

1 Mary J. Shea (SBN 113222)
2 Carole M. Bosch (SBN 239790)
3 SHEA LAW OFFICES
4 1814 Franklin Street, Suite 800
5 Oakland, CA 94612
6 Tel: 510-208-4422
7 Fax: 415-520-9407
8 mary@shealaw.com
9 carole@shealaw.com

7 Carney R. Shegerian, Esq. (SBN 150461)
8 SHEGERIAN & ASSOCIATES, INC.
9 225 Santa Monica Blvd, Suite 700
10 Santa Monica, CA 90401
11 Tel: 310-860-0770
12 Fax: 310-860-0771
13 cshegerian@shegerianlaw.com

12 Attorneys for Plaintiff Maggie Marie Genthner

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 LOS ANGELES COUNTY
16 CIVIL -- UNLIMITED

<p>17 JANE DOE NO. 1 (MAGGIE MARIE 18 GENTHNER), 19 Plaintiff, 20 v. 21 BIKRAM CHOUDHURY, an individual, 22 BIKRAM'S YOGA COLLEGE OF INDIA, 23 L.P., a California Limited Partnership, and 24 DOES 1-25, 25 Defendants.</p>	<p>26 CASE NO.: BC 508288 27 28 PLAINTIFF'S MEMORANDUM OF POINTS AND AUHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR AN ORDER PERMITTING DISCOVERY OF DEFENDANTS' FINANCIAL CONDITION PRIOR TO TRIAL [C.C.P. §3295] Hearing Date: May 26, 2016 Hearing Time: 9:00 a.m. Department: 72, The Hon. Ruth Ann Kwan Actions Filed: May 7, 2013 Trial: July 18, 2016 RES ID: 160426123584</p>
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1 **I. INTRODUCTION**

2 The Court should permit Plaintiff to discover, prior to trial, the profits and financial condition
3 of Defendants Bikram Choudhury and Bikram’s Yoga College of India LP (hereinafter “College”) for
4 the following three reasons:

5 First, plaintiff submits ample evidence demonstrating why she is very likely to prevail on her
6 punitive-damage claim against Defendants, including evidence that Defendant Choudhury: (1) raped
7 Plaintiff twice; (2) commonly sexually assaulted young teacher trainees; (3) incited fear and preyed on
8 his more vulnerable trainees; and (4) continued to assault trainees and after he was warned by his
9 lawyers not to have sexual contact with trainees. (Civ. Code § 3295(c).)

10 Second, Civil Code Section 1708.5(b) expressly provides for punitive damages in sexual
11 battery cases.

12 Third, according to former College President and CEO Petra Starke, Defendant Choudhury has
13 misappropriated College funds and hidden assets. Consequently, obtaining evidence of Defendants’
14 financial condition will require more than a trial subpoena. Plaintiff should be allowed to conduct this
15 discovery before trial so she may present, should the jury find in her favor, a complete overview of
16 Defendants’ financial condition.

17 **II. FACTUAL BACKGROUND**

18 **A. BIKRAM YOGA TEACHER TRAINING**

19 1. **Benjamin Lorr’s Testimony**¹: Lorr attended teacher training in San Diego in 2010. (Lorr
20 Tx at pp. 6:16-20, 14:9-15:2, 26:10-22.) Lorr witnessed Choudhury “grooming” trainees, including
21 choosing favorites, using his attention as a weapon—either lavishing positive attention or shunning—,
22 and instilling fear of excision from the community. (*Id.* at pp. 62:22-65:17.) It was understood that if
23 you agreed to participate in the training, you had to accept anything Choudhury did. (*Id.*; see also pp.
24 85:13-86:22 [“[i]f you didn’t like what was said, then you didn’t belong”; pp. 66:13-67:14, 68:5-69:11
25 [teacher escorted out after complaining about Choudhury’s rant against homosexuals.]])

26 Choudhury compared himself to Jesus Christ or Buddha and told students that he could see
27 their entire life—past, present, and future. (*Id.* at pp. 74:20-76:22.) He often said: “Nobody fucks with
28

¹ Please refer to cross-index to the Declaration of Carole Bosch for Exhibit Number.

1 me” and claimed that he had broken a man’s neck with one punch. (*Id.* at p. 84:15-24.) Trainees were
2 financially beholden to Choudhury. (*Id.* at pp. 92:2-93:25; see also 43:7-20 [teacher training
3 certification required to teach Bikram yoga].) They did not want to be thrown out of the community—
4 or outsiders to misunderstand the community because of Choudhury. (*Id.*)

5 **2. Joseph Mastowski’s Testimony:** Mastowski also attended the San Diego training in
6 2010. (Mastowski Tx at pp. 7:1-4, 23:17-24:9) The mantra was: “Trust the process.” (*Id.* at pp.
7 101:16-102:18.) Mastowski suffered from sleep deprivation. (*Id.* at p. 38:13-39:7; 40:2-13; 98:16-21.)
8 Choudhury yelled at every class. (*Id.* at p. 46:19-21.) He gave students derogatory names and made
9 derogatory comments. (*Id.* at p. 46:22-47:3; see also p. 45:17-46:18; 56:10-57:10 [berating students for
10 their weight]; p.46:4-19 [blaming homosexuals for AIDS; pp. 57:20-58:13 [commenting that women
11 are only good for one thing].) He compared himself to Jesus Christ and Buddha. (*Id.* at p.47:20-23.)

12 When a student complained about Choudhury’s homophobic comments, she was told to leave
13 the training. (*Id.* at pp. 68:25-69:19.) Another student was kicked out because his father, who owned a
14 Bikram studio, added spinning cycles. (*Id.* at pp. 79:13-80:4.) Students spent a lot of money for
15 training and Choudhury could “take it all away from them.” (*Id.* at p. 77:2-15.) If students taught at
16 non-certified studios, they lost their certification. (*Id.* at pp. 77:16-78:5; 92:19-94:7.) Choudhury told
17 them not to “fuck” with him, that his “balls” were “two mega-tons.” (*Id.* at pp. 78:7-79:3; 95:3-96:9;
18 120:14-16.) He bragged about his connections to powerful people. (*Id.* at pp. 95:11-96:9, 97:4-14.)

