

Turkish PM in libel win against Daily Telegraph

Recep Tayyip Erdogan, the Prime Minister of the Republic of Turkey, has won his libel claim against the Daily Telegraph following the publication of false stories suggesting he had negotiated a secret US\$25 million donation with Iran.

The offending articles, written by Con Coughlin and published in September 2010, alleged that Prime Minister Erdogan had arranged the supposed donation to his AK Parti to further the party's campaign in the Turkish general election and thus implied that he had improperly and illegally allowed a foreign power to influence, and interfere in, the internal democratic processes of the Republic of Turkey and AK Parti policy.

The AK Parti informed the Daily Telegraph prior to publication that these allegations were completely untrue, but the newspaper nonetheless published the libellous articles. Prime Minister Erdogan therefore felt that he had no alternative but to take legal action in order to clear his name.

The Daily Telegraph did not seek to defend its allegations and instead accepted that they were untrue and joined in a statement in open Court offering its apologies to Prime Minister Erdogan. The Court heard that there was no factual basis whatsoever for the newspaper's allegations and that neither Prime Minister Erdogan nor the AK Parti had negotiated any deal of the kind suggested, or given any other form of donation or support, with Iran or with any Iranian institution or individual.



G20 London Summit: Middle row: Turkish Prime Minister Tayyip Erdogan, Barack Obama, Dmitry Medvedev
Bottom row: Prince Saud Al Faisal, Hu Jintao, Gordon Brown Top row: Ban Ki-moon, Abhisit Vejjajiva, Silvio Berlusconi

The Daily Telegraph published similar apologies both in its newspaper and on its website and paid the Prime Minister a substantial sum in damages, together with his legal costs.

Following the successful action, Ömer Çelik, AK Parti Vice Chairman in Charge of Foreign Affairs, said:

"The publication of these allegations was a disgraceful smear against Prime Minister Erdogan and the AK Parti. The Prime Minister is pleased

that the Daily Telegraph has accepted that the allegations are untrue and has unreservedly apologised to him. We are also pleased that he has been able to clear his good name and that of the AK Parti."

The case received wide coverage in the UK, Turkish and international media.

Prime Minister Erdogan was represented by **Cameron Doley** and **Luke Staiano**.

Interest Rate Swaps: “It’s like giving the customer an umbrella, then when it starts raining taking the umbrella away.”

These are the words of one banker who sold “swaps”, more particularly interest rate protection products, to individuals and businesses.

It is estimated that tens of thousands of these products were sold by high street banks, mainly in the period 2006 to 2008. Their purpose was supposedly to protect loans customers from rises in interest rates which had, by the end of this period, reached 5.5%. But in practice, and in all too many cases, the “swap” constituted little more than a bet on interest rate movements. As interest rates tumbled to 0.5%, many businesses and individuals who had bought these products have been left facing crippling monthly repayments and exorbitant break costs to extricate themselves from the products.

Carter-Ruck is acting against various high street banks for an increasing number of victims of this misselling, all of whom have lost from £100,000 up to several million.

Disputes

A common feature of the claims has been that the bank told the customer all about the benefits but neglected to explain properly the potential dangers. Indeed, in many cases the bank made the purchase a condition of new or continued lending.

The complaints that Carter-Ruck is handling typically centre on specific allegations, for example that:-

- *The customer did not understand what was being sold.*
- *The customer was not aware of the magnitude of the break costs – that is, the cost of exiting the product before its term expired (this is very common indeed).*
- *The customer was not aware of the implications of the bank’s ability to terminate the swap unilaterally.*
- *The FSA Conduct of Business Rules (COBS) were not complied with.*
- *A duty of care was owed by the bank to the customer and was breached.*

Another common allegation is that the customer did not have sufficient understanding of the product to be aware of the implications of interest rate falls, or that the bank’s promotional material highlighted the benefits of the product but obscured the possible downsides.

Options open to swap ‘victims’

Individuals and small businesses who believe they have been mis-sold an interest rate product can complain to the Financial Ombudsman Service. The FOS is able to award compensation of up to £100,000 and also has power to make a non-binding “recommendation” for a higher payment.

For larger businesses, or others who have suffered losses greater than £100,000, a High Court claim can be brought against the lending institution for compensation and costs.

