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Education Society

**SURANA & SURANA INTERNATIONAL  
TORT LAW MOOT COURT COMPETITION**  
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International Attorneys

**In the High Court of Naya Xili**

***Spice Galore Entertainment Company Limited (SGE)***

***Vs***

***Mr. Actio McSong***

1. Actio McSong is a very famous actor and singer from the country of Xephilia. He is a star entertainer and has a large fan following in many countries. In a span of 20 years he has performed in more than 70 movies and is a very popular figure on the small screen and show biz.
2. Spice Galore Entertainment Co. Ltd. (SGE) is a major player and most sought after in the entertainment business and movie industry. The company was incharge of organizing the entertainment for the inauguration ceremony of the Xephilia Premier League, a cricketing event that takes place every year, for the current year of 2012. The event usually begins with the inaugural ceremony followed by gala performances by top stars after which the first match of the season is played. This time it was to take place in Naya Xilli, the capital city of Xephilia on 15 May 2012
3. The managers represented by Mr. Elmo, made deals with many actors and singers to give cameo performances at the ceremony. Mr. Elmo made a Rs. X\$ 3 million deal with Actio to sing at the show for duration of half an hour and paid X\$ 1 million as advance. The deal was made on 12 November 2011. There were restrictive covenants in the contract as follows:

*5.1. The performer undertakes that he will refrain from the following activities during the term of the contract;*

*a) Engage him in any indoor or outdoor sports activities.*

*b) Consume alcohol.*

*c) Consume any drug except on a prescription by any qualified physician.*

...

*g. Consume of any food at restaurants, bars, pubs, and food stalls other than those present in the place of stay provided by SGE.*

...

*j. Engage him in any other activity which puts either the performer, SGE or both at risk or jeopardize performance of the contract.*

4. Actio was infuriated by the restrictions, especially clause 5.1. He approached Mr. Elmo to change the terms of the contract but was told clearly that the contract was on a 'take it or leave it basis.' He, in a fit of rage, picked a pencil from Elmo's table and slashed across clause 5.1 and shouted 'what is this?' In the end, despite the protest, which was ignored by Elmo, he signed the contract due to the temptation of performing in such a prestigious event.
5. On 12 May 2012 evening, Actio approached Mr. Elmo with the proposition that his group would also record the whole live performance. The video recording would be for Actio's personal use as well as exploitation. Mr. Elmo flatly refused to allow Actio to go ahead with his proposition. Actio, reacting to this, threatened to quit. Since the highly priced tickets to the event had been a huge sell out and extraordinary arrangements were made in terms of extra seating, advertisements, security as well as a lot of VIP presence including the President of Xephelia and other dignitaries. Mr. Elmo stuck to his position and threatened to take legal action against Actio for dishonoring his commitment. Actio left Mr. Elmo's office in a huff.
6. Morning Espresso, the most popular news daily of Xephelia on its Sunday magazine dated (13 May 2012) carried an article that in the recent times, sea food is increasingly being contaminated due to poor hygiene standards in local restaurants causing allergic reactions to consumers. It also pointed out lobsters and prawns being the favorite and the common cause. Morning Espresso besides other business news papers and magazines are kept in every room at the Hotel Helios where the performers were staying.
7. Incidentally, on the same night, Actio threw a party for a large group of friends which included producers, singers, actors and other big names in show biz at The Coral Reef, a seafood specialty restaurant frequented by stars of show biz. The group was offered a private enclosure to have their party but Actio preferred to sit at a huge table in the middle of the restaurant.
8. Actio was known to have a medical history of allergic reaction towards prawns from his early childhood. He was advised by doctors not to consume certain food which contained prawns and also warned him of severe symptoms though Actio might not react every time. After a couple of years he did start taking prawn in small quantities uneventfully. In the course of the party, Actio ordered numerous dishes that also included the types of food that the doctors had expressly prohibited him from consuming. Actio's close friend, Zela, time and again warned him of his allergies. Actio, ignoring Zela, piled food on his plate which included large quantities of the "Dry Seafood Special", a signature dish of The Coral Reef which was served to the group as a complimentary dish in honour of Actio. Incidentally one of its ingredients was fine pieces of prawn.