19 **3. Emma Cleaves’ Testimony:** Cleaves has been providing teacher training and seminars to
20 the Bikram organization for forty-two years. (Cleaves Tx at pp. 14:23-15:13; 18:1-2, 12-18.)
21 According to Cleaves, sleep deprivation is considered part of the training process—to put pressure on
22 students to find their inner strength. (*Id.* at pp. 49:15-50:17; 51:2-11; 52:14-53:1.) Choudhury decided
23 to make sleep deprivation a part of the process. (*Id.* at p. 51:6-11.)

24 **B. EVIDENCE OF DEFENDANT BIKRAM CHOUDHURY’ S SEXUAL ASSAULT** 25 **OF MAGGIE GENTNER**

26 **1. Plaintiff’s Testimony:** Plaintiff will testify at trial that Defendant Choudhury raped her
27 twice in the fall of 2011. (Genthner Decl. at ¶¶16, 19.) Plaintiff first took Bikram yoga classes in
28 approximately 2003 or 2004, when she was 19 or 20. (*Id.* at ¶ 2.) She graduated from teacher training
in 2007 and taught at certified Bikram yoga studios. (*Id.* at ¶¶ 3, 5.) Plaintiff then volunteered as a staff

1 member at the spring and fall teacher trainings in 2011. (*Id.* at ¶¶ 6-7, 11-12.) Her boyfriend also
2 volunteered at the spring training, but they broke up before the fall training. (*Id.* at ¶¶ 6, 12.)

3 At first, Choudhury asked Plaintiff to massage his feet. (*Id.* at ¶ 7.) But one night, he asked her
4 and another teacher to massage his “coccyx,” which Plaintiff refused to do. (*Id.* at ¶ 7.) Soon, he was
5 requesting massages from Plaintiff on a regular basis. (*Id.* at ¶ 9.) Around the same time, he also began
6 a pattern of praising her and berating her. (*Id.*) Significantly, at an event in the summer of 2011, which
7 Plaintiff attended with her mother, Choudhury referred to Plaintiff as “the little one who takes care of
8 me” and pulled her towards him saying, “She is mine now!” (*Id.* at ¶ 12.)

9 At the fall teacher training, the requests for massages and the pattern of praising and berating
10 increased in intensity. (*Id.* at ¶ 13.) Choudhury also became more and more sexual in his comments.
11 (*Id.* at ¶ 14.) One night, he told her that she was radiant and he had chosen her. (*Id.*) When Plaintiff
12 pulled away, he said: “I will be waiting for you.” (*Id.* at ¶ 15.) The next morning, he cornered her as
13 she was entering his room as part of her volunteering duties, pushed her onto the bed, and forcibly
14 penetrated her vagina with his penis without her consent. (*Id.* at ¶ 15.) When Plaintiff cried that he was
15 hurting her, he responded: “I know, it’s supposed to hurt.” (*Id.* at ¶ 16.) A few days later, he did it
16 again, telling plaintiff that, this time, he was going to “cum.” (*Id.* at ¶ 19.) Shortly after the rapes,
17 Plaintiff told the other volunteers never to be alone with Choudhury. (*Id.* at 17.)

18 As a result of the rapes, Plaintiff suffered from severe depression, for which she sought
19 treatment. (*Id.* at ¶ 21.) She was afraid of Choudhury, who always said “no one fucks with me.” (*Id.*)
20 She could not understand how the man whom she followed, trusted, and loved as her teacher and guru
21 could so violate her. (*Id.*) She blamed herself. (*Id.*) She also developed a urinary tract infection and
22 lived in fear of a sexually transmitted disease. (*Id.*) On March 19, 2013, Choudhury called Plaintiff
23 and asked for her forgiveness. (*Id.* at ¶ 22, Exh. A.)

24 **2. Jessica Richardson’s Testimony:** Richardson received her certification in the spring of
25 2010. (Richardson Tx at pp. 6:1-4, 23:5-9, 23:20-24:2.) She volunteered at the same teacher training as
26 Plaintiff in the fall of 2011. (*Id.* at p. 29:2-30:4, 30:19-31:2.) Plaintiff had broken up with her
27 boyfriend shortly before the training. (*Id.* at p. 65:1-21, 66:24-68:6.) She was pensive, relatively quiet.
28 (*Id.*) She told her fellow staff volunteers that no one should be alone with Choudhury. (*Id.* at p. 73:21-

1 74:13.) She was upset and crying at the time. (*Id.* at pp. 68:11-19; 75:4-76:5.) She suffered from a
2 urinary tract infraction and Richardson took her to the pharmacy. (*Id.*) Richardson guessed, because of
3 the urinary tract infection and the comment that no one should be left alone with Choudhury, that
4 Choudhury had assaulted Plaintiff. (*Id.* at p. 89:13-91:1.) But she did not ask Plaintiff directly, only
5 asked if something had happened. (*Id.*) Plaintiff did not want to talk about what had happened. (*Id.*)

6 **C. OTHER EVIDENCE OF MALICE, OPPRESSION, AND FRAUD**

7 1. **Heather Blankinship’s Testimony**: Heather Blankinship began practicing yoga in 1996 in
8 Redmond, Washington, at a studio run by Greg Gumucio. (Blankinship Decl. at ¶ 2.) In 1997,
9 Gumucio invited Choudhury to lead a class in Redmond and asked Blankinship to meet him. (*Id.* at ¶
10 4.) Before Choudhury ever saw Blankinship practice yoga, he told her that he knew who she was, that
11 she was gifted, and that she would be “bigger” than his wife, Rajashree. (*Id.* at ¶ 5.) After dinner,
12 Choudhury asked Blankinship for a massage. (*Id.* at ¶ 6.) When she found herself alone in a room with
13 him, he turned around, pinned her down with his arms, and forcibly kissed her. (*Id.* at ¶ 7.) When he
14 understood that she would not kiss him, he said it was his turn to give her a massage and pointed to the
15 bed in next-door bedroom, asking her to take off her clothes and get in bed. (*Id.* at ¶ 7.) She refused
16 and he threatened not to teach class the following day if she did not comply. (*Id.*)

