

**Judicial Pioneers:  
Litigants in the Moscow Theater Hostage Case**

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**Abstract:** Courts can better protect rights when citizens are willing and able to litigate in response to government abuses of power. However, if people are not socialized to the possibility of litigating against governments, how does the idea to litigate first occur? Using an original survey of victims in the Moscow theater hostage incident, we find that judicial pioneers are motivated, contrary to expectations, by the belief that the judicial system is unfair. We provide evidence that the negative relationship between perceived judicial fairness and litigation may be explained by litigants' anger at government in general. We conclude that, where belief in the fairness of procedures has not yet emerged, the hope of winning may be the best remaining pro-

system motivation for litigation and, along with the desire to express anger, the best hope for rights protections.

One hallmark of liberal democracy is that rights are not only granted but defended when violated. This means citizens must be willing and able to challenge their governments in court. In countries where citizens sue, lawyers take pro-bono or contingency cases, and nongovernmental organizations support litigation, rights are better protected (Epp 1998). Rights are especially better protected where citizens' willingness to sue extends to lawsuits against governments. In such cases, the courtroom provides a vital avenue for citizens to hold their governments accountable and check abuses of power.

A crucial question for studies of democracy, therefore, is why do people sue their governments? Given two similarly aggrieved or disadvantaged individuals, what makes one more likely than the other to take action through the judicial process?

This question is especially pertinent in postcommunist regimes experimenting with new democratic institutions. Under communist rule, citizens looked at their courts not as the final arbiter of disputes, but as part of the governing apparatus. Courts were controlled by the same bosses who controlled everything else, and citizens had very limited opportunities to take their governments to court (Solomon 2004). With the collapse of communism, citizens must somehow come to imagine this possibility. The crucial question here is: Where people are not socialized to the possibility of litigation as a means to challenging their government's actions, how does the idea to redress grievances in courts first occur? Who are the pioneers in taking legal action against governments? We explore this question with survey data from victims of the 2002 Moscow theater hostage incident, some of whom are suing the city of Moscow.

Pioneering litigation against governments has not been a common topic of previous research, but the literature offers some insight into why litigation in general may occur. From these insights we generate several hypotheses.

## **Seeking a Fair Hearing**

One hypothesis is that judicial pioneers are driven by a quest for fairness, and they believe their quest might be satisfied in a courtroom. As Tom Tyler and his colleagues argue, “people choose the procedures that they would like to use to resolve their disputes in large part through assessments of procedural fairness. ...people do not simply choose the procedure they think will allow them to win. They are actually interested in finding a procedure that they think will be fair...” (Tyler et al. 1997, 78; also Ewick and Silbey 1998, 133, 147). Tyler and others support their argument with evidence that litigation occurs despite its cost-ineffectiveness and that evaluations of court experiences are based on assessments of fairness rather the desirability of outcomes (Feeley 1979; Lind et al. 1990; Lowenstein et al. 1993, 135; Tyler et al. 1997, 80). The implicit assumption is that the decision to litigate in the first place is motivated by similar priorities. Judicial pioneers may want to “have their day in court” or “tell their side of the story” in a venue where they will be respected as equals under the law. The greater the perceived fairness of judicial processes, the more willing individuals may be to litigate.

## **The Role of Political Disadvantage**

Individuals may become judicial pioneers because they are alienated from representative political institutions and processes, or what Cortner (1968) calls “politically disadvantaged.” Where the politically advantaged feel well-represented by elections, legislatures, and other conventional political institutions, the politically disadvantaged feel excluded from these institutions, see courts as their only recourse in the political system, and consequently litigate more frequently (Vose 1959; Cortner 1968; Scheppele and Walker 1991). The politically disadvantaged may also be economically disadvantaged, but they need not be. The hypothesis refers only to the individual’s alienation from political institutions and says nothing about

socioeconomic status.

In the United States, political disadvantage is not the only motivation for litigation; the politically advantaged have also used the courts to pursue conservative agendas (Galanter 1974; Epstein 1985; Olson 1990). However, we propose that, at moments of regime change when the politically advantaged and disadvantaged are first becoming aware of their relative positions, the political disadvantage hypothesis will hold. The politically advantaged believe they have gained from recent electoral and legislative outcomes and have every reason to wait for more of the same, rather than expend time and energy in yet another branch of government, especially an untested branch. Conversely, with increasing evidence that they are not well-represented by their new executive and legislature, aggrieved politically disadvantaged individuals are more likely to turn to their last institutional recourse and become judicial pioneers.

### **The Role of Social Networks**

Social networks have implications for political and civic activity in a general sense (Putnam 1995; Gibson 2001; Howard 2002) and may also play a role in the decision to litigate (Macaulay 1963; Felstiner et al. 1980-1, 640; Ellickson 1991; Ewick and Silbey 1998, 156; Morgan 1999). People who share the same group membership tend to respond similarly to violations of justice norms (Reicher 1987; Turner 1991). Moreover, the ongoing social interaction of such groups encourages mutual obligations and commitments and facilitates the mutual assurance of each member's willingness to litigate (Chong 1991). With such assurance, group members who share a litigious response to violations of justice norms can act collectively sooner than non-members, and group members who share a non-litigious response can collectively opt out of the lawsuit. At moments of regime change, aggrieved individuals may be more likely to take the pioneering step of litigating against government when they have family or

friends as co-litigants.

### **Other Hypotheses**

Litigation is more likely when fees for legal representation and other costs are low and when the likelihood of success and the amount potentially recovered are high (Kritzer 1991, 2001).<sup>1</sup> Judicial pioneers might assess their situation in cost-benefit terms and take on their governments because they believe they have some possibility of winning.

Litigation is more likely when grievances are objectively severe and subjectively perceived as severe (Hunting and Neuwirth 1962; Felstiner et al. 1980-1; May and Stengel 1990; Sloan and Hsieh 1995). Therefore, we expect judicial pioneers to be motivated by rather severe grievances that they perceive as such.

Attributing blame for a problem to an outside agent, as opposed to self-blame or a belief in bad luck, is typically associated with litigation, particularly when the harm is perceived as intentional (Coates and Penrod 1980-1; Felstiner et al. 1980-1; Farber and White 1991; Kritzer 1991; Sloan and Hsieh 1995). Accordingly, judicial pioneers should blame government for their grievances.

Lawyers are crucial to the litigation decision, varying in their accessibility and cost, encouraging litigation when success appears promising, discouraging weaker claims, and investing varying amounts of their time in each case (Kritzer 1990; Sloan and Hsieh 1995, 430;

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<sup>1</sup> The costs of litigation are usually described in monetary terms, but there may also be social-psychological costs such as anxiety, personal antagonisms, diminished self-esteem, and loss of control (Trubek et al. 1983, I-19; Bumiller 1988). The potential benefits of litigation are similarly described in both monetary and non-monetary terms, including the assertion of self-worth, the acknowledgment of cherished principles, and revenge (Bumiller 1988; Morgan 1999).

