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**KEATING**  
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## Emma Healiss

Call: 2014

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### Areas of practice

- Construction, Engineering & Energy
- International Arbitration
- Adjudication
- Insurance
- Commercial
- Professional Negligence
- PFI

### Clerks' Details

#### Will Shrubsall

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#### Rosina Thomas

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### Practice overview

Emma Healiss specialises in domestic and international construction, energy and professional negligence disputes. She is described as an “exceptional” and “first-class” barrister.

Emma is ranked by Legal 500 and Chambers & Partners in construction, energy and professional negligence. She is recommended as an “extremely proactive” barrister with an “easy personable style” who “has an exceptional commercial stance and provides commercial focused and innovative advice to clients”. Emma is also commended for her advocacy skills and is praised for cross examining “to the level of a barrister far more senior than her”. Emma’s excellence in advocacy was recognised by her appointment to the Attorney General’s C Panel in 2021.

Emma has developed a strong domestic and international practice. Of late, she has worked on a number of cases involving fire safety issues, including Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others, the only construction case to feature in The Lawyer’s Top 20 Cases of 2022, and Emma acted as junior counsel to bereaved families, survivors and former residents in the Grenfell Tower Inquiry. Emma has also been led in a number of substantial arbitrations involving projects in Africa, the Middle East, Kazakhstan, the UK and Ireland.

Emma is also frequently instructed as sole counsel in TCC trials, adjudication proceedings and other matters. Recent examples of Emma's reported cases include *Mallino Developments Ltd v Essex Demolition Contractors Ltd* [2022] EWHC 1418 (TCC), a TCC trial in which Emma represented the successful defendant, and *Croda Europe Limited v Optimus Services Ltd* [2021] EWHC 332 (TCC), adjudication enforcement proceedings concerning the proper interpretation of NEC3 adjudication provisions.

Emma is a contributor to *Keating on Construction Contracts* and *Keating on Offshore Construction and Marine Engineering*.

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## Recent Cases

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### Construction, Engineering & Energy

Emma has a depth of experience in construction disputes. Recent work includes:

- Acting as junior counsel to bereaved families, survivors and former residents in the Grenfell Tower Inquiry.
- Representing Lendlease in *Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others*, the only construction case to feature in *The Lawyer's Top 20 Cases of 2022*.
- Acting as junior counsel to Sarah Hannaford KC in a substantial multi-party TCC dispute concerning a defective car park.
- Acting as sole counsel in *Croda Europe Limited v Optimus Services Ltd* [2021] EWHC 332 (TCC), which concerned the application of the slip rule and the proper interpretation of NEC3 adjudication provisions.
- Counsel for the successful defendants in *Indigo Projects London Ltd v Razin & Anor* [2019] EWHC 1205 (TCC), which concerned the enforcement of an adjudicator's decision where the enforcing party was in a company voluntary arrangement (CVA).
- Acting as junior counsel to Simon Hughes KC for a large Italian energy contractor against a Lebanese subcontractor in a €246 million dispute concerning welding defects in an Algerian pipeline.
- Acting as junior counsel to Marcus Taverner KC in a dispute concerning the delayed construction of a skyscraper in the Middle East.
- Acting for a local authority in a PFI dispute in the energy sector in which the contract value over the PFI term was over £4bn and the dispute value was over £500m. The case principally concerned the authority's right to terminate the contract for contractor default. Further issues that arose over the course of the dispute included the interrelationship between works delivery plans and service delivery plans, failures to report upon performance failures, the proper operation of the paymech, the accrual of performance points, the legal status and effect of completion and acceptance certificates, whether multiple bases for termination could be relied upon by the authority and allegations of promissory estoppel.
- Acting as junior counsel for a fabrication contractor in a dispute relating to the final account for various oil and gas production platforms in the North Sea.
- Advising on disputes arising out of the Merseylink project.
- Advising on a series of payment disputes arising out of a PFI waste management contract in the north of England.
- Regularly acting for the National House Building Council (NHBC), the market leading insurer of new and refurbished residential properties in the UK, in relation to claims against builders, developers and personal guarantors.
- Advising on limitation on a claim concerning latent defects in the construction of an inner-city bridge.
- Representing a scaffolding contractor in a final account dispute.

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*“A first-class barrister with an unrivalled ability to review, comprehend and advise on complex points of law within tight timescales.”*

Construction, Chambers UK Bar 2022

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### International Arbitration

Emma is regularly instructed as junior counsel on large-scale international arbitration disputes. Recent highlights include:

- Acting as junior counsel to David Thomas KC for an oil and gas major in relation to the expansion of a supergiant oil field.
- Acting as junior counsel to Simon Hughes KC for a large Italian energy contractor against a Lebanese subcontractor in a €246 million dispute concerning welding defects in an Algerian pipeline.
- Acting as junior counsel to Marcus Taverner KC in a dispute concerning the delayed construction of a skyscraper in the Middle East.

### Procurement

Emma regularly appears as junior counsel in substantial procurement disputes. Recent highlights include:

- Acting as junior counsel to Sarah Hannaford KC for the Defendant in *Cemex v Network Rail* [2017] EWHC 2392, following which the Claimant discontinued its claim.
- Acting as junior counsel to Sarah Hannaford KC for the Claimant in *Alstom v London Underground Ltd* [2017] EWHC 1584, *Alstom v London Underground Ltd* [2017] EWHC 1406 and *Alstom v London Underground Ltd* [2017] EWHC 1521 which concerned a tender for the supply of a new traction system on the Central Line.
- Acting for Interoute Communication Limited, the operator of Europe’s largest network, in a dispute with a water provider concerning a tender for the provision of IT support and management services.

