Young *v* Young

[2013] EWHC 3637 (Fam) · Mr Justice Moor · High Court, Family Division · 22 November 2013

THE CASE AT A GLANCE

Parties	Michelle Young (Wife) v Scot Young (Husband)
Duration	Seven years of proceedings (2006–2013). Approximately 65 hearings before the final 20-day trial
Judge	Mr Justice Moor — the 'Moore Judgement'
Husband's claim	Claimed insolvency; alleged entire business empire collapsed in 2006. Sentenced to six months' imprisonment for contempt of court for failing to disclose assets
Court's finding	Hidden assets of approximately £45m. Net assets £40m after £5m in debts. Wife awarded £20m lump sum — 50% of net assets
Wife's costs	Approximately £6.4m in total, including around £5m spent before the final hearing had even begun
Litigation funding	Three separate arrangements: Harbour (£400,000); Bracewell Law (£1m, terminated July 2012); ASCL and others including Ideas Workshop (£2.7m). Total funding: c.£4.1m — entirely exhausted before the final hearing
Outcome for wife	£20m awarded in judgment. Whether enforcement was achieved in practice is a separate matter — Scot Young died in 2014
Source	caselaw.nationalarchives.gov.uk/ewhc/fam/2013/3637

WHY THIS CASE MATTERS

Young v Young is the first known published judgment in English family law to grapple at length with the use of litigation funding in divorce proceedings. Mr Justice Moor's analysis — published in November 2013 — documented in detail how three successive litigation funders had advanced a combined total of approximately £4 million to the Wife, all of which was entirely spent before the final hearing had begun, leaving her unable to obtain the expert accountancy report the court had directed. The judge described the case as 'about as bad an example of how not to litigate as any I have ever encountered' and called for 'rigorous control' on spending in funded cases.

The judgment was public and widely reported in the legal press. Every solicitor in England and Wales practising family law in 2013 and afterwards had access to it — including those who subsequently introduced clients to Novitas and other litigation lenders in the years that followed. The case established, on the public record, that litigation funding in divorce could consume millions of pounds before a case reached its final hearing, leaving the funded party without resources and the litigation in chaos.

IN ROSIE'S WORDS

> *"The famous Moore Judgement in the case of Young v Young. Despite five million in litigation loans, the woman didn't receive a penny. This predates our loans, and is the first known use of litigation funding in divorce. As it was published, the legal community knew or should have known how dangerous and costly this sort of funding can be.*
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> **— Rosie Heys, co-administrator, Legal Negligence and Mismanagement Campaign Group**

SIGNIFICANCE FOR THE DWD EVIDENCE BASE

What this judgment establishes

Young v Young demonstrates that the risks of litigation funding in divorce — runaway costs, exhausted funds before a final hearing, inadequate oversight — were documented in a public High Court judgment in November 2013. Solicitors who arranged or referred clients to litigation lenders after November 2013 had access to this published warning. The case raises a direct question of professional responsibility: if practitioners knew or should have known the dangers documented by Moor J, what duty did they owe to the clients they introduced to high-interest litigation lenders in the years that followed?

FROM THE JUDGMENT ITSELF

> *"She had therefore spent around £5 million without getting to the final hearing or having produced a final forensic accountant's report... In total, it means the Wife's costs of this litigation have been around £6.4 million... I am quite sure that in cases such as this there should be rigorous control on the amount spent."*
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> **— Mr Justice Moor, Young v Young [2013] EWHC 3637 (Fam), para. 9**

KEY DATES

2006	Scot and Michelle Young separate. Proceedings begin.
2009	First litigation funder (Harbour, £400k) terminates arrangement.
Jul 2012	Second funder (Bracewell Law, £1m) terminates arrangement.
Late 2012	Third arrangement reached — ASCL and others advance £2.7m including £626k from Ideas Workshop.
Nov 2013	20-day final hearing. All £4m+ in litigation funding already exhausted. Wife unrepresented for portions.
22 Nov 2013	Judgment handed down: £20m awarded. Moor J calls for 'rigorous control' on litigation funding costs. Judgment published and widely reported.
2013 onwards	Novitas and other litigation lenders continue selling divorce funding loans. Law firms continue referring clients. The Young v Young warning on the public record.
2014	Scot Young dies. Enforcement of the £20m award is complicated.