

Landmark Chambers

Barrister CV

Evie Barden



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Evie Barden

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Evie's experience spans the range of property disputes, with a particular focus on commercial and agricultural property disputes as well as cases regarding security interests and co-ownership of land. She frequently appears in the High Court and County Court.



Expertise

Property, Rating and Valuation

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Property

Evie is ranked as up and coming in Chambers and Partners 2023 edition.

She has a diverse property practice. In 2022, she was: junior counsel for the successful Claimant in the, now leading, constructive trusts and unjust enrichment decision in **Fattal v Fattal** [2022] EWHC 950 (Ch); sole counsel in **Kirby v Electricity North West Ltd** [2023] EWHC 75 (TCC), a case regarding the valuation of loss following damage to agricultural land; and junior counsel in the High Court challenge to an expert determination of service charges in **Pearson plc v Shell International Trading & Shipping Co Ltd**.

She has a broad advisory practice. Recent highlights include: the interplay of ground (f) in the Landlord and Tenant Act 1954 and rights under trusts; potential action and liability by a landlord for pollution of watercourse by an insolvent tenant; whether

receivers of multi-million pound residential property were bound by certain tenancies; the impact of the sanctions regime on a tenant's leasehold obligations; a co-ownership dispute arising following the breakdown of an alleged business partnership; and, the valuation approach to mooring rights under a licence.

Evie has considerable trial experience, particularly in cases under the Landlord and Tenant Act 1954 and cases involving security interests. In 2022 and 2023, she was instructed at trial: on a claim involving undue influence in the grant of a mortgage; on a claim where borrowers alleged mutual mistake in the grant of a mortgage; on a ground (g) case for a tenant under the 1954 Act; on a rent and interim rent under the 1954 Act regarding the impact of the COVID-19 pandemic; on a constructive and resulting trust claim; on a claim regarding the existence of an agricultural tenancy and the quantification of the tenant's lost crops; and on a

From an insolvency and company law perspective, in recent years she has advised on a number of cases regarding the impact of the insolvency of developers, particularly for off-plan purchasers and she regularly acts on cases involving dissolved companies, such as in connection with the Scarborough Group litigation against Bank of Scotland, where she (along with James Ayliffe KC) obtained orders appointing receivