

Emma Mockford

YEAR OF CALL: 2016

'Calm, measured but fearless when necessary.'

Legal 500 2021

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Practice Overview

Emma has a busy practice spanning all areas of chambers' work including EU and competition law, public law and commercial law. She is regularly instructed in complex and high-profile litigation across all of her core practice areas and has appeared in a range of tribunals including the Court of Appeal, High Court, County Court and Competition Appeal Tribunal.

The directories recommend Emma as a leading junior in competition law, public and administrative law and civil liberties and human rights. They variously describe her as "really superb – a star of the future", "an experienced lawyer [with] great judgment" (C&P 2021) and "an effective and efficient advocate, and a great asset to the team" (L500 2021). In 2020, Emma was also the first junior barrister to be profiled by *The Lawyer*, in its new 'Barrister of the Week' series, which described her as a "leading junior", with a "cross-disciplinary practice" and "multi-faceted approach".

Before coming to the Bar, Emma qualified as a solicitor at Freshfields Bruckhaus Deringer LLP (2011-13) and practised as an associate in the firm's dispute resolution department in London (2013-16), specialising in EU and competition litigation and public law.

Emma is a member of both the Attorney General's C Panel as well as the Equality and Human Rights Commission's C Panel. She is also a trustee of the AIRE Centre.

Emma graduated from the University of Oxford in 2010, winning the All Souls Prize for the Best Performance in Public International Law Final Honour Schools. She has a Master's degree from King's

Competition

Emma's practice covers all areas of EU and competition law, including both stand-alone and follow-on competition law claims, State aid and judicial review on EU law grounds. She acts for both claimants and defendants and is recommended in the field of competition law by both Chambers & Partners and the Legal 500. She has particular expertise in the emerging area of collective actions, having acted in connection with four separate applications for collective proceedings orders to date.

Highlights of Emma's current and recent instructions in this field include:

- *Facebook v Competition and Markets Authority*: Emma is instructed by the CMA in connection with an application for judicial review brought by Facebook relating to the imposition of interim measures and grant of derogations during an ongoing merger investigation (led by Marie Demetriou QC).
- *Road Haulage Association v MAN SE & Ors*: Emma is acting for the RHA in connection with its pending application for a CPO in connection with the trucks cartel (led by James Flynn QC).
- *Michael O'Higgins FX Class Representative v Barclays Bank Plc & Ors*: Emma is acting for the proposed class representative in connection with its pending application for a CPO in relation to collusion in the FX market (led by Daniel Jowell QC, Gerard Rothschild and Charlotte Thomas).
- *Mark McLaren Class Representative Ltd v MOL (Europe Africa) Ltd & Ors*: Emma is acting for the proposed class representative in connection with its pending application for a CPO following the European Commission's infringement decision of February 2018 in relation to the market for deep sea carriage services (led by Sarah Ford QC).
- *Gemalto NV & Ors v Infineon & Ors*: Emma is instructed by the Infineon defendants in this follow on damages claim arising out of the smart card chips cartel (led by Sarah Ford QC and Tim Johnston).
- *Walter Hugh Merricks CBE v MasterCard Inc & Ors*: Emma acted for Walter Merricks at the paper stage of his successful appeal against the CAT's 2017 judgment dismissing his application for a CPO ([2019] EWCA Civ 674) and appeared at the October 2018 jurisdiction hearing to determine whether there is a right of appeal from a decision of the CAT refusing certification in opt-out proceedings where an aggregate award of damages is sought ([2018] EWCA Civ 2527) (led by Marie Demetriou QC and Victoria Wakefield QC). Emma also assisted Marie and Victoria in the CAT proceedings as a pupil.
- *Koninklijke Philips v ASUS Technology PTE & Ors*: Emma represented the implementer in this FRAND dispute, which (amongst other things) produced an important judgment on the extent to which an implementer can avoid a FRAND trial by admitting a SEP holder's entitlement to injunctive relief ([2020] EWHC 29 (Ch)) (led by Daniel Piccinin).