Ewick and Silbey 1998, 155). Institutions matter, since litigation is more frequent in the absence of alternative forms of dispute resolution and when legal reforms facilitate litigation (Grossman et al. 1982, 92; McIntosh 1983; Ocko 1988; Blankenburg 1994; Kritzer 2001; O'Brien and Li 2004). The substance of the grievance also matters, and certain problems like automobile accidents are more easily resolved in court than other problems like discrimination (Miller and Sarat 1980-1). Income and job status also may matter, especially if lawyers operate on a contingency fee basis and more readily take cases with higher expected damages based on future earnings (Doherty and Haven 1977; Burstin et al. 1993; McNulty 1989). Accordingly, we expect that judicial pioneers may have actively supportive lawyers, few alternatives for dispute resolutions, grievances that are appropriately resolved in court, and higher income and job status.

Litigation is a rare phenomenon even in an advanced democracy like the United States, at least relative to the extent of perceived grievances and initiated claims. Most disputes are resolved outside the courts or not at all (Felstiner et al. 1980-1, 651; Grossman et al. 1982, 96-7; Hensler et al. 1991; Miller and Sarat 1980-1; Trubek et al. 1983, S-16, S-20, I-85). Accordingly, we expect that judicial pioneers will represent a small percentage of the pool of similarly aggrieved individuals.

### **The Ideal Test Case**

How can we test these hypotheses and analyze what motivates someone to become a judicial pioneer? An ideal test case should meet three criteria. First, the ideal test case should be a reasonable approximation of a real-world laboratory, a previously communist (or possibly other authoritarian) regime where people decide to sue their government for the first time. Second, in this previously communist regime should be an identifiable group of individuals with identical grievances, where some decide to sue and others do not. Third, these individuals

should reveal their thoughts and attitudes prior to the litigation decision or at least prior to the beginning of the hearings for the lawsuit so that the court experience does not taint their explanations for suing or not suing.

In reality, all of these criteria are difficult to meet. Many postcommunist countries are quite large, keep poor records, and lack transparency in governance. It may therefore be difficult to identify a single occasion that is indisputably the very first lawsuit against government. The only practical alternative may be to identify a pioneering time in a country's judicial history, such as the first decade or two after the collapse of communism, and classify all those who initiate litigation in this era as "judicial pioneers."

More challenging is the "denominator question." Even in the supposedly indisputable first lawsuit against government, it may be hard to establish the pool of all *potential* litigants from which some become litigants and others do not. Common grievances in the former Soviet Union—like government denial of residency permits, government nonpayment of wages, or even government-induced harm in the failed disclosure of the Chernobyl explosion—have inspired lawsuits, yet it would be difficult and even controversial to identify all aggrieved but non-litigating individuals (Hendley 2001). If non-litigants are difficult to identify and locate for some systematic reason, then analysis of litigation decisions could produce biased results.<sup>2</sup>

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<sup>2</sup> Students of litigation in the U.S. have faced similar challenges enumerating the appropriate population under investigation. For example, Grossman et al. (1982) calculate litigation rates across cities based on the number of cases filed per 100,000 urban residents, but given that some cities may have more aggrieved residents than other cities, the better but more elusive measure of litigation rates would be the number of cases filed per *aggrieved* urban residents. See also Felstiner et al. (1980-1:633-4) and McIntosh (1983:996) for discussion of the difficulty in identifying who in a given population has experienced an injury.

Even if the denominator challenge can be met, rarely can the researcher predict that a particular problem or disadvantage will lead to litigation and thus rarely can the researcher interview potential litigants prior to the litigation decision. Indeed, to do so might be the judicial equivalent of “push polling,” where the very act of asking about intentions to litigate interferes with the litigation decision and introduces bias to the study. Therefore, the only reasonable test case of judicial pioneers might require next-to-ideal timing: after the litigation decision but prior to the beginning of hearings for the lawsuit.

Given the above criteria and challenges, we identified as close to an ideal test case as feasible, a study of litigants and non-litigants suffering similar grievances at a pioneering time in the judicial history of post-Soviet Russia. The case serves as an example of litigation intended to hold governments accountable in places where rights protections and judicial review of government actions had previously been limited.

### **Litigants in the Moscow Theater Hostage Case**

On November 25, 2002, three ordinary Russian citizens decided to sue the city of Moscow, setting in motion one of the first mass lawsuits against a post-Soviet government.<sup>3</sup> The three were seeking compensation for damages resulting from the October 23-26 Chechen siege on the theater on Moscow’s Dubrovka Street during a showing of the hit Russian musical, “Nord-Ost.” Two were former hostages suing for \$1 million each for injuries sustained during the siege, and one was a pensioner and father of a deceased hostage suing for \$500,000 for the loss of his family’s main breadwinner. In the next several months, they were joined by 58 more surviving former hostages and relatives of deceased hostages, for a total of 61 litigants together seeking damages in excess of \$60 million. The remaining Dubrovka victims did not join the

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<sup>3</sup> Russia does not have a legal classification for a “class action lawsuit.”

lawsuits.<sup>4</sup>

Background for the lawsuit begins with the forty-one Chechens who burst into the theater and held the hostages for three days, with the female Chechens wearing explosives around their waists. At dawn on the fourth day, Russian special forces pumped gas through the theater's ventilation system, putting hostage-takers and hostages into a deep sleep. After waiting for the gas to take effect, the special forces stormed into the theater and shot all the Chechens dead. They then carried the bodies of the hostages one by one out of the theater and laid many of them on their backs. 129 of the hostages died, mostly by choking to death.

The Russian government labeled the outcome as a victory against terrorism and counted the 129 deaths as the unfortunate result of a terrorist attack. It claimed that government actions prevented an even higher death toll. Critics of the government challenge this interpretation. They fault the government for being poorly prepared for the aftermath of using such a toxic substance and for not fully disclosing the chemical contents of the gas. Days passed before the authorities admitted that the gas was mostly an aerosol form of a painkiller called fentanyl, and even today there has not been full disclosure of the gas' other components. Fentanyl is an opiate derivative stronger than heroine that in excessive doses can cause coma, vomiting, respiratory failure, heart attack, and even death. Critics argue that government secrecy about the gas prevented rescuers from caring for the hostages properly, like lying hostages on their sides instead of their backs to prevent them from choking to death. Critics also charge that the government failed to evacuate the theater in a timely fashion; failed to supply enough antidote

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<sup>4</sup> The hearing was originally scheduled for December 3, 2002, and then repeatedly rescheduled. As of June, 2004, very few individual cases have been resolved. Many have been heard and dismissed and are now pending appeal.

for the gas, doctors to administer the antidote, respiratory equipment, and other medical supplies at the scene; failed to provide enough ambulances, instead stacking victims' bodies on the floors of school buses; and failed to clear the streets between Dubrovka and the hospitals for quicker ambulance/school bus transport. Critics charge that the government should have anticipated the deadly effects of the gas, prepared better, and saved more lives.

