



Emer Murphy

Call: 2009

emurphy@wilberforce.co.uk

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Chambers and Partners 2020

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 coverage'** [2012] *Development Disputes: Current issues for property litigators*

Practice Overview

"Simply the best junior we have used." – Chambers and Partners 2020

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 2020 (Chancery Commercial), Chambers & Partners 2020 (in the Chancery: Commercial and Real Estate Litigation fields) and The Legal 500 2020 (Property Litigation and Professional Negligence fields). Those publications describe her in the following terms:

- *"She works exceptionally hard, is a real team player in trial preparations and is methodical in her approach";*
- *"Simply the best junior we have used. Her attention to detail and knowledge of the papers was frankly astounding and her work on a complex and lengthy set of closings in a very short space of time was highly impressive. She really assisted in driving the case along";*
- *"She never gives up";*
- *"Very bright, hard-working and user-friendly – a future star of the Bar";*
- *"Very thorough and detailed in her advice";*
- *"She is very sharp, efficient and shows an impressive grasp of detail".*

Clerks' Details

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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).



Practice Overview continued

In previous years, the legal directories have described Emer as follows: *'she has a phenomenal work rate; 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; one of the top juniors at the Chancery Bar...her attention to detail and rigorous analysis [are] particularly good; brilliant; hardworking with an excellent grasp of detail, a tenacious advocate and a star of the future; a very good brain; a thinker and a doer; commercially minded; very persuasive; very good drafting skills; piercing intelligence, very bright, helpful and practical; and as having impressed clients with the speed with which she digested the materials.'*

Emer was a [Legal Week Star at the Bar 2014](#): *'Intelligence, tenacity and commercial acumen are just three of the reasons Wilberforce Chambers' Emer Murphy is regarded as a star at the Bar.'*

Recent cases

Canary Wharf (BP4) T1 Limited & Others v The European Medicines Agency (2019)

- Acting as a junior to [Jonathan Seitler QC](#) and working alongside Tom de la Mare QC and James Segan QC of Blackstone Chambers, Emer represented the European Medicines Agency in this high-profile case (one of The Lawyer's Top 20 Cases of 2019 and the Estate Gazette's top property law case of 2019).
- The Agency argued that its 25-year lease of large premises in the Canary Wharf Estate would be frustrated by Brexit. The income stream from the lease was said to be worth around £500m to Canary Wharf.
- The trial took place over nine days in January 2019 before Mr Justice Marcus Smith, who found in favour of Canary Wharf but granted the Agency permission to appeal to the Court of Appeal. The case settled shortly thereafter.
- Canary Wharf was represented by [Joanne Wicks QC](#) and [Jonathan Chew](#), also of Wilberforce Chambers.

11-13 Randolph Crescent Limited v Dr Duval (2019)

- Led by [Joanne Wicks QC](#) in this Supreme Court case, Emer acted for the landlord of a block of expensive flats in Little Venice, London.
- One tenant wanted to carry out renovations to her flat involving cutting into the walls contrary to the terms of her lease, and so sought permission from the landlord.
- Another tenant objected and argued that the landlord could not permit the works, as to do so would prevent the landlord from complying with its covenant to enforce (on request) the covenants in the other tenants' leases. The Court of Appeal agreed with the objecting tenant.
- Such covenants are found frequently in leases of residential blocks of flats and the Court of Appeal's reasoning has potentially wide ramifications for landlords.
- The Supreme Court handed down judgment in May 2020 upholding the Court of Appeal decision.

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

- Emer represented the estate of a deceased businessman who was alleged to have been involved in various property joint ventures relating to exclusive properties in West London. The claimants claimed millions of pounds in damages for various alleged breaches of contract and misrepresentations.
- This case followed the explosive [Clutterbuck v Al Amoudi](#) case brought by the same claimants, 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, 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.



Practice Overview continued

- 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.

Twin Benefits Ltd v Barker (2017); *Barker v Confiance* [2018] EWHC 2965 (Ch), [2019] EWHC 1401 (Ch)

- This dispute relates 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.
- The potential beneficiaries then sought to revive the original High Court proceedings and to argue that they should not be bound by the court-approved deal.
- Led by Elspeth Talbot Rice QC, XXIV Old Buildings, Emer acted for Confiance in successfully resisting the potential beneficiaries' application.