17 2. **Naema Noor’s Testimony**: Naema Noor met Choudhury in 1995 or 1996 after moving
18 from India to Los Angeles. (*Id.* at ¶¶ 1-2.) He told her that yoga was in her blood and lent her money
19 to attend the 1998 training. (*Id.* at ¶ 3.) Choudhury always singled her out to demonstrate postures and
20 give him massages. (*Id.*) One day, he asked her to his office for a massage and, there, jumped on her
21 and forcibly kissed her before she could push him off. (*Id.* at ¶ 4.) Then, he started calling her. (*Id.* at ¶
22 5.) One day, he drove to her apartment and tried to convince her to have sex with him by telling her
23 that she was his destiny, that god had sent her to him. (*Id.* at ¶ 6.) He jumped on her but stopped when
24 he realized that she was menstruating. (*Id.*) When Noor did not accede to his sexual requests,
25 Choudhury required that the studio where she was working let her go. (*Id.* at ¶ 7.) He told the family of
26 her fiancé—who owned yoga studios—that Noor was “cancer and AIDS.” (*Id.* at ¶ 10.) Noor got
27 scared and left the country. (*Id.* at ¶ 13.) Noor will testify that “he was always making fun of
28

1 Americans, implying that he could get away with anything in this country because he was successful
2 and famous.” (*Id.* at ¶ 15.)

3 3. **Larissa Anderson’s Testimony:** At age twenty-two, Larissa Anderson discovered Bikram
4 yoga and met Greg Gumucio, whom she began dating. (*Id.* at ¶ 2.) Gumucio and Anderson often
5 stayed at Choudhury’s home in Los Angeles. (*Id.* at ¶¶ 3, 6.) When they stayed with the Choudhury’s,
6 Anderson was expected to massage Choudhury, brush his hair, and serve meals. (*Id.*) One day,
7 Choudhury told Anderson that they were “connected” and “shared past lives.” (*Id.* at ¶ 7.) Soon
8 thereafter, he asked her to massage his buttocks and exposed his penis to her. (*Id.* at ¶ 8.)

9 Choudhury and Gumucio had a business fall-out, and Choudhury asked Anderson—by then a
10 teacher—to choose sides. (*Id.* at ¶ 10.) When she refused, Choudhury shut her out of the community
11 and she lost her certification and teaching opportunities. (*Id.* at ¶¶ 10, 11.) To regain her status,
12 Anderson apologized to Choudhury, who, in response, invited her to visit his family. (*Id.* at ¶ 12.)
13 One night, Anderson was left alone with Choudhury watching a Bollywood movie. (*Id.* at ¶ 15.) He
14 asked for a massage. (*Id.*) When Anderson refused to massage him up his legs and sought to leave, he
15 coaxed her into staying. (*Id.*) He then tried to kiss her, telling her they were spiritually connected.
16 (*Id.*) When Anderson pulled away, he grabbed her hand and led her into the family room. (*Id.*) There,
17 he forcibly penetrated her. (*Id.*)

18 During the 2011 teacher training, Choudhury once more tried to have sex with Anderson. (*Id.*
19 at ¶¶ 17-20.) She rebuffed him. (*Id.*) When she opened her studio a few months later, the College
20 refused to list her studio on the website as an affiliate studio. (*Id.*) Because Anderson could not recruit
21 Bikram yoga teachers, she lost income and had to re-brand her studio. (*Id.*)

22 4. **Amy Gayheart’s Testimony:** Amy Gayheart began practicing yoga in 2001 and attended
23 teacher training in 2004. (Gayheart Tx at pp. 7:25-8:7, 11:2-14, 14:15-15:4; 19:15-20:1, 20:6-10, 24:8-
24 20.) Choudhury aligned himself with “gurus and gods and buddhas.” (*Id.* at p. 25:4-22.) He needed
25 “the attention of women and men physically and mentally on him”—including massages, hair
26 brushing. (*Id.* at pp. 28:5-30:14.) He had his special women, on whom he called in class to
27 demonstrate postures—including Gayheart. (*Id.*) Choudhury repeatedly tried to touch Gayheart in a
28 sexual way. (*Id.*; see also pp. 31:9-33:10; 37:21-38:16.) Then, he invited her to go to Las Vegas with

1 him for a weekend. (*Id.* at pp. 42:20-44:16.) Gayheart refused. (*Id.*) When she saw him driving by her
2 house one weekend, she got scared. (*Id.*) She did not return to the College. (*Id.*)

3 **5. Sarah Baughn's Testimony:** Sarah Baughn first attended teacher training in the spring of
4 2005. (Baughn Tx at pp. 19:5-20:19.) She was nineteen years old. (*Id.* at p. 11:22-23.) Early in the
5 training, Choudhury told Baughn that they had a connection from a past life. (*Id.* at pp. 43:7-45:21.)
6 The next day, Choudhury asked her whether they should have a relationship. (*Id.* at pp. 48:18-51:9.)
7 He told Baughn that he loved her, that he felt a connection with her deeper than he had ever felt, and
8 that his guru had given him a message. (*Id.* at pp. 52:1-53:54:17.)

