

## Emma Lindsay

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Emma is a partner in the international arbitration and public international law teams.

Emma leads the firm's international arbitration and public international law teams in the United States. Originally trained as a barrister in London, Emma has practiced international law in New York for more than fifteen years. She specializes in investor-state arbitration, international commercial arbitration and public international law. She represents corporations, governments, individuals and organizations around the world and across a wide range of industries, including energy, infrastructure, insurance, pharmaceuticals, technology, tourism, hospitality and financial services. She also appears in U.S. courts in international litigation matters involving the application of international law through the U.S. Constitution, the Alien Tort Claims Act, the Federal Arbitration Act and the Foreign Sovereign Immunities Act, among other sources. In addition to her work as counsel, Emma sits as an arbitrator. She is a member of the Roster of Arbitrators of the American Arbitration Association, the Panel of International Arbitrators of the Arbitration and Mediation Court of the Caribbean and the List of Arbitrators of the Hong Kong International Arbitration Centre.

Emma's experience spans disputes throughout the Americas, Africa, Asia, Europe and the Middle East. She is ranked in Who's Who Legal where she has been described as "a top advocate in international commercial and investment arbitration" and "a great public international lawyer" who "gives clients a great sense of security, that they are opting for the best available step as proceedings advance". Clients praise her "practical and creative strategies and deep substantive expertise" and say she is "versatile, pragmatic, solution-oriented and when she takes the floor she commands attention". She has been selected repeatedly as one of Latin America's Top 100 Female Lawyers by Latinvex for her practice involving the region. She regularly advises clients in connection with transactional matters, including investment risk mitigation, treaty protection planning and the drafting of dispute resolution clauses in international contracts.

As part of her international practice, Emma represents and advises states, corporations, individuals, international organizations and nongovernmental organizations on public international law matters including the negotiation, interpretation and application of treaties, sovereignty over territory, land and maritime boundaries, sanctions, state immunity, international investment law, international human rights law and the law of the sea. She has particular expertise in matters before the International Court of Justice.

Emma has an active pro bono practice encompassing representation and advice in matters at the state, federal, regional and international levels, including proceedings before the United States Supreme Court, the International Criminal Court, the European Court of Human Rights, the Extraordinary Chambers in the Courts of Cambodia (the Khmer Rouge Tribunal) and various United Nations bodies.

Prior to entering private practice, Emma served as a researcher at the British Institute of International & Comparative Law and as a law clerk to the Presiding Judge at the International Court of Justice. She has taught international arbitration and public international law to students at New York University School of Law, Columbia Law School and the New School University, among others. She publishes and speaks widely in the fields of international arbitration and public international law.

Emma holds an honors degree in law from Balliol College, University of Oxford and an LLM in international law from New York University School of Law, where she served as a graduate editor of the Journal of International Law and Politics.

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SECRETARY **LAURA GOSHEFF**

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### TRACK RECORD

Advising State on treaty obligations, including State-to-State arbitration proceedings.

Advising State on proceedings before International Court of Justice concerning human rights treaty.

Representing Asian investor in UNCITRAL arbitration against Sub-Saharan African State involving bilateral investment treaty claims related to free trade zone.

Advising coalition of 40 international and non-governmental organizations in advocacy with States and other stakeholders for development of new UN treaty for conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.

Advising State in relation to international aviation and sovereignty issues under public international law.

Defending Chinese company against claims for conversion and unjust enrichment totaling US\$3 billion.

Advising Ukrainian company on implications for LCIA arbitration in London of US bankruptcy proceedings involving respondent.

Advising partner on arbitration claims against partnership to reach favorable settlement without need to commence proceedings.

Advising international organization on submissions to UN Human Rights Committee in connection with universal periodic review of Malawi.

Advising on enforcement of UK judgment in United States.

Advising on investment treaty protection for US company's expansion of operations into Europe.

Representing media company seeking emergency relief in New York federal court in connection with claims subject to arbitration.

Advising on dispute resolution mechanisms to protect investments made through trust structure.

Advising Latin American State on drafting model bilateral investment treaty and negotiating bilateral investment treaty with another State.

Representing U.S. manufacturer and distributor of skincare products against Norwegian supplier in arbitration in London under JAMS.

Successfully defending African State against jurisdiction of ICC arbitration tribunal allegedly based on unsigned contract containing arbitration clause.

Representing U.S. hospitality company in AAA/ICDR arbitration concerning acquisition of restaurant chain from Japanese and U.S. sellers.

Representing Barbadian investor in ICSID arbitration against Bolivarian Republic of Venezuela involving claims under Barbados-Venezuela bilateral investment treaty with respect to expropriation of hotels and tourism-related assets.

Representing Panamanian corporation in AAA/ICDR arbitration involving rights to sale and use of entertainment technology throughout South America, Central America and the Caribbean.

Representing Japanese pharmaceutical company in ICC arbitration concerning price revision under long-term development and distribution agreement governed by Pennsylvania law.

Representing U.S. private equity firm in AAA/ICDR arbitration concerning contribution obligations under partnership agreement governed by Delaware law.

