels are not a metric of seniority within the VRRP, they are a self-exploration tool.

8. Mrs. Bhavnagri had a close relationship with Mr. Davar, and prior to her death in 2007 she expressed her wishes for Mr. Davar to be the custodian of the VRRP, specifically the teachings set out in *The Laws of the Spirit World* and continue her legacy. Since 2007, Mr. Davar has carried on his devotion to the VRRP, but at no point did he consider himself to be, or hold himself out as, a spiritual guru or leader.

#### **1991 – 1998: India**

9. In or around 1991, the Plaintiff began taking dance classes at the Dance Company. At that time most of the classes were taught by Mr. Davar, but Mr. Davar has no recollection of the Plaintiff's introductory time at the Dance Company.

10. After a short while, the Plaintiff earned the opportunity to perform in one of the Dance Company's shows, and later became one of the principal dancers in the Dance Company. As a principal dancer, the plaintiff frequently appeared in the Dance Company's shows and travelled with the Dance Company to out of town performances. Mr. Davar recalls that the Plaintiff was a good dancer, often performed in the front row and occasionally had "solos" within the performances. He was not aware that the Plaintiff was in "awe" of him as alleged in paragraph 9 of the NOCC; and certainly the Plaintiff never did or said anything that would indicate such.

11. As a devout follower of Mrs. Bhavnagri's teachings, Mr. Davar is transparent about his spirituality and often discusses his beliefs with members of his Dance Company; including the Plaintiff. Mr. Davar did not force his beliefs upon the Plaintiff or any member of the Dance Company. Mr. Davar did not circulate *The Laws of the Spirit World* to the Plaintiff or any of the other members of the Dance Company as alleged in paragraph 9 of the NOCC. Generally speaking, if someone expressed interest in the VRRP Mr. Davar would encourage them to explore their interest further by attending group meetings held by Mrs. Bhavnagri.

12. In or around 1992, the Plaintiff began attending the meetings of the group, and very quickly became a dedicated follower of Mrs. Bhavnagri's teachings. Mr. Davar does not recall if

he was there or not for the introductory meeting between the Plaintiff and Mrs. Bhavnagri as alleged in paragraph 10 of the NOCC.

13. During the early period of time when the Plaintiff was a principal dancer with the Dance Company, from around 1992 to 1994, Mr. Davar recalls the Plaintiff was introverted and reluctant to socialize. At some point, Mr. Davar asked the Plaintiff to assist him in teaching dance classes in Mumbai in an effort to encourage him to come out of his shell and interact more with other members of the Dance Company. The allegation by the Plaintiff that these circumstances were for the purposes of some kind of "sexual grooming" (as alleged in paragraph 13 of the NOCC) is nonsense.

14. Mr. Davar has always taken his role as dance teacher and coach seriously and at all times has respected the boundaries between him and his pupils. He has always maintained a friendly relationship with his students, male and female, and certainly never inappropriately touched the Plaintiff as alleged, or at all.

15. Early into the Plaintiff's tenure with the Dance Company, Mr. Davar became aware of the Plaintiff's homosexuality when the Plaintiff opened up to him about his feelings for another male Dance Company member. Mr. Davar never psychologically or sexually exploited this circumstance, nor did he taunt the Plaintiff about his sexuality or make any sexual advances. At all times Mr. Davar acted in an appropriate manner given the Plaintiff's age and the nature of their relationship.

16. Throughout the course of many years, there were numerous further occasions where the Plaintiff discussed his sexuality with Mr. Davar. As a follower of the VRRP, the Plaintiff sought advice from Mr. Davar about his sexuality and how it may affect his spirituality. Mr. Davar appropriately encouraged the Plaintiff to embrace his sexuality in light of his spirituality and to live a full and honest life. It is the aim of the VRRP to help individuals reach their highest potential as human beings, and living an open and honest life is key to spiritual growth. He denies ever using the Plaintiff's spirituality to manipulate or coerce sexual actions or expressions from the Plaintiff. Doing so would be contrary to the principles by which he lives his life.

17. Mr. Davar has the ability to "auto-write" for followers of the VRRP and has done so on many occasions, including times where he has provided messages to the Plaintiff. Mr. Davar denies ever receiving and/or communicating messages about the Plaintiff's sexuality.

