

Mercy Milgo

Call: 2019



Clerk Details

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Practice Overview

Mercy Milgo acts as a specialist advocate in construction disputes, with a particular interest and expertise in fire safety/cladding, energy, and related professional negligence claims. She undertakes both domestic and international work in her own right and as Junior Counsel as part of wider legal teams.

Mercy regularly appears in Court, tribunals and adjudications. She has recently been instructed:

- in an ongoing c.£55 million multi-party TCC claim concerning alleged structural defects and involving applications for Building Liability Orders under sections 130 – 132 of the Building Safety Act 2022 (led by Simon Hughes KC);
- in a multi-million-euro international arbitration (ICC) five-week trial concerning the use of a pioneering anaerobic digestion technology at a waste-to-energy plant (led by Fionnuala McCredie KC and William Webb KC);
- as sole Counsel in a Remediation Order, Costs, and Case Management hearing in the First-tier Property Tribunal (Property Chamber), in an ongoing c. £3.3 million multi-party dispute regarding alleged structural, fire safety and water ingress defects in a residential development;

- as sole Counsel in a c. £5.5 million professional negligence adjudication concerning alleged fire safety (cladding, insulation, and cavity barrier) defects in a large student residential development (acting on behalf of the Responding Party architect); and
- as sole Counsel in the High Court (TCC) to seek the enforcement of a £1.3 million adjudicator's decision.

Mercy has experience with all common standard forms, including the JCT, NEC, FIDIC, as well as bespoke construction contracts and PFI agreements. She has a particular interest in NEC and is a contributing author of *Keating on NEC* (2nd edition). She is also a contributing author of *Keating on Construction Contracts*.

Mercy is a member of the Attorney General's Junior Counsel Scheme. She was involved in the UK Covid-19 Inquiry (Module 4) as part of the counsel team instructed by the UK Department of Health and Social Care.

Having grown up in Kenya, Mercy is also fluent in Swahili and is familiar with issues affecting the construction and energy industry in the EAC and the wider African region. She recently spoke at the 2025 Construction Law in Africa conference held in Johannesburg, South Africa.

In her practice, Mercy draws on her previous varied legal and non-legal experiences: as a secondee to the construction and engineering department of a leading regional law firm, as a marshal to Coulson LJ in the Court of Appeal, as a Legal Researcher and as the elected BCL course representative at the University of Oxford.

Practice Areas

Advocacy (recent hearings as sole Counsel)

- High Court (TCC) – represented the Claimant in opposing the Defendant/Part 20 Claimant's application for judgment in default on their counterclaim in a multi-party dispute concerning the enforcement of a personal guarantee.
- High Court (TCC) – represented the Claimant in seeking to enforce a £1.3 million adjudicator's decision.
- High Court (TCC) – represented the Claimant homeowners in obtaining an Unless Strike Out Order in a dispute concerning defective building works.
- Multi-track (2.5 days) trial (Bournemouth and Poole County Court) – represented the Defendant Developer in a dispute concerning the release of a retention sum due to the landlord pursuant to an agreement for lease.
- Multi-track one-day trial (Uxbridge County Court) – represented the Defendant Contractor in a dispute (involving four witnesses) regarding alleged defects in bathroom refurbishment works at a residential property.
- Application hearing (Bromley County Court) – represented the Respondents in opposing a pre-action application for a mandatory interim injunction in a dispute concerning ventilation systems installation and certification works.
- Application hearing (Northampton County Court) – represented the Defendant in making an application to set aside judgment entered in default of a defence in a dispute concerning the design and installation of a steel frame house and

garage.

- Application hearing (Weymouth County Court) – represented the Defendant/Applicant in an application for a stay of proceedings pursuant to s.9 of the Arbitration Act 1996. The underlying dispute concerned loft conversion works at a residential property.
- Costs and Case Management Hearings (First-tier Property Tribunal (Property Chamber)) – represented the Fourth Respondent in ongoing multi-party Remediation Order ("RO") and Remediation Contribution Order ("RCO") proceedings.
- Costs and Case Management Hearing (Reading County Court) – represented the Defendant Developer in an ongoing multi-track claim concerning alleged defective building works at a residential property
- Costs and Case Management Hearing (Newcastle Upon Tyne County Court) – represented the Defendant Developer in an ongoing multi-track claim concerning alleged defective building works at a residential property.
- Costs and Case Management Hearing (County Court at Central London) – represented the Claimant Contractor in an ongoing multi-track claim concerning defectively designed water supplies and sprinkler systems.

