

Boris Berezovsky wins £150,000 libel damages from Russian State Television over murder allegations

In March 2010, exiled Russian politician and businessman Boris Berezovsky won his long-running libel action against RTR, the Russian State-owned television company, and Vladimir Terluk in the High Court in London

The court gave judgment in Mr Berezovsky's favour and awarded him £150,000 in damages, reflecting the fact that the allegations were "calculated to put at risk Mr Berezovsky's refugee status and leave to remain in the United Kingdom".

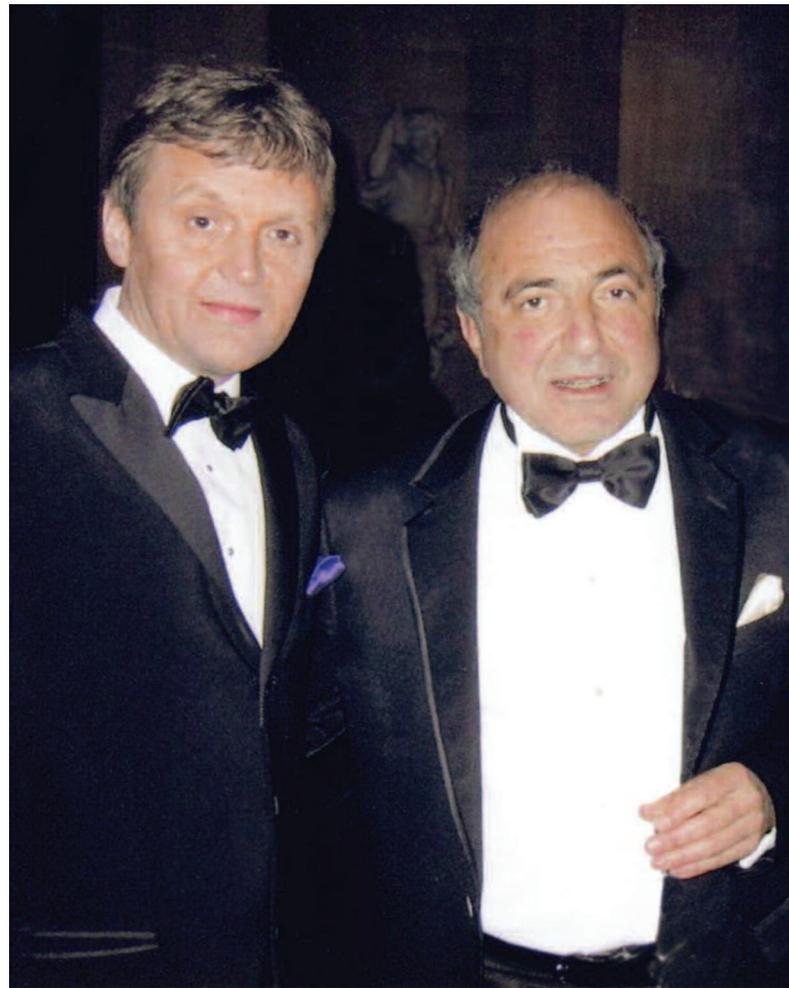
Mr Berezovsky sued over the 1 April 2007 edition of the RTR weekly news programme *Vesti Nedeli*, which is watched by a large Russian-speaking audience in the UK. The programme featured an interview with a man referred to only as "Pyotr", but who the court concluded was in fact Mr Terluk - a Kazakh national seeking asylum in this country and of whom Mr Berezovsky first became aware in 2003 when Mr Terluk attended hearings in Mr Berezovsky's extradition case.

The message of the programme as a whole was to accuse Mr Berezovsky of the horrific murder in London in November 2006 of his friend Alexander Litvinenko. At the time, the murder, which was carried out by poisoning with radioactive polonium, dominated the headlines and caused considerable diplomatic tensions between the UK and Russian governments.

Mr Terluk himself claimed on the programme that Mr Litvinenko was part of a conspiracy in 2003 to falsify evidence in order to bolster Mr Berezovsky's case against extradition to Russia and to obtain political asylum in the UK. Mr Terluk claimed on the programme that he was offered bribes and drugged so that he gave false evidence that there was an FSB plot to kill Mr Berezovsky. RTR suggested that Mr Litvinenko was killed because he "knew too much".

Mr Justice Eady found that there was absolutely no evidence that Mr Berezovsky had any part in Mr Litvinenko's murder. He also rejected entirely Mr Terluk's claims relating to the evidence given in the extradition proceedings.

RTR did not enter a Defence and, although for a time it had English lawyers, it became clear very shortly before the trial started that it would not participate. Mr Terluk acted in person with help from a "litigation friend" and, remarkably, with help from representatives of the Russian



Alexander Litvinenko (left) with Boris Berezovsky

State General Prosecutor's Office who attended the trial throughout and whose presence was remarked upon by the Judge.

Mr Berezovsky said after the trial: "I have no doubt that in making this programme the purpose of RTR and the Russian authorities was to undermine my asylum status in the UK and to put the investigation of Sasha Litvinenko's murder on the wrong track. I am pleased that the court, through its judgment has unequivocally demolished RTR's claims. I trust the conclusions of the British investigators that the trail leads to Russia and I hope that one day justice [for Mr Litvinenko] will prevail".