- *Secretary of State for Health & Ors v Servier*: Emma is instructed by Servier in relation to the mitigation trial originally due to be heard in the High Court in October 2019 (led by Kelyn Bacon QC and Daniel Piccinin).
- *Peugeot SA & Ors v NSK Ltd & Ors*: Emma was instructed by one of the Defendants in this follow-on competition damages action in the CAT relating to the Commission's 2014 bearings decision (led by Tony Singla).
- Advising multiple clients on the implications of the UK's withdrawal from the European Union including under the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020.
- A confidential arbitration in relation to the lawfulness of an exclusive distribution arrangement (led by Sarah Abram).
- A confidential State aid matter which raises issues relating to the interaction between EU State aid law and bilateral investment treaty arbitration (led by Kelyn Bacon QC).
- Advising on *Provimi*, choice of Defendant-type issues.
- Advising on the compatibility of domestic health regulation with EU law (unled).

Emma also practised in EU and competition law in her previous role as a solicitor at Freshfields Bruckhaus Deringer LLP. Highlights of her time at Freshfields included acting for Ericsson in the *Unwired Planet Inc v Huawei & Ors* proceedings [2017] EWHC 711 (a ground-breaking FRAND and competition law dispute in the patent infringement context) and acting for one of the non-addressee airlines in the Air Cargo *Pergan* appeals (*Emerald Supplies Ltd & Ors v British Airways plc & Ors* [2015] EWCA Civ 1024).

Emma has a Master's degree in EU competition law from King's College London and has previously lectured in the subject of competition law at Queen Mary's University.

Public Law

Emma's public law practice encompasses the full ambit of public law from commercial judicial reviews to human rights based challenges. She acts for a wide range of clients, including NGOs and campaigning organisations, individuals and corporates, and undertakes extensive pro bono work. She has acted in numerous high profile and substantial public law challenges, including the Heathrow third runway judicial review and the ongoing challenge by the End Violence Against Women Coalition to the CPS' approach to the prosecution of rape. She is recommended in the directories in both public and administrative law as well as in civil liberties and human rights.

Emma is a member of both the Attorney General's C Panel as well as the Equality and Human Rights Commission's C Panel. She is also a trustee of the AIRE Centre, a specialist legal charity whose mission is to promote awareness of EU and ECHR rights and assist marginalised individuals and those in vulnerable circumstances to assert those rights. Emma also regularly appears as a volunteer advocate for the

Asylum Support Appeals Project before the First-Tier Tribunal (Asylum Support).

Highlights of Emma's current and recent public law instructions include:

- *End Violence Against Women Coalition v Director of Public Prosecutions*: ongoing judicial review proceedings challenging the Crown Prosecution Service's policy and practice in relation to the prosecution of rape and other serious sexual offences ([2020] EWHC 929 (Admin), successfully overturned by the Court of Appeal in July 2020; led by Phillippa Kauffman QC and Jennifer MacLeod).
- *Facebook v Competition and Markets Authority*: Emma is instructed by the CMA in this application for judicial review brought by Facebook in relation to the imposition of interim measures and grant of derogations during an ongoing merger investigation (led by Marie Demetriou QC).
- *Heathrow Hub Ltd v Secretary of State for Transport*: a judicial review of the Government's decision to endorse airport capacity expansion by way of a third runway at Heathrow Airport on the grounds of incompatibility with EU law ([2019] EWHC 1069 (Admin) and [2020] EWCA Civ 213; led by Robert O'Donoghue QC).
- *Doctors Association UK v Secretary of State for Health*: a judicial review seeking a public inquiry into the procurement and distribution of PPE during the Covid-19 pandemic, on the basis of Article 2 ECHR (led by Paul Bowen QC and Tim Johnston).
- Representing (pro bono) the family of baby Harry Richford in a substantial, three week inquest before the North East Kent Coroners' Court (alongside Jennifer MacLeod). The inquest concluded that Harry's death was wholly avoidable and had been caused by numerous gross failings on the part of East Kent University NHS Trust, amounting to neglect. The conclusions reached in the inquest ultimately led the health minister, Nadine Dorries, to announce an independent investigation into preventable baby deaths at the trust.
- Acting for the Death Penalty Project in connection with an appeal to the Privy Council against a conviction based on confession evidence (led by Paul Bowen QC).
- Acting for a large group of Iranian individuals and companies who are bringing claims under the Equality Act 2010 and Blocking Regulation against Metro Bank (led by Maya Lester QC).
- Advising a Royal Charter body in connection with its obligations under the Equality Act 2010 in particular vis-à-vis transgender individuals (led by Martin Chamberlain QC).
- Advising LIBERTY in connection with its "Care Don't Share" campaign on the lawfulness of various information sharing practices operated by different government departments as part of the hostile environment strategy (unled).
- Defending an Equality Act 2010 challenge brought against a financial institution that was seeking to close a customer's accounts (led by Martin Chamberlain QC and Malcolm Birdling).
- Advising a NGO in relation to a potential access to justice challenge (led by Martin Chamberlain QC).

