

## BBC PAYS LADY FALKENDER £75,000 OVER 'LAVENDER LIST' SLURS



Lady Falkender - who as Marcia Williams was Prime Minister Harold Wilson's personal and political secretary - has won £75,000 in libel damages from the BBC following last year's docu-drama, *The Lavender List*.

The programme claimed - wrongly - that it was Lady Falkender, rather than the Prime Minister himself, who compiled Lord Wilson's Resignation Honours List in 1976 and that, in doing so, she included the names of individuals who had assisted her personally or from whom she hoped to receive assistance personally in future. It also suggested - again wrongly - that Lady Falkender had had a brief adulterous affair with Lord Wilson and had subsequently used this to blackmail him.

The *Lavender List* was broadcast on BBC Four on 1 March 2006. It has not, however, appeared on terrestrial television and will now never do so, since, under the terms of settlement, the BBC has agreed that the programme will never be re-broadcast.

Speaking of the settlement, Lady Falkender said *"I am very glad that matters have been resolved satisfactorily. A lot of nonsense has been written about the 1976 Resignation Honours List - the so*

*called 'Lavender List' - and my claim against the BBC has, I hope, given me an opportunity to nail the lie once and for all. As Lord Wilson always made clear throughout the period after he left office, and as I have myself always made clear, the 1976 List was his own work and included only those individuals he himself believed ought to be honoured. My involvement in the preparation of the List was no different to that of any other Political Secretary and the suggestion that I had means at my disposal of imposing my wishes upon Lord Wilson is simply untrue.*

*The BBC's programme presented a picture which, in a whole host of respects, bore no resemblance whatsoever to the reality of Lord Wilson's final administration."*

The settlement of Lady Falkender's claim followed a mediation conducted by Lord Woolf of Barnes, the former Lord Chief Justice. In addition to paying damages and undertaking never to re-broadcast the offending programme, the BBC also apologised to Lady Falkender and agreed to meet her legal costs.

Lady Falkender was represented by a team at Carter-Ruck comprising Cameron Doley, Claire Gill and Hanna Basha.

# "TABLOID JOURNO'S SHOULD BEWARE!" (Press Gazette)

The House of Lords has rejected an application for permission to appeal brought by Niema Ash against the Court of Appeal's groundbreaking decision which upheld Canadian singer Loreena McKennitt's right to "the human dignity of privacy". The Court of Appeal ruling has very significant implications for the right to privacy of everyone facing intrusive media scrutiny, whether they are public figures or not.

In the summer of 2005, Ms Ash, a British resident, published a book about the Canadian singer/composer. After a 10-day High Court trial in November 2005, which was heard in private (unlike other recent privacy trials), substantial passages of the book were restrained, by order of Mr Justice Eady. Ms Ash then appealed against the ruling. The media were so concerned about its impact that they intervened in the appeal, which was heard in November 2006.

The landmark Court of Appeal decision makes clear that individuals are allowed personal autonomy and have the right to object to the publication of intrusive material even if the person has spoken previously in public about this "zone" of his or her life. Reliance on old press-cuttings by the media is no longer a complete answer to a claim for privacy.

The ruling also deals a blow to the "role model" argument frequently relied on by the media as a justification for publishing intrusive stories about well-known individuals. With regard to the disclosure of particularly intrusive material, this can only be justified (after a careful analysis of the competing rights) where Article 10 rights outweigh the privacy right - for example where there is a compelling public interest, such as exposure of criminal conduct or the correcting of misleading statements.

Contrary to recent misleading reports in the media, Ms McKennitt did complain that substantial parts of the book were untrue, distorted or misleading. The ruling was significant in finding that a complainant in privacy does not now have to explain which parts of an article are true or false. The critical question is whether the material is an invasion of privacy, not whether

it is true or false. This may open up new 'false privacy' claims against the media as an alternative to libel claims.