9 One to three weeks later, Choudhury grabbed Baughn in class and forcibly stretched her body
10 into a posture. (*Id.* at pp. 55:13-59:11.) Throughout, he whispered that she needed to be with him. (*Id.*)
11 Baughn started crying but he held on. (*Id.*) Later on in the class, he again repeated that she needed to
12 be with him and that he loved her. (*Id.*) Baughn spoke to a senior teacher, Craig Villani, who
13 recommended that she respectfully decline Choudhury's advances. (*Id.* at pp. 67:12-69:25.) But at the
14 teacher training in 2006, Villani told Baughn that she could not teach class because she had reported to
15 her students that Choudhury had propositioned her. (*Id.* at pp. 86:9-87:9.)

16 In 2007, Baughn trained with Jim Kallett in Los Angeles and both were invited to dinners at
17 the Choudhury's home. (*Id.* at pp. 106:16-107:5.) After a dinner, Baughn stayed on to watch a
18 Bollywood movie. (*Id.* at pp. 111:19-115:7.) Choudhury put his hand on the inside of her leg and
19 climbed on top of her, telling her again that he needed to be with her. (*Id.* at pp. 119:12-121:9.)

20 Choudhury lectured about how strong he was and how he knew people at the Los Angeles
21 Police Department and the White House. (*Id.*) He said not to "fuck" with him, that he had "two
22 megaton balls." (*Id.*) He ridiculed people who had crossed him. (*Id.* at p. 126:2-13.) When he assaulted
23 Baughn on the couch, he told her that he would die without her and that she would not win a yoga
24 competition if she did not have sex with him. (*Id.* at pp. 126:13-129:9; see also pp. 134:5-137:2.)
25 Baughn placed second at the competition, although she scored the highest. (*Id.* at pp. 139:12-140:25.)

26 **6. Jelena Lepesic's Testimony:** Jelena Lepesic graduated teacher training in 2005 and
27 volunteered at the 2008 training in Mexico. (Lepesic Decl. at ¶¶ 1-3.) Due to her background in
28 massage therapy, she was assigned to massage Choudhury. (*Id.*) Late one night, she was called into

1 Choudhury’s room for a massage. (*Id.* at ¶ 9.) He emerged from the bathroom naked and tried to kiss
2 her. (*Id.*) She told him that she would massage him (covered) but nothing more. (*Id.*) He tried to coax
3 her into sleeping with him telling her that she was the chosen one, that she could travel with him and
4 manage his school in India, and that she was just shy. (*Id.*) When he fell asleep, Lepesic left. (*Id.*)
5 Afterwards, Choudhury asked Lepesic to go to India to manage his studio. (*Id.* at ¶ 13.) A few days
6 after she refused, she was let go from the studio where she was teaching in Canada. (*Id.*) Choudhury
7 always said that if people “fucked” with him, he would “fuck” with them. (*Id.* at ¶ 8.)

8 7. **Rowena Jayne Ooi’s Testimony:** Rowena Jayne Ooi also attended the 2005 teacher
9 training, returned for the advanced yoga series in 2006, and volunteered in Hawaii in 2007. (*Id.* at ¶¶
10 1-5.) In Hawaii, Choudhury berated the staff who did not attend the Bollywood movies and
11 complained to the trainees that his staff was “shit.” (*Id.* at ¶ 5.) So Ooi went to Choudhury’s room for a
12 Bollywood movie and he asked her to massage his feet. (*Id.* at ¶ 6.) He then dismissed all other
13 persons present and asked her to massage his calves, then his quads. (*Id.*) He then lifted his boxer
14 shorts and asked her to massage his exposed penis. (*Id.*) When he realized that she would not do it, he
15 asked her to go. (*Id.*) Afterwards, he criticized Ooi in front of all of the students. (*Id.* at ¶ 7.)

16 8. **Jenelle Leat’s Testimony:** Jenelle Leat attended teacher training in 2007 in Hawaii and
17 returned in 2010 in Las Vegas as a volunteer. (*Id.* at ¶¶ 7, 20.) One evening, staff members asked her
18 to go to Choudhury’s room. (*Id.* at ¶ 21.) When she arrived, he dismissed the other women and asked
19 her to massage his legs, then his groin area. (*Id.*) Afterwards, he pleaded that he needed someone
20 besides him to help him to sleep, that he did not want to be alone. (*Id.* at ¶ 27-28, 30.) Leat massaged
21 his shoulders until he fell asleep and then sat on the couch and waited till morning to leave out of fear
22 that he would become angry if he woke up and she was not there. (*Id.* at ¶ 31.) She reported
23 Choudhury’s conduct to a senior teacher, who told her never to be alone with Choudhury. (*Id.* at ¶ 32.)
24 Other senior teachers told her to separate the man from the teacher. (*Id.* at ¶¶ 42-43.)

25 10. **Francesca Nguven’s Testimony:** Francesca Nguven attended teacher training in the spring
26 of 2010, after Choudhury encouraged her multiple time and offered her a scholarship. (Nguven Decl.
27 at ¶¶ 1-8.) One evening after class, Choudhury held Nguven back and told her that he liked her, that he
28 had saved millions of people, and that he did not trust “white people.” (*Id.* at ¶ 9.) He then asked her if

1 she liked him. (*Id.*) When she replied in the affirmative, he handed her his bag and told her to follow
2 him. (*Id.*) He took her to his room, where he tried to coax her into sexual favors by promising to make
3 her a champion. (*Id.* at ¶ 10.) When she pulled away and started crying, he forced himself onto her.
4 (*Id.*) Afterwards, he apologized and told her it would never happen again and that he would take care
5 of her and make her a champion. (*Id.*) But Choudhury attacked Nguyen again. (*Id.* at ¶¶ 14-17.) When
6 Nguyen refused to obey Choudhury and go India the following year, she was terminated. (*Id.* at ¶ 19.)