Confidential (2018)

- This dispute 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 as junior to [Jonathan Seidler QC](#).

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 is currently ranked as a Leading Junior in the Property Litigation field by Chambers & Partners 2020 and The Legal 500 2020, which publications describe her in the following terms: *'very sharp, efficient and shows an impressive grasp of detail'; '[s]he never gives up; she works exceptionally hard, is a real team player in trial preparations and is methodical in her approach.'*

Previous editions of The Legal 500 have described Emer as *'unflappable'* and as coming up with *'innovative solutions to issues'*, as *'hardworking with an excellent grasp of detail'* and as *'one of the top juniors at the Chancery Bar'*.

Emer is a member of the Property Bar Association.

Notable cases include the following:

Canary Wharf (BP4) T1 Limited & Others v The European Medicines Agency (2019)

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Property continued

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- Such covenants are found frequently in leases of residential blocks of flats and the Court of Appeal's reasoning has potentially wide ramifications for landlords.
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Confidential (2019)

- Acting on her own account, Emer advised the managers of a now insolvent property development company.
- The company entered into a surrender agreement in relation to a lease, under which the landlord agreed to pay it various sums.
- When the company entered insolvent liquidation, the landlord refused to pay these sums.
- The landlord argued that the failure by a related company to pay the sums it owed under a new lease of different premises (entered into around the same time as the surrender) meant it was not liable to pay the sums promised.
- The matter settled shortly before a strike-out application brought by Emer's clients.

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

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- In *Clutterbuck v Cleghorn*, 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, 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 Seitler QC](#) and Emer again emerged victorious, and the claimants' claims were dismissed in their entirety.



Property continued

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- 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](#).

Cheshire West v Grandspan (2017)

- Emer (acting on her own account) represented a landlord seeking to gain possession of business premises.
- Representatives of the landlord and tenant agreed all the terms of new lease, but the tenant failed to ensure it was properly completed in time.
- The landlord argued that the tenant had lost its right to protection as a business tenant under Part II of the Landlord and Tenant Act 1954.
- The matter settled shortly before trial.

Confidential (2017)

- Emer advised a property developer in relation to a dispute about the proper construction of an agreement assigning an option to purchase some development land.
- The issue between the parties was whether or not the property developer was entitled to deduct sizeable Community Infrastructure Levy payments from sums otherwise payable to the claimants.
- The matter settled shortly prior to the hearing of cross-summary judgment applications in the High Court.

Confidential (2017)

- Emer represented the seller of a commercial property when the buyer thereof refused to complete a multi-million-pound contract for sale.
- The property had planning permission to be demolished and rebuilt as a large block of flats, and the seller argued that a condition precedent requiring demolition of the existing building prior to completion had not been met.
- The matter settled at a successful mediation.

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.
- 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)

- Emer successfully represented Sarah Al Amoudi, dubbed 'the Vamp in the Veil' by the Daily Mail, against two property developers who alleged that Ms 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 High Court involving over 30 witnesses. The case concerned alleged property joint ventures, and raised issues of fraud and misrepresentation.



Property continued

- 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 (2016)

- Emer acted for a property development company in this dispute relating to a large mixed-use development in the South of England.
- The developers had entered into 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 acted with [Jonathan Seitler QC](#) against [Joanne Wicks QC](#) in a hotly-disputed expert determination in 2016.

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

- Emer represented a property developer that 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)

- Acting on her own account, Emer successfully represented a developer at a mediation.
- Following substantial completion of a residential development, owners of the neighbouring property alleged that the developers had no right of way over the only means of access.
- The dispute was resolved with the neighbours agreeing to grant access rights.

Transport for London v JB Riney & Co Limited (2013)

- This case concerned a strategically important piece of land registered to TFL and occupied by a large civil engineering company, JB Riney & Co Limited.
- It raised issues of trespass, compulsory purchase and squatters' rights.
- Emer advised JB Riney, in conjunction with [James Ayliffe QC](#) and [John Furber QC](#).

Confidential: Various

- Emer has advised and acted in relation to various disputes arising out of Part II the Landlord and Tenant Act 1954, for both 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.