The fact that Ms Ash was a trusted confidante who had signed a confidentiality agreement was also a significant factor for the Court. The case underlines the importance of ensuring that confidentiality agreements are used.

Finally, the Court expressly adopted the principles from the Princess Caroline of Monaco case in the European Court despite strong arguments from the media that the Princess's case was primarily concerned with paparazzi harassment.

Ms McKennitt was represented by Mark Thomson.

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## FRANK WARREN SECURES BACK TO BACK LIBEL VICTORIES

Frank Warren, the boxing promoter and Chief Executive of Sports Network Limited, has accepted £30,000 in libel damages against the Daily Record newspaper in respect of false allegations that he dishonestly fixed the outcome of the fight between



John Simpson and Derry Matthews in March 2007. The article also falsely alleged that, in breach of World Boxing Union rules, Mr Warren had met the fight referee the evening before the bout. As well as paying Mr Warren damages and legal costs, the newspaper also published a full apology.

Meanwhile, publisher Random House has apologised to Mr Warren over a defamatory allegation published in the book "Ricky Hatton: The Hitman, My Story", and has withdrawn the book from sale. Mr Warren is still suing the publisher over two other allegations in the same book, and will go to trial in February 2008 to clear his name. He is being advised by a Carter-Ruck team comprising Nigel Tait, Hanna Basha and Stevie Loughrey.

# **PRESS FORCED TO PAY OUT LIBEL DAMAGES OF OVER £700,000 AS MEDIA PAYS HEAVY PRICE FOR FALSE REPORTING OF TERROR ALLEGATIONS**

During the course of the last twelve months, Carter-Ruck has secured numerous apologies, together with damages totalling in excess of £700,000, for a number of Muslim clients falsely accused of suspected involvement with terrorism.

Most recently, the Daily Mirror was forced to apologise and pay damages to Abdul Hadi Awang. Mr Hadi Awang is a prominent political figure in Malaysia, currently serving as the President of PAS (a leading, democratically elected opposition party). The Mirror inadvertently, but entirely falsely, accused Mr Hadi Awang of being a leading figure in Al Qaeda.

In another case, Amjad Sarwar, from High Wycombe, accepted libel damages totalling more than £225,000 (understood to be the highest total for a libel Claimant in recent years), following the settlement of complaints brought against a number of national newspapers as well as Sky News, ITN and Channel 4 News. They had falsely suggested that Mr Sarwar was a suspect in the alleged plots to blow up a number of British aircraft using "liquid bombs" in the summer of 2006. These attacks would, if successful, have constituted the worst terrorist atrocity in British history. The newspapers all published full apologies to Mr Sarwar. In addition, a number of apologies were broadcast on ITV, Channel 4, Sky News and other television channels.

While the essential 'sting' of the libels - false allegations of involvement with terrorism - was similar in all of these cases, the precise nature of the complaints varied. For example, in Mr Sarwar's case a large number of media outlets chose to publish his name and photograph, thereby falsely linking him with terrorism. By contrast, in another case the complaint was brought on behalf of an entire family against Sky and Channel 5 news, which had erroneously broadcast footage of the family home in the context of a story concerning a police investigation into an alleged plot to kidnap and behead a British soldier. Despite the fact that none of the family themselves was named or even shown in the broadcast, the

news channels were forced to broadcast very full apologies and pay substantial damages and costs to each of them.

The prevalence of these cases provides an alarming reminder of the frequency with which the media, no doubt in a bid to feed the 24-hour news 'agenda', can be prone to publish stories, even on matters of the utmost gravity such as terrorism, without adequate fact-checking beforehand. They serve as an equally stark, and welcome, reminder of the availability of remedies for the individual victims of these publications, and of the price which the media will pay for getting its stories wrong.

In all of these cases the Claimants were represented by Carter-Ruck partner Adam Tudor and solicitor Isabel Hudson.

