

Emma Lindsay


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SECRETARY LAURA GOSHEFF

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Emma is a partner in the international arbitration and public international law teams and global pro bono practice leader.

Emma leads the firm's international arbitration and public international law teams in the United States and is the global pro bono practice leader. 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, the List of Arbitrators of the Hong Kong International Arbitration Centre and the Panel of Arbitrators of the Shanghai Arbitration Commission.

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*.

Track record

Mainland Chinese industrial conglomerate

Represented a mainland Chinese industrial conglomerate, Zhongshan Fucheng Industrial Investment Co. Ltd., on a billion-dollar treaty claim against the Federal Republic of Nigeria under the China-Nigeria bilateral investment treaty.

Treaty obligations

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

Human rights treaty

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

Free trade zone UNCITRAL arbitration

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

Marine biological diversity UN treaty

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.

Aviation and sovereignty issues

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

Conversion and unjust enrichment

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

LCIA arbitration of bankruptcy proceedings

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

Arbitration claims against partnership

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

Universal periodic review of Malawi

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

Enforcement of UK judgment in US

Advising on enforcement of UK judgment in United States.

Investment treaty protection

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

Media company seeking emergency relief

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

Dispute resolution mechanisms

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

Bilateral investment treaty

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

Skincare products manufacturer

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

Successfully defending African State against

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

US hospitality company AAA/ICDR arbitration

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

Barbadian investor ICSID arbitration

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.

Entertainment technology AAA/ICDR arbitration

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

Pharmaceutical company ICC arbitration

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

AAA/ICDR arbitration

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

Electricity sector investment treaty arbitration

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.

Electricity sector investment treaty 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.

ICC arbitration under concession agreement

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

ICC arbitration under share purchase agreement

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

International insurer

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

Chinese shipping 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.

Claims under NAFTA

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

ICSID claims against Latin America State

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

Territorial and maritime boundary disputes

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

Litigation and enforcement risks

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

ICC arbitration sales and purchase agreement

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

IP licensing dispute

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

ICC arbitration oil and gas industry

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.

Irish corporate client

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.

Recovering losses on foreign stocks

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.

Resisting motion to compel arbitration

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

US entity international arbitration award

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

Foreign litigation

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

Alleged insider trading

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

Share buyback arbitration

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

Financial services company JAMS mediation

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

Private equity firm JAMS arbitration

Representing private equity firm in arbitration under JAMS Arbitration Rules.

Licensee in JAMS mediation

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

Clooney Foundation for Justice TrialWatch Program

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

Nuremberg scholars

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

International NGO

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.

Civil and Political Rights International Covenant

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

International criminal law and procedure

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.

Elimination of Discrimination Against Women

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

European Court of Human Rights

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.

Khmer Rouge criminal law issues

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.

Military Commissions Act

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.

War crimes prosecutions

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

African and Asian asylum seekers

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

Talks

- *'Signature Topic: Cooperation & Compliance Via Int'l Law & Institutions: Challenges & Opportunities,'* 2023 ASIL Annual Meeting - March 29-April 1, 2023, panelist
- *'One Year at War: Prospects for Accountability for International Crimes Committed in Ukraine,'* Cornell University - March 21, 2023, speaker

- *'The New Age of Dispute Resolution: Digitization & Evolving Norms,'* United Nations Commission on International Trade Law (UNCITRAL) - February 13, 2023, speaker
- *'Developments in Dispute Resolution in the Digital Economy,'* United Nations Commission on International Trade Law (UNCITRAL) - February 8, 2023, speaker
- *'American Society of International Law New York,'* International Arbitration Center - November 15, 2021, panelist
- *'Enforcement of arbitral awards,'* GAR Live New York - October 7, 2021, panelist
- *'International Arbitration 2021,'* Practising Law Institute Program - June 22, 2021, speaker
- The Fourteenth Annual Generations in Arbitration Conference Program, Welcoming Remarks - Hong Kong Week 2020 - November 4, 2020, speaker
- *'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, panelist
- *'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, speaker
- *'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, panelist
- *'The International Criminal Court: A Primer for U.S. Lawyers,'* Cyrus R. Vance Center for International Justice, New York - 2016, speaker
- *'Victims' Search for Justice: International Criminal Tribunals and the Victims' Role,'* American Bar Association Section of International Law Spring Meeting, New York - 2016, panelist
- *'Victim Participation at the International Criminal Court,'* The New School University, New York - 2015, guest lecturer