Since health care in Russia is supposedly free, official wages are often low, and real wages are often unreported, few Dubrovka victims could document losses from the incident and thus sue for material damages. Instead, victims sued for moral damages under Article 17 of the 1998 Law on the Struggle Against Terrorism, which provides for compensation to victims from the Russian region where a terrorist attack occurs. Their case is challenging, since the law allows compensation for damages caused by a terrorist act, but not the counter-terrorism acts that truly harmed the victims. Furthermore, the law's designation of the region or city as the proper entity to sue was not based on culpability, but was designed to facilitate compensation to victims in presumably remote locations like Dagestan. By naming Moscow as the defendant in the Dubrovka lawsuit, the victims' complaint seems implicitly blame-based and therefore not relevant under the law nor consistent with the fact that the counter-terrorism operation was federal.<sup>5</sup>

Though the lawsuit has weaknesses, and though the harm caused to these particular plaintiffs is undoubtedly unique, the Moscow theater hostage case nevertheless represents a demand that resonates with other citizens in post-Soviet Russia—the demand in the words of many litigants “to hold the state accountable for the safety of society.” Thanks to the

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<sup>5</sup> We are tremendously grateful to [name omitted] for sharing her wealth of knowledge about the legal context of the Dubrovka case.

tremendous publicity surrounding the lawsuit, ordinary Russians know that cases of citizens demanding state accountability now exist. In a survey of the urban population conducted between June and August, 2003, half of Russians (48%) said they were somewhat familiar or very familiar with the Dubrovka lawsuit, and only 16 percent said they were not at all familiar.<sup>6</sup> It is reasonable to anticipate that witnessing the actions of these judicial pioneers leads other ordinary Russians to imagine the possibility of litigation against government. If the plaintiffs lose but experience no government retaliation, ordinary Russians may update their perspectives on the costs of litigation. If the plaintiffs win, ordinary Russians may also update their perspectives on the benefits.

The Moscow theater hostage case thus provides a near-perfect laboratory for testing the above hypotheses. Hundreds of individuals in a post-communist regime experienced similar grievances, and some decided to sue their government while others did not. Why?

### **The Dubrovka Survey**

Below we report the results of a survey of 326 Dubrovka victims, 26 who decided to sue the city of Moscow and 300 who did not. Adult former hostages who survived the crisis were interviewed directly. In the case of minors, we interviewed a parent or legal guardian, as the individual with legal authority to sue on behalf of the child in the event of litigation. In the case

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<sup>6</sup> The survey results are generalizable to Russian cities with populations of 450,000 or over. Not surprisingly, public familiarity with the Dubrovka case varies greatly by city. Our survey showed the following city distribution of those who said somewhat familiar or very familiar: Moscow (64%), St. Petersburg (55%), Nizhny Novgorod (43%), Tomsk (43%), Samara (42%), Khabarovsk (41%), Rostov-na-Donu (41%), Irkutsk (36%), Saratov (33%), Chelyabinsk (32%), Perm (28%), and Novosibirsk (12%), *N* = 500+ per city.

of deceased hostages, we interviewed the next-of-kin, again as the individual who would have the legal authority to sue for the loss of life.<sup>7</sup> Although the distribution of litigants to non-litigants in the sample is not ideal, it closely matches the true distribution of litigants to non-litigants among the population of former hostages.<sup>8</sup>

**[Table 1 here]**

Moreover, as shown in Table 1, there are no glaring differences between litigants and non-litigants in their reasons for not participating in the survey. For about a third of both litigants and non-litigants, we did not have sufficient information to identify the respondent, and this is the overwhelming reason for non-response.<sup>9</sup> Less than 10 percent of potential respondents refused to participate, again with little difference between litigants and non-litigants. Since the response rate is unrelated to the dependent variable, it has probably not biased our results.

The 326 respondents come from a pool of approximately 700 potential respondents. The denominator lacks precision for three reasons. First, some Dubrovka victims have no realistic

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<sup>7</sup> Interviews were conducted by the Moscow-based research firm, the Institute for Comparative Social Research (CESSI).

<sup>8</sup> As a point of reference, the seven or eight percent Dubrovka litigation rate is just slightly under the U.S. civil litigation rate in the late 1970s, with about one in ten U.S. disputes ending up in court (Trubek et al. 1983:S-15, S-20, I-85).

<sup>9</sup> Former hostages were individuals who happened to be at a theater on a given day, and no publicly-accessible list of names and addresses exists. Hospital records are private; lawyers will not divulge the names of clients or potential clients; and Moscow police will not share their records. To piece together identities, we therefore relied on journalists and on the former hostages themselves who were often linked to others in the theater, including family and friends who attended the musical together and the cast and crew of the musical, Nord-Ost.

potential respondent on their behalf. Two deceased hostages had no next of kin, and twelve deceased hostages had next of kin who were also hostages and therefore already counted in the pool (Table 1). Second, although some 900 people might have been in the theater at the time of the siege, many were there for only a trivial amount of time, either because they were set free by the Chechens—as in the case of children, Muslims, and pregnant women—or because they managed to escape. Estimates of the number of hostages who spent meaningful time in the theater are somewhere between 700 and 800, with most newspapers reporting a number closer to 700. While we would prefer a more precise estimate, our degree of precision is still much higher than for most other potential test cases of judicial pioneers where the aggrieved were far less geographically contained.

Third, our research design designated one potential respondent per Dubrovka victim. For surviving hostages, this design is relatively uncontroversial. For deceased hostages, however, multiple individuals could potentially sue for loss of life, so it is reasonable to conceive of a pool of potential litigants larger than 700. Indeed, the city of Moscow had already paid 100,000 rubles (\$3,000) to the family of each deceased hostage plus funeral costs, and Moscow Mayor Yuri Luzhkov is rumored to have paid additional compensation through private fundraising. If the surviving spouse was the only recipient of these funds, then some litigants might be the left-out family members, precisely those who are not legal next-of-kin.<sup>10</sup>

Still, if we were to broaden the pool of potential litigants, the question remains who would belong in this pool and how to establish the number of relatives for each deceased hostage with legal authority to sue. Should the pool include anyone whose income depended on a deceased hostage, and what percentage of income constitutes “dependence”? Should

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<sup>10</sup> We thank [name omitted] for drawing our attention to this.

dependence be conceived in non-monetary terms? By designating legal next-of-kin as the only potential respondent for each deceased hostage, we can confidently claim that all potential respondents had the legal authority to sue, whether or not they chose to exercise this right.