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*“Does well when up against significantly more senior barristers and adapts to unexpected arguments with innovation.”*

Procurement, Chambers UK Bar 2021

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### Adjudication

Recent highlights include:

- Acting as sole counsel in *Croda Europe Limited v Optimus Services Ltd* [2021] EWHC 332 (TCC), which concerned the application of the slip rule and the proper interpretation of NEC3 adjudication provisions.
- Counsel for the successful defendants in *Indigo Projects London Ltd v Razin & Anor* [2019] EWHC 1205 (TCC), which concerned the enforcement of an adjudicator’s decision where the enforcing party was in a company voluntary arrangement (CVA).

- Acting as junior counsel in a multi-million pound adjudication concerning defective fire protection measures and combustible insulation materials.
- Drafting the Response, Rejoinder and Response to Surrejoinder in adjudication proceedings concerning a final account valuation and claims of incomplete and defective groundworks.
- Drafting the Referral in an adjudication concerning a payment dispute arising out of a contract for the design, construction, commissioning and testing of an energy-from-waste plant.
- Advising on a payment dispute concerning the payment provisions of the Housing Grants, Construction and Regeneration Act 1996.
- Acting for a homeowner in successive adjudications concerning defects and delay.
- Acting for a waste contractor in a series of payment disputes arising out of a PFI waste management contract in the north of England.
- Assisting in a case regarding resisting enforcement of an adjudicator's decision via concurrent Part 8 proceedings.

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*“Emma is a terrific junior who is able to think on her feet and cut through the complex issues easily.”*

**Rising Star, Energy, Legal 500 2022**

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### **Insurance**

Emma regularly acts for the National House Building Council (NHBC), the market leading insurer of new and refurbished residential properties in the UK, in relation to claims against builders, developers and personal guarantors.

Other recent highlights include:

- Acting on behalf of the Claimant in TCC High Court proceedings against an insurer in a claim for £1.8m concerning subsidence at properties in Brixton.
- Acting on behalf of a major insurer against a contractor that failed in its obligations to rectify defects under an insurance policy.
- Acting for the defendant insurer in a claim brought by a homeowner for an alleged failure to remedy defects in a property as required by the terms of the insurance policy.
- Advising on a claim against an insurer under the Third Parties (Rights against Insurers) Act 1930 relating to demolition and asbestos removal works.

### **Commercial**

Building on her experience in the construction, engineering, energy and procurement sectors, Emma's practice also includes other areas of commercial work. Recent examples include:

- Acting as junior counsel to Sarah Hannaford KC for a NHS Trust in a claim concerning termination and non-payment of contractual sums.
- Advising on the prospects of successfully pursuing a winding-up petition in the case of a potentially disputed debt.
- Acting on behalf of a major contractor who had overpaid an employee following the termination of the employee's contract of employment.
- Acting for the claimant in a claim relating to a partner's entitlement to a profit share following retirement from the partnership.

## Professional Negligence

Recent highlights include:

- Representing Lendlease in Northumbria Healthcare NHS Foundation Trust v Lendlease Construction (Europe) Ltd & Others (the only construction case to feature in The Lawyer's Top 20 Cases of 2022) which concerns professional negligence allegations against an architect.
- Acting on behalf of a party wall surveyor in defence of a professional negligence claim relating to a luxury residential development.
- Acting on behalf of a firm of structural engineers in defence of a professional negligence claim relating to a supermarket car park.
- Advising a purchaser of property in a claim against an approved building control inspector.
- Assisting in drafting the defence in a claim regarding defects in a home extension. The dispute concerned the scope of the architect's obligations and whether the defects were design or workmanship issues.
- Assisting in a claim against an architect and a design and build contractor in a negligence claim relating to the design and construction of external paving.
- Assisting in a claim relating to the defective design and construction of an offshore windfarm.

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*“A rising star - exceptionally methodical, dedicated and cuts through the complex and often opaque issues in a claim with ease, with innovative solutions and commercial advice for the client.”*

Professional Negligence, Legal 500 2023

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## Education & Professional Career

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MA in Law, St Catharine's College, Cambridge	2010 – 2013
Manchester Metropolitan University, Bar Professional Training Course	2013 – 2014
Called to the Bar, Inner Temple	2014
Pupil, Keating Chambers	2015 – 2016
Tenant, Keating Chambers	2016

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## Seminars & Publications

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### Books:

Keating on Construction Contracts, 11th Edition.

Keating on Offshore Construction and Marine Engineering Contracts, 2nd Edition.

### Articles:

Bresco v Lonsdale: unanswered questions

[Transfer of proceedings within England and Wales: is it time to take a fresh look at jurisdiction clauses?](#) KC Legal Update, June 2018 (co-authored with Jonathan Selby KC)

[Ignore the procurement dispute timetable at your peril](#), Practical Law, Oct 2017

[You can recover \(some of\) a claims consultant's costs \(some of the time\)](#), Practical Law, Dec 2016

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## Awards & Scholarships

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Runner up, Rosie Choueka Memorial Procurement Essay Prize	2016
BPTC prize, highest mark in Advanced Civil Practice	2014
Gooderson Award, St Catharine's College, Cambridge	2013

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## Languages

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French (conversational)

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## Additional Information

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Emma enjoys playing netball as part of the Keating Chambers team.