External publications

- 'What To Watch for in the Credit Suisse Bond Lawsuits,' Law360 - May 26, 2023, quoted
- 'University of Oxford Alumni Magazine Feature: Emma Lindsay,' QUAD - May 18, 2023, quoted
- 'Chinese Co. Says Nigeria Is Directly Liable For \$70M Award,' Law360 - May 1, 2023, mentioned
- 'Full Disclosure,' Financial Times - April 27, 2023, mentioned
- 'Member Moves & News,' New York City Bar Association - April 24, 2023, mentioned
- 'Wake Up Call,' Bloomberg Law - April 21, 2023, mentioned
- 'Withers appoints first global pro bono practice leader,' New Law Journal - April 20, 2023, mentioned
- 'Attorneys 'On the Move',' New York Law Journal - April 20, 2023, mentioned
- 'Withers Appoints Emma Lindsay as First Global Pro Bono Practice Leader,' Attorney at Law Magazine - April 19, 2023, mentioned
- 'Withers Appoints 1st Global Pro Bono Practice Leader,' Law360 - April 19, 2023, quoted
- 'Nigeria Warns Of 'Serious Error' In \$70M Enforcement Fight,' Law360 - April 18, 2023, mentioned
- 'Nigeria Can't Dodge \$70M Award, Chinese Investment Co. Says,' Law360 - April 3, 2023, mentioned
- 'States reach landmark UN Treaty to protect marine biodiversity in the high seas,' Withers Insight - March 27, 2023, co-author
- 'Nigeria's sovereign immunity defence fails in DC,' Global Arbitration Review - January 30, 2023, mentioned
- 'Nigeria Denied Immunity In Chinese Co.'s \$70M Award Fight,' Law360 - January 27, 2023, mentioned
- 'Lesotho court voids arbitration clause in public contract,' Global Arbitration Review - November 14, 2022, mentioned
- 'Ukraine pushes for war claims commission,' Global Arbitration Review - October 10, 2022, mentioned
- 'Nigeria Says It Has Sovereign Immunity In \$68M Award Fight,' Law360 - July 13, 2022, mentioned
- 'Covington, Withers and Amal Clooney Team Up on Ukraine Legal Task Force,' Law.com International - April 1, 2022, quoted

'Withers Joins New Task Force On War Crimes In Ukraine,' Law360 - March 31, 2022, quoted

'Ukraine Government Taps Big Law Firms for War Crimes Task Force,' Bloomberg Law - March 31, 2022, quoted

'Chinese investor takes Nigeria award to DC,' Global Arbitration Review - January 26, 2022, mentioned

'Withers public international law team comments on the oral argument heard by United States Supreme Court in *Dobbs v. Jackson Women's Health Organization*,' Withers Insight - December 7, 2021, co-author

'Join us for GAR Live: New York,' Global Arbitration Review - October 1, 2021, mentioned

'Withers public international law team files pro bono amici brief with United States Supreme Court in landmark case challenging restrictions to reproductive health and abortion access,' Withers Insight - September 29, 2021, co-author

'Business and human rights update: Withers' amici brief in *Nestlé v. Doe*,' Withers Insights- July 12, 2021, co-author

'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 Insight - 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

'Reflections on 'AfrICCA' in Mauritius,' CDR (Commercial Dispute Resolution) News and African Law & Business - 2016, co-author

'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

'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

'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

'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, co-author

'*The Arbitral Tribunal or the National Court - Who Decides Whether There Is an Agreement to Arbitrate?*,' New York Dispute Resolution Lawyer - 2011, author

'*Report on Legal Issues Involved in the Western Sahara Dispute: Use of Natural Resources*,' New York City Bar Association - 2011, co-author

'*Lysistrata, Women & War: International Law's Treatment of Women in Conflict and Post-Conflict Situations*,' Texas Wesleyan Law Review - 2005, author

Admissions

New York, 2004

England & Wales, 2002

District of Columbia

U.S. Supreme Court

U.S. Court of Appeals for the Second Circuit

U.S. District Court for the Southern District of New York

U.S. District Court for the Eastern District of New York

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

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

Key dates

Year joined: 2018

Year became partner: 2018

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