Interviews were conducted from January 16 through April 6, 2003, with 96 percent completed by the end of March. By the time of the interview, most of our respondents had decided whether to join the lawsuit, but none had yet had his or her day in court. Responses are thus not tainted by the court experience. Most developments in the lawsuit that occurred prior to the interviews favored neither plaintiff nor defendant and could be described as routine, neutral, and administrative, such as court delays in response to requests by both parties.<sup>11</sup>

### **Lawyers, Institutional Change, and Other Constants**

One of the many advantages of studying Dubrovka victims as potential judicial pioneers is that we hold constant a variety of important explanations for litigation while rigorously testing a variety of others. For example, by studying litigants in a single city and country, we control for the availability of alternative forms of dispute resolution. By studying litigants with similar grievances in the same legal battle, we control for problem type or “context” and the appropriateness of courts as a venue for dispute resolution (Hensler et al. 1991; Kritzer 1991:400-1; Kritzer, Bogart, and Vidmar 1991). We also control for victims’ awareness of the grievance, since death of a loved one, hospitalization, and/or subsequent illness due to gas

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<sup>11</sup> An exception might be the introduction of Russia’s new civil procedure code on February 1, 2003, although confusion or uncertainty was the more likely reaction to the new code than either positive or negative assessments of judicial processes. We ran our multivariate analyses below with a dummy variable to control for whether respondents participated in the survey before or after February 1, and our results were not altered, suggesting that introduction of the code does not bias results.

inhalation at a highly publicized event are fairly noticeable occurrences, compared to, for example, unperceived cancer (Felstiner et al. 1980-1:633). Since Dubrovka victims are mostly well-educated, relatively well-off, white collar workers, we control for socioeconomic status. We also control for the many of the possible costs and benefits of litigation. Though Dubrovka victims have varying perceptions of emotional and other non-monetary costs and of the likelihood of winning benefits (described below), the actual monetary costs of the lawsuit (free) and the amount of damages sought per litigant (approximately \$1 million) are relatively homogeneous.

Most importantly, we control for the role of lawyers. Students of comparative judicial politics show that the public often turns to courts only with the help of lawyers (Epp 1998), and students of political participation show more generally that the public participates in politics when asked to do so and that political leaders or entrepreneurs prospect for participants (Brady, Schlozman, and Verba 1999). Consistent with these studies, there is now evidence that Russian enterprises with legal departments file lawsuits more than other enterprises (Hendley, Murrell, and Ryterman 2003, 255). Logically, then, we expected to see in Russia the emergence of a new breed of lawyers who were acting as political entrepreneurs –or perhaps “judicial entrepreneurs”—and seizing the opportunity to rally the aggrieved to action. A differential rate of lawyer contact could explain why some victims litigated and others did not.

In the Dubrovka case, there actually is a single Russian lawyer, Igor Trunov, representing the vast majority of plaintiffs. We initially imagined Trunov as Russia’s first “ambulance chaser,” approaching victims and convincing them to participate. Unexpectedly, however, only six Dubrovka victims of the 326 surveyed claimed they were approached by a lawyer to join the

lawsuit.<sup>12</sup> Trunov himself confirms that the victims in the case approached him, not the other way around (Roshina and Zhohova 2002).<sup>13</sup>

Trunov did play an important facilitating role in the initiation of the lawsuit, however. Known as something of a show pony, he filed each case with great hype and attracted considerable media attention. The publicity minimized his need to chase after clients, since victims already knew to approach him.<sup>14</sup> Still, given his broad exposure and his provision of legal services free of charge, Trunov represents more of a constant than a variable in victim decisionmaking.<sup>15</sup> It remains to explain the varying decisions of victims to take advantage of free legal services and join the lawsuit.

Judicial pioneering is probably always preceded by an institutional change in a permissive direction for citizens. Institutions determine whether litigation is even possible (Kritzer 1991, 2001:8990). In the case of Russia, the institutional change in question was the growing jurisdiction of courts over disputes between citizens and state agencies and officials,

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<sup>12</sup> Two of the six victims approached by a lawyer eventually did join the lawsuit.

<sup>13</sup> Victims met Trunov because they approached the Moscow Board of Lawyers for free legal consultations.

<sup>14</sup> 67 percent of Dubrovka victims claimed that they were “very familiar” or “somewhat familiar” with the lawsuit, and only 1 percent said they were “not at all familiar.” The lawsuit has been so well-publicized that 48 percent of the general population also claims familiarity.

<sup>15</sup> There is greater variance in victims’ previous experience with a lawyer and perceptions about the availability and affordability of legal assistance, but these variables too do not seem to explain decisions to litigate. Among Dubrovka victims, roughly equal percentages of litigants and non-litigants have used a lawyer for legal assistance (12% and 16%, respectively) and believe that they could afford such assistance if another legal problem arose (50% to 47%, respectively).

beginning as early as 1987 with laws granting citizens rights to complain in court and blossoming in April 1993 as broad-based judicial review (Solomon 2004). The institutional change is enabling for all citizens, and again it remains to explain why some aggrieved individuals are the first to take advantage of these enabling conditions.<sup>16</sup>

### **Testing the Hypotheses**

Table 2 shows the results of a logit analysis on a dichotomous dependent variable for whether the victim is a litigant. The main explanatory variables are ordinal and represent the victim's (1) *Perceived fairness* of the hearings, measured as the perceived responsiveness of the court (a four-point scale based on responses to "How carefully will the court consider the plaintiffs' side of the story?"), although as subsequent analysis will show, the operationalization matters little, and different measures of perceived fairness produce similar results; (2) *Political advantage*, a four-point scale based on the highest response to either of two questions, "How well do you believe President Putin represents your interests?" and "How well do you believe the current Duma represents your interests?," assuming that a respondent who feels represented by either the executive or the legislature is relatively advantaged; (3) number of *Relatives or friends litigating*; (4) *Perceived likelihood of winning* the lawsuit, a four-point scale based on litigant responses to "How likely is it that the court will decide in your favor?" and non-litigant responses to "If you *had* taken legal action, how likely is it that the court would decide in your favor?"; (5) the *Severity of the grievance*, a five-point scale based on self-reporting of bodily harm from the hostage incident, with "one" representing no harm at all and "five" representing

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<sup>16</sup> Soviet-era laws permitted many behaviors that were de facto impermissible or at least risky, so an institutional change on paper cannot fully explain the boldness of some citizens who venture to test the waters and take advantage of their supposed new rights.

death of a loved one; and (6) *Blaming the federal authorities*, a dichotomous measure of whether the victim named any federal authority as first or second most guilty for causing his or her problems from the incident. Other variables were tested for their possible effects on litigation but were not significant in either bivariate or multivariate analysis and are omitted here for ease of presentation.<sup>17</sup>

**[Table 2 here]**

As Table 2 shows, the perceived fairness of the hearing is not positively related to litigation, as the procedural justice literature suggests it should be. Instead, perceived fairness is negative and statistically significant. A victim who believes the court will consider the plaintiffs' side of the story is *less* likely to litigate than a victim who holds no such belief.

