



Emer Murphy

Call: 2009

emurphy@wilberforce.co.uk

Clerks' Details

+44 (0)20 7306 0102
practicemanagers@wilberforce.co.uk

Qualifications and Appointments

- Balliol College, Oxford: BA (Hons), Law with Law Studies in Europe (First Class Honours).
- Martin Wronker Law Prize, *proxime accessit* (placing second in law finals).
- Slaughter and May Prize for the Best Performance in Contract.
- Université Panthéon Assas (Paris II): Certificat supérieur de droit français (Mention bien).
- Sir Stephen Chapman Scholarship, Inner Temple.
- University of Oxford, Legal Research Assistant (2006-2007).
- European Court of Human Rights, Trainee (2008).

“She impresses clients straight away, is great to work with and her advice is commercial.” Chambers and Partners 2022

Memberships

- Property Bar Association
- Commercial Bar Association
- Chancery Bar Association
- Commercial Fraud Lawyers Association
- Women in Property

Publications

- **The ex turpi causa defence in claims against professionals'** *Journal of Professional Negligence* (Volume 32, Issue 4) (2016)
- **'The changing face of overage'** [2012] *Development Disputes: Current issues for property litigators*

Practice Overview

"A fantastic junior." – Chambers and Partners 2021

Emer's practice focuses on property, commercial and trust disputes. She also advises on related professional liability matters.

Emer offers intelligent, thorough and practical assistance. She prides herself on being user-friendly and approachable, and she enjoys working as part of the team.

As an advocate, Emer is both engaging and tenacious. Emer regularly appears in the High Court, the County Court and before a variety of tribunals, both on her own account and as a junior.

She is highly skilled in drafting and advisory work, and has worked on a significant number of high-profile, complex pieces of litigation.

What the directories say

Emer is ranked as a Leading Junior in Chambers Global 2021 (Dispute Resolution: Commercial Chancery), Chambers & Partners 2021 (in the Chancery: Commercial and Real Estate Litigation fields) and The Legal 500 2021 (Property Litigation and Professional Negligence fields). Those publications describe her in the following terms:

- *'Emer is super smart, always focused on strategic outcomes and is willing to go the extra mile for her clients. Her advice is clear, direct and well thought out, and she works fast and hard. She is also friendly, approachable and a real pleasure to work with.'*
- *'A fantastic junior – her attention to detail is unmatched and clients are impressed by the quantity and quality of her work.'*
- *'Very hard-working and diligent and has the ability to take complex issues and break them down into manageable components.'*
- *'Her advice is clear, direct and well thought out.'*
- *'She is decisive and critically analytical in her work.'*
- *'Emer is extremely robust and analytical in providing advice and it is clear that she has strong attention to detail. She is also a very good client-facing barrister.'*



Practice Overview continued

Emer has been ranked in the legal directories for several years. In previous years, she has been described as: *'simply the best junior we have used. Her attention to detail and knowledge of the papers was frankly astounding'*; *'Very bright, hard-working and user-friendly – a future star of the Bar'*; *'a bright, sparky junior who's like a dog with a bone; she will argue with great tenacity'*; *'unflappable'*; *'feisty and clever – a rising star'*; *'commercially minded'* and *'one of the top juniors at the Chancery Bar'*.

Notable cases include the following:

11-13 Randolph Crescent Limited v Dr Duval [2020] UKSC 18

- The Estate Gazette's top case of 2020.
- The case concerned a landlord's covenant in a lease of a flat in a mansion block, by which the landlord promised to enforce (on request) the covenants in the other leaseholders' leases. The Supreme Court decided that this covenant meant that the landlord could not permit works prohibited by an absolute covenant against structural alterations.
- Emer was led by [Joanne Wicks QC](#).

Canary Wharf (BP4) T1 Limited & Others v The European Medicines Agency [2019] EWHC 921 (Ch)

- The Estate Gazette's top property case of 2019.
- Can Brexit frustrate a lease?
- Emer represented the European Medicines Agency, led by [Jonathan Seitler QC](#) and working alongside Tom de la Mare QC and James Segan QC of Blackstone Chambers.