Messages from the spirit world are not transmitted to oppress or sabotage an individual's growth. Such messages would be contrary to the VRRP and unhealthy for spiritual development.

18. Mr. Davar is an outgoing individual who is colourful in his expression. He often uses terms of endearment when communicating to others. Mr. Davar denies the use of the words "love" or "friend" to imply sexual feelings or relationships. If the Plaintiff interpreted Mr. Davar's words that way, then that is on his own subjective interpretation and not as a result of Mr. Davar's implications. Mr. Davar denies using those words as alleged by the Plaintiff in paragraphs 13 and 19, or at all.

19. Mr. Davar has never had inappropriate sexual relations with any male or female members of the Dance Company, nor has he represented to the Plaintiff that he has (as alleged in paragraph 19 of the NOCC).

20. Mr. Davar denies the event alleged in paragraphs 20-22 of the NOCC in its entirety. Mr. Davar repeats the denial in paragraph 15 of this Response to Civil Claim that he ever manipulated or coerced sexual actions or expressions from the Plaintiff using his spirituality or otherwise. Further, Mr. Davar denies ever holding himself out as the leader of the VRRP and states that at the time of this allegation and the allegation in paragraph 15 Mrs. Bhavnagri was still alive and the only "spiritual authority" or "spiritual guru" of the VRRP.

21. The Plaintiff has on many occasions reached out to Mr. Davar for friendship and personal guidance. At no time did the Plaintiff ever express any concern to Mr. Davar about the alleged event in Paragraph 23 of the NOCC, or any other aspect of their relationship.

22. The Plaintiff worked for his father's company during his period of time with the Dance Company. As a result, there were certain occasions where he was unable to travel with the Dance Company because of his obligations to his father. Mr. Davar never intentionally excluded the Plaintiff from travelling with the Dance Company as alleged in paragraph 25 of the NOCC, or at all.

23. In or around 1994, the Plaintiff entered into a relationship with Ms. Rhea [REDACTED] which eventually led to marriage. Rhea was also a member of the Dance Company, and a very close friend of Mr. Davar.

**1998-present: Vancouver**

24. In or around 1998 certain individuals who were close to Mrs. Bhavnagri moved to Vancouver, including the Plaintiff and his then girlfriend, Rhea.

25. Mrs. Bhavnagri was concerned about excess negative energy causing an imbalance in nature leading to natural disaster. It was her belief, and that of VRRP, that one's actions – both physical and spiritual – are absorbed in nature, sometimes to detrimental effects. She was concerned about the physical placement of certain countries and thought it best to move. One country Mrs. Bhavnagri believed had good energy was Canada. Mrs. Bhavnagri did not expressly direct any VRRP members to leave India in 1998 when she moved to Canada. Mr. Davar, for instance, remained in India until 2002. Many followers of the VRRP moved to Canada in 1998 to be close to Mrs. Bhavnagri so that they could continue to be guided by her spiritual teachings.

26. The Plaintiff was happy to move to Vancouver because he wanted to extricate himself from the strained relationship he had with his father in India. He also has a sister who resides in the USA, and he was happy to be moving closer to her. Prior to moving, Mr. Davar was aware that the Plaintiff began researching university programs, specifically the computer program at Simon Fraser University, in Burnaby, British Columbia. By all accounts, the Plaintiff was excited about the move.

27. Upon arriving in Vancouver, the Plaintiff continued his participation with the VRRP and would attend the weekly meetings held at Mrs. Bhavnagri's residence. The Plaintiff increased his participation and leadership in the VRRP by volunteering to edit the newsletter and eventually leading group discussions. The Plaintiff freely and willingly participated in the VRRP for the years Mr. Davar remained in India and thereafter.

28. In the years leading up to Mrs. Bhavnagri's death, the Plaintiff's participation in the VRRP was particularly strong. He made it clear to members of the group, including Mr. Davar, that once Mrs. Bhavnagri passed he had ambition to assume a senior role. He was very eager to be a custodian of Mrs. Bhavnagri's teachings and pass them on the new members.