Mr Berezovsky was represented by Claire Gill and Lucy Middleton.

Historians secure libel win over anonymous reviews

Renowned historians Professor Robert Service and Dr Rachel Polonsky achieve a significant victory in one of the most extraordinary cases of the year

Professor Service (of Oxford University) and Dr Polonsky (a former Cambridge don and author of "Molotov's Magic Lantern") became suspicious when scathing but anonymous reviews of their books appeared on the Amazon website. A reviewer with the pseudonym "Historian" gave Dr Polonsky's book a derisory one-star review. "This is the sort of book that makes you wonder why it was ever published," the review began, "Polonsky, it turns out, is not an academic, as claimed in the blurb, but the wife of a foreign lawyer." Professor Service's book "Comrades" was described by the reviewer as "awful" and "curiously dull". One review read, "It is better to go to Figes's *The Whisperers*."

On close examination of the Amazon profile of the anonymous reviewer, more details emerged. It became clear that he or she had set up the account with the pen name "Orlando-Birkbeck". Professor Service and Dr Polonsky (pictured) suspected that a fellow historian, Orlando Figes, Professor of Russian history at Birkbeck and the celebrated author of a number of books (including "The Whisperers") was behind the reviews.

Following the "Historian" reviews, Professor Service brought the matter to the attention of some colleagues in an email in April 2010, when he became confident the anonymous reviewer was indeed Professor Figes. Professor Figes responded in a subsequent email, copied to the same recipients. He fiercely denied being responsible for the reviews and criticised Professor Service and, by implication, Dr Polonsky, for jumping to conclusions. In addition, Professor Figes threatened Professor Service with libel proceedings. The book reviews then mysteriously began disappearing from the Amazon website, as did the clues as to the identity of the reviewer.

Thereafter, in an extraordinary turn of events, Professor Figes's wife publicly stated that she had written the reviews. Professor Figes claimed he had only just become aware of this – a claim which Professor Service and Dr Polonsky greeted with considerable scepticism.

By this time, the story had become the focus of widespread coverage in the national press.

Professor Figes was finally forced to admit publicly that he was indeed responsible for the reviews and that his wife was not to blame. Professor Figes was forced to provide a full apology and



Dr Rachel Polonsky

retraction addressed to the colleagues who had received his previous email correspondence and agreed to pay libel damages to Professor Service and Dr Polonsky. He has also undertaken not to post anonymous reviews of any of Professor Service or Dr Polonsky's works in future and promised not to use fraud, subterfuge or any unlawful means to attack or damage them in their professional capacity or their works.

Professor Service and Dr Polonsky were represented by Nigel Tait and Kate Pantling.

Danish scientist defeats libel claim

Professor Henrik Thomsen, a Danish radiologist, is one of the world's leading experts in gadolinium-based contrast agents which are injected prior to MRI scans to obtain enhanced images.

In 2007 GE Healthcare issued defamation proceedings in London against Professor Thomsen in relation to a 10-15 minute presentation he gave to about 30-40 people at a conference in Oxford, and an article printed in *Imaging Management*, a magazine for managers in the field of radiology with a circulation of about 1,000 in this country. The claim was brought by three separate companies, American, British and Norwegian, within the GE Healthcare Group, which is itself part of General Electric, one of the largest companies in the world. Professor Thomsen instructed Carter-Ruck to defend him.

The case was controversial because it involved issues of on-going scientific debate regarding the cause of a rare, but debilitating, painful and, in a small percentage of victims, potentially deadly disease known as Nephrogenic Systemic Fibrosis (NSF) which was first identified in 1997.

Professor Thomsen and his colleagues discovered in early 2006 that patients suffering from the NSF disease in his hospital had one thing in common; they had been administered with GE Healthcare's contrast agent Omniscan. He was then shocked to learn at a symposium in Berlin in May 2007 that other experts – notably the late Professor Weinmann (known in the industry as "Mr Gadolinium") – had long held concerns about the toxicity of gadodiamide, the main component in Omniscan.

The case was finally settled in February this year, with GE Healthcare agreeing to drop the claim.

In a statement agreed between the parties, Professor Thomsen said: *"My purpose was to share with fellow clinicians and healthcare professionals my experience in managing a serious problem at our hospital where we found 20 patients suffering from NSF... I stand by my publicly expressed opinion, based on my experience and research on published papers that there is an association between the chemical formulation of gadolinium-based contrast agents and NSF."*



Lynne Gailey, a representative of GE Healthcare, said, "It was not the intention of GE Healthcare in bringing proceedings for libel against Professor Thomsen to stifle academic debate." She added that GE Healthcare accepted that Professor Thomsen's concerns were "expressed in good faith".

Carter-Ruck acted for Professor Thomsen on a Conditional Fee Agreement. Without the benefit of a "no win, no fee" arrangement, Professor Thomsen would not have been able to afford legal representation to defend himself in a case which GE Healthcare estimated would cost well in excess of £1 million to take to trial.

