

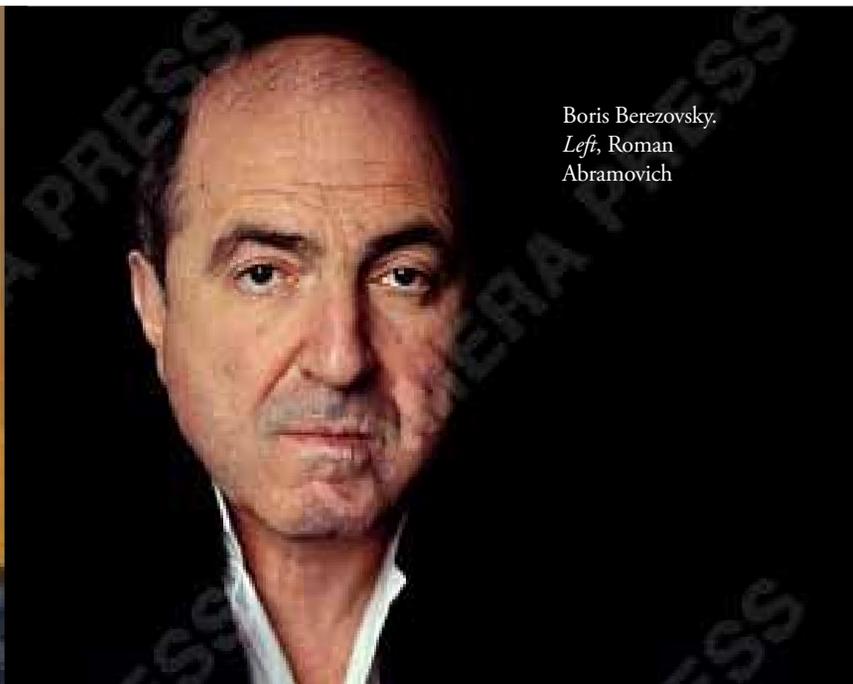
Report

BIFF! BANG! POWSKI!

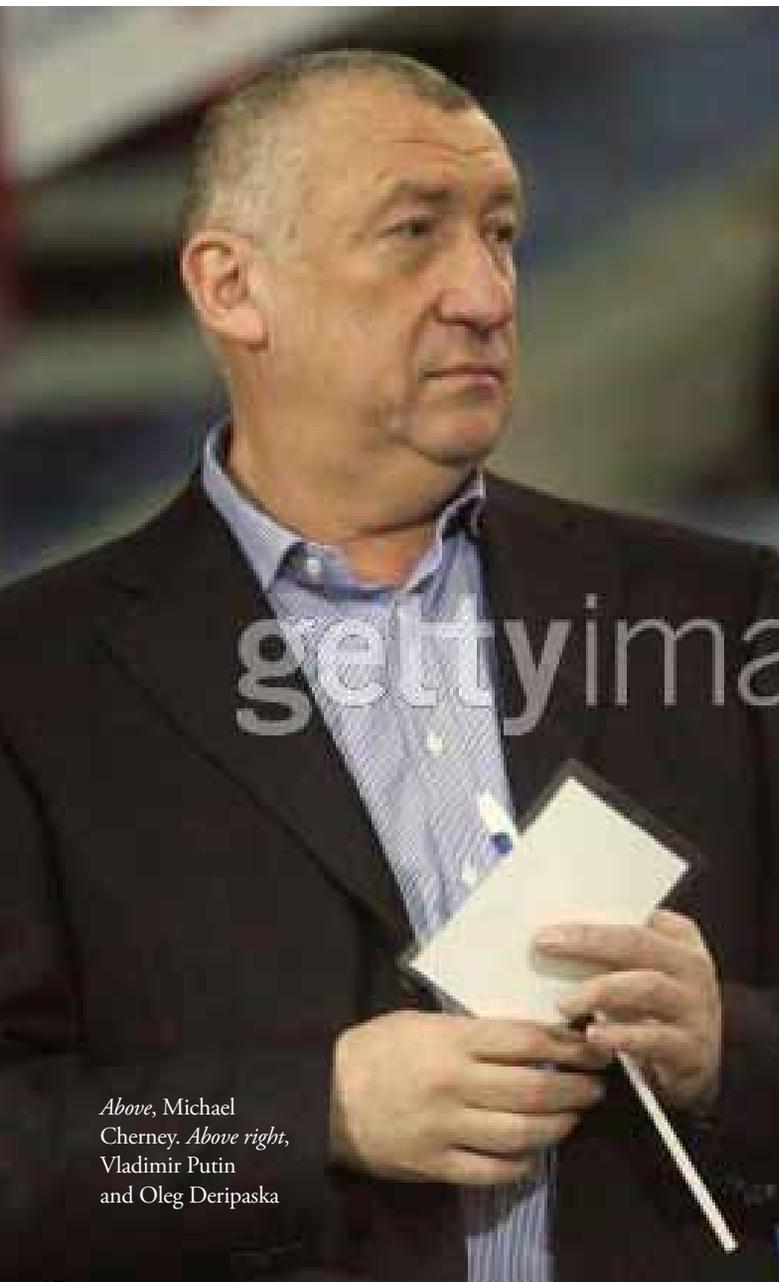
It's becoming a familiar scene in the High Court. In one corner: an angry Russian billionaire. In the other: an equally angry Russian billionaire. Mindboggling sums are at stake – as well as wounded macho pride. But why are so many oligarchs bringing their battles to Britain and squaring off in some of the most ferocious legal dust-ups seen in decades?