29. After Mrs. Bhavnagri's death in 2007, several individuals took on added responsibilities, including the Plaintiff. The Plaintiff was very pleased that he was able to assume a greater leadership role in the VRRP. At some point the Plaintiff attempted to learn how to "auto-write"

for fellow members, and continuously held himself out as a leadership figure within the group and at spiritual meetings he conducted. On occasions when Mr. Davar was in India, the Plaintiff would encourage members of the VRRP to come to him for spiritual guidance and to receive messages from the spirit world. He yearned for the respect and adoration of the group that came with perceived authority and would actively seek it out.

30. At no time prior to, or after Mrs. Bhavnagri's death did Mr. Davar hold himself out as a spiritual leader or guru. Although he acknowledges that Mrs. Bhavnagri wished for him to continue her legacy after her death, he always maintained that spiritual knowledge as stated in *The Laws of the Spirit World* is the true guru – not a single individual. The Plaintiff is well aware of this and he would speak about the same during spiritual meetings that the Plaintiff himself conducted. If the Plaintiff identified Mr. Davar as his "spiritual leader" or "spiritual guru" then that was a result of his own personal view of Mr. Davar, and not due to any actions or statements made by Mr. Davar. Despite this, the Plaintiff resented the attention and position that members of the VRRP gave to Mr. Davar.

31. In answer to paragraph 30 of the NOCC, Mr. Davar acknowledges that the VRRP are influenced by certain beliefs of Mrs. Bhavnagri relating to astrology, geography and colours. Each individual member is at liberty to make their own decisions based on Mrs. Bhavnagri's beliefs and their free will is respected.

32. The Plaintiff and Rhea married in 2002 in Vancouver. Mr. Davar has no knowledge whether Mrs. Bhavnagri implied any dissatisfaction or made statements of condemnation towards the Plaintiff about his relationship with Rhea. By all accounts, Mr. Davar recalls that the Plaintiff and Rhea were happy to be getting married and it was something that had been planned for a long time. Mr. Davar was not involved with their decision to wed, and denies making the statements alleged in paragraph 29 of the NOCC. The Plaintiff and Rhea welcomed a son, [REDACTED] in 2006.

33. At some point after his marriage to Rhea, the Plaintiff started to spend a lot of time with new friends he had made. He shut out his wife, Rhea, from his new friendship circle and would spend a lot of time at the gym and going out at night to clubs; often gay clubs. He then started to distance himself from the VRRP.

34. Mr. Davar acknowledges that there were times throughout the marriage when the Plaintiff would confide in him about his own sexuality and the potential impact and challenges it

presented to his marriage and his spirituality. For many years the Plaintiff expressed a desire to live freely as a gay man.

35. Mr. Davar was aware that at some point during his marriage Mr. Shroff began to explore his sexuality. The Plaintiff confided in Mr. Davar that he was being unfaithful in his marriage, and would regularly use homosexual chat rooms as an outlet. He also kept a collection of magazines depicting nude males. Mr. Davar encouraged the Plaintiff to be open about his feelings with his wife, but for a long period of time the Plaintiff was unwilling to do so.

36. In particular response to paragraph 36 concerning the trip to Mumbai, Mr. Davar says as follows. In or around 2009 or 2010 Mr. Davar was in Mumbai for the launch of the book *The Laws of the Spirit World* published by JAICO. The Plaintiff traveled to Mumbai separately from Mr. Davar, specifically for the launch of the book. While overseas, Mr. Davar introduced the Plaintiff to a friend, a male model. The Plaintiff expressed his attraction to the model to Mr. Davar, and thereafter repeatedly requested that Mr. Davar make a further introduction and for the model's phone number. The Plaintiff told Mr. Davar that while in Mumbai he wanted to explore his sexuality with men; something he felt he could not do while in Vancouver. One night Mr. Davar invited the model to have dinner with the Plaintiff. After dinner, the Plaintiff asked the three of them to return to Rhea's parent's empty house in Mumbai where he was staying. Mr. Davar recalls that once at Rhea's, the Plaintiff encouraged the model to remove his shirt and show off his body. In fact it was the Plaintiff that began to interact with the model in a flirtatious way, and removed his own shirt and encouraged the model to do the same. Mr. Davar was given the impression that the Plaintiff wanted to be alone with the model, and he was also uncomfortable that this was happening in Rhea's parents' house. Consequently, Mr. Davar suggested the he and the model leave, and they left Rhea's house without the Plaintiff. Shortly thereafter, the Plaintiff returned to Vancouver but continued to contact the model. Mr. Davar is aware that the Plaintiff last contacted the model in April, 2014. Certainly nothing occurred that even remotely resembles what is described by the Plaintiff in paragraph 36 of the NOCC.