Clutterbuck v Cleghorn [2015] EWHC 2558 (Ch), [2017] EWCA Civ 137, [2018] EWHC 2125 (Ch)

- Long-running multi-million pound saga relating to property joint ventures in London.
- Followed the explosive [Clutterbuck v Al Amoudi](#), in which similar allegations against Sarah Al Amoudi (dubbed 'the Vamp in the Veil' by the Daily Mail) were successfully defended by Emer Murphy and [Jonathan Seitler QC](#) in both the High Court and the Court of Appeal.
- In this case, the defendant's legal team (including Emer and [Jonathan Seitler QC](#)) had the majority of the claim struck out as an abuse of process relying on the principle in *Aldi Stores* [2008] 1 WLR 748 in both the High Court and the Court of Appeal. The remainder of the claim was dismissed following a three-week trial.

Commercial

Emer has a broad business and commercial practice, and provides drafting, advisory and advocacy services in a range of commercial sectors.

Emer is ranked as a leading junior in the Chancery Commercial field by Chambers Global 2021 and Chambers and Partners 2021. Those publications describe Emer as follows: *'Emer is super smart, always focused on strategic outcomes and is willing to go the extra mile for her clients. Her advice is clear, direct and well thought out, and she works fast and hard. She is also friendly, approachable and a real pleasure to work with.'* *'A fantastic junior – her attention to detail is unmatched and clients are impressed by the quantity and quality of her work.'*

Previous editions of Chambers and Partners have described Emer as: *'very bright, hard-working and user-friendly – a future star of the Bar'*, *'[s]imply the best junior we have used. Her attention to detail and knowledge of the papers was frankly outstanding'* and *'a bright, sparky junior who's like a dog with a bone; she will argue with great tenacity'*.

Emer is a member of the Commercial Bar Association and the Commercial Fraud Lawyers Association.



Commercial continued

Notable cases include the following:

[Clutterbuck v Cleghorn](#) [2015] EWHC 2558 (Ch), [2017] EWCA Civ 137, [2018] EWHC 2125 (Ch)

- As a junior to [Jonathan Seidler QC](#), Emer acted for the defendant (representing a deceased's estate) in this offshoot of the [Clutterbuck v Al Amoudi](#) case (discussed below).
- The claimants alleged that the deceased entered into and subsequently breached various joint ventures relating to numerous expensive properties in West London.
- The defendant's legal team successfully had the majority of the claim struck out as an abuse of process relying on the principle in *Aldi Stores* [2008] 1 WLR 748, as the claimants had failed to bring their claim with other similar claims against Ms Al Amoudi. The Court of Appeal upheld the striking out of the majority of the claimants' case in March 2017.
- A three-week trial of the remaining elements of the claimants' claim took place in the High Court in June 2018, and raised issues of fraudulent misrepresentation, contractual interpretation, estoppel by convention and proof of loss. [Jonathan Seidler QC](#) and Emer again emerged victorious, and the claimants' claims were dismissed in their entirety.

Confidential (2018)

- This arbitration concerned a complex tripartite agreement relating to the production and sale of tyres.
- Emer assisted [Alan Gourgey QC](#) with various aspects of the case, which raised issues relating to the meaning of 'fitness for purpose' and 'merchantable quality'.

Confidential (2018)

- This case concerned a complex joint venture-style agreement between a landowner and a developer, in relation to a prominent development site in London.
- Valuable planning permission was achieved for high-rise development on the site, and the land was sold with the benefit of this planning permission for more than £100m.
- The landowner and developer then disagreed as to how the profit arising from this sale should be split, with the parties divided in various respects as to the proper interpretation of the complex (and repeatedly varied) agreement between them.
- The case settled in 2018 following a successful mediation.
- Emer acted a junior to [Jonathan Seidler QC](#).

[Clutterbuck v Al Amoudi](#) [2014] EWHC 383 (Ch), [2015] EWCA Civ 1593, [2017] EWHC 1127 (Ch)

- Emer successfully represented Sarah Al Amoudi, dubbed '*the Vamp in the Veil*' by the Daily Mail, against two property developers who alleged that Ms Al Amoudi duped them out of millions of pounds of cash and property.
- Emer acted as a junior to [Jonathan Seidler QC](#) at a four-week trial in the Chancery Division involving over 30 witnesses. and addressing numerous allegations of fraud.
- In October 2015, the claimants said they had new evidence that proved that Ms Al Amoudi was an imposter. Emer and Jonathan successfully represented Ms Al Amoudi in the Court of Appeal, where the applications to rely on this evidence and for permission to appeal were refused.
- In February 2017, acting on her own account, Emer successfully represented Ms Al Amoudi in resisting the Claimants' application to vary or revoke the substantial costs award made against them, sought on the basis of further evidence allegedly casting doubt on Ms Al Amoudi's background. The application was dismissed in its entirety.