By Mark Hollingsworth and MA Nicholas

RESEARCH PICTURES: CAMERA PRESS, GETTY IMAGES, EYEVINE, JOHN FROST NEWSPAPER ARCHIVE



Boris Berezovsky.
Left, Roman
Abramovich



Above, Michael Cherney. Above right, Vladimir Putin and Oleg Deripaska



What you need to know about me,' one Russian oligarch told a British businessman as he leant menacingly across the boardroom table, 'is that I prefer suing to sex.'

In that, he's like many Russian tycoons: they love to litigate. And they love, above all, to litigate in

London – with provisos. As Rupert D'Cruz, a barrister specialising in Russian commercial disputes, told me: 'Their instinct is to go for the jugular and the kill, while British lawyers are more strategic and long-term.'

Still, an estimated 50 per cent of cases in the High Court's commercial division are now related to Russia or former Soviet republics. 'The English courts are very popular with Russian claimants because they know that they will get a fair hearing and that the judges are independent and not afraid to make rulings that will upset powerful interests, if that is where the evidence takes them,' says D'Cruz. 'They like the fact that the legal process here is meticulous and that the

detailed cross-examination of witnesses in complex cases is more likely to get to the truth. This is particularly so where the dispute relates to oral agreements (which are common among Russian businessmen, even where the amounts at stake involved are very substantial). They particularly like the history and the traditions of the legal profession – notably the use of wigs and the gowns in certain cases – which lend to our reputation. Although the litigation process here can be more expensive and prolonged, Russian clients are increasingly insistent that their contracts be governed by English law and contain clauses that require disputes to be referred to English courts.'

Whether Roman Abramovich – or indeed Oleg Deripaska – agrees is another question.

On the afternoon of Saturday 6 October 2007, Roman

Abramovich was looking at jewellery and accessories on the ground floor of the small Hermès boutique in Sloane Street, Knightsbridge. His beloved Chelsea Football Club was not playing that



Left, early coverage of Cherney v Deripaska, coming to the High Court after five years of legal argument



Clockwise from above, Dasha Zhukova and her son Aaron in St Barth's; Berezovsky and Abramovich; Le Château de la Garoupe, Berezovsky's villa in Cap d'Antibes; *Eclipse*, the largest private yacht in the world, which is owned by Abramovich; Zhukova and Abramovich on holiday in Italy



day, and he was in a diffident, low-key mood. But at that very moment, only two doors away in the Dolce & Gabbana shop, his former friend and business partner – but now nemesis – Boris Berezovsky was impatiently examining shoes and jackets for himself. The day was to prove costly for both Russian multimillionaires.