It is possible that the above finding could be driven by our choice of measure for perceived fairness. Further analysis shows that this is not the case. For example, we substituted perceived responsiveness of the court with perceived adherence to legal procedures ("How closely do you think the court will follow legal procedures?"). The results are essentially the same, and perceived fairness is again negative and significant. Substitutions of numerous other measures for perceived fairness confirm that the negative relationship is robust and not driven by the operationalization of the concept.<sup>18</sup>

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<sup>17</sup> For example, we initially expected that Western exposure might be influential and that Dubrovka litigants might have been inspired to litigate because they spent time in or are familiar with other countries where litigation is common. However, neither Western travel nor English, French, or German language proficiency are significant explanatory factors for litigation.

<sup>18</sup> Results not shown but available on request. Litigants are less likely than non-litigants to believe that the average person can get a fair hearing in a Russian court; that all people are equal before the court, whether they are rich or poor; that the judicial system is worthy of their confidence; that the Russian

It is also possible that the above findings could reflect our measuring the perceived fairness of the court in a vacuum, when perhaps what really influences litigation is the perceived fairness of the court relative to other institutions. Even if victims perceive courts as unfair, they may be inspired to litigate if they perceive other institutions as even less fair. The negative relationship between the perceived fairness of courts and litigation could be picking up the effects of the perceived unfairness of politics more generally (perhaps another component of political disadvantage), but this effect might disappear if we controlled for the perception of courts relative to other institutions. Again, further analysis suggests that this is not the case.

Dubrovka victims were not asked their perceptions of the fairness of non-judicial institutions, but they were asked numerous questions about their confidence in these other institutions, such as the Duma, Federation Council, President Putin, the mayor, and the local administration, and numerous questions about the effectiveness of other forms of political behavior besides litigation, such as voting, joining an NGO, contacting a national official, and contacting a local official. We alternately included in the model a variable representing the difference between confidence in the judicial system and the mean confidence in other institutions and a variable representing the difference between the perceived effectiveness of litigation and the mean perceived effectiveness of other forms of political behavior. In both cases, the relative measure is positive and statistically significant, suggesting that victims who assess courts more positively than other political institutions are more likely to litigate.

Importantly, inclusion of the relative measure does not alter our other findings. The perceived

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Supreme Court is free to go against the preferences of the president or Duma; that urban judges are free to go against the preferences of local authorities; and that powerful political officials, such as the President, Duma members, and the mayor, would be forced to abide by court decisions with which they disagree.

fairness of courts remains negatively and significantly related to litigation.<sup>19</sup>

Table 2 also shows that political advantage plays a negative, significant role in the decision to litigate. Dubrovka victims who feel represented by either Putin or the Duma are less likely to litigate.<sup>20</sup> Social networks play a strong, positive, significant role in the decision to litigate. The greater the number of relatives or friends of a Dubrovka victim who litigate, the more likely that victim is to litigate.<sup>21</sup>

The perceived likelihood of winning is also positive and statistically significant. All else being equal, a Dubrovka victim who believes winning is plausible is more likely to litigate than a victim who believes winning is not plausible. Further evidence that the perceived likelihood of winning matters comes from a previous open-ended question asked only of non-litigants: “What is the single most important reason why you are not now involved in the lawsuit?” The small chance of winning was by far the most common response (36%).<sup>22</sup>

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<sup>19</sup> Results not shown but available on request.

<sup>20</sup> Only 31 percent of litigants feel that President Putin represents their interests very well or rather well, compared to 57 percent of non-litigants. Forty-two percent of litigants feel the Duma represents their interests, compared to 56 percent of non-litigants.

<sup>21</sup> Almost all Dubrovka victims have at least one relative or friend who was also a hostage, thanks to the social nature of theater-going and the sizable cast and crew of Nord Ost, but there are extreme differences between litigants and non-litigants in the number of relatives and friends participating in the lawsuit. Fifty-eight percent of litigants have relatives or friends (as many as five) joining them in the lawsuit, whereas only 11 percent of non-litigants have relatives and friends suing (and for two-thirds of this 11 percent, only one relative or friend is suing).

<sup>22</sup> All other reasons are mentioned by many fewer non-litigants. These other reasons include the lack of a problem requiring legal action (17%), the lack of a concrete culprit (12%), the anticipated amount of

The perceived grievance also plays a strong, positive, significant role. Relatives of deceased hostages are more likely to litigate than a former hostage who has suffered severe bodily harm but lived and certainly more than a former hostage who has suffered no bodily harm.<sup>23</sup> Judicial pioneering also depends on blame attribution. Victims who name federal authorities as first or second most guilty are more likely to litigate than victims who name other culprits.<sup>24</sup>

**[Table 3 here]**

It is possible that the above findings may be biased by the skewed distribution of our dichotomous dependent variable (26 litigants, 300 non-litigants). As a check on our findings, Table 3 shows the results of an ordered logit analysis on a categorical dependent variable based on the victim's reported likelihood of joining the lawsuit or initiating his/her own lawsuit at a

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effort (6%) or time (4%) involved, the relatively low amount of suffering (5%), shame in asking for money (3%), the perception that there are better ways to solve the problem (3%), the anticipation of being treated unfairly (2%), distrust of the legal system (2%), poor physical condition of the respondent (2%), the lack of precedent in Russia (2%), the expense involved (1%), and the desire to wait for the results of the current hearings (1%).

<sup>23</sup> Sixty percent of family members of deceased hostages are litigants, compared to 18 percent of surviving former hostages who suffered severe bodily harm, 10 percent who suffered somewhat severe bodily harm, and 3 percent whose bodily harm was not very severe or not at all severe.

<sup>24</sup> Litigants more than non-litigants attribute blame to President Putin (58% to 37%), other federal authorities (81% to 65%), Moscow city authorities (89% to 64%), and doctors/emergency services (35% to 14%). Asked who is most to blame, more victims—both litigants and non-litigants—name the hostage-takers than any other group, but three times more litigants than non-litigants name President Putin (15% to 5%) and Moscow city authorities (12% to 4%).

later date. The distribution of this dependent variable still remains skewed in favor of non-litigation, but this is to be expected. In disputing behavior and political behavior in general, most people typically respond to grievances by doing nothing (Felstiner, Abel, and Sarat 1980-1; Tyler et al. 1997, 155; Javeline 2003a). Nevertheless, by allowing for the possibility that victims still contemplating legal action are different from victims who have dismissed the possibility entirely, we get a six-category variable with a more balanced distribution: 41% who are not at all likely to join the lawsuit, 35% not very likely, 7% don't know, 7% rather likely, 2% very likely, and 8% currently litigating.

The results are essentially the same, if not stronger. As Table 3 shows, perceived fairness (measured again by the perceived responsiveness of courts) is negative and significant, and the level of significance is even higher in the ordered logit than in the logit models. The number of relatives and friends litigating and the severity of the grievance remain positive and significant. The perceived likelihood of winning, which just reached the significance threshold in the logit analysis ( $p < .08$ ), here remains positive and reaches a much higher level of significance ( $p < .000$ ), suggesting that the plausibility of winning is a strong explanatory factor for the probability of joining the lawsuits in the future. Political advantage and blaming federal authorities are the only variables that are no longer statistically significant, suggesting that political advantage and blame are stronger explanatory factors for the actual decision to litigate than for a victim's stated probability of joining the lawsuits in the future.