Confidential (2017)

- This action related to a substantial mixed-use property in North London, held by a company which was jointly owned by two wealthy families and later sold.



Commercial continued

- Emer (acting as a junior to [James Ayliffe QC](#)) acted for a company associated with one of the families, alleging deceit and breach of fiduciary duty by the other family and its associated companies in relation to the sale of the property for several million pounds.
- The matter settled in late 2017.

Abbar v SEDCO and others [2013] EWHC 1414 (Ch)

- This case concerned the Pinnacle Tower, designed to be the tallest tower in the City of London, which (following a series of delays to its development) was later nicknamed 'the Stump'.
- The claim was brought by a disgruntled Middle Eastern investor who had advanced significant sums of money toward the development, and who alleged that he had been misled about the basis of his investment.
- At a two-week trial in the High Court, acting as a junior to Ali Malek QC and Rupert Reed QC, Emer successfully represented the developer defendants.

Ackerman v Ackerman [2011] EWHC 2183 (Ch); [2012] 3 Costs L.O. 303

- This case concerned an expert determination in the context of a bitterly-fought division of a very large family-owned property portfolio.
- Emer assisted [John Wardell QC](#) and [Andrew Mold QC](#) on various aspects of this case, including successfully representing the defendants in their application for security for costs.

Trusts, Tax, Probate & Estates

Emer acts in relation to a wide variety of contentious trust matters, involving both domestic and offshore structures. She has represented professional trustees, beneficiaries and related professionals in a number of complex trust cases, and regularly advises on trust-related issues.

Notable cases include the following:

Twin Benefits Ltd v Barker (2017)

- This dispute related to a settlement, approved by the High Court in 2014, which involved unwinding a multi-million-pound offshore trust.
- Emer acted for professional trustee company Confiance, in defending the claim that it failed to ensure a sufficiently good deal was secured for the potential beneficiaries of the (now unwound) trust.
- Acting on her own account, Emer represented Confiance in its successful application for security for costs. The case against Confiance was struck out following the claimants' failure to provide the ordered security.

Barker v Confiance [2018] EWHC 2965 (Ch), [2019] EWHC 1401 (Ch)

- Following on from the strike out of the *Twin Benefits v Barker* proceedings (noted above), the potential beneficiaries of the unwound trust then sought to revive the original High Court proceedings and to argue that they should not be bound by the court-approved deal.
- The case raised issues relating to litigation friends and representative beneficiaries, the test for challenging court-approved settlements, and the proper scope and consequence of an order that a court-approved settlement does not bind a represented party.
- Led by Elspeth Talbot Rice QC, XXIV Old Buildings, Emer acted for Confiance in successfully resisting the potential beneficiaries' application.

Confidential (2017)

- This action related to a substantial mixed-use property in North London, held by a company which was jointly owned by two wealthy families and later sold.



Trusts, Tax, Probate & Estates continued

- Emer (acting as a junior to [James Ayliffe QC](#)) acted for a company associated with one of the families, alleging deceit and breach of fiduciary duty by the other family and its associated companies in relation to the sale of the property for several million pounds.
- The matter settled in late 2017.

Confidential (2016)

- This case concerns a massive trust dispute worth billions of pounds in an offshore jurisdiction between members of the same wealthy family.
- Acting as a junior to [Brian Green QC](#), Emer assisted a client accused of duping her mother out of her intended benefit under a trust.

Independent Trustee Services Ltd v GP Noble Trustees Ltd (2012)

- Emer represented Hassans law firm in Gibraltar in this litigation which arose out of the transfer of assets belonging to a number of underfunded UK pension schemes by their corporate trustee, GP Noble.
- The case raised issues of civil fraud, breach of trust and professional liability.
- Emer acted as a junior to [Terence Mowschenson QC](#) and Jamie Smith QC.