Each man was blissfully unaware of the other's presence just a few yards away. Then one of Berezovsky's three bodyguards spied the understated Abramovich and breathlessly told his boss. It was the chance Berezovsky had been waiting for. Some six months earlier, he had filed papers at the Royal Courts of Justice that accused Abramovich of blackmailing him out of billions of pounds. If the case was to proceed, British law required that the Chelsea owner be served with a writ. Over the past few months, Berezovsky had made numerous attempts, including hiring security operatives to ambush Abramovich whenever Chelsea played at home. But Berezovsky's former protégé proved elusive. 'There was a plan to serve Roman with a writ as he watched Chelsea play Hull in an FA Cup match, but he got wind of it and didn't turn up,' a security source confided.

Berezovsky's moment had come. He dashed over to his armoured Mercedes Maybach, where he'd kept the legal documents in the glove compartment – just in case. Papers in hand and surrounded by his intimidating minders, he strode into the boutique. It was now the turn of two of Abramovich's ubiquitous bodyguards to jump to it. Roman's men quickly formed a human blockade around their boss.

As astonished shoppers gasped, the respective bodyguards faced off, glaring icily at each other like fighters before a heavyweight bout. Then they began to shoulder one another. Berezovsky, short and stocky, repeatedly jumped up and down as he tried to join the scuffle. Eventually, after much pushing and shoving, the late-middle-aged oligarch – clutching his writ like a fly-half – charged through the scrum and dived towards the younger oligarch whom he had once treated like a son. 'It's a present. From me to you,' he snapped in staccato Russian.

A startled Abramovich pulled back as the envelope dropped to the floor. 'I think he'd watched too much American television, because he seemed to think if he didn't have physical contact with it then the writ would not be served,' recalled one of the bodyguards. Hermès's CCTV captured this extraordinary showdown – footage that was later to be

used in court as evidence.

The Abramovich-Berezovsky case is the most spectacular example of Russian commercial disputes being resolved in the London courts, despite the fact that they have little to do with the UK. The writ claimed that in France, back in 2001, Abramovich had tricked and intimidated Berezovsky into selling valuable shares in two Russian companies (the television channel ORT and the oil giant Sibneft) at bargain-basement prices. Berezovsky alleged that Abramovich visited him at Château de la Garoupe, the older Russian's villa in Cap d'Antibes. There, Abramovich coerced his host into selling his holdings to him, threatening that the Russian state would confiscate Berezovsky's assets, leaving him empty-handed. Abramovich denies the allegations.

Suing Abramovich is a gamble. Very few of the two men's business dealings were documented. To obtain precious evidence, Berezovsky has even promised one of his yachts, worth £16 million, to an unnamed intermediary who gave him a secret tape recording of a meeting with Abramovich at Le Bourget airport in Paris in 2000. Tales of paranoia and corporate espionage lurk in the shadows. One private investigator hacked into Berezovsky's email system and offered the documents to Abramovich's American law firm, who declined the illegal treasure. And two of Berezovsky's own aides became so nervous about security that they flew to Helsinki and hired snowmobiles so they could meet to discuss the case in an obscure forest in Finland.

But Berezovsky has good reason to roll the dice. Abramovich has prospered colossally, while Berezovsky has had to resort to borrowing millions of euros from another oligarch 'to help me with my life'. And *Tatler* can reveal, too, that Berezovsky has also mortgaged his Château de la Garoupe for £24 million and borrowed £1.5 million from the Baltic International Bank in Latvia, a loan secured by another of his boats, the *Kiring*. Much of this, of course, will go to pay the huge legal costs – a battery of 40 lawyers on each side have been billing £1 million a week and the case is expected to cost the oligarchs in excess of £20 million in barristers' fees. A handsome cut of this will go to Jonathan Sumption QC, 'the cleverest man in London' and Abramovich's lead counsel. Sumption has already been appointed to be a judge in the Supreme Court – the first barrister ever to leap from the humble bar directly to the highest court in the land without any

other judicial experience. Legal eyebrows have been raised at the fact that he has postponed taking up his Supreme Court position to argue this case. How, it's asked, will he be able to consider this case as a judge, should it go to appeal? In fact, he will have to recuse himself. Still, even an oligarch, let alone a silk, would find it hard to turn down such a large sum of money.