9. After a while, Actio felt sick and threw up violently, all of which were said to be symptoms of his allergy. He was immediately rushed to the Star County Hospital where he was admitted.
10. The next day, this incident involving Actio was all over the front page of every newspaper and on major TV news channels. As a result of this, huge crowds thronged the hospital premises in the morning, demanding to know if Actio will perform at the event scheduled for the next day. The doctors of Actio at a press conference in the afternoon, stated that the food served to Actio had been contaminated as a result of which he was very ill and advised rest for a whole week to enable a speedy recovery.
11. There was huge news coverage of this press conference which also emphasized on the fact that Actio, would be unable to perform at the inaugural ceremony the next day. One particular news item on the television showed a clip put up by an amateur photographer, Qwik Lenz who happened to dine at The Coral Reef that evening. The grainy video shot with a mobile contained the images of Actio and his friends celebrating boisterously, of Actio ordering food, the food arriving, Actio throwing up in a couple of minutes, and later being taken away on a stretcher. This video clip was also uploaded immediately on many websites. An investigative young reporter of a local tabloid fished out an old news item published in June 1990, wherein Actio was giving a clarification of his alleged serious illness as nothing but an allergic reaction to something consumed at a party.
12. SGE, unknown to the public, is an investor in the Coral Reef Restaurant. Mr. Elmo, on the same afternoon viewed the tapes extracted from the security cameras in the restaurant, pertaining to the previous night, which contained the whole incident on film. Parts of the video showed Actio and Zela arguing about something and then Actio piling food in a plate, ignoring Zela. Through his contacts with news reporters, Mr. Elmo managed to get hold of information about the medical history of Actio and the prohibition by doctors not to eat certain types of food. There were also news reports on a similar incident involving Actio that had taken place 3 years ago. Mr. Elmo, in a conversation with one of his contacts and good friend, Mr. McGuire, relayed all that had taken place the previous night and the contents of the reports that he had obtained.
13. Mr. McGuire, on the same day, tweeted “Got some guts man! Eating those crawlies... ahead of the big day!” There were a lot of comments for and against this comment in tweets and social networking forums.
14. Meanwhile, certain fans of Actio became aware of a notice sent to Actio by SGE stating that Actio had better perform or face legal action especially since there were hints that the incident may not have been an accidental. Actio had supposedly replied that he was, as everybody knew, ill and advised bed rest for a week by doctors. Therefore he would be unable to perform the next day.

15. Certain comments regarding this and the Tweet appeared on Actio's popular fan website. One such comment was; "SGE! How selfish and insensitive! Poor Actio, ill in hospital... All they can think of is money and fame... at his expense!" Another such comment was; "leeches ... blood suckers."
16. Nevertheless, the show went on without Actio. Mr. Elmo managed to bring in a local small time star, Henry, to perform in the event at the stadium. There were many people who were seen filming the performances in whole or in parts on their handy-cams, cameras and mobile phones. One of Actio's fans tweeted "Shutterbugs in the audience... Will SGE sue them?" Many were disappointed that Actio could not perform that day and one fan expressed his dissatisfaction by sending SGE a notice asking for a refund of his ticket price. SGE replied to the notice stating that the terms and conditions are printed at the back of the tickets.

*Among other terms and conditions terms ...*

*10. The organizer shall be entitled to seize any prohibited items without liability and without any obligation to return such items or to compensate the Holder in respect thereof.*

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*13. The use of mobile phones, transistors, computers, cameras or any other audio video visual recording equipment, for recording and / or communication of program details, images etc is strictly prohibited.*

*20. There will be no refunds / exchanges. There is no obligation on the organizer to reschedule the match.*

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17. SGE sued Actio claiming damages to the tune of X\$ 5 million besides refund of advance amount paid with interest, for breach of agreement for performance, for loss of goodwill, humiliation among peers, clientele and community at large. The case is now before the High Court of Naya Xilli.
18. The laws of Xephilia are analogous to the laws of India.