37. A few years after the birth of their son, [REDACTED], the relationship between the Plaintiff and Rhea appeared to slowly sour. The Plaintiff continued to distance himself from the VRRP and eventually stopped attending group meetings.

38. In or around 2010, the marriage between the Plaintiff and Rhea deteriorated further, and they separated. Mr. Davar is aware that the marriage ended when the Plaintiff told Rhea that he



was gay. Mr. Davar denies that he ever advised the Plaintiff that he received a telepathic message requiring the Plaintiff to tell Rhea about his sexuality. Mr. Davar was present when the Plaintiff disclosed to Rhea that he was gay.

39. Mr. Davar recalls the telephone call discussed at paragraph 40 of the NOCC. It took place at Mr. Davar's Vancouver residence where Mr. Anosh Irani happened to reside. Mr. Irani was the best man at the wedding of the Plaintiff and Rhea. Mr. Davar advised the Plaintiff by telephone that Rhea was still reeling from the Plaintiff's disclosure of his homosexuality and encouraged him to slowly transition out of his marriage for the sake of [REDACTED]. Mr. Davar also stated that despite the Plaintiff's matrimonial breakdown he was still welcome to attend meetings of the VRRP, instead of cutting everyone off from his life; including his wife and child. Despite this plea, the Plaintiff continued to shut himself off from his family and previous circle of friends.

40. After the breakdown of his marriage, and exit from the VRRP, the Plaintiff continued communication with Mr. Davar, including by text message. Mr. Davar cannot recall the text message to the Plaintiff alleged in paragraph 42 of the NOCC. If he did send it, Mr. Davar denies that it was written in relation to the Plaintiff's sexuality. Though still in contact, at the time of the text message the friendship between Mr. Davar and the Plaintiff was somewhat strained because of how he was treating Rhea and [REDACTED]. If Mr. Davar wrote the words "selfish traitor" to the Plaintiff, it was because Mr. Davar perceived that the Plaintiff had turned his back on his family.

41. By 2011 the Plaintiff had completely disassociated himself from the VRRP.

42. Apparently, the first time the Plaintiff ever alleged impropriety by Mr. Davar was in or around March 2010, when he alluded to the allegations detailed in the NOCC to Rhea. At that time the Plaintiff and Rhea were recently separated and the matrimonial proceedings had been commenced. Custody of their son, [REDACTED], was an issue in the matrimonial litigation and something that the Plaintiff fought hard for; and continues to focus on.

43. Throughout the course of the matrimonial proceedings Mr. Davar attempted to remain neutral. He has at all times remained loyal and supportive to his long time close friend Rhea, and encouraged her to rely on the advice of her legal counsel. Despite this, the Plaintiff would often contact Mr. Davar and beg for his support in the litigation, specifically in matters related to custody and access of his son. Mr. Davar denied the Plaintiffs repeated requests. This angered the Plaintiff, and in turn, the Plaintiff stated to the Defendant "I will ruin everything for you" and "I can't wait to tell the whole world that you are gay". He also said that "I have nothing

to lose, and as a celebrity you have everything to lose – no one will believe you – no one believes the celebrity”.

44. The allegations of the Plaintiff also coincide with Mr. Davar's rise to international success. The first time the Plaintiff confronted Mr. Davar with his allegations was in the telephone call that took place in or around 2011. At that time Mr. Davar was engrossed in a very large international project - of which the Plaintiff was aware. The allegations were upsetting to Mr. Davar and caused great distraction and upset during a very important period of time.