As clients, Russian oligarchs are demanding, decisive and have high expectations. And they do not readily settle out-of-court. 'Reputations are important and they do not like to lose face,' says Smeetesh Kakkad, a Russian specialist litigation solicitor at Salans. 'Many of these disputes involve very substantial sums and so the stakes are high. They do not want to be seen to be backing down because they think their business competitors may see this as a sign of weakness. Also these disputes are often based on long friendships and relationships which have broken down and so a decisive victory is regarded as a major issue.'

While Russian clients may be more aggressive and impatient, they can also be the most loyal. 'Their defining characteristic and priority are loyalty and trust,' says D'Cruz. 'This is very important. While British and American businessmen place great reliance on legal formalities, Russians often place a greater emphasis on loyalty and trust. This extends to their relationships with their lawyers, which can lead to expectations that require careful management. For example, our primary duty is always first to the court and only after that to the client. It can be a challenge for an English lawyer to explain to a Russian client that it is the lawyer's duty under English law to disclose to the other side all relevant evidence in his possession even if it is detrimental to his case. Then there is the "tortoise and the hare" difference. The instinct of Russian clients is often to try for quick wins (which are not always possible and can be counterproductive) and symbolic victories, whereas English lawyers are trained to be strategic and long-term. In this respect as well, it can be important to manage with care the high expectations of Russian clients.'

Still, London is a legal sanctuary for many Russian oligarchs and rich businessmen with close ties to the Kremlin. One of the most colourful to turn to the British courts is 37-year-old Yevgeny Chichvarkin, who has made hundreds of millions from selling mobile

phones throughout Russia and Central Asia. Eccentric and unorthodox, he looks like a bohemian painter rather than an entrepreneur – during business meetings he lounges in an armchair, dressed in a black-and-white striped hooded T-shirt and patchwork leather trousers, and twirls his rattail clump of hair.

He's known for his garish red and yellow boots and a hairstyle that saw him nicknamed 'the million-dollar mullet', but his appearance belies a cunning commercial mind. After dropping out of university and selling clothes at Moscow's outdoor markets in the Nineties, Chichvarkin realised that mobile phones were the future and founded Euroset in 1997. Bolstered by outrageous and provocative advertising campaigns, sales jumped by 250 per cent and by 2008 Euroset had outstripped its rivals to become a company worth £630 million.

However, Chichvarkin fell out with the Kremlin in a dispute about his tax contributions; he insisted that he had paid his fair share of taxes and that the Russian government was now seeking to extort money from him because of his wealth. In September 2008 police raided Euroset's Moscow headquarters. Prosecutors alleged that Chichvarkin had ordered the kidnap and blackmail of a former employee.

Chichvarkin angrily denied the allegations: he claimed that the same employee had tried to defraud Euroset by stealing 20 million roubles'

worth of mobile phones that he then attempted to sell back to the company as new stock. At first Chichvarkin fought the charges – an unusual move in Russia – but then realised it was hopeless to challenge the Kremlin. In late September 2008, he cashed out, selling the business for £785 million with liabilities of £540 million. But Russian state prosecutors continued to pursue him, and so he left Russia for good and flew to London on 22 December 2008 with his wife Antonina and their two young children and moved into a house off Kensington Church Street. Soon afterwards, the Russian authorities issued an international warrant for his arrest and said they would seek his extradition.

