

Ten years on from the dramatic divorce of Sir Paul McCartney and Heather Mills, *Oleku Hamilton* looks back at the case and its impact on family law

IN A LESS FALLEN WORLD, Sir Paul McCartney should never have ended up anywhere near a divorce court. The former Beatle's marriage to Linda McCartney was legendarily happy. But after Linda died of breast cancer in 1998, Paul married the spirited model and campaigner Heather Mills, whom he'd met at the 1999 Pride of Britain awards. They married, to the usual fanfare laced with Sixties nostalgia, in 2002. Things proceeded in the ordinary way: a daughter, Beatrice Lily McCartney, entered the world on 28 October 2003. Unfortunately, the marriage was acrimonious and broke down; the couple separated in May 2006. A divorce battle had begun. ➤

# THE DIVORCE OF THE CENTURY



Divorce law as a practice area has this friction within it: the rigour of the law must be wielded to arrive at reasonable conclusions regarding matters of the heart. 'Family law is what really matters to you – there's less black letter law but it's of huge importance,' Debbie Chism, a partner at Stewarts, tells us. This has made it an area ripe for 'celebritisation': McCartney's case would take that tendency to a new level.

Heather Mills called on the services of Princess Diana's lawyer, Mishcon de Reya's Anthony Julius. Not to be outdone, McCartney plumped for Prince Charles's solicitor, Fiona Shackleton of Payne Hicks Beach – a formidable operator with a penchant for a killer heel and a patent leather mackintosh.

By all accounts, McCartney established a better rapport with Shackleton than Mills did with Mishcon. She parted company from Julius and his team, electing instead to represent herself. This led to 'a fairly unfair contest – a one-legged Geordie former model against a leading barrister of his time,' says Lewis Marks QC with rather astonishing candour, referring to Shackleton's hiring of the renowned QC Sir Nicholas Mostyn. 'It was a disaster for her,' concurs Frances Hughes, name partner at Hughes Fowler Carruthers. 'She should have been advised against it.'

## LITIGANTS IN PERSON

It might be said that Mills became an unfortunate emblem of a trend which has increased since 2008: the sharp rise in litigants in person. In a recent speech, Sir Terence Etherton, the Master of the Rolls, observed that the proportion of applications to the Court of Appeal for permission to appeal by litigants in person has gone up by 50 per cent since the McCartney divorce. That's a staggering rise and is attributable not to any widespread admiration for Mills' performance, but to government cuts. In the recent case of *Barton v Wright Hassall LLP*, Lord Sumption averred: 'At a time when the availability of legal aid and conditional fee agreements have been restricted, some litigants may have little option but to represent themselves.'

Right from the off, an impression had been created that Mills was difficult. She declined to comment for this piece. Withers partner Diana Parker – one of the indomitable queen bees of family law – feels that Mills's decision to eschew the advice of a lawyer was an 'indication that advice [hadn't been] accepted'. It was also a sign that the case was about to get nasty.

Then, prior to the trial, court documents were leaked to the press laying out claims spectacularly at odds with the reputation of the peace-loving Beatle. Mills claimed McCartney was not only regularly drunk and stoned, but also violent to her during her pregnancy with Beatrice. The leaks also suggested that McCartney had changed the locks at their former marital home and frozen Mills' bank account.

Parker is experienced at handling these emotional situations: 'It's a time when people are prone to be in denial and self-deluding – and that's why a lawyer's job is so tricky. You have to constantly be providing a reality check.'

Mills desperately needed that in relation to the crucial financial element of the case. McCartney's fortune had, of course, been vastly acquired before the marriage – and the marriage had been short in any case. This didn't stop Mills asking for £125 million, claiming he was worth £800 million (the judge would end up ruling that the Beatle was worth £400 million). In return, McCartney offered £15.8 million. In the end, she got £24.3 million.

'Of course I could have got a better deal for her,' says Hughes. 'Anyone could have got a better deal for her.'

'I'd have argued with her,' adds Parker. 'I'd have told her to push at the upper limits of the bracket she was being offered, because frankly it would have been better to have got £30 million.' The problem with Mills's claims, believes Marks, is that they were so high and unrealistic that the judge had no choice but to take into consideration only what McCartney claimed her needs were, which was a much more reasonable figure.