Adjudication (recent matters)

- Acted as sole Counsel (representing the Responding Party) in a £5.5 million fire safety (cladding, insulation, and cavity barriers) professional negligence adjudication against an architect.
- Acted as sole Counsel (representing the Responding Party) in a c. £686k professional negligence adjudication against an architect in a dispute concerning roofing works at a large meditation centre.
- Acted as sole Counsel (representing the Responding Party) in a smash and grab adjudication concerning invalidly issued payment certificates.
- Advised the Responding Party in a c. £260k adjudication on whether various matters raised by the Referring Party had merit, including the contractual effect of a failure to achieve phased handover dates.
- Advised the Referring Party in a true value adjudication on the prospects of the Responding Party's jurisdiction and natural justice defences.
- Drafted the Responding Party's submissions and witness statements in a c. £300k final account adjudication concerning renovation works at an upscale hotel.

Construction & Engineering (recent matters)

- Junior Counsel to Simon Hughes KC in an ongoing c.£55 million multi-party TCC claim concerning alleged structural defects and involving applications for Building Liability Orders under sections 130 – 132 of the Building Safety Act 2022.
- Junior Counsel to Thomas Lazur in an ongoing c.£5.6 million claim regarding alleged fire safety defects at a student accommodation development.
- Junior Counsel to Paul Bury in ongoing c.£3.3 million Remediation Contribution Order proceedings in the First-tier Property Tribunal (Property Chamber) regarding alleged fire safety and structural defects.

- Junior Counsel to Jonathan Selby KC in a c.£9.8 million multi-party fire safety dispute concerning allegedly defective cladding and insulation design and build works.
- Junior Counsel to Simon Hughes KC in a multi-party fire safety (cladding, insulation and cavity barriers) dispute concerning matters of principle arising from *Martlet Homes Limited v Mulalley & Co. Limited* [2022] EWHC 1813 (TCC) (the first fire-safety cladding case to be tried in the TCC since the Grenfell Tower), the Developer Remediation Contract and the use of PAS 9980:2022.
- Junior Counsel to Paul Bury in a multiparty dispute regarding defective drainage systems at a large residential development.
- Drafted Particulars of Claim as sole Counsel on behalf of a residential property developer in a c.£581k claim against an M&E sub-contractor in relation to defective mechanical, plumbing and heating works at a retirement home development.
- Drafted Particulars of Claim as sole Counsel on behalf of homeowners in a c.£470k claim against a contractor and structural engineer. This concerned extensive structural engineering defects at a residential property.
- Drafted Particulars of Claim, Reply and the Defence to Counterclaim as sole Counsel in a c.£200k contractual debt claim concerning the hire of scaffolding equipment and enforcement of personal guarantees.
- Drafted Particulars of Claim and the Reply as sole Counsel in a c.£117k claim relating to defective design of flow rates and connection of water supplies and sprinkler systems.
- Drafted Defences as sole Counsel on behalf of a large property developer in several ongoing c. £100k disputes with homeowners.
- Drafted a Defence and Counterclaim as sole Counsel on behalf of the defendant employer in a dispute concerning defective decking works.
- Drafted Particulars of Claim as sole Counsel on behalf of the claimant owner of underground ducts in a dispute relating to the New Roads and Street Works Act 1991 (previously known as the Public Utilities Street Works Act (PUSWA)) and the Water Industry Act 1991.
- Drafted a Letter of Response as sole Counsel on behalf of a Quantity Surveyor in a fire safety dispute concerning the status and effect of an EWS1 form.
- Advised an employer school trust as sole Counsel regarding its limitation dispute with a contractor claiming for the release of the final retention under an amended JCT Standard Building Contract With Quantities (2005 edition) on a project completed in sections.
- Advised a large property developer as sole Counsel on the merits of a defects claim against it and on the validity of a Part 36 offer.
- Advised a sub-contractor as sole Counsel on its entitlement to suspend works for non-payment under an amended JCT DB Sub-Contract and on the operation of the contractual payment and notice mechanism.
- Advised a subcontractor as sole Counsel on the contractual status of handover dates in the Subcontract programme and on the contractor's entitlement to liquidated damages.

- Advised a public body as sole Counsel on the contract sum analysis in JCT contracts in a matter concerning the contractors' expenditure on research and development.
- Advised a local authority as sole Counsel on the extent of its duties under s.91 of the Building Act 1984 in respect of a development with significant fire safety defects and incomplete works following a wrongly issued Final Certificate by a private Approved Inspector.
- Advised a subcontractor as sole Counsel on the effect of negative payment certificates in a bespoke contract.
- Advised a contractor as sole Counsel in a dispute with a large electricity Distribution Network Operator (DNO) concerning the disconnection process under the provisions of the Electricity Act 1989.

Insurance (recent matters)

- Drafted the pleadings as sole Counsel on behalf of the claimant insurer in a subrogated (TCC High Court) claim against a structural engineer in a dispute regarding defective roofing works necessitating remedial works costing c. £1 million.
- Advised underwriters of a premier guarantee for a social housing policy in relation to whether the policy covered waking watch/fire wardens and fire alarms costs incurred in respect of remedial works undertaken to rectify cladding defects in a residential building.
- Advised a design-build contractor as sole Counsel in a dispute with its (professional liability) insurer on the proper interpretation of an exclusion clause in the policy.
- Drafted a Letter of Response on behalf of the potential defendant insurer in a claim made by a developer under a Housing Warranty insurance policy. The underlying dispute concerned extensive fire safety defects.