## **CARTER-RUCK NEWS**

Carter-Ruck is delighted to announce that Magnus Boyd has accepted partnership with the firm. Magnus joined in 2004, having qualified at Schillings.

Meanwhile, Lucy Middleton has been appointed as an Assistant Solicitor, having completed her training contract in September 2007.

Carter-Ruck continues not only to have comfortably the largest media litigation department in the country, but also the best-regarded, with the firm being variously described by the Legal 500 and Chambers directories as "undoubtedly the king of claimant defamation firms" which provides a "Rolls-Royce service".

In August, the Daily Mail described the firm as "London's best known and most feared libel lawyers" and Jeremy Paxman singled out Carter-Ruck for special mention in his much publicised speech at the Edinburgh international television festival.

Guy Martin and Isabel Hudson successfully represented the Speaker of the House of Commons, the Right Hon. Michael J Martin MP, in a complaint against the Times, which led to the newspaper publishing an apology and paying his legal costs.

**Carter-Ruck partners Nigel Tait and Magnus Boyd are representing Tesco in various matters.**

On 5 August 2007 the People newspaper published a full apology to Chelsea Football Club, in respect of false allegations that the club and its players, in particular John Terry, Frank Lampard and Arjen Robben, had behaved inappropriately during their stay at the Beverley Hills Hotel. Alasdair Pepper and Michelle French acted for the club.

**Former world heavyweight boxing champion Frank Bruno (represented by Magnus Boyd) has settled his privacy action against the News of the World, receiving substantial damages.**

Sir Simon Milton, the Leader of Westminster Council and now Chairman of the Local Government Association, secured a full apology and a substantial contribution to his legal costs from Private Eye in respect of false allegations that he was under investigation by the District Auditor following the Council's settlement with Dame Shirley Porter over the 'homes for votes' scandal. In April, Sir Simon also received an apology and damages from the Oldie magazine (co-founded by Richard Ingrams, former editor of Private Eye) in respect of similar false allegations. Sir Simon was represented by Adam Tudor.

**Nigel Tait and Adam Tudor are representing Trafigura, one of the world's largest independent commodities trading companies, in libel proceedings against the law firm of Leigh Day & Co.**

The firm represented Sir Martin Sorrell in his claims for libel and invasion of privacy in respect of a defamatory blog and a highly offensive image. The cases settled 10 days into trial with Sir Martin

receiving £120,000 in damages and his co-Claimant in the privacy action, Daniela Weber, receiving £30,000 for invasion of privacy. Sir Martin and Ms Weber were represented by Mark Thomson and Antonia Foster.



**Mark Thomson is advising Sophie Anderton (pictured) in a number of matters.**

The Daily Telegraph published a full apology to Seán Doran (the former Artistic Director and Chief Executive of the English National Opera) and his wife Ruby Philogene (the Mezzo-Soprano and former winner of the Kathleen Ferrier award), over allegations which were published in Celia Walden's 'Spy' column on 29 November 2005. Adam Tudor represented the couple.

**Martyn Jones, Labour MP for Clwyd South, won his libel action against the Mail on Sunday in respect of two articles published in May 2006. The action went to trial in June where the jury awarded damages. The Mail on Sunday was also ordered to pay Mr Jones' costs and was enjoined from republishing the allegations complained of. Nigel Tait and Edward Yell acted for Mr Jones.**

Koo Stark was successful in her libel complaint against Zoo magazine and its editor Anthony Noguera. The magazine, which had falsely described Ms Stark as a porn star, printed an agreed apology and retraction. Ms Stark received a substantial sum in damages together with her legal costs. Ms Stark was represented by Cameron Doley and Felicity Robinson.

**The firm acted for Leeds United in a highly unusual action, securing the discharge of an injunction obtained against the club without notice on the previous afternoon. This enabled Leeds United to distribute and sell its match day Programme for the match taking place that afternoon. Alasdair Pepper handled the case.**

If you have any comments on this Newsletter 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)