### **Explaining the Negative Relationship Between Perceived Fairness and Litigation**

Why should the relationship between perceived fairness and litigation be negative? The answer is probably not that there is a *causal* relationship linking perceived *unfairness* to litigation. An aggrieved individual probably does not say, "The court will not consider my side

of the story, and *therefore* I will go to court.” Instead, we think our measures of perceived fairness are also serving as proxies for anger. Victims who think the system is unfair are also those who are most angry and frustrated.

This relationship between perceived unfairness and anger matters because there may be a causal relationship between anger and litigation. Litigants might see one of the functions of litigation as allowing them to vent or let off steam, to express their anger or frustration or moral indignation, or to go on record as objecting to an injustice. Studies of other forms of political behavior such as protest show that behavior can have expressive functions (Gurr 1970; Chong 1991; Javeline 2003b), and even the procedural justice and judicial politics literatures mention an expressive approach to litigation (Tyler 1987; Bumiller 1988; Tyler et al. 1997:90; Morgan 1999:67-8). People value the opportunity for “voice” and want to express their views (Lind and Earley 1992; Tyler et al. 1997, 234). Perhaps they seek this expression especially when they believe the system is trying to stifle their views unfairly. The relationship between perceived unfairness, anger, and political activism has also been observed in the context of communist-era opposition movements (Kolakowski 1971; Ost 1990). Participants in these movements tended to be those most fervently convinced that the system was incapable of reform or overthrow, but anger prompted them to participate anyway.

Still, even if anger about perceived unfairness motivates people to voice their concerns, why would they go to court if they think the court will not listen to them? We think that litigants might be using the court to express their anger to other audiences, such as the government, the public, foreign communities, or an intermediary like the media. If the court does not register the

injustice, perhaps these other audiences will.<sup>25</sup> Anger thus might be a missing intervening variable between perceived unfairness and litigation that explains the negative, significant relationship. Some victims believe the judicial system is unfair, which makes them angry, which makes them want to vent their anger in court in the hopes that at least someone will listen.

Dubrovka victims were not asked explicitly about their level of anger. If we did have an independent measure of anger in the data set, we could add it to the model to test whether it diminishes or eliminates the negative effects of perceived fairness.

As an alternative test, we look to our measure of political advantage and assume that politically advantaged individuals are less angry than politically disadvantaged individuals. The politically advantaged feel well-represented by conventional political institutions such as electoral or legislative processes, so their anger at unfair judicial processes might be mitigated by the perceived fairness of these other political processes. Politically disadvantaged individuals, however, feel excluded from conventional postcommunist political institutions and may be especially angry that their one remaining accessible institution, the court, does not provide an even playing field. If anger is an unmeasured but important variable driving litigation, the politically disadvantaged should be more encouraged to litigate by perceptions of judicial

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<sup>25</sup> Many Dubrovka victims have explicitly stated their interest in targeting non-judicial audiences. According to Trunov, “by filing claims for millions of dollars, we want to create a precedent. The authorities must think about how to protect people from terrorists. Perhaps, we need to change the legislation in this area. It’s extremely important to attract the attention of our society to this problem that concerns everybody” (Roshina and Zhohova 2002).

unfairness than the politically advantaged.<sup>26</sup> We thus add to our model a term representing the interaction of political advantage and perceived fairness.

**[Table 4 here]**

As we have already shown, there is a negative, significant relationship between political advantage and litigation. Dubrovka victims who feel unrepresented by both Putin and the Duma are more likely to take on the system and go to court. Table 4 shows that there is also a positive, significant relationship between the interaction term (political advantage and perceived responsiveness of the court) and litigation. This positive effect of the interaction term means that the politically advantaged are less inspired to litigate based on perceived unfairness. The politically disadvantaged, in contrast, are the victims most inspired to litigate based on perceived unfairness. This finding suggests that anger may be the underlying causal mechanism connecting perceived unfairness to litigation.

**Effects of Perceived (Un)fairness on Litigation**

**[Figure 1]**

Using the parameters estimated by the logit model in Table 2, we can estimate the probability of litigation for victims given their perceptions of the fairness of courts and their level of political advantage or disadvantage (Figure 1). To generate predicted probabilities, all

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<sup>26</sup> Evidence on in-groups and out-groups in the United States suggests that different subpopulations are indeed differentially concerned with fairness (Huo et al. 1996). For example, in-groups care more than out-groups about procedures because fair procedures confirm their status as equals and reinforce their self-esteem. Out-groups, in contrast, have no delusion that they are equals and therefore no expectation of being treated fairly. In-groups more than out-groups will thus litigate in pursuit of fairness, and we suspect that out-groups more than in-groups litigate in angry response to unfairness.

explanatory variables are held constant at their means, except for perceived fairness and political advantage, which are varied according to their different values.

The first set of columns represents the predicted probabilities of litigation for those victims who claimed that neither President Putin nor the State Duma represents their interests at all and who are therefore labeled “very disadvantaged.” As Figure 1 shows, those very politically disadvantaged individuals who think the court will consider the plaintiffs’ side of the story “not at all carefully” are far more inclined to litigate than those who think the court will consider the plaintiffs’ side “very carefully.” The probabilities drop tenfold from .10 to .01.

The second set of columns in Figure 1 represents predicted probabilities of litigation for those victims who claimed that either Putin or the Duma represents them in even the slightest way and who are therefore labeled “somewhat disadvantaged.” For these victims, the perceived fairness of courts still strongly influences the decision to litigate, although not as strongly as for the very politically disadvantaged. The probability of litigation drops from .05 for somewhat politically disadvantaged victims who think the court will consider the plaintiffs’ side of the story “not at all carefully” to .01 for those who think the court will consider the plaintiffs’ side of the story “very carefully.”

The third and fourth sets of columns in Figure 1 represent the predicted probabilities of litigation for those victims who claim that either Putin or the Duma represents them “rather well” or “very well,” respectively, and who are therefore labeled “somewhat advantaged” or “very advantaged.” These victims are far less inclined to litigate at the outset, and they are also less influenced to litigate by their perceptions of the fairness of the hearings. The probability of litigation drops only slightly from an already low .03 for somewhat politically advantaged victims who think the court will consider the plaintiffs’ side of the story “not at all carefully” to

zero (.003) for those who think the court will consider the plaintiffs' side "very carefully." For very politically advantaged victims, the drop is only from .02 to zero (.002).