Representing Latin American State in bilateral investment treaty arbitration concerning electricity sector, conducted in New York pursuant to UNCITRAL Rules and administered by London Court of International Arbitration.

Representing Latin American State in investment treaty arbitration concerning electricity sector, conducted in New York under CAFTA-DR pursuant to UNCITRAL Rules and administered by Permanent Court of Arbitration.

Representing State-owned company in ICC arbitration concerning dispute with concessionaire under concession agreement.

Representing Japanese company in ICC arbitration in Singapore under share purchase agreement governed by Indian law.

Representing international insurer in ad hoc arbitration in London concerning coverage dispute with multinational pharmaceutical company.

Advising Chinese shipping company in respect of dispute with Brazilian counterparty involving intersection of arbitration law, contract law, maritime law and bankruptcy law in multiple jurisdictions.

Advising U.S. investor in respect of claims under NAFTA involving transportation sector.

Advising U.S. investors in respect of ICSID claims against Latin American State arising under bilateral investment treaty and involving oil and gas industry.

Advising Asian State in connection with territorial and maritime boundary disputes in South China Sea.

Advising U.S. financial institution on litigation and enforcement risks of multibillion dollar transaction with Latin American State and State-owned entity.

Serving as sole arbitrator in ICC arbitration under sales and purchase agreement.

Serving as arbitrator in ICC arbitration of intellectual property licensing dispute between Swedish, Canadian and U.S. parties.

Serving as arbitrator in ICC arbitration of dispute between U.S. supplier of turbomachinery used in the oil and gas industry and its Malaysian distributor.

Successfully opposing temporary restraining order and preliminary injunction sought against Irish corporate client in U.S. federal court, leading to immediate voluntary dismissal of all claims against client by opposing party.

Defending German individual in litigation in U.S. District Court for Southern District of New York and against appeal to U.S. Court of Appeals for the Second Circuit pursued by hedge funds seeking to recover losses on foreign stocks.

Representing U.K. individual in resisting motion to compel arbitration under U.S. Federal Arbitration Act.

Representing U.S. entity in matter arising in U.S. federal court concerning enforcement of an international arbitration award rendered in Switzerland.

Advising Venezuelan individual seeking discovery in aid of foreign litigation under 28 U.S.C. § 1782.

Advising U.S. individual in connection with investigation by and proceedings before magistrate judges in Paris for alleged insider trading.

Representing financial services company in arbitration under AAA Commercial Rules concerning dispute with former employees regarding share buyback.

Representing financial services company in JAMS mediation concerning dispute with former employees.

Representing private equity firm in arbitration under JAMS Arbitration Rules.

Representing licensee in JAMS mediation concerning dispute with licensor of proprietary enzyme technology.

Advising Clooney Foundation for Justice TrialWatch Program on legal and practical issues relating to trial observation and court monitoring

worldwide.

Representing Nuremberg scholars submitting amicus brief on Alien Tort Statute to United States Supreme Court in *Jesner v. Arab Bank*.

Representing international NGO in connection with litigation and legislative strategies to seek accountability for war crimes and crimes against humanity committed in mining and sale of "blood diamonds" from Sierra Leone.

Advising Zambian individual in connection with claims under International Covenant on Civil and Political Rights.

Advising Legal Representative of the Victims in *The Prosecutor v. Uhuru Kenyatta (Kenya Case 2)* at International Criminal Court on issues of international criminal law and procedure.

Representing Chinese national in individual complaint against The Netherlands before UN Committee on the Elimination of Discrimination Against Women.

Advising on legal claims and litigation strategy in cases before European Court of Human Rights, including challenge to conduct of Russian criminal court proceedings and to extraordinary rendition to CIA "black sites" in Europe and elsewhere.

Advising Office of the Co-Prosecutors at the Extraordinary Chambers in the Courts of Cambodia (the Khmer Rouge Tribunal) on international criminal law issues in connection with Case 002 against four surviving senior Khmer Rouge leaders.

Advising on challenges to jurisdiction of military commission constituted pursuant to Military Commissions Act brought by detainee at United States Naval Base at Guantánamo Bay, Cuba.

Advising Argentinean NGO on international and domestic prosecutions of war crimes and crimes against humanity.

Representing clients from Africa and Asia seeking asylum in the United States.

## ADMISSIONS

■ New York, 2004

■ England & Wales, 2002

## PUBLICATIONS

'Withers public international law team files pro bono amicus brief with US Supreme Court in case tackling human rights violations in the global chocolate industry.' Withers - November 25, 2020, co-author

'Seasteads: Self-Isolation For The Ultra Wealthy.' Billionaire - July 16, 2020, featured

'Human rights laws could be next frontier for climate court actions.' Bloomberg Law - March 24, 2020, co-author

'Will Brexit change who you are when it comes to protecting your assets overseas?' International Investment - 20 January 2020, co-author

'The Establishment of the Tribunal,' *The ICSID Convention, Regulations and Rules: A Practical Commentary* (Julien Fouret, Rémy Gerbay and Gloria Alvarez, editors), Elgar (2019), co-author

