

## Sarah Hermitage libel victory:

# Corruption in Tanzania exposed

In late 2010, Carter-Ruck was retained to defend a libel claim brought against Sarah Hermitage by the wealthy Tanzanian businessman Reginald Mengi, the Chairman of IPP Ltd, which holds major newspaper and broadcasting interests in Tanzania. The claim related to a series of five blog articles and two emails written by Ms Hermitage in 2009 and 2010.

After a 10 day trial in November 2012 Mr Justice Bean rejected Mr Mengi's claim, and in April of this year the Court of Appeal finally refused his application for permission to appeal, deciding that he had no real prospect of success.

During the trial the court heard unchallenged evidence from Sarah Hermitage and her husband Stewart Middleton how by threats, intimidation and corruption they had been driven from Tanzania and forced to abandon the investment they had made in their Kilimanjaro region farm, Silverdale, of which Reginald Mengi's younger brother, Benjamin, then took possession. Their ordeal was exacerbated by the hostile and defamatory coverage of their case by IPP newspapers, which Ms Hermitage described as amounting to "journalistic terrorism."

After returning to England in 2009, Ms Hermitage set up her blog "The Silverdale Case" to document her horrific experience in Tanzania and to warn others of the corruption they had encountered.

Reginald Mengi repeatedly stated in evidence in court that he was "not responsible, not accountable and not answerable" for the editorial content of newspapers published by IPP.



Mr Justice Bean, however, found that the campaign in the IPP newspapers had "facilitated Benjamin's corruption of local officials and intimidation of the Middletons and thus helped Benjamin to destroy their investments and grab their properties; and that Mr [Reginald] Mengi, since he either encouraged or knowingly permitted the campaign, was in that sense complicit in Benjamin's corruption and intimidation. The allegation is thus substantially true, and justified at common law."

Observing that the litigation brought in England by Reginald Mengi against Sarah Hermitage had

rightly been described as "oppressive", the Judge ordered him to pay the defence costs at the higher "indemnity" rate, with £1.2million to be paid on account.

On the outcome of the case, Ms Hermitage stated: "I am relieved that, with the support of my legal team who were prepared to risk getting paid nothing at all under a "no win, no fee" agreement, justice has in the end prevailed in this case."

Ms Hermitage was represented by Carter-Ruck's **Andrew Stephenson, Dominic Garner and Helena Shipman.**

# Sheikh Yassin Kadi Secures UN Delisting

In the Autumn 2012 edition of Get Carter-Ruck we reported as breaking news that Carter-Ruck's client Sheikh Yassin Abdullah Kadi had been delisted by the UN Security Council's Al-Qaida Sanctions Committee.

Mr Kadi, a Saudi Arabian businessman and philanthropist, was listed by the US, and subsequently by the UN, in October 2001. He spent more than a decade on the UN's list, during which time he was subject to a worldwide asset freeze and travel ban.

Placed in a position that could have been lifted straight from Kafka, throughout that time Mr Kadi was never provided with any proper details of the allegations against him, let alone any proper evidence in support of them.

Carter-Ruck submitted a delisting petition on Mr Kadi's behalf to the UN Ombudsperson, Judge Prost. The UN Sanctions Committee followed Judge's Prost's recommendation to delist Mr Kadi by removing his name from the Al-Qaida Sanctions List on 5 October 2012. The EU swiftly followed suit, delisting Mr Kadi with effect from 13 October 2012. The removal of Mr Kadi's name from the UN list means that UN Member States are no longer mandated to impose sanctions upon him.

Achieving delisting by the UN has been the culmination of a long and arduous battle by Mr Kadi, fought in multiple jurisdictions on many fronts. As well as being delisted by the UN, Mr Kadi secured major successes in that time, including in the European Court of Justice, in the High Court in London, and in Switzerland, Turkey and Albania where the authorities have discontinued criminal investigations against him.