Professional Liability

Emer provides advice and litigation assistance in professional negligence matters arising out of her core areas of practice: property, commercial and trusts disputes.

Emer is currently ranked as a Leading Junior in the Professional Negligence field by The Legal 500 2021, which describes her as '*decisive and critically analytical in her work*'. Previous editions of the same publication described Emer as '*brilliant*' and noted that she has '*a phenomenal work rate*'.

Emer has particular experience of the following:

- Limitation issues;
- Issues relating to the scope of duty of care;
- Matters arising in multiple-defendant disputes;
- Claims against solicitors and barristers;
- Claims against pension benefit consultants and advisers (professional and actuarial);
- Claims against property surveyors; and
- Professional misconduct proceedings.

Notable cases include the following:

Confidential (2019)

- Emer (acting on her own account) represented a law firm defending a professional negligence action relating to the firm's handling of the purchase of a London property.
- The alleged negligence related to the SDLT payable on the sale.
- The claim raised a number of interesting issues relating to the identity of the client, the scope of the retainer, causation and reflective loss.

Confidential (2018)

- This professional negligence action arose out of allegedly negligent service of a break notice under a lease on the wrong party.
- As a result of the law firm's alleged negligence, Emer's client (a retail store) said that it remained bound by an expensive and disadvantageous lease.
- The case raised interesting issues relating to the correct measure of loss.



Professional Liability continued

Confidential (2018)

- Acting on her own account, Emer represented the trustees of a final salary pension scheme and the employers who pay for the scheme in a high-value claim against the former trustees of the scheme.
- The claimants alleged that the former trustee's breaches of duty in failing to spot a discrepancy between the scheme rules and what happened in practice led to millions of pounds of loss.
- A confidential settlement was reached in 2018.

Twin Benefits v Barker (2017)

- This case related to the settlement of a previous court case which involved the unwinding of a multi-million-pound offshore trust.
- Emer (led by Elspeth Talbot Rice QC, XXIV Old Buildings) represented professional trustee company Confiance, in defending the claim.
- Confiance was alleged to have breached its duties in various respects, including by failing to ensure a sufficiently good deal was secured for the potential beneficiaries of the (now unwound) trust.
- Acting on her own account, Emer represented Confiance at a number of interlocutory hearings, including a successful security for costs hearing in the High Court. Security was not paid, which led to the case against Confiance being struck out. Permission to appeal was refused.
- Emer further assisted Confiance in relation to its application for a third-party costs order against the individual who funded the shell company which brought the claim.

Mortgage Agency Services Number One Limited (Mansol) v Cripps Harries LLP [2016] EWHC 387 (Ch)

- In this case, a law firm was accused of fraud and conspiracy in the context of a large property transaction.
- The case concerned the scope of a solicitor's duty to the other side in a property transaction, and also raised issues of causation and questions of limitation.
- Led by [Joanne Wicks QC](#), Emer represented the law firm (Cripps Harries Hall) and assisted with numerous pre-trial hearings in this case.
- [Jonathan Seitler QC](#) and [Jonathan Chew](#) of Wilberforce Chambers successfully represented the law firm at trial, where the fraud and conspiracy allegations were resolutely rejected. (Emer did not appear at trial due to a scheduling issue.)

Swan Mill v Mercer (2016)

- Acting as a junior to [Michael Tennet QC](#), Emer represented the claimants (trustees of a pension scheme and the employers who pay for the scheme) in a high-value professional negligence claim against Mercers.
- The alleged negligence related to the rate of increase to be applied to deferred pensions. Emer's clients alleged that, negligently, Mercer administered the scheme on the wrong basis.
- The case settled late 2016.

Clutterbuck v HSBC and others (2015)

- The claimants brought [separate proceedings](#) against Sarah Al Amoudi (dubbed 'the Vamp in the Veil' by the Daily Mail) for fraud in relation to property joint ventures, which were successfully defended by Emer acting as a junior to [Jonathan Seitler QC](#).
- In these High Court proceedings, the claimants proceeded against thirteen professional defendants said to have assisted Ms Al Amoudi in her alleged fraud.
- Acting on her own account, Emer successfully represented one of the law firms sued. The claim was eventually discontinued by the claimants.