Chichvarkin applied for asylum on the grounds that he could not receive a fair trial in Russia and that his human rights had been breached. He hired Gherson, solicitors who specialise in Russian

'Abramovich seemed to think that if he didn't actually touch the writ, then it wouldn't legally have been served'



Above left, Berezovsky on a private jet. Inset, Berezovsky and his girlfriend Yelena Gorbunova at a fundraising event in London. Right, Berezovsky's yacht *Thunder B*, which he sold for £21.5 million

Left, Berezovsky wearing a Vladimir Putin mask as he leaves Bow Street Magistrates' Court. Below, the former Russian president Boris Yeltsin and Berezovsky. Bottom, Hascombe Court, Berezovsky's mansion in Godalming, Surrey



immigration cases, and two barristers from Garden Court Chambers. Eventually, the Russian authorities dropped the charges and in June 2011 a British immigration review panel ruled that two nannies from Russia could join the businessman's family in Britain.

After many months of fearing for his life and the safety of his family, Chichvarkin now feels more secure in the UK. He is looking for a school in London for his son and daughter, and has purchased Anthea Turner and Grant Bovey's mansion near Godalming in Surrey for £9.7 million.

Most Russian commercial contracts specify that any dispute be resolved under English law. (Other countries, notably the United States, have been unable to lure the Russian gravy train to their courts because oligarchs are reluctant to submit to the vetting required for a US visa – and, indeed, when they do so, they are often turned down by the US Department of State.) London judges have also ruled in some cases that the parties concerned will not receive a fair trial in Russia where the judiciary is often arbitrary, partial, corrupt and prone to political influence. But according to some experts, the lack of a rule of law in Russia is exaggerated.

'The Russian judicial system is better able to deal fairly with most commercial disputes than is often supposed,' says Professor Bill Bowring, a barrister and an expert witness on most cases involving attempts to extradite Russian businessmen in London back to Moscow in the past decade. 'The problem is when the regime have an interest in the outcome of the case or when anti-Putin oligarchs are involved. That is when the British judges have ruled that the case needs to be heard in London, because there is a real risk they will not receive a fair trial in Moscow, as we have seen with Mikhail Khodorkovsky [the former owner of Yukos Oil, who has been in jail in Siberia since 2004]. Even then it is hard to prove political interference. The classic case was Vladimir Gusinsky, who was detained in prison until he signed documents that handed over his assets to the state.'

But when Russians do turn to British courts, there can be difficulties, as Ekaterina Sjöstrand, a Russian-born barrister based at Lincoln's Inn, explains: 'What I've seen in many of my cases with Russian clients is that there is a problem with lack of binding contractual documents. There is occasionally a memo but often they are scribbled notes, sometimes even on the back of an envelope, or an unsigned letter with no heading or an unspecified



draft. Russians have a mistrust of committing anything to paper or working with formal documents. This is for historical reasons and goes back to the Cold War and the Soviet times, when documents were used against Russians by the intelligence agencies and authorities. That mentality still exists. Russians like to read between the lines and analyse the situation rather than rely on formal agreements, and so even today Russian businessmen prefer to have oral trust agreements. And this can be a problem when they are involved in litigation in the UK courts. The other feature of Russian commercial cases is that the contracts are often between offshore companies in relatively obscure islands and so it can be very difficult to enforce a judgement or even start proceedings because the assets of those offshore companies could be stripped. There is a risk of a successful lawsuit not being enforced, because you are dealing with offshore companies which were set up purely for that transaction, usually a joint venture, and not with an individual.'

That lack of written documents lies at the heart of another legal juggernaut between two Russian billionaires that will finally arrive in the new state-of-the-art Commercial Court on Fetter Lane early in 2012. This is between Oleg Deripaska – the aluminium magnate who is a friend of Lord Mandelson and whose closest advisor is Nat Rothschild

– and Michael Cherney, the Israeli-based metals tycoon who has a substantial UK property portfolio and is the subject of an international arrest warrant for alleged money laundering which he vigorously rejects. Both Cherney and Deripaska have encountered problems with obtaining a US visa because of allegations about their past connections to organised crime – which they strongly deny.