7 9. **Jill Lawler’s Testimony:** Jill Lawler used her college fund to attend teacher training in
8 Las Vegas in 2010. (Lawler Decl. at ¶ 2-3.) She was 18 years old. (*Id.* at ¶ 2.) Choudhury singled her
9 out to demonstrate postures, told her she was sweet, and offered her candy. (*Id.* at ¶ 3.) Soon, he asked
10 her to massage his feet. (*Id.* at ¶ 4.) One night, he put his hand on her leg, then tried to reach into her
11 pants. (*Id.* at ¶ 6.) Lawler jumped up and left. (*Id.*) The next day, Choudhury apologized and told her
12 he had been unable to control himself and that it would never happen again. (*Id.* at ¶ 9.) But two weeks
13 later, Choudhury insisted that Lawler follow him into his suite. (*Id.* at ¶ 11.) Another woman was
14 present but left. (*Id.*) Choudhury immediately attempted to shove his penis in Jill’s face and when she
15 covered her face with her hands, he asked her to follow him to his room, telling her not to worry, that
16 nothing would happen. (*Id.*) He then forced his mouth onto hers and, when she would not kiss him,
17 tried to coax her that god wanted them together, that their souls were connected, that he would die if
18 she did not have sex with him. (*Id.*) When she refused, he forcibly penetrated her. (*Id.*) The next day,
19 Choudhury apologized again, telling her she was beautiful and it would never happen again. (*Id.* at ¶
20 12.) But he assaulted her again. (*Id.* at ¶¶ 14-16.) When Baughn filed suit, Choudhury offered
21 Lawler money, a studio, whatever she wanted. (*Id.* at ¶ 19.)

22 10. **Sharon Clerkin’s Testimony:** Sharon Clerkin attended teacher training in 2009. (Clerkin
23 Tx at p. 9:1-25.) In 2010, she volunteered and thereafter began working at the College. (*Id.* at p. 10:5-
24 17.) She was in charge of registration and attended teacher trainings. (*Id.* at pp. 10:28-11:20, 12:11-
25 14:7.) Clerkin and her husband were terminated in 2015 when Clerkin got pregnant. (*Id.* at pp. 18:4-
26 14, 18:19-19:17.)

27 Choudhury had a hotel suite at the teacher trainings where he conducted business. (*Id.* at p.
28 20:12-22:2.) Clerkin saw women massage him in the room, including during Bollywood movies after

1 the lectures, starting at 11:00 or 11:30 p.m. (*Id.*) Clerkin heard Choudhury make comments about
2 women that she found offensive, including “fucking white trash,” “fucking Korean bitch, and “fucking
3 black bitch.” (*Id.* at p. 22:25-25:6.) He said repeatedly that he hated “cold food, cold weather, and cold
4 pussy.” (*Id.* at p. 26:9-21, 27:1-6.) He made the same comments at every training. (*Id.* at p. 30:2-17.)
5 At the spring of 2013 teacher training, Choudhury commented: “Look at how many people are here. I
6 should rape more girls. It’s good for business.” (*Id.* at p. 27:7-22.) When Petra Starke sought to
7 implement an employee manual with a sexual harassment policy, neither Choudhury nor his wife
8 Rajashree ever approved it. (*Id.* at pp. 44:10-45-19.)

9 11. **Robert Gilchrest’s Testimony:** Attorney Robert Gilchrest met Defendant Choudhury
10 through his wife, who owned a yoga studio, and started represented Choudhury and the College in
11 various legal matters in March 2011. (Gilchrest Tx at pp. 45:12-21, 47:7-48:26.) Baughn reported to
12 Gilchrest that Choudhury had been pressuring her into having a sexual relationship with him. (*Id.* at
13 pp. 84:11-16, 85:1-14, 85:23-86:1.) Gilchrest also became aware of Dana McClellan’s lawsuit,
14 wherein she alleged that Choudhury had raped her. (*Id.* at p. 88:3-12.) At a meeting where Choudhury
15 told Gilchrest and Minakshi Jafa-Bodden, also an attorney, to spread rumors that Gumucio was a
16 rapist, and Gilchrest and Jafa-Bodden instructed him that such rumors would be criminal, Choudhury
17 responded that “he does the fuck what he wants to.” (*Id.* at pp. 98:5-7, 100:9-14, 101:1-21, 101:15.0.)
18 Choudhury used the phrase “I do the fuck what I want to do” regularly, including when addressing
19 significant issues such as Baughn and McClellan’s allegations. (*Id.* at pp. 101:16-102:5.) Gilchrest and
20 Jafa-Bodden instructed Choudhury not to engage in sexual relationships with trainees. (*Id.* at p.102:9-
21 28.) Both were fired the same day on March 1, 2013. (*Id.*)

22 12. **Minakshi Jafa-Bodden’s Testimony:** Attorney Minakshi Jafa-Bodden served as Head of
23 Legal and International Affairs for Defendant Choudhury and several of his entities from March 2011
24 until March 1, 2013. (Jafa-Bodden decl. at ¶ 2.) She objected to Choudhury’s practice of calling young
25 women trainees or teachers to his room during teacher training, but Choudhury continued to do so,
26 including at night. (*Id.* at ¶ 3.) On three separate occasions, not counting lawsuits, when students
27 complained of sexual assault or other mistreatment, Jafa-Bodden was told not to investigate. (*Id.* at ¶¶
28 4-6.)

1 **13. Petra Starke’s Testimony:** Attorney Petra Starke served as President and CEO of the
2 College from May 2, 2013 until December 2014. (Starke Decl. at ¶¶ 2-9.) Defendant Choudhury is the
3 sole owner and founder of the College. (*Id.* at ¶ 3.) After Starke urged Choudhury, who was being
4 sued by several women for sexual assault and harassment, to be careful about his interactions with
5 young women, he brought a twenty-three year old female instructor on a business trip. (*Id.* at ¶¶ 11-
6 12.) On that trip, Starke witnessed Choudhury pressuring the instructor to massage him and saw her
7 head on his lap with a ski jacket over her head in what appeared to be an act of oral sex. (*Id.*) When
8 Starke confronted Choudhury about his conduct, he became angry. (*Id.* at ¶ 13.) When she reported the
9 conduct to Rajashree, Choudhury stopped paying her salary. (*Id.* at ¶¶ 14-15.)