Figure 1 thus further supports the notion that anger may be the underlying causal mechanism connecting perceived unfairness to litigation. Perceived fairness seems to have a strong impact on the decision to litigate for those victims who feel unrepresented by executive and legislative institutions and who are presumably angry. Among such angry victims, those perceiving courts as unfair are most likely to litigate. In contrast, perceived fairness does not seem to have much of an impact, either positive or negative, on the decision to litigate for those victims who do feel represented by executive and legislative institutions and who are presumably not angry.

### **Implications**

Scholars of procedural justice imply that litigation is motivated by a quest for fairness. Our results suggest that the perception of unfairness, more than fairness, is associated with pioneering litigation, especially for those who feel frustrated with the current political system in general. Among those who are not frustrated, perceived fairness does not seem to matter at all.

At first glance, this finding might seem to contradict the findings of the procedural justice scholars. However, we propose that the findings may actually be compatible, given our emphasis on different periods of political development. In mature democracies, where much of the procedural justice research has been conducted, people may sue their governments in pursuit of fairness. They have already come to view the courts as legitimate institutions thanks to decades if not centuries of experience that at some point produced outcomes favorable to private individuals over the state. In such circumstances, expectations of continued fairness may seem quite reasonable, even after new evidence of unsatisfactory outcomes (Gibson, Caldeira, and

Baird 1998; Baird 2001). Recently communist or other authoritarian regimes, in contrast, have no history of judicial legitimacy and little pre-existing evidence that courts can be fair (Hendley 1996; Krasnov 2002, 94). In these very different circumstances, expectations of procedural fairness might seem an unrealistic motivation to experiment with new judicial processes.

We speculated that the relationship between perceived unfairness and pioneering litigation might be explained by the anger that unfairness provokes, particularly among the politically disadvantaged. The desire to express anger might be a more realistic motivation to experiment with new judicial processes than expectations of fairness. However, if anger were the only motivation for judicial pioneers, this might be a depressing state of affairs for democratic reformers and their advocates who hope that citizens will initiate lawsuits for more flattering, pro-system reasons. To see whether such alternative motivations might exist, we return to the results of our multivariate analysis. The analysis suggested that instrumental motivations may play a role in litigation and that those who believe they have some chance of winning the lawsuit may be more likely to become judicial pioneers. Belief in the plausibility of winning may not be as unambiguously pro-system a motivation for litigation as belief in the fairness of courts, but underlying the belief in the plausibility of winning is probably some confidence that the system could serve the litigant's interests.

Here too, though, idealist democrats might be troubled by the idea that the plausibility of winning could motivate use of judicial institutions more than the perceived fairness of courts. Winning, after all, is an unlikely outcome. If the use of courts depends on people winning, then the prospects for democracy may seem bleak. Every time a private individual *loses* in court, he or she would reject the legitimacy of the process and convey disappointment to other individuals who too would reject the legitimacy of the process. This cynicism about the chances of winning

would then discourage future litigation, eventually leaving no one willing to defend rights violations in courts. Instead, the idealist democrat might argue, people need to believe in procedural fairness and the legitimacy of courts so that they have something to cling to when they inevitably do *not* win (Tyler et al. 1997, 177). Democracy is all about the willingness to accept unsatisfactory outcomes because of a prevailing belief in the fairness of processes (Przeworski 1991, chap.1).

While we share this vision of democracy as an ideal outcome, we propose that it sets the bar too high at moments of regime change. In many post-communist regimes, the public is a long way from trusting their judiciary or believing that judicial procedures will be fair (Solomon and Foglesong 2000, 82-4). Given this starting point, the pursuit of winning might be one of the only positive, pro-system motives for litigation and therefore one of the best hopes for democracy. Perhaps it is better to have winning as a motivation for litigation than to have only anger and anti-system venom –or to have no motivation at all.

Students of judicial politics might even take this argument a step further. Perhaps one way to achieve faith in the fairness of processes is through some evidence that the little guy can win. Research suggests that people maintain a “running tally” of information about the judicial process and that satisfaction with outcomes over time leads them to develop a “reservoir of good will” or “diffuse support” for judicial institutions (Gibson, Caldeira, and Baird 1998; Baird 2001). At this later point, diffuse support can then buffer the negative effects of unsatisfactory outcomes. Therefore, not only is it reasonable that the pursuit of winning might motivate initial encounters with judicial institutions; over time it could potentially be beneficial for democracy, if winning in fact occurs with enough frequency to crystallize approving attitudes toward judicial processes. The cycle might start with some ordinary aggrieved individuals perceiving they have

a non-zero probability of winning, followed by some of them actually winning and being seen as winners by other individuals. These other individuals then update their perceptions about the probability of winning, with some litigating and winning and being seen as winners by an even larger group of individuals, and so on, until eventually a critical mass of individuals develop a resilient reservoir of good will for courts that no longer depends on specific satisfactory outcomes and serves as the more “democratic” impetus for future litigation.

This is precisely the hope of Russian legal experts who claim that “in the long run, as the public learns about high rates of success of citizens in suits against the state, it will go to court even more often than now and its attitudes toward courts may improve” (Solomon 2004).<sup>27</sup> If these hopes materialize, and if Russia and other post-communist countries ever enter the ranks of mature democracies, perhaps then explanations for litigation in these countries would begin to look more consistent with findings from the procedural justice literature. In statistical analysis of future litigation decisions, the signs for the variables representing the perceived fairness of courts might turn from negative to positive, and people who believe that courts are fair might be the most inclined to litigate.

Such progress in the use of judicial institutions might seem a grand leap from the actions of just a handful of aggrieved individuals suing their government under strange circumstances

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<sup>27</sup> Local and regional courts in Russia are increasingly deciding cases in favor of private citizens over state officials (Solomon and Foglesong 2000, 69; Cashu and Orenstein 2001; Hendley 2002; Solomon 2004). Throughout the late 1990s, citizens won in over 80 percent of such cases. Citizens also won in 96 percent of individual complaints against tax officials, 87 percent of complaints against the military, 70 percent of corporate complaints against tax officials, and 48 percent of electoral disputes (Hendley 2002; Solomon 2004). These findings from Russia are consistent with findings from the U.S. in the 1970s that “litigation ‘pays’ for the parties who engage in it” (Trubek 1983:S-68).

with weak legal justifications. However, the importance of judicial pioneers derives not from their numerical strength but from their potential impact. For courts to set precedents that limit government or force government accountability, only a single litigant may be necessary for each type of dispute or rights violation. Understanding the Dubrovka litigants and judicial pioneers in other post-communist or post-authoritarian countries should contribute to our understanding of how rights become protected.