The delisting of Mr Kadi via the UN Ombudsperson process is a fitting and appropriate conclusion to this 11 year battle. His case has triggered some of the most important judicial decisions and precedents relating to sanctions against individuals in international law over the past decade, changing the entire legal landscape. Equally importantly, Mr Kadi's tenacity and determination to seek justice has also forced change from which others will also benefit. When Mr Kadi was first listed in 2001 and for many years thereafter, there were no adequate means by which a listed individual or entity could make representations to the UN in order to challenge their listing. The Ombudsperson procedure was brought in by the UN Security Council in 2009 as a direct result of Mr Kadi's successful challenge before the European Court of Justice in respect of the sanctions imposed upon him by the EU.

Mr Kadi has now been delisted by the UN, the EU, and the UK. He will be taking advantage of his newly regained freedom of movement to attend a reception to be given in his honour this summer in London.

Carter-Ruck's international law team has been coordinating Mr Kadi's challenges to sanctions on a worldwide basis since his 2001 listing. He is represented by **Guy Martin, Cameron Doley** and **Miranda Rushton** of Carter-Ruck, and consultant **Maitre Saad Djebbar**.

Carter-Ruck has acted successfully for other individuals listed under other targeted sanctions regimes, including for clients listed under the EU sanctions applicable to Tunisia, Syria, Burma and Zimbabwe.



# Carter-Ruck offers new litigation funding and ATE insurance options post 1 April 2013

As is well known, the coming into force on 1 April of the Legal Aid, Sentencing and Punishment of Offenders Act is likely to have significant implications for the legal profession.

Equally significant are the implications for access to justice, with success fees in Conditional Fee ("no win, no fee") Agreements and After The Event (ATE) insurance premiums no longer being directly recoverable from the losing party as a cost of the proceedings in commercial and other types of dispute.

On the other hand, the new rules do offer an opportunity for clients and practitioners to explore creative funding arrangements which have not previously been permitted. Most notably, for the first time in this country, lawyers will be allowed to represent clients in High Court claims under Damages Based Agreements (DBAs), which are a form of "no win, no fee" arrangement whereby the lawyers' fees are capped by reference to a percentage of any damages recovered.

Carter-Ruck is at the forefront of the new funding regime. The firm pioneered the use of CFAs in media and commercial litigation cases when they were first permitted more than a decade ago, and is now in a position to offer a variety of innovative solutions to the funding of substantial commercial litigation so as to enable clients to manage the costs and their cash flow effectively.

Crucially, through its longstanding relationship with Temple Legal Protection Limited, Carter-Ruck is one of the very few firms in the country which will still be able to accompany such funding with ATE insurance, structured in a way that is accessible and affordable to clients.

**Carter-Ruck's Commercial Litigation team is headed by Alasdair Pepper and Adam Tudor.**

## Commercial Litigation News

Carter-Ruck continues to build on its reputation in the field of high value commercial litigation.



### Interest Rate Swaps

The firm remains at the vanguard of legal action arising out of the misselling of interest rate "swaps" and other complex derivatives which were sold to individuals and businesses, in particular between 2006 and 2008.

The firm is currently acting in dozens of such cases against all of the high street banks, on behalf of clients whose estimated losses range from the low six figures up to tens of millions of pounds.

Carter-Ruck has already secured a number of six-figure settlements for clients. As well as acting in various sets of ongoing High Court proceedings, the firm is also assisting numerous clients with the review being undertaken by the Financial Conduct Authority (formerly the FSA).

*For more information contact Stevie Loughrey.*

### BT

In March, Carter-Ruck was appointed to BT's network of external advisers.

### Professional Negligence

The firm has been retained in a professional negligence claim in excess of £100 million against a national commercial law firm.