The judge would pointedly and wryly summarise Mills's needs, mocking her claims regarding property ('The wife did not like' the properties suggested by McCartney's team for her 'because they are not on a par with Cavendish [one of McCartney's properties]. I agree they are not'); her horse-related needs (£30,000 pa for equestrian activities (she no longer rides)); her alcohol requirements (£39,000 pa for wine (she does not drink alcohol)), and her budget for food, wine and flowers: '...the wife made much of the very large bills for flowers that were run up during the marriage... in my judgment, that is an unsure guide.'

## NO HIDING PLACE

The length of the court hearing – six days – was a reflection of the erratic and opportunistic case Mills presented. 'You should, in fact, be concealed from the judge apart from when you're in the witness box, which is usually the low point of your case,' says Miranda Fisher, a partner at Charles Russell Speechlys. 'She was front of centre of the whole thing: here, the low point was all of it.'

The case had reached a pitch of tension, and the essentially comedic judgment of Lord Justice Bennett appears to have been too much for Mills. 'The wife... must have felt rather swept off her feet by a man as famous as the husband,' he said, biting. 'I think this may well have warped her perception leading her to indulge in make-believe.'

If that accusation of pure fantasy wasn't enough, Bennett continued: 'The objective facts simply do not support her case. I am driven to the conclusion that much of her evidence, both written and oral, was not just inconsistent and inaccurate but also less than candid. Overall she was a less than impressive witness.'

Tim Bishop QC, who was a junior barrister on the case alongside Mostyn, has told *Spear's*: 'I ended up feeling quite sorry for Heather. The process drove her mad; it made her lose all rationality. She wasn't really motivated by money, but by the wish for approval and to be well regarded. But she just became more and more hated by everyone and fell

From top: Heather Mills during the 2008 case; the massed press photographers at the Royal Courts of Justice; Sir Paul McCartney and a damp but triumphant Fiona Shackleton





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into a more deranged state.' Fisher notes that the case has some 'interesting tie-ins' with privacy: 'We've created these celebrity lawyers, because there's interest – we're talking about fabulous lifestyles and the kind of thing people want to read about. The media have adopted it as an area.'

Marks adds: 'The reason we got the press in was to open up to public scrutiny the way in which the family courts work, and that would be great if the media had any interest at all in reporting how the family courts work. But they're only interested in high-profile divorce cases, nearly always involving people already in the public eye, and it's all rather disgusting and prurient.'

### APRÈS NOUS, LE DÉLUGE

As the world knows, the real drama – or perhaps melodrama – came at the end of the case. Mills received a lump sum of £16.5 million, which together with her assets of £7.8 million ensured that she left the marriage with £24.3 million in total. Enraged, she poured a jug of water over Shackleton and then shouted insults at the pair as they left court. Sue Carroll in the *Mirror* described her behaviour as resembling that of a 'demented fishwife'. Bishop recalls: 'I saw her [Shackleton] getting the water over her head. I'm depicted in pastels by the paper looking in a disapproving way.'

Though the case had a slightly farcical ending, it was tragic in retrospect. 'Fiona Shackleton is the kind of person you can settle with,' says Ward. Heather Mills was not.

Lady Helen Ward of Stewarts suggests that, partly as a result of the indignity of the case, 'it would have been an obvious case to go to arbitration. After all, it wasn't rocket science. It was a short marriage; there was a two-year-old baby. The wife had no significant earning capacity and they lived the life of Riley.' Indeed, since then arbitration has emerged as a significant trend: today's equivalents of McCartney-Mills are free to take this expensive but private route (see page 67).

Nevertheless, the case has not been without its positives. According to Ward, it represented a landmark in child maintenance awards in cases where the asset pool is considerable. Although the expectations have increased further since, 'for years we were all asking for [the maintenance payments] Beatrice got,' she tells *Spear's*. That represents an increase in well looked-after UHNW children in the world.

The case also, in Ward's view, alerted UHNWs to the importance of prenups. 'I don't know the statistics, but I bet there are a lot more prenups now than pre-McCartney. It was a wake-up call as it was a lot of money. It made people wary.' Indeed, in a recent survey by Forsters of 200 family lawyers, two thirds agreed that there had been a big surge in prenup agreements over the past decade.

The McCartney-Mills divorce, for all its drama and essential strangeness, stands at an interesting junction in the evolving story of family law – and in our story of love. It was, without question, a sad affair, but it is hard to imagine it happening in quite the same way today. It is a marker, for largely unhappy reasons, of our evolution as a society. 