International Arbitration (recent matters)

- Junior Counsel in a multi-million-euro international arbitration (ICC rules) concerning the use of a pioneering anaerobic digestion technology at a waste-to-energy plant.
- Junior Counsel in an international arbitration (ICC rules) case concerning a defective works and invalid notices dispute in respect of a large oil and gas project in Kuwait, the Middle East.

Planning (enforcement)

- Drafted the pleadings as sole Counsel in a dispute concerning the status of a community hall adjacent to a Grade II listed building.

Public Procurement

- Advised a parent company and its subsidiaries on whether they were public bodies within the meaning of the Public Contracts Regulations 2015.
- Assisted in a case involving the Energy Savings Opportunity Scheme Regulations 2014.

Other information

Education & Professional Career

Professional Career

- Tenant, Keating Chambers, 2023
- Pupil, Keating Chambers, 2022-2023
- Legal Researcher, Keating Chambers, 2021-2022

Education

- Bachelor of Civil Law, St Peter's College, University of Oxford 2021
- LLM/BPTC, City Law School, 2020
- Called to the Bar, Middle Temple, 2019
- Law LLB Honours, University of Westminster (ranked 1st in year), 2018

Additional Information

Mercy is a keen follower of Formula 1.

Appointments & Awards

- TECBAR Executive Committee, 2025
- COMBAR Africa Committee, 2025
- Oxford Law Faculty scholar, University of Oxford, 2020
- Academic merit scholar, City Law School, 2018
- Academic Excellence scholar, University of Westminster, 2016-2018
- Geoffrey Reeday Law Prize for Best Grade in Tort, University of Westminster, 2016
- Full International Academic Merit Scholar, University of Westminster 2015

Memberships

- Technology & Construction Bar Association (TECBAR)
- Society of Construction Law (SCL)
- Commercial Bar Association (COMBAR)
- Member of the Attorney General's Junior Counsel Scheme

News, Seminars & Publications

- Mercy Milgo presented with a red bag by Fionnuala McCredie KC and William Webb KC:
<https://www.linkedin.com/feed/update/urn:li:activity:7346913464839266304>
- Mercy Milgo elected to the TECBAR Executive Committee: <https://www.keatingchambers.com/resources/news/alexandra-bodnar-and-mercy-milgo-appointed-to-the-tecbar-executive-committee>
- Keating Chambers Energy Masterclass 2026 – Mercy Milgo speaking on ‘collateral warranties in the context of Energy from Waste projects’: <https://www.keatingchambers.com/resources/articles-and-publications/keating-chambers-energy-masterclass-2026-session-summaries>
- Construction Law in Africa Conference 2025 – Mercy Milgo speaking on ‘how existing dispute resolution processes can evolve to meet the needs of tomorrow’s infrastructure projects’:
<https://www.keatingchambers.com/resources/events/construction-law-in-africa-conference-2025>
- Keating Chambers Building Safety Act Symposium 2025 – Mercy Milgo speaking on ‘Remediation Contribution Orders and Remediation Orders’: <https://www.keatingchambers.com/resources/articles-and-publications/keating-chambers-bsa-symposium-2025>
- TECBAR Review Summer 2025 edition – Mercy Milgo writing on ‘Mandatory ADR: *Churchill v Merthyr Tydfil* and the new amendments to the Civil Procedure Rules’: https://www.linkedin.com/posts/tecbar_tecbar-review-tecbar-activity-7340309668667289600- O1Eh
- Keating Construction Conference 2025 - Mercy Milgo speaking on the 'Resolution of Construction & Engineering Disputes - What Works Best? (Adjudication, TCC, Arbitration and ADR) panel:
<https://www.linkedin.com/feed/update/urn:li:activity:7307455431734394880>
- WCA symposium on “Arbitration & ADR – your role”, Mercy Milgo speaking on the impact of *Churchill v Merthyr* 2024 on the ADR landscape: https://www.linkedin.com/posts/keating-chambers_thank-you-to-all-the-panellists-and-attendees-activity7270408905787162624-Fwpl
- Mercy Milgo speaking on a panel session on ethics and governance in Africa’s construction sector at the Africa Construction Law Conference 2024: <https://www.linkedin.com/feed/update/urn:li:activity:7187113837408473088>
- Mercy Milgo is a contributor to the Law Brief Update monthly newsletters (Construction cases):
<https://www.lawbriefupdate.com/contributors/>
- Milgo, M. C., (2021) “The Case for Express Compulsory Mediation in England and Wales”, *Journal of Law and Jurisprudence* 10(1), 1-23. doi:
https://www.researchgate.net/publication/357607946_The_Case_for_Express_Compulsory_Mediation_in_England_and_Wales