But what is undeniable is the case's uncanny similarities to Berezovsky's claim against Abramovich. Deripaska and Cherney used to be commercial partners and fell out over the spoils of their aluminium business. Cherney is the older, big-brother figure who claims to have been betrayed after Deripaska failed to honour an oral agreement to pay for the full value of his shareholding. And so Cherney sued – in London.

But first Cherney needed to serve the writ. As with Berezovsky, it proved more difficult than he envisaged. But that changed one misty evening when, on Sunday 26 November 2006, Deripaska flew into Luton airport on one of his private Gulfstream jets. It was a routine visit, as he had regular meetings in London and a house in Belgravia.

What he did not know was that private detectives hired by Cherney's UK solicitors had been stalking his aircraft's movements for weeks. Their task was to serve the writ, and they struck lucky when their quarry landed at Luton. Deripaska flew on to Battersea heliport in his Sikorsky helicopter. There, his

chauffeur met him in his Mercedes Maybach to drive the short distance to his grand, Grade I townhouse on Belgrave Square, once the home of Sir Henry 'Chips' Channon, the society host, Conservative MP and notoriously indiscreet diarist. Now managed by Graham Bonham Carter, a cousin of the actress Helena, the house was designed for entertaining royalty



Above left, Yevgeny Chichvarkin's £9.7 mansion in Surrey. Right, Chichvarkin



From far left, Berezovsky arrives at the High Court in 2008; Laurence Rabinowitz QC, one of Berezovsky's lawyers at the High Court, 2011; Jonathan Sumption QC, Abramovich's lead counsel; Abramovich and his entourage arriving at the High Court for the start of the court case against Berezovsky

and diplomats – hardly the setting for a showdown between security guards working for shadowy Russians.

After tracking Deripaska's movements to Battersea, the private detectives telephoned their process server – hired to hand over the document – who raced over by motorbike to Belgravia to await the oligarch's arrival. He was just in time. When the armoured limousine pulled up at 10.40pm, the server made his move. He failed to reach Deripaska, who quickly disappeared into the house, and so he politely asked one of the security guards if he could speak to his boss as he had an important document to be delivered to him personally. The minder replied that Deripaska was busy but agreed to pass on the envelope. Without understanding the legal implications of what he was doing, the bodyguard passed the envelope to the oligarch and told him it was from a 'courier'. The writ had been served.

And as in Abramovich's fateful encounter with Berezovsky in Cap d'Antibes, the crucial meeting between Michael Cherny and Oleg Deripaska had also been held in grand surroundings – the Royal Suite at the Lanesborough hotel in London. Cherny claims that during this encounter in 2001, Deripaska agreed to pay him £157 million upfront for his 20 per cent stake in Rusal, their highly profitable aluminium conglomerate. Again crucially, it is claimed that Deripaska also agreed that these shares would be held in trust and he would pay Cherny the profits when they were later sold on the open market. In response, Deripaska vigorously denies this allegation and says that the £250 million payment was for protection in an industry dominated by violence, extortion and contract murder.

It is these events that form the backdrop to the dramatic serving of the writ by Cherny in 2006. In the ensuing legal wrangles, the two men have presented opposing accounts of their roles in the aluminium wars. Despite having opportunities to settle out-of-court for a relatively small amount, Deripaska refuses to compromise and regards the claim as 'a smear against his achievement', according to one aide. Cherny has portrayed Deripaska

as his precocious protégé, first making him a manager and then giving him a stake in the hugely profitable business. But he insists that without his help his young manager would not have risen to the top and made his fortune.

The fallout between the former friends has been acrimonious. Both sides accuse each other of dirty tricks and Cherny, like Berezovsky, feels betrayed by his former favourite. They first met in 1993 at a metals conference at the Dorchester hotel, when Deripaska, then only 25, impressed the older entrepreneur with his technical knowledge and diligence. Introverted and obsessive, Deripaska is relatively ascetic and frugal in his

A group of 18-year-old models said Deripaska was the oligarch they would most like to meet

lifestyle – though he does have a very large yacht, on which he entertained Lord Mandelson and George Osborne in 2008. He does not smoke or drink. Casually dressed, he gives little away about himself.