- Advising a pharmaceutical company on a potential unequal treatment challenge in relation to the delisting of one of its products from the Drug Tariff (led by Kelyn Bacon QC).
- Acting for the Ministry of Justice in connection with various prison law claims (unled).
- Advising the Department for Environment, Food and Rural Affairs on information law (unled).
- Acting *pro bono* for a prisoner at HMP Bure who was seeking to challenge alleged interference by the prison authorities with his mail (unled).
- Acting *pro bono* for various social housing tenants in relation to disrepair and reasonable adjustment claims against their landlords (unled).

Emma's public law experience during pupillage included working on the following cases:

- *R (UNISON) v Lord Chancellor* [2017] UKSC 51: a challenge to the introduction of fees in the employment tribunal and employment appeal tribunal on access to justice grounds, heard by the Supreme Court in March 2017 (assisting David Barr QC and Victoria Wakefield as a pupil).
- *R (Minchinhampton Committee of Commoners & Ors) v DEFRA*: a judicial review brought by a group of farmers in relation to DEFRA's administration of CAP payments (assisting Victoria Wakefield as a pupil).
- *Teva BV v MHRA*: judicial review of the refusal of the MHRA to validate Teva's application for a marketing authorisation in respect of a drug indicated for the treatment of multiple sclerosis (assisting Kelyn Bacon QC and Emily MacKenzie as a pupil).
- A successful technology appraisal appeal on behalf of Roche before the National Institute for Health and Care Excellence ('NICE') (assisting Victoria Wakefield as a pupil).
- Advising a local authority in relation to a potential judicial review claim concerning the overnight detention of children in police custody (assisting Victoria Wakefield as a pupil).

Commercial

Emma is regularly instructed in commercial disputes of varying size and complexity. Highlights of her recent commercial experience include:

- Acting for NRAM plc (formerly Northern Rock plc) in a £100 million professional negligence claim against Eversheds LLP (led by Tom Adam QC and Tony Singla). The case was chosen by *The Lawyer* as one of its Top 20 cases of 2018.
- Defending a substantial professional negligence claim in the tax sphere, brought by over 100 claimants (led by Tom Adam QC).
- Acting for the Serious Fraud Office in connection with the Tesco Profit Overstatement group litigation in the Financial List (led by Victoria Wakefield QC).

- Acting unled for Imperial College Healthcare NHS Trust in a successful over-payment of salary claim.
- Acting unled for Wye Valley NHS Trust in connection with a constructive trust claim against a contractual counterparty.
- Acting unled for NatWest bank in a successful strike out / summary judgment application for payment under a guarantee and indemnity.

During pupillage Emma also worked on a wide range of commercial law matters. Highlights include the following cases:

- *Arcadia Petroleum Limited & Ors v Bosworth and another* (hearing April 2017): an appeal to the Supreme Court in respect of a Lugano Convention jurisdiction challenge in the context of a c.US\$300 million fraud claim (assisting Laurence Rabinowitz QC and Fionn Pilbrow as a pupil).
- A confidential arbitration worth c. US\$200 million relating to the enforceability of a prior settlement agreement, including as a matter of private international law (assisting Tom Adam QC, Fionn Pilbrow and Max Schaefer as a pupil).
- *Bayerische Landesbank v Constantin Medien AG* [2017] EWHC 131: a substantial Commercial Court dispute relating to the sale of the Formula 1 group of companies to CVC (assisting Helen Davies QC, Fionn Pilbrow and Edward Harrison as a pupil).
- *OMV Petrom v Glencore International* [2017] EWCA Civ 195: an appeal to the Court of Appeal in relation to the interest that a court may award when a claimant beats its own Part 36 offer at trial (assisting Richard Southern QC and Fionn Pilbrow as a pupil).
- *Dukkar SA v Motor Oil (Hellas) Corinth Refineries*: a commercial court claim for breach of a storage agreement said to have resulted from the co-mingling of different oil products (assisting Fionn Pilbrow as a pupil).
- *Gard Shipping AS v Clearlake Shipping Pte Ltd* [2017] EWHC 1091: a commercial court claim for escalated demurrage alleged to be payable under a charterparty agreement (assisting Fionn Pilbrow as a pupil).