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**Table 1: Response Rate and Reasons for Non-Response**

	Litigants		Non-litigants	
Interviews completed	26	50%	300	46%
Non-response, including:				
Insufficient information to identify respondent	19	37%	227	35%
Respondent refused	3	6%	60	9%
Respondent agreed but couldn't find time	3	6%	7	1%
Interview interrupted	1	2%	10	2%
Friends refused to give respondent's contact information	0	0	20	3%
Next-of-kin already interviewed as hostage	0	0	12	2%
Respondent hospitalized or in poor health	0	0	6	1%
Respondent unavailable (business trip, residency abroad)	0	0	6	1%
No next-of-kin	0	0	2	0
Total victims (former hostages and next-of-kin)	52*	100%	650	100%

\* Our research design designated one potential respondent for each Dubrovka victim, and lawsuits were filed on behalf of 52 Dubrovka victims. The actual number of litigants is 61 because some litigants are suing for loss of the same former hostage. For example, a lawsuit might be initiated by both the spouse and child of the deceased. The strengths and weaknesses of this research design are described below.

**Table 2: Decision to Litigate  
Logit Estimates**

Perceived fairness - <i>How carefully will court consider plaintiffs' side?</i>	-.88 (.46)
Political advantage - <i>How well represented by Putin or Duma?</i>	-.77 (.39)
Relatives or friends litigating	1.46 (.44)
Perceived likelihood of winning	.82 (.47)
Severity of grievance	1.31 (.25)
Blaming federal authorities	1.44 (.67)
Constant	-5.64 (1.61)
Log likelihood	-37.53
<i>N</i>	295

Standard errors are in parentheses. The dependent variable is dichotomous (1 = litigant, 0 = non-litigant). Most explanatory variables are ordered categorical variables, including “perceived likelihood of winning” (1 = not at all likely, 2 = not very likely, 3 = rather likely, 4 = very likely); “perceived fairness” (1 = not at all carefully, 2 = not very carefully, 3 = rather carefully, 4 = very carefully); “political advantage” (1 = not well at all, 2 = not very well, 3 = rather well, 4 = very well, asked about Putin and Duma separately, highest score taken); and “severity of grievance” (1 = not at all severe, 2 = not very severe, 3 = somewhat severe, 4 = very severe, 5 = death of a loved one). “Relatives/friends litigating” is a count variable, and “blaming federal authorities” is a dichotomous variable for whether or not a federal authority was mentioned as first or second most guilty. Results are not shown for two other included variables, dummies for “don’t know” and missing responses: 35 and 34 respondents answered “don’t know” to the perceived likelihood of winning and perceived fairness, respectively, and 1 respondent refused to answer the perceived likelihood of winning. Rather than toss out these respondents and reduce our sample size, we coded nonrespondents as zero and included dummy variable controls for whether the respondent gave a substantive response. We could not use this technique for political advantage, severity of grievance, and relatives/friends litigating (24, 1, and 6 respondents, respectively), because “don’t know” responses were perfectly correlated with the dependent variable (all non-litigants), so our sample size is reduced accordingly. Dummy variables for missing data are uncorrelated with the dependent variable and do not alter our substantive results for the other independent variables.

**Table 3: Self-Reported Likelihood of Joining the Lawsuit  
Ordered Logit Estimates**

Perceived fairness – <i>How carefully will court consider plaintiffs' side?</i>	-.44 (.15)
Political advantage – <i>How well represented by Putin or Duma?</i>	-.10 (.16)
Relatives or friends litigating	.83 (.19)
Perceived likelihood of winning	.74 (.19)
Severity of grievance	.43 (.11)
Blaming federal authorities	-.41 (.27)
Log likelihood	-369.50
<i>N</i>	294

Standard errors are in parentheses. The dependent variable is an ordered categorical variable (1 = not at all likely to join the lawsuit, 2 = not very likely to join the lawsuit, 3 = don't know, 4 = rather likely to join the lawsuit, 5 = very likely to join the lawsuit, 6 = already joined). Most explanatory variables are ordered categorical variables, including "perceived likelihood of winning" (1 = not at all likely, 2 = not very likely, 3 = rather likely, 4 = very likely); "perceived fairness" (1 = not at all carefully, 2 = not very carefully, 3 = rather carefully, 4 = very carefully); and "political advantage" (1 = not well at all, 2 = not very well, 3 = rather well, 4 = very well, asked about Putin and Duma separately, highest score taken). "Relatives/friends litigating" is a count variable, and "blaming federal authorities" is a dichotomous variable for whether or not a federal authority was mentioned as first or second most guilty. Results are not shown for two other included variables, dummies for "don't know" and missing responses: 35 and 34 respondents answered "don't know" to the perceived likelihood of winning and perceived fairness, respectively, and 1 respondent refused to answer the perceived likelihood of winning. Rather than toss out these respondents and reduce our sample size, we coded nonrespondents as zero and included dummy variable controls for whether the respondent gave a substantive response. We could not use this technique for political advantage, severity of grievance, and relatives/friends litigating (24, 1, and 6 respondents, respectively), because "don't know" responses were perfectly correlated with the dependent variable (all non-litigants), so our sample size is reduced accordingly. Dummy variables for missing data are uncorrelated with the dependent variable and do not alter our substantive results for the other independent variables.

**Table 4: Decision to Litigate  
Logit Estimates**

Perceived fairness – <i>How carefully will the court consider plaintiffs’ side?</i>	-2.33 (.93)
Political advantage – <i>How well represented by Putin or Duma?</i>	-1.89 (.78)
Interaction – <i>political advantage x perceived fairness</i>	.68 (.37)
Relatives or friends litigating	1.50 (.44)
Perceived likelihood of winning	.88 (.48)
Severity of grievance	1.44 (.28)
Blaming federal authorities	1.69 (.71)
Constant	-4.31 (1.73)
Log likelihood	-35.69
<i>N</i>	295

Standard errors are in parentheses. The dependent variable is dichotomous (1 = litigant, 0 = non-litigant). Most explanatory variables are ordered categorical variables, including “perceived likelihood of winning” (1 = not at all likely, 2 = not very likely, 3 = rather likely, 4 = very likely); “perceived fairness” (1 = not at all carefully, 2 = not very carefully, 3 = rather carefully, 4 = very carefully); and “political advantage” (1 = not well at all, 2 = not very well, 3 = rather well, 4 = very well, asked about Putin and Duma separately, highest score taken). “Relatives/friends litigating” is a count variable, and “blaming federal authorities” is a dichotomous variable for whether or not a federal authority was mentioned as first or second most guilty. Results are not shown for two other included variables, dummies for “don’t know” and missing responses: 35 and 34 respondents answered “don’t know” to the perceived likelihood of winning and perceived fairness, respectively, and 1 respondent refused to answer the perceived likelihood of winning. Rather than toss out these respondents and reduce our sample size, we coded nonrespondents as zero and included dummy variable controls for whether the respondent gave a substantive response. We could not use this technique for political advantage, severity of grievance, and relatives/friends litigating (24, 1, and 6 respondents, respectively), because “don’t know” responses were perfectly correlated with the dependent variable (all non-litigants), so our sample size is reduced accordingly. Dummy variables for missing data are uncorrelated with the dependent variable and do not alter our substantive results for the other independent variables.

**Figure 1: Effects of Perceived (Un)fairness on Litigation, Given Political (Dis)advantage**

Predicted Probabilities