45. In this regard, Mr. Davar is further aware that as recently as April 2015 the plaintiff caused the allegations, which have now been detailed in the NOCC, to be leaked to the media.

46. The Plaintiff blames Mr. Davar for the orders made in the matrimonial litigation, specifically those that relate to custody and access of [REDACTED]. The Plaintiff has made it very clear to Mr. Davar that by failing to side with him during the protracted litigation, he will do everything possible to ruin the reputation of the Mr. Davar, the Dance Company and the VRRP.

### **Division 3 – Additional Facts**

47. N/A

### **Part 2: RESPONSE TO RELIEF SOUGHT**

1. Mr. Davar opposes the granting of all of the relief sought in Part 2 of the Notice of Civil Claim.
2. Mr. Davar asks that this proceeding be dismissed as against him and seeks an order of special costs against the Plaintiff.

### **Part 3: LEGAL BASIS**

1. Mr. Davar denies each and every allegation in the Notice of Civil Claim and puts the Plaintiff to the strict proof thereof.
2. Mr. Davar states that there is no factual basis whatsoever for the allegations contained in the NOCC. Mr. Davar denies that he at any time harassed abused or assaulted the Plaintiff in a sexual manner or otherwise. At all material times, Mr. Davar says that he performed his

role as teacher and perceived spiritual leader in a professional and appropriate manner. At no time did Mr. Davar misuse or abuse his position in the Dance Company and/or perceived position in the Spiritual Group as alleged by the Plaintiff or at all. There is no truth whatsoever to these allegations.

3. With respect to the VRRP generally and specifically Mr. Davar's role in it, there was most assuredly never any systemic practices, policies or actions that promoted abuse, humiliation, degradation of its members. At all material times the Plaintiff participated in the VRRP of his own free will, and at no time was coerced into doing so by Mr. Davar or others. During his time with the VRRP the Plaintiff was never subjected to any oppressive behavior or teachings. He was not harmed, humiliated or caused to live in fear or anxiety in any way.

4. Mr. Davar further denies that the VRRP is prejudicial towards homosexuality. The VRRP encourages all members to conduct their life in an honest and open manner. Its very open belief system is reflected in the fact that Mr. Davar, a gay man, was embraced by Mrs. Bhavnagri as one of her own for 25 years. She placed great trust in him and honoured him by requesting that after her death he act as custodian of her legacy.

5. To the extent that the Plaintiff experienced feelings of unhappiness, humiliation or mental suffering while a member of the Dance Company and/or the VRRP, such was a product of his own subjective reaction to particular events or his life in general. There was nothing about the conduct of Mr. Davar that would have caused an objective reasonable person in like circumstances to have experienced either such feelings, or lasting injury or damage arising out of same. Mr. Davar denies that any act or omission on his part caused or contributed to any of the injury, loss or damage alleged to be suffered by the Plaintiff.

6. If the Plaintiff is found to have suffered injury, loss or damage, which is denied, Mr. Davar says that the extent of the Plaintiff's damages could have been prevented, or the severity reduced, if the Plaintiff had not been negligent in respect of his own personal health and wellbeing. Further, Mr. Davar says that the Plaintiff failed to take any reasonable steps to minimize, avoid or otherwise mitigate his alleged injury, loss or damage.

7. Mr. Davar pleads the provisions of the *Negligence Act*, RSBC 1996, c. 333 and amendments thereto.

8. The allegations contained in paragraphs 8-27, including the alleged "Sexual Acts" and paragraph 36 of the NOCC are said to have occurred in India. These acts are specifically denied, but, in any event not within the jurisdiction of the British Columbia Supreme Court. Mr. Davar pleads and relies on the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C 2003, c. 28.

9. Further, the alleged acts or omissions of Mr. Davar, all of which are denied, do not warrant or justify an award of punitive or aggravated damages.

Defendant's address for service: E. David Crossin, Q.C.  
Sugden, McFee & Roos LLP  
700-375 Water Street  
Vancouver, BC V6B 5N3

Fax number address for delivery: 604-687-5596

Email address for delivery: [dcrossin@smrlaw.ca](mailto:dcrossin@smrlaw.ca)

Date: May 7, 2015



Signature of the Lawyer for Shiamak Davar

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.