Professional Liability continued

Ridgewood Properties Group Ltd v Kilpatrick Stockton and others [2014] EWHC 2502 (Ch)
[2014] PNLR 31

- Acting on her own account, Emer successfully represented a barrister accused of giving negligent advice.
- The claim related to agreements entered into between the claimants and Texaco for the redevelopment of petrol stations and the airspace above them.
- The claimants unsuccessfully sued Texaco following the sale of a number of the sites in question, and then sued the legal team who advised them in the aftermath of those sales.
- The main element of the case was struck out on the grounds that it involved an impermissible collateral attack on the previous Court's judgment. The claim was then discontinued in its entirety.

Independent Trustee Services Ltd v GP Noble Trustees Ltd (2012)

- Emer represented Hassans law firm in Gibraltar in this litigation which arose out of the transfer of assets belonging to a number of underfunded UK pension schemes by their corporate trustee, GP Noble.
- The case raised issues of civil fraud, breach of trust and professional liability.
- Emer acted as a junior to [Terence Mowschenson QC](#) and Jamie Smith QC.

Re a Notary (2011)

- Emer successfully represented a notary accused of professional misconduct at a hearing before the Court of Faculties (part of the Faculty Office of the Archbishop of Canterbury).
- The issues arising included the meaning of notarial misconduct and the correct procedure for the investigation of the complaint.

Property

Emer has a broad property practice encompassing both real property and landlord and tenant matters. Much of Emer's property work is undertaken on her own account, although she also has considerable experience of acting as part of a large team on complex, long-running matters. Emer appeared in the Supreme Court in the landmark case of *11-13 Randolph Crescent Limited v Dr Duval* [2020] UKSC 18, led by [Joanne Wicks QC](#).

Emer is currently ranked as a Leading Junior in the Property Litigation field by Chambers & Partners 2021 and The Legal 500 2021, which publications describe her in the following terms: '*Emer is extremely robust and analytical in providing advice and it is clear that she has strong attention to detail. She is also a very good client-facing barrister. Very hard-working and diligent and has the ability to take complex issues and break them down into manageable components. Her advice is clear, direct and well thought out.*'

Previous editions of the directories have described Emer as '*very sharp, efficient and shows an impressive grasp of detail*', '*unflappable*' and '*one of the top juniors at the Chancery Bar*'.

Emer is a member of the Property Bar Association.

Landlord and Tenant

Emer acts in the full range of landlord and tenant matters. Many of Emer's instructions arise out of business tenancies and matters relating to the Landlord and Tenant Act 1954. She also has considerable experience advising on covenant disputes and issues relating to alienation, disrepair, dilapidations and forfeiture.

11-13 Randolph Crescent Limited v Dr Duval [2020] UKSC 18

- The Estate Gazette's top case of 2020.



Property continued

- The case concerned a landlord's covenant in a lease of a flat in a mansion block, by which the landlord promised to enforce (on request) the covenants in the other leaseholders' leases. The Supreme Court decided that this covenant meant that the landlord could not permit works prohibited by an absolute covenant against structural alterations.
- Emer was led by [Joanne Wicks QC](#).

Canary Wharf (BP4) T1 Limited & Others v The European Medicines Agency [2019] EWHC 921 (Ch)

- The Estate Gazette's top property case of 2019.
- Can Brexit frustrate a lease?
- Emer represented the European Medicines Agency, led by [Jonathan Seitler QC](#) and working alongside Tom de la Mare QC and James Segan QC of Blackstone Chambers.

Confidential Arbitration (2019)

- Dispute concerning a contractual right to renew a valuable London car park lease and related services agreement.
- The case raised numerous contractual interpretation issues, on which Emer's clients were largely successful at arbitration.

Carillion Energy Services Limited (in liquidation) v Dooba Investments II Limited (2019)

- Dispute relating to a surrender agreement and a new lease entered into by a related company in relation to near-by premises.
- The issues raised included contracting out, implied terms and rescission.
- The matter settled shortly before a strike-out application brought by Emer's clients.

Confidential: Various

- Emer has advised and acted in relation to various disputes arising out of Part II the Landlord and Tenant Act 1954, both for landlords and tenants.
- These cases have raised various issues including questions of validity of s. 25 notices, whether a lease is protected by the 1954 Act, whether a new lease can be resisted on the various statutory grounds, statutory compensation and estoppel.