'Cooling-off periods under bilateral investment treaties provide an opportunity to resolve disputes amicably.' Withers Insight - October 24, 2018, author

'More Women Help Settle High-Stakes Overseas Arbitration Disputes.' Bloomberg Big Law Business - September 10, 2018, quoted

'Withers hires international arbitration specialist from rival firm.' eprivateclient - September 2018, featured

'Wake Up Call: Covington & Burling's Jon Kyl to Take McCain's Senate Seat.' Big Law Business - September 5, 2018, featured

'International Arbitration Partner Emma Lindsay Joins Withers in New York.' Citybizlist - September 4, 2018, featured

'Withers Lands Ex-Bryan Cave Arbitration Pro in NY.' Law360 - September 4, 2018, featured

'Bryan Cave Leighton Paisner Loses Arbitration Leader to Withers.' New York Law Journal - September 4, 2018, featured

'Disputes round-up: White & Case continues hiring drive with RBS litigation head as HSF partner appointed deputy High Court judge.' Legal Business - September 4, 2018, featured

'People Moves: Withers, Ardan International, Lombard Odier, Morgan Stanley, SJP, Brewin Dolphin, Bedell Cristin, LGIM.' International Investment - September 4, 2018, featured

'Withers snaps up former Bryan Cave team leader.' Global Arbitration Review - September 2, 2018, featured

Co-Author (with Maria Gritsenko), "Reflections on 'AfrICCA' in Mauritius," CDR (Commercial Dispute Resolution) News and African Law & Business (2016)

Co-Author (with Jovana Crnčević), "The continued journey for justice: the Kenyan victims' role in the case against President Kenyatta before the International Criminal Court," International Bar Association Pro Bono Committee News, Issue No. 4 (2016)

Co-Author (with Jovana Crnčević), "Pro bono pursuit of judicial review for Kenyan victims at the International Criminal Court," International Bar Association Pro Bono Committee News, Issue No. 3 (2015)

Co-Author (with Robert H. Smit), "Enforcement by U.S. Courts of International Arbitration Interim Orders and Awards under the New York Convention: Publicis Communication v. True North Communications Inc.," Post-Hearing Issues in International Arbitration (Devin Bray and Heather L. Bray, editors), Juris (2013)

Co-Author (with Robert H. Smit, Peter C. Thomas and Tyler B. Robinson), Comparison of International Arbitration Rules, Juris (2013)

Co-Author, Report on Legal Issues Involved in the Western Sahara Dispute: The Principle of Self-Determination, New York City Bar Association (2012)

Author, "The Arbitral Tribunal or the National Court - Who Decides Whether There Is an Agreement to Arbitrate?," New York Dispute Resolution Lawyer (2011)

Co-Author, Report on Legal Issues Involved in the Western Sahara Dispute: Use of Natural Resources, New York City Bar Association (2011)

Author, "Lysistrata, Women & War: International Law's Treatment of Women in Conflict and Post-Conflict Situations," Texas Wesleyan Law Review (2005)

## MEMBERSHIPS

- American Arbitration Association Roster of Arbitrators
  
- Arbitration and Mediation Court of the Caribbean Panel of International Arbitrators

■ Hong Kong International Arbitration Centre List of Arbitrators

■ Clooney Foundation for Justice Board of Directors

■ Synchronicity Earth USA Board of Directors

## TALKS

Speaker, The Fourteenth Annual Generations in Arbitration Conference Program, Welcoming Remarks - Hong Kong Week 2020, November 4, 2020

Panelist, The Duty of Good Faith in International Dispute Settlement, American Society of International Law Annual Meeting (2020)

Panelist, Discovery in aid of arbitration under 28 USC §1782, Who's Who Legal Future Leaders Arbitration Conference, Washington DC (2019)

Panelist, Effective Advocacy in International Arbitration, PLI International Arbitration Day, New York (2017)

Speaker, Roundtable on Women in International Arbitration, New York University School of Law, New York (2017)

Speaker, "Advising on JV Disputes Between U.S. and Asian Companies," 5th International Arbitration Summit for Korea and Japan, Seoul, South Korea (2016)

Panelist, "Skills That Make a Difference: What It Takes To Be Effective Counsel in International Arbitration/How to Get Your First Arbitrator Appointment," Young Arbitral Women Practitioners Conference, New York (2016)

Speaker, "The International Criminal Court: A Primer for U.S. Lawyers," Cyrus R. Vance Center for International Justice, New York (2016)

Panelist, "Victims' Search for Justice: International Criminal Tribunals and the Victims' Role," American Bar Association Section of International Law Spring Meeting, New York (2016)

Guest Lecturer, "Victim Participation at the International Criminal Court," The New School University, New York (2015)

## EDUCATION

New York University School of Law, LLM, International Legal Studies, 2003

Inns of Court School of Law, Bar Vocational Course, 2002

Oxford University, Balliol College, BA Hons, Jurisprudence, 2001

## LANGUAGES

ENGLISH

FRENCH

## DATES

JOINED: 2018

PARTNER: 2018

## RECOGNITION

2020 Whos Who Legal US Recognized Emma Lindsay

New York

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