He works 14- to 16-hour days and even failed to attend President Yeltsin's funeral because he was 'too busy'. He spends most of his time on his private jet travelling the world, often whiling away the time with his two favourite pastimes – reading physics books and watching episodes of *24*. In business, he is tough, smart, ruthless and calculating; his one cultural interest is ballet. Though married, Deripaska has been ruthlessly targeted by gold-diggers. In 2008, a group of 18-year-old Russian models said that he was the oligarch they would most like to meet.

By contrast, Cherny – like Berezovsky – is loud and assertive. He grew up in Uzbekistan and made his fortune in the mid-Nineties from Transworld Group, then the world's

third-largest producer of aluminium. The company's territory was so vast – from the Siberian steppes to the shores of Cyprus – that it was known as a 'state within a state'. He was once a boxer, and his favourite pastime is watching his adored Bulgarian football team PFC Levski Sofia on television. He has also bought several London properties, notably luxury apartments in the understated 'Bromptons', in South Kensington, and the high-security Knightsbridge complex, plus a large townhouse on Draycott Place in Chelsea.

As he spent so much time outside Russia, Cherny delegated daily management to his trusted partners, including Deripaska, and did not retain or receive much in the way of routine documentation. Instead, he preferred to close deals for enormous amounts with a handshake or a simple verbal agreement – a common feature of business life in Russia. While there are two documents in which Cherny's claim would appear to be backed up, Deripaska bitterly contests their authenticity. So it is the oral trust agreements that lie at the heart of Cherny's claim to £1.25 billion of Deripaska's fortune.

But first the issue of jurisdiction needed to be resolved. Deripaska wanted the case heard in Moscow, arguing that the dispute concerned Russian assets. Cherny argued for London, because that was where the deal was struck. In July 2008, Mr Justice Clarke – sitting in the oak-panelled Gothic Revival room, off Fleet Street – ruled that while 'it would be quite wrong for it to be suggested that the English court is saying that a fair trial cannot be obtained in Russia in all normal cases', nevertheless: 'I am persuaded that the risks inherent in trial in Russia (assassination, arrest on trumped-up charges and lack of a fair trial) are sufficient to make England the forum in which the case can most suitably be tried.' Indeed, in his sifting through the evidence, the judge found that Cherny had already been the victim of at least one assassination attempt – in Israel in 1995. These assassins, concluded the judge, were 'possibly connected to the Russian secret services'. This, he said, was an exceptional case because of the 'closeness of the

link between the Russian State and Mr Deripaska’.

The *Cherney v Deripaska* courtroom drama will open next April and is likely to be as dramatic and revelatory as *Berezovsky v Abramovich*. Cherney will be giving evidence by video link from Tel Aviv, because he cannot travel to London for fear of being arrested due to the international arrest warrant for alleged money laundering, and the notoriously monosyllabic Deripaska will be cross-examined in open court for the first time. This could be followed by a libel action brought by Deripaska’s advisor Nat Rothschild against the *Daily Mail*, regarding an article about the proposed sale of Rusal to the US aluminium giant Alcoa.

And so the English legal profession continues to reap the vast profits from the falling out between the oligarchs, men who are rich beyond imagination only because of the murky bonanza that followed the collapse of the Soviet state in a land of staggering natural resources. It is, of course, a tribute to the English judiciary that every oligarch and his uncle prefers to sue in this country rather than anywhere else on the planet. And it’s something of an approbatory nod, too, to the commercial silks and the legal acumen that allows them to grapple so deftly with complex cases involving oligarchs that often hang on little more than a verbal agreement sealed with a handshake. But then, behind every great fortune, it is often claimed, lies a great crime –and nowadays, of course, a deliciously fat legal fee for London’s barristers. □

Mark Hollingsworth is the co-author (with Stewart Lansley) of Londongrad: From Russia with Cash (Fourth Estate, £8.99)