10 While performing her duties, Starke learnt that Choudhury used College funds for his personal
11 gain, including purchasing luxury cars and property under his name. (*Id.* at ¶ 10.) He also placed
12 various assets of his companies into the names of other entities or himself to avoid payment to
13 creditors. (*Id.*) And he secretly moved College operations and revenues overseas. (*Id.*)

14 **III. LEGAL ANALYSIS**

15 California Supreme Court authority requires the introduction of financial-condition evidence to
16 support an award of punitive damages. (*Adams v. Murakami* (1991) 54 Cal.3d 105, 118-119.) Code of
17 Civil Procedure Section 3295(c) permits discovery on the profits or financial condition of a defendant
18 prior to trial if the Court finds, “on the basis of the supporting and opposing affidavits presented, that
19 the plaintiff has established that there is a substantial probability that the plaintiff will prevail on [her]
20 claim [for punitive damages.]” The Courts have interpreted “substantial probability” to mean “very
21 likely” or “a strong likelihood.” (*Jabro v. Sup. Ct* (2002) 95 Cal.App.4th 754, 758; see also *Guardado*
22 *v. Sup. Ct* (2008) 163 Cal.App.4th 91, 98.)

23 A plaintiff may recover punitive damages where it is “proven by clear and convincing evidence
24 that the defendant has been guilty of oppression, fraud, or malice.” (C.C.P. § 3294.) Malice “means
25 conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which
26 is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.”
27 (*Id.*, subd. (c)(1).) Oppression means “despicable conduct that subjects a person to cruel and unjust
28 hardship in conscious disregard of that person’s rights.” (C.C.P. § 3294 (c)(2).)

1 **A. DEFENDANT CHOUDHURY RAPED PLAINTIFF TWICE**

2 To prevail on her underlying claims for assault, battery, sexual battery, and gender violence,
3 Plaintiff must show that (1) Defendant Choudhury intended to cause a harmful or offensive contact
4 with her sexual organs or by use of his sexual organs and a sexually offensive contact resulted; (2)
5 Plaintiff did not consent to the touching; and (3) she was harmed or offended by the conduct. (Civ.
6 Code §1708.5; see also CACI 1300 (Battery), 1301 (Assault), and 1306 (Sexual Battery).) A showing
7 of “a physical intrusion or physical invasion of a sexual nature under coercive conditions” suffices to
8 prove gender violence in violation of California Civil Code §52.4. If Plaintiff’s gender was the
9 motivating factor for Choudhury’s conduct, he may be found liable or violation of the Ralph Act. (Civ.
10 Code. § 51.7.)

11 Plaintiff’s testimony that Choudhury twice penetrated her forcibly in the fall of 2011 is
12 corroborated by: (1) her testimony regarding Choudhury’s increasing requests for massages and sexual
13 comments prior to the assault; (2) her testimony that, after the assaults, she told other teacher trainees
14 never to be alone with Choudhury; (3) Richardson’s testimony that Plaintiff told the teachers never to
15 be alone with Choudhury as she was crying and that Richardson inferred, from these comments and
16 the urinary tract infection that Plaintiff was complaining about, that Choudhury had assaulted Plaintiff;
17 and (4) Choudhury’s call to Plaintiff attempting to apologize for his conduct. (Genthner Decl. at ¶¶ 1-
18 22; Richardson Tx at p. 73:21-74:13, 89:13-91:1.) Plaintiff’s lack of consent is likewise evidenced by
19 her crying out that Choudhury was hurting her, her comments that no one should be left alone with
20 him, and Choudhury’s call to her in March of 2013 to apologize. (*Id.*) As a result of Choudhury’s
21 conduct, Plaintiff suffered pain, fear, deep depression, doubt, and self-blame for which she has
22 undergone extensive counseling. (Genthner Decl. at ¶¶ 16, 21-22.)

23 **B. RAPE IS PHYSICAL HARM EVINCING CONSCIOUS DISREGARD FOR THE**
24 **SAFETY OF OTHERS**

25 Conduct involving physical harm and evincing an indifference to or reckless disregard of the
26 health of others is viewed as more reprehensible for purposes of punitive damages. (*State Farm Mut.*
27 *Auto. Ins. Co. v. Campbell* (2003) 538 U.S. 408, 419; *Roby v. McKesson Corp.* (2009) 47 Cal. 4th 686,
28 713.) Indeed, Civil Code Section 1708.5(b) expressly provides that the perpetrator of a sexual battery
is liable to the victim for punitive damages.

1 Here, proof of a sexual battery is sufficient to entitle Plaintiff to an award of punitive damages
2 under Section 1708.5(b). Choudhury raped Plaintiff twice. What’s more, his callous response to
3 Plaintiff’s cries that he was hurting her as he contorted her legs and forced himself on her —“I know,
4 it’s supposed to hurt”—plainly evidences his utter indifference and reckless disregard of her rights,
5 health, and safety. (Genthner Decl. at ¶ 16.) So do his comments to the entire class the very evening of
6 the assault about “sex being an exchange of energy”, and “one’s karma” or “destiny.” (*Id.* at ¶ 17.) In
7 his attempt to justify his conduct, Choudhury showed no guilt, no remorse, no contrition.

8 **C. DEFENDANT CHOUDHURY COMMONLY ASSAULTED YOUNG TEACHER** 9 **TRAINEES**

10 A pattern or practice of wrongful conduct is often introduced as evidence of malice or
11 oppression to justify a punitive damage award. (*BMW of N. Am., Inc., supra*, 517 U.S. at p.
12 576; *Bullock v. Philip Morris USA, Inc.* (2011) 198 Cal.App.4th 543, 562.) The Supreme Court has
13 held that “evidence of actual harm to nonparties can help to show that the conduct that harmed the
14 plaintiff also posed a substantial risk to the general public, and so was particularly reprehensible.”
15 (*Phillip Morris USA v. Williams* (2007) 549 U.S. 346, 355.)