Carter-Ruck is acting in a number of High Court claims. Furthermore, in appropriate cases the firm is able to act on a Conditional Fee (or “no-win, no-fee”) basis and to offer its clients the considerable benefit and security of After The Event litigation insurance through Temple Legal Protection Ltd. The insurance covers the bank’s costs in the event that the client is unsuccessful and this means our clients are able to pursue their claims against banks without risking their homes in the process. For these reasons, Carter-Ruck has been able to accept referrals of swap cases from other solicitors who have been unable to act on an insured Conditional Fee basis.

If you are interested in finding out more about “swaps”-related claims please go to the “Financial Misselling” section on our website www.carter-ruck.com.

Commercial Litigation News

Claim against Indian Premier League Cricket Franchise

Adam Tudor and Luke Staiano are acting for Timothy Wright, the former CEO of the Indian Premier League (IPL) Deccan Chargers cricket franchise, in his breach of contract claim against the company.

AIG Bond

Carter-Ruck has been instructed by a number of high net worth individuals in relation to advice provided by various investment banks concerning investment in the “AIG Premier Access Bond Enhanced Fund”. Nigel Tait and Stevie Loughrey are dealing with these cases.

Equity release scheme targeted at British nationals

The firm is acting for a number of claimants against a large bank in relation to an equity release scheme sold to British nationals with property in Spain. Alasdair Pepper and Laura Spearing are representing the Claimants.

Film Finance

Carter-Ruck is acting for a variety of investors in relation to a number of disputes concerning film finance schemes.

Ofcom Vindication for Al Jazeera

The UK broadcasting regulator Ofcom has ruled in favour of news channel Al Jazeera English following a complaint about its series, 'The Palestine Papers', concerning the largest leak of confidential documents in the history of the Israeli-Palestinian conflict.

The favourable decision followed a complaint by PLO representative Saeb Erakat, who alleged unfair treatment and invasion of privacy by Al Jazeera in the series broadcast in January 2011. Following representations by both parties, Ofcom dismissed every single element of the complaint.

The four-part exclusive reported on over 1,600 secret documents that detail Israeli-Palestinian peace talks over the past decade. The papers included high-level minutes of meetings involving US, UK, European, Israeli and Palestinian Authority (PA) officials and dominated the global news agenda when released. Dr Erakat, chief negotiator for the PA, resigned following Al Jazeera's revelations.

Following the decision, Ahmad bin Jassem Al Thani, Director-General of Al Jazeera, said:

"This is a resounding vindication of our journalism, our decision to release the papers, and our handling of it. We recognize that presenting this volume of information was bold for a television channel. However, the positive worldwide reaction to the series, and this latest judgment, shows that we handled it in an informative and responsible manner."

"Ofcom's decision on the claim of an infringement of privacy is a particularly important one. It is the job of journalists to challenge the decisions taken by people in positions of public accountability, and to shine a light in the corridors where important decisions are being taken."

Al Jazeera was represented by **Cameron Doley** and **Luke Staiano**.



International “Targeted Sanctions”

Carter-Ruck's International Law team continues to build on its reputation as one of the leading practices in the field of international asset freezing measures, or “targeted sanctions”.

These sanctions involve individuals and corporations having their assets frozen (and their liberty to travel curtailed) at the behest of supranational entities such as the United Nations Security Council and the European Union or individual countries such as the United States. Often the sanctioned person can find themselves in a Kafkaesque position whereby they are suddenly subjected to highly draconian measures yet they are given little or no information about the grounds for their listing or the evidence said to justify such action.

The Carter-Ruck team, led by Guy Martin and Cameron Doley, is coordinating worldwide legal and political challenges in relation to targeted sanctions against individuals from many countries, including an increasing number of clients affected by the political turmoil arising out of the “Arab Spring”. The cases bring together important issues of foreign policy and the fundamental human rights of the listed individual to effective judicial protection.

Examples of Carter-Ruck's international cases include:

- A Syrian businessman and philanthropist, with no connection to the Syrian President or his family, whose name was mistakenly included on the Syrian sanctions list by the EU in August 2011.
- Phyo Tay Za, the son of a Burmese businessman alleged to be close to the Burmese governing regime. Phyo was first listed by the EU when he was only 16 years old on the sole basis of his family connection with his father.
- Saudi businessman and philanthropist Sheikh Yassin Abdullah Kadi. Mr Kadi had been subject to freezing measures implemented by the UN in October 2001, immediately following the 9/11 attacks. The European Court of Justice's decision in 2008

to annul the EU's freezing measures has been described by leading academic commentators as “the most important Judgment ever delivered by the ECJ on the relationship between EC and international law and one of its most important Judgements on fundamental rights”. Following the ECJ's 2008 Judgment, the European Commission issued new freezing measures against Mr Kadi which he challenged successfully before the General Court which ruled in his favour on 30 September 2010. The European Council, the European Commission and the United Kingdom are all appealing that decision which is due to be heard before the ECJ in 2012.