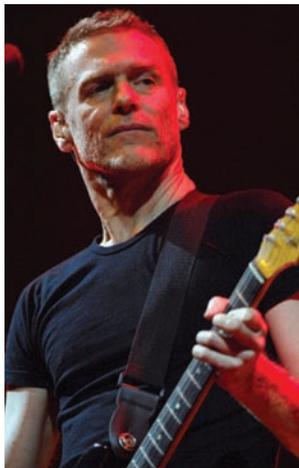
Separately, Carter-Ruck is acting in a £120 million negligence claim proceeding before the Guernsey courts, arising from an unsuccessful property development in London.

If you have any comments on this newsletter, would like to be removed from our mailing list, or if you require any other information, please contact Adam Tudor on 020 7353 5005 or e-mail [adam.tudor@carter-ruck.com](mailto:adam.tudor@carter-ruck.com)

## Bryan Adams privacy success against Daily Mail

Singer and songwriter Bryan Adams and his partner won their privacy action against the Daily Mail over its publication of photographs of their baby daughter. In addition to damages and legal costs, the Daily Mail gave the couple an undertaking not to publish the images of their daughter again.

*Bryan Adams was represented by Nigel Tait and Rebecca Toman.*



## Rashid Ghannouchi

The Independent apologised to Rashid Ghannouchi, leader of An Nahda, the largest political party in Tunisia, over an article that republished false allegations that the Chatham House prize winner received unlawful donations from Qatar before the Tunisian elections.

*Rashid Ghannouchi was advised by Cameron Doley.*

## BBC Panorama

Isabel Martorell advised one of the LSE students at the centre of a much-publicised dispute with BBC Panorama over its covert filming on a student trip to North Korea.

## Phone-hacking

Carter-Ruck has brought successful complaints for a number of claimants, including singer-songwriter James Blunt, UKIP leader Nigel Farage and model and musician Jamie Burke, in the second 'tranche' of phone hacking litigation against the publisher of the News of the World.

*The Claimants have been represented by Ruth Collard and Zoe Brocket.*

## Luciana Gimenez Morad secures damages and apology from Daily Mail

Model and Brazilian TV presenter Luciana Gimenez Morad (mother of Mick Jagger's son, Lucas) received an apology, costs and damages from the Daily Mail, in respect of false allegations made about her in an article published by the newspaper in July 2012.

*Ms Morad was represented by Nigel Tait and Richard Hodge.*

## Kate and Gerry McCann

Carter-Ruck brought successful proceedings for contempt of court on behalf of Kate and Gerry McCann, against an individual who had repeatedly published false allegations about the couple, in breach of undertakings which he gave to the High Court in 2009. The Court imposed a three-month suspended prison sentence in respect of the contempt.

*The McCanns were represented by Adam Tudor and Isabel Martorell.*

## Substantial damages for Adam Ingram

Adam Ingram, the former Labour MP and Minister of State, has secured an apology, substantial damages and costs from the Sunday Times.

The action concerned an article which falsely alleged that Mr Ingram was responsible for a secret bribe to Saif Gaddafi, the son of the late Libyan leader.

*Mr Ingram was represented by Andrew Stephenson and Lucy Middleton.*

## £50,000 damages win for Elena Ambrosiadou

The founder and CEO of IKOS hedge fund, Elena Ambrosiadou, has secured £50,000 in damages and a permanent injunction against her estranged husband, Martin Coward. Mr Coward agreed to settle the privacy proceedings brought in respect of personal information concerning Ms Ambrosiadou and her son that Mr Coward leaked to the press. Ms Ambrosiadou is donating the damages to a Greek children's charity.

*Ms Ambrosiadou is represented by Nigel Tait, Isabel Martorell and Lucy Middleton.*

## John Yates libel victory

Metropolitan Police Commissioner Bernard Hogan-Howe issued a correction to recipients of a memorandum that contained defamatory allegations about the former Assistant Commissioner, John Yates.

The memorandum was circulated last year to a number of officials including the Home Secretary, Foreign Office and senior police officers at the Met. Mr Yates also secured his legal costs and a donation to the charity of his choice, the Police Widows & Orphans Fund.

*John Yates was represented by Ruth Collard.*