16 Plaintiff offers the testimony of ten witnesses whom Defendant Choudhury assaulted. The
17 testimony demonstrates a clear pattern of forceful manipulation:

- 18 (1) Choudhury praised the women. (Genthner Decl. at ¶ 9, 13; Blankenship Decl. at ¶ 5;
19 Noor Decl. at ¶ 3; Baughn Tx at p. 46:18-47:17; Lepesic Decl. at ¶¶ 1-3; Nguyen Decl. at ¶¶ 1-
20 8; Lawler Decl. at ¶ 3, 12.)
- 21 (2) He said to some of the women that they were connected and shared past lives. (Noor
22 Decl. at ¶ 6; Anderson Decl. at ¶ 7; Baughn Tx at pp. 43:7-45:21, 52:1-54:17, 126:13-129:9;
23 Lepesic Decl. at ¶ 6; Nguyen Decl. at ¶ 9; Lawler Decl. at ¶ 11.)
- 24 (3) He made others promises of advancement. (Blankenship Decl. at ¶ 5; Lepesic Decl. at
25 ¶ 9; Nguyen Decl. at ¶ 10.)
- 26 (4) He also berated or threatened some of the women—including saying that he would die
27 if they did not comply. (Genthner Decl. at ¶ 9; Ooi Decl. at ¶ 5, 7; Baughn Tx at p. 126:13-
28 129:9; Lawler Decl. at ¶ 11, 15-16.)
- (5) Most of the women, he asked to give him massages or comb his hair. (Genthner Decl.
at ¶ 7-9; Blankenship Decl. at ¶ 6; Noor Decl. at ¶ 4; Anderson Decl. at ¶ 6, 15; Lepesic Decl.
at ¶¶ 8-9; Ooi Decl. at ¶ 6; Leat Decl. at ¶ 21.)

1 (6) He isolated the women, typically in his office or hotel room, sometimes at their home
2 and requested from them, or forced on them, sexual favors. (Genthner Decl. at ¶¶ 14-15;
3 Blankinship Decl. at ¶ 7; Noor Decl. at ¶ 4, 6; Anderson Decl. at ¶ 12; Gayheart Tx at p. 31:9-
4 33:7; Baughn Tx at p. 119:12-121:9; Lepesic Decl. at ¶ 8; Ooi Decl. at ¶ 7, 14; Leat Decl. at ¶
5 21; Nguyn Decl. at ¶¶ 9, 15, 17; Lawler Decl. at ¶¶ 11, 13, 14, 16.)

6 (7) Then he ostracized or punished the women. (Noor Decl. at ¶¶ 7, 10; Anderson Decl. at
7 ¶¶ 10,11, 20;; Baughn Tx at p. 139:12-140:25 ; Lepesic Decl. at ¶ 13; Nguyn Decl. at ¶¶ 19;
8 Lawler Decl. at ¶¶ 15-16; Lorr Tx at pp. 62:22-65:17.)

9 Taken together, the testimony of these witnesses demonstrates that Choudhury used his stature
10 and status in the yoga community to force – or try to force – young teacher trainees into sex through
11 praise, promises of career advancement, pestering that the act was meant to be or his life depended on
12 it, and threats of shunning from the community.

13 **D. DEFENDANT CREATED AND EXPLOITED VULNERABILITY**

14 “In a case involving physical harm, the physical or physiological vulnerability of the target of
15 the defendant’s conduct is an appropriate factor to consider in determining the degree of
16 reprehensibility, particularly if the defendant deliberately exploited that vulnerability.” (*Bullock*,
17 *supra*, 198 Cal.App.4th at p. 562.) Here, evidence abounds that Choudhury preyed on young,
18 vulnerable women, incited fear, required obedience and devotion, sleep-deprived the women, and
19 controlled them financially.

20 Plaintiff had broken up with her boyfriend before the fall of 2011 training. (Genthner Decl. at ¶
21 12; Richardson Tx at p. 65:1-21, 66:24-68:6.) Noor was alone in a foreign country. (Noor Decl. at ¶ 1.)
22 Both Noor and Nguyen received financial assistance from Choudhury to attend teacher training. (*Id.* at
23 ¶ 3, Nguyen Decl. at ¶¶ 1-8.) Baughn was nineteen. (Baughn Tx at p. 11:22-23.) Lawler was eighteen
24 and used her college money to attend teacher training. (Lawler Decl. at ¶ 2.) They were told to “trust
25 the process.” (Mastowski Tx at pp. 101-16:102:18.)

26 Choudhury used racist, sexist, and homophobic language in class. (Lorr Tx at pp. 66:13-67:14,
27 68:5-69:11; Mastowski Tx at pp. 46:22-47:3, 56:10-57:10, 46:4-19, 57:20-58:13; Clerkin Tx at pp.
28 22:25-25:6, 26:9-21, 27:1-6.) He picked on students. (Mastowski Tx at pp. 45:17-46:18; Genthner
Decl. at ¶ 9; Baughn Tx at pp. 55:13-59:11; Lepesic decl. at ¶¶ 1-3; Ooi at ¶ 7.) He required that the
students do as he said, including giving him massages and brushing his hair. (Lorr Tx at pp. 68:5-

1 69:11; Baughn Decl. at ¶¶ 7, 9, 13; Anderson Tx at pp. 24:21-25:6; Noor Decl. at ¶3; Anderson Decl.
2 at ¶¶ 3,6; Gayheart Tx at pp. 28:5-30:14; Lepesic Decl. at ¶ 8; Ooi Decl. at ¶ 6; Leat Decl. at ¶ 21.)