- A number of ongoing cases concerning the sanctions lists relating to Libya, Tunisia and Zimbabwe.

Liam Gallagher issues proceedings against brother Noel

Liam Gallagher has issued libel proceedings against his older brother, Noel, for telling a press conference that the band had to pull out of a gig because Liam had a hangover. Liam, who in fact could not perform due to laryngitis, acknowledged that whilst he and his older sibling have famously crossed swords in the past, this time Noel's statements "went beyond rock-and-roll banter and questioned my professionalism". Liam is represented by Nigel Tait and Rebecca Toman.



Leveson Inquiry

Kate and Gerry McCann are being advised by Adam Tudor and Isabel Hudson in relation to their role as Core Participants in the Leveson Inquiry. The Inquiry was prompted in part by the News of the World phone hacking scandal but has a wider remit to investigate the culture, practices and ethics of the press and to make appropriate recommendations for improvements.

Joint Parliamentary Committee on Privacy and Injunctions

In October 2011, Carter-Ruck partner Alasdair Pepper was invited to give evidence before the Joint Committee of the House of Lords and House of Commons. Nigel Tait previously gave evidence before the Parliamentary Committee on the Draft Defamation Bill.

Phone Hacking Cases

Carter-Ruck is currently representing a number of clients in claims arising out of the News of the World phone hacking scandal.

Rangers FC

Ruth Collard advised Rangers FC and its Chairman, Craig Whyte, in respect of the BBC Scotland programme "Rangers - the Inside Story", broadcast in October 2011.

Kingdom of Bahrain

Adam Tudor represented the Prime Minister of Bahrain in his successful complaint against The Sunday Times. The newspaper published a full apology.

Sergei Polonsky takes action against Alexander Lebedev

The Russian businessman Sergei Polonsky has issued proceedings against Alexander Lebedev, owner of the Evening Standard and The Independent. The claim follows astonishing footage from a Russian television debate, which was widely circulated online, in which Mr Lebedev is seen to throw punches at a seated Mr Polonsky. Mr Polonsky is represented by Andrew Stephenson and Lucy Middleton in conjunction with the London office of law firm Alexander Dobrovinsky & Partners LLP.

Cowell turns on the Heat

Heat Magazine published a full apology to Simon Cowell over an article falsely alleging that he knew after each X Factor 2010 show which contestants received the most votes. Simon Cowell is represented by Nigel Tait and Rebecca Toman.

Bob Ainsworth MP

In December 2009 the Daily Mail falsely alleged that the then Secretary of State for Defence, Bob Ainsworth MP, had 'bungled' two opportunities to rescue the British couple kidnapped by Somali pirates, Paul and Rachel Chandler. Mr Ainsworth sued the Daily Mail and the claim was resolved to the satisfaction of both parties. Mr Ainsworth was represented by Magnus Boyd.

Carter-Ruck NEWS

Carter-Ruck continues to be recognised by the Chambers and Legal 500 directories as pre-eminent in no fewer than three fields of expertise. Notably, every one of the firm's 10 partners is named as a leader in their field.

The firm remains "pre-eminent" in defamation and privacy claimant work, being "incredibly well-regarded for its Claimant work as well as a strong and ever-growing presence in corporate

reputation management", while the publishing team is also highly rated.

Carter-Ruck's Public International Law practice is once again recognised by Legal 500 which describes the firm as being "at the forefront" of challenges to the asset-freezing regime introduced in the aftermath of 9/11.

The firm is pleased to announce that Isabel Hudson has been made a Partner and that Luke Staiano, who joined from Clifford Chance in 2008, has become an Associate. The firm also welcomes solicitor Laura Spearing, who has joined from Allen & Overy's Corporate and Commercial Litigation Group.

2011 saw the launch of the Sixth Edition of "Carter-Ruck on Libel and Privacy". Co-edited by Carter-Ruck Managing Partner Cameron Doley and Professor Alastair Mullis, it includes contributions from a number of other Carter-Ruck partners and solicitors.

An episode of BBC One's highly acclaimed series, "See you in Court", featured Magnus Boyd and Nigel Tait. It followed their progress in securing a libel victory against The Sun and Daily Mail for Parameswaran Subramanyam, a Tamil refugee who embarked on a 23-day hunger strike outside the Houses of Parliament.