Professor Thomsen was represented by Andrew Stephenson and Leo Dawkins.

Carter-Ruck NEWS

Carter-Ruck co-sponsors the Annual Conference of the British Institute of International and Comparative Law

Carter-Ruck co-sponsored, together with Shell International, the Annual Conference of the British Institute of International and Comparative Law ('BIICL') on Friday 11 June 2010.

The conference on "Energy, Security and its Impacts on the International Legal System" consisted of a programme of panel sessions on topics ranging from protecting energy investments in a changing legal regime and private law issues surrounding cross border energy supply to the

human rights of indigenous peoples.

Following a keynote speech by Professor Julia King, Vice-Chancellor of Aston University and member of the UK Committee on Climate Change, speakers representing a range of international organisations held panel sessions led by representatives of Cambridge University, Shell International, the International Chamber of Commerce, the Permanent Court of Arbitration and BIICL.

Appeal win for Qatar Airways

The founding shareholders of **Qatar Airways** have successfully defended an appeal against their multi-million dollar victory in a claim over the ownership of the company in the Commercial Court in Brussels. Cameron Doley and Saad Djebbar advised the successful shareholders.

Trafigura

Leading commodities trader **Trafigura** obtained a broadcast apology from the BBC on its current affairs programme Newsnight over false allegations concerning the dumping, by an independent local company, of gasoline "slops" in the Ivory Coast. The BBC paid £25,000 in libel damages (which Trafigura donated to charity) together with the legal costs. The Independent, The Guardian and The Times have also published apologies to Trafigura over similar false allegations. Trafigura is represented by Adam Tudor and Isabel Hudson.

Former IPL Chairman issues libel proceedings

Lalit Modi, former Chairman of the Indian Premier League, has issued proceedings for libel against Giles Clarke, the Chairman of the England and Wales Cricket Board. The claim concerns an email sent by Mr Clarke to Shashank Manohar, the president of the Board of Control for Cricket in India (BCCI) and others which alleged that Mr Modi was planning to destroy world cricket by setting up a rebel league in contravention of ICC regulations. Mr Modi refutes Mr Clarke's claims and has made this clear in detailed submissions to the BCCI. Mr Modi is represented by Claire Gill and Lucy Middleton.

Actress secures apology and damages from The Sun



The Sun has published an apology and paid damages and costs to Hollyoaks actress **Sarah Lawrence** after it published a report on an alleged incident in a Manchester nightclub involving two beauty queens, wrongly illustrated with a photograph of Ms Lawrence. Sarah Lawrence was represented by Magnus Boyd and Rebecca Toman.

Express apologises over terrorism allegations

Express Newspapers has apologised and paid £50,000 in libel damages to the Trustees of the **Ummah Welfare Trust**, a UK charity providing emergency relief in developing countries. The Express had falsely claimed that the charity was linked to Anwar al Awlaki, said to be the spiritual leader of Al Qaeda and behind the 9/11 attacks and the Detroit aeroplane plot. The damages have been donated to the charity. The Trustees were represented by Cameron Doley and Luke Staiano.

Telegraph apologises over expenses allegations

The Daily Telegraph has published a full apology and paid damages to **Sir Robert Atkins MEP** over false allegations concerning his expenses claims. Sir Robert was represented by Alasdair Pepper and Luke Staiano. The firm is also acting for a number of MPs and former MPs over false allegations arising out of the expenses scandal.

Racehorse trainers secure apology and damages from The Racing Post

The Racing Post has published an apology to the racehorse trainers **Jim and Tom Best** and their father **Leon Best Snr** over an article that falsely claimed they had been charged with serious criminal offences. The Racing Post also agreed to pay damages. The successful claimants were represented by Magnus Boyd and Michelle Riondel.

Film finance litigation

Carter-Ruck is currently instructed by a variety of investors in relation to a number of disputes concerning film finance schemes, including a major Hollywood blockbuster. Alasdair Pepper is handling these cases, with the assistance of Antonia Foster and Stevie Loughrey.

Parameswaran Subramanyam issues libel proceedings against the Daily Mail and The Sun

Parameswaran Subramanyam, a Tamil refugee who embarked on a 23-day hunger strike outside the Houses of Parliament in April last year, has issued libel proceedings against Associated Newspapers and News Group Newspapers. Mr Subramanyam is represented by Magnus Boyd and Michelle Riondel.

Muslim Council of Britain spokesman wins libel case

Muslim Council of Britain spokesman, **Inayat Bunglawala**, won his libel claim against the Mail on Sunday. The newspaper falsely alleged that there were strong grounds to suspect Mr Bunglawala of unlawfully stabbing a man at his home and that he was an extremist who supported the views and objectives of Abu Qatada and Al Qaeda. The newspaper published a prominent apology and agreed to pay him substantial damages. Mr Bunglawala was represented by Adam Tudor and Stevie Loughrey.

"Solicitors from Hell"

The firm is acting for a number of law firms over untrue allegations published on the website www.solicitorsfromhell.com.