3 Choudhury presented himself as an omnipotent Christ- or Buddha-like figure who could see
4 through the students and knew what was best for them. (Lorr Tx at pp. 74:20-76:22; Mastowski Tx at
5 p. 47:20-23; Gayheart Tx at p. 24:4-22; Blankinship Decl. at ¶ 5; Leat Decl. at ¶ 8.) He boasted that he
6 was connected to high-powered individuals. (Baughn Tx at pp. 121:15-122:1.) He very liberally said
7 that no one should “fuck” with him or he would “fuck” with them.” (Lorr Tx at p. 84:15-24;
8 Mastowski Tx at pp. 78:7-79:3, 95:3-96:9, 120:14-16; Baughn Tx at pp. 121:15-122:1; Lepesic Decl.
9 at ¶ 5; Ooi Decl. at ¶ 14; Gilchrest Tx at p. 98:5-7, 100:9-14, 101:1-102:5.) He also controlled the
10 teacher trainees by depriving them of sleep. (Mastowski Tx at pp. 38:13-39:7, 40:2-13, 98:16-21;
11 Cleaves Tx at pp. 49:15-53:1.)

12 Choudhury also asserted his dominance over the teacher trainees financially. If they offended
13 Choudhury, he could exclude them from their community of friends and curtail their livelihood with
14 one word. (Lorr Tx at p. 68:5-69:19, 92:2-93:25; Mastowski Tx at pp. 77:2-79:3, 79:13-80:4, 92:19-
15 94:7; Noor Decl. at ¶¶ 7, 10; Anderson Decl. at ¶¶ 10-11; Baughn Tx at pp. 133:5-137:2, 139:12-
16 140:25; Lepesic Decl. at ¶ 13; Ooi Decl. at ¶¶ 12-14; Nguyen Decl. at ¶ 19.)

17 **E. DEFENDANT CHOUDHURY CONTINUED TO ASSAULT YOUNG TRAINEES** 18 **AFTER HE WAS SUED AND ADVISED TO STOP**

19 Choudhury’s contemptuous rebuke of warnings further evidences his willful and conscious
20 disregard of the rights or safety of others. When Jafa-Bodden attempted to investigate sexual
21 misconduct claims, she was told to stop. (Jafa-Bodden Decl. at ¶¶ 1-6.) When Jafa-Bodden and
22 Gilchrest attempted to intervene to prevent further sexual misconduct after Choudhury was sued,
23 Choudhury responded that “he does what the fuck he wants to do” and terminated them. (Gilchrest Tx
24 at p. 98:5-7, 100:9-14, 101:1-102:28.) When College President and CEO Starke told Choudhury to be
25 careful about his interactions with women, he invited a young female instructor on a business trip and,
26 before Starke, pressured the woman into massaging him and performing what appeared to be oral sex.
27 (Starke Decl. at ¶¶ 11-13.) When Starke reported the conduct, she was terminated. (*Id.* at ¶¶ 14-15.)
28 Starke also attempted to institute a College manual with harassment policies, to no avail. (Clerkin Tx
at pp. 44:10-45:19.) Choudhury never approved the manual. (*Id.*)

1 Not only did Choudhury continue his pattern of wrongful conduct, but he boasted about it. At
2 the spring of 2013 training, he commented: “Look at how many people are here. I should rape more
3 girls. It’s good for business.” (Clerkin Tx at p. 27:7-22.) This comment is consistent with Noor’s
4 testimony that “he was always making fun of Americans, implying that he could get away with
5 anything in this country because he was successful and famous.” (Noor Decl. at ¶ 15.)

6 **F. THE COLLEGE KNEW OF CHOUDHURY’S CONDUCT AND DID NOT STOP IT**

7 Employers are liable for punitive damages for acts of their employees where the employers
8 authorized or ratified the conduct or were personally guilty of oppression, fraud, or malice. (Civ. Code
9 § 3294.) An employer may also be liable where the employer fostered an atmosphere tolerating or
10 encouraging the employees' wrongful conduct. (*Roberts v. Ford Aerospace & Communications*
11 *Corp.* (1990) 224 Cal.App.3d 793, 800-802.)

12 Here, Defendant Choudhury is the sole owner and founder of the College. (Starke Decl. at ¶ 3.)
13 He authorized and ratified his own conduct, exposing the College to liability for punitive damages. In
14 addition, he forced tolerance for his wrongful conduct by fostering fear of expulsion. Any employee
15 who spoke up was terminated. (Gilchrest Tx at p. 98:5-7, 100:9-14, 101:1-102:28; Starke Decl. at ¶¶
16 11-13.) What’s more, teachers likewise risked their certification and their livelihood if they spoke up.
17 (Lorr Tx at p. 92:2-93:25.) Also, the teachers did not want the wrongful conduct of Choudhury to taint
18 the community and the yoga. (*Id.*)

19 **G. DEFENDANT CHOUDHURY IS HIDING AND TRANSFERING ASSETS**

20 A trial subpoena for evidence related to Defendants’ profits and financial condition is not
21 likely to allow Plaintiff here to discover and present complete evidence to the jury. (Civ. Code §
22 3295.) Indeed, Starke testifies that Choudhury placed various assets of his companies into the names
23 of other entities or himself to avoid payment to creditors. (*Id.* at ¶ 10.) He also secretly moved College
24 operations and revenues overseas, and used College funds for his personal gain. (*Id.*) In order to
25 discover the full picture of Defendants’ financial condition, Plaintiff should be allowed to take the
26 deposition of the College’s Person Most Qualified and Custodian of Records on these issues—and
27 seek Court intervention should it prove necessary.
28

1 **IV. CONCLUSION**

2 Because Plaintiff offers ample evidence that she is very likely to prevail on her punitive-
3 damage claim against Defendants and because it is very likely Choudhury is attempting to hide and
4 transfer assets outside of the country, Plaintiff respectfully requests that she be allowed to conduct
5 discovery on Defendants' profits and financials prior to trial.

6 Dated: May 3, 2016

SHEA LAW OFFICES

7 By:  _____

8 Carole M. Bosch

9 Attorneys for Maggie Marie Genthner