Emma also has substantial commercial law experience as a result of her experience as a solicitor at Freshfields. During her training contract at Freshfields, Emma spent time in both the firm's commercial litigation and international arbitration teams (as well as assisting on corporate and financial transactional work). After she qualified, she worked on a high-value international commercial arbitration before the LCIA, concerned with the contractual obligations of parents to a joint venture.

Publications

Gold at the end of the rainbow? The quantification provisions of the new EU Damages Directive, Competition Law Insight, Volume 13, Issue 6 (10 June 2014) (with Lawrence, Hollway and Howe).

Natural Justice in the CAT – Lessons for the Competition and Markets Authority and Private Parties, [2015]

8 GCLR 25 (with Das).

Questions Left Unanswered by the Great Repeal Bill, ALBA summer conference paper, July 2017 (with Bacon) (available online at <https://adminlaw.org.uk/publications/lecture-papers/>).

Competition Act Appeals—practice and procedure in the Competition Appeal Tribunal, LexisNexis practice note, July 2018.

Balancing Speed and Safety: the Authorisation of Covid-19 Vaccines and Medicines, Judicial Review, June 2020, DOI: [10.1080/10854681.2020.1780664](https://doi.org/10.1080/10854681.2020.1780664) (with Stratford and MacKenzie).

Education & Qualifications

Professional experience:

2016: Called to the Bar of England and Wales

2013-16: Associate Solicitor, Freshfields Bruckhaus Deringer LLP

2011-13: Trainee Solicitor, Freshfields Bruckhaus Deringer LLP

Education:

2016: Bar Transfer Test, BPP Law School

2013-15: MA in EU Competition Law, King's College London

2011: Legal Practitioners' Course, BPP Law School

2007-10: BA in Jurisprudence (Law), University of Oxford (Hertford College) (First Class, All Souls Prize for Best Performance in Public International Law, Final Honour Schools)

Scholarships and prizes:

Highly Commended, Law Society's Excellence in Pro Bono Award (jointly with Jennifer MacLeod and

Arnold & Porter LLP)

Pupillage:

Bar European Group Phoenicia Scholar (2017)

Wolfson Scholarship, The Honourable Society of Lincoln's Inn (2016)

University of Oxford:

All Souls Prize for the Best Performance in Public International Law, Final Honour Schools (2010)

Twice recipient of the Hertford College Book Prize for academic achievement (2010)

Mooting and Advocacy:

Winner of the KCL Essex Court Chambers Mooting Competition (2015) (a four-stage commercial law competition, the final of which took place in the Supreme Court in March 2015 and was judged by Lord Judge).

Winner of the KCL Graveson Moot (2015) (a three-stage annual competition, covering contract, tort and public law. The final took place in the Royal Courts of Justice before a bench of three, including the Hon Sir David Foskett).

Appointments:

Attorney General's Panel of Counsel (C Panel)

Equality and Human Rights Commission's Panel of Counsel (C Panel)

Professional Memberships:

ALBA, BEG, COMBAR, JUSTICE, Liberty

Directory Quotes

"She is really superb – a star of the future." "Emma is an experienced lawyer and has great judgement."
Chambers & Partners 2021

'Emma is extremely practical and solutions-focussed. She combines substantial expertise in competition and EU law with an ability to think laterally in order to find ways through difficult issues. She is indefatigably hard-working, and she is always a positive team member. Very popular with silks and

instructing solicitors alike.' Legal 500 2021

'An effective and efficient advocate, and a great asset to the team.' Legal 500 2021

'Calm, measured but fearless when necessary.' Legal 500 2021

'Diligent, detail-orientated and pragmatic.' Legal 500 2021