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## Barristers turn brokers as credit crunch hits divorce

Frances Gibb, Legal Editor

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The wife of the celebrity chef Marco Pierre White was due to enter the divorce courts on her own next week, without lawyers, to battle for a share of her husband's estimated £50 million wealth. But publicity in *The Times* about her case has prompted a potential rescuer — in the unlikely shape of a criminal set of barristers' chambers.

Argent Chambers, headed by Harendra de Silva, QC, has offered to arrange funding for Mati White and is assembling a top legal team to take on her case. Steve Jones, its business development manager, says: "It's a way of reducing the balance between unequal parties where one has resources and one hasn't — giving access to justice."

What is striking is that the set itself does not stand to gain directly from this venture. Divorce is not its area of expertise so it is referring the case to other specialist barristers and solicitors. It is acting as the middleman, or broker, arranging money with one of the 14 companies now providing what is called third-party litigation funding. "We don't take a percentage or brokerage fee — we benefit in goodwill," Michael Martin, the senior clerk, says. "Solicitors may refer cases on to us — it's good old-fashioned rain-making."

This pioneering approach is a first sign of how barristers will exploit the liberalisation of business rules under the Legal Services Act 2007. The Bar Council has opened the door with the publication in April of *ProcureCo*, a business model for chambers wanting to pitch for work and compete in the legal services market.

Chambers can set up a company — in this case Argent Law — to handle such business transactions. It is a reversal of the old role in which solicitors bring in the case and brief barristers. But, Argent insists, it is not about taking their work. "If anything, this strengthens the independence of the two branches," Jones says. "It's not about fusion. It enables us to attract work at source and pass it on to solicitors, our clients."

Why do it? Martin says: "It's tough out there. We wanted to diversify. We do mainly heavy-duty criminal — to do civil would mean bringing in another 25 barristers. This enables us to get cases in at source."

So far it has found work through word of mouth. It has brokered the funding in another highly publicised divorce, that of Michelle Young in her split from Scot Young, who is estimated to be worth £400 million.

Divorce funding has been hit by the credit crunch — opening the way for the rising market in third-party funders. These companies, backed by large investment groups including hedge funds, assess the risks and if they win, take a slice of the damages according to risk, from 10 to 30 per cent.

James Stewart, a family lawyer with Manches, says: "Family lawyers have noticed an absolute collapse in the legal funding loans market. It is not as readily available in divorce proceedings so clients are having to explore other avenues, loans from friends, credit cards, selling assets."

He predicted that lawyers would be forced to unbundle the legal services they provide so that people could just pay for the elements that they strictly need. There would also be a move towards collaborative settlements in divorce, achieved out of court. "We are well behind the US in both of these."

Malcolm Bishop, QC, from Argent Chambers and a deputy High Court judge, says that few people now can access the top-quality family judges, with the "virtual slaughter of legal aid" and "chilling expense of a fully contested dispute".

The door to banks was “firmly closed” but alternative funding sources were now available. “A wife seeking a fair share of the assets which takes account of the contribution she made during a long marriage need no longer settle for the crumbs her husband grudges her. If the case is good, they will take over all the litigation costs, provide the best barristers, solicitors and accountants and ensure the contest is no longer one of David and Goliath.”

Sarosh Zaiwalla is acting for the property tycoons Robert and Vincent Tchenguiz in their claim to be entitled to seize 20,000 documents from the computer of Vivian Imerman, the former Del Monte foods owner, to help their sister Lisa in her £100 million divorce battle from him.

He said that such divorce cases are compounded by the problem of obtaining information about the other side’s finances and confusion over what was allowed. In the case of Mati White, a series of such hearings has cost her £750,000 in legal fees, and she is without funds for the main hearing. “The problem can lead to one side having no means to instruct lawyers with the weaker party left high and dry.”

As for White, she hopes that she now has a fighting chance. She told *The Times*: “It does look as if I may now get help to achieve what I want — which is a fair settlement.”

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