Development disputes and joint ventures

Emer has considerable experience advising on and acting in disputes concerning development contracts, overage, conditional contracts, options, rights of pre-emption and property joint ventures. Some notable cases are listed below:

Clutterbuck v Cleghorn [2015] EWHC 2558 (Ch), [2017] EWCA Civ 137, [2018] EWHC 2125 (Ch)

- Long-running multi-million-pound saga relating to property joint ventures in London.
- The Defendant (represented by Emer and [Jonathan Seitler QC](#)) had the majority of the claim struck out as an abuse of process relying on the principle in *Aldi Stores* [2008] 1 WLR 748 in both the High Court and the Court of Appeal.
- The remainder of the claim was dismissed following a three-week High Court trial, which raised issues of fraudulent misrepresentation, contractual interpretation, estoppel by convention and proof of loss.

Confidential (2018)

- Dispute concerning a repeatedly-varied joint venture-style agreement between a landowner and a developer, relating to a prominent development site in London (sold for £100m with the benefit of planning permission).
- The parties disagreed as to how the complex profit-sharing provisions should be interpreted and applied.



Property continued

- The case settled following a successful mediation. Emer acted a junior to [Jonathan Seitler QC](#).

Confidential (2017)

- This case related to a substantial mixed-use property in North London, held by a company which was jointly owned by two wealthy families and later sold.
- Emer (acting as a junior to [James Ayliffe QC](#)) acted for a company associated with one of the families, alleging deceit and breach of fiduciary duty by the other family and its associated companies in relation to the sale of the property for several million pounds.
- The matter settled in late 2017.

Clutterbuck v Al Amoudi [2014] EWHC 383 (Ch), [2015] EWCA Civ 1593, [2017] EWHC 1127 (Ch)

- Led by [Jonathan Seitler QC](#), Emer successfully represented Sarah Al Amoudi, dubbed '*the Vamp in the Veil*' by the Daily Mail, against two property developers.
- The case concerned alleged property joint ventures and raised issues of fraud and misrepresentation.
- Jonathan and Emer emerged victorious following a four-week trial in the High Court involving over 30 witnesses and a one-day hearing in the Court of Appeal.

Neil John Biggs v Countryside Properties (Bicester) Limited (2016)

- Emer represented a property developer that had allegedly breached its obligation to use 'reasonable endeavours' to obtain planning permission, thereby reducing the overage amounts payable to previous landowners.
- Emer acted as a junior to [Jonathan Seitler QC](#) at a trial in the High Court in London in May 2016. The case settled during the trial.

Confidential (2016)

- Dispute relating to a conditional contract to sell certain land to a supermarket chain once planning consent was obtained.
- The supermarket chain argued that the planning consent obtained was not compliant with the requirements of the contract, and thus it refused to purchase the land.
- Emer (with [Jonathan Seitler QC](#)) acted for the property development company against [Joanne Wicks QC](#) in a hotly-disputed expert determination.

Real property

Emer has advised in numerous disputes relating to easements, restrictive covenants, contracts of sale, mortgages and the registration of land. She also has considerable experience of disputes relating to the ownership of land and raising issues of constructive trust, proprietary estoppel and unjust enrichment. Notable cases include the following:

Cayman Shores v Registrar of Lands (2021) (Cayman Islands)

- This dispute relates to the Registered Land Act and whether various resort type rights are binding upon the new owners of the site of the former Cayman Hotel.
- The case raises issues relating to the correct categorisation of the rights (restrictive agreements or easements), rectification of the register, modification or discharge of the rights and nuisance.

Willmott v Kimchi (2021)

- Emer successfully represented a couple seeking possession of their substantial former home from a family friend.
- The four-day trial raised issues of forgery, constructive trust and proprietary estoppel.



Property continued

Confidential (2019)

- Dispute relating to the unenforceability of non-compete clauses in a lease for want of registration.
- Emer acted as a junior to [Mark Wonnacott QC](#).

Confidential (2016)

- This dispute concerned a substantially-completed residential development. The neighbours asserted the developers had no right of way over the only means of access.
- Emer represented the developer at a successful mediation, at which the neighbours agreed to grant access rights.

Telecoms

Emer has advised on a large number of issues arising out of the Electronic Communications Code. Recent experience includes advising an infrastructure provider in relation to the categorisation of their various sites for Code purposes.