



Emer Murphy

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Clerks' Details

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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).

“Super smart, always focused on strategic outcomes and is willing to go the extra mile for her clients.”

Chambers and Partners 2021

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.

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.



Property continued

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

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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.



Property continued

- 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.
- 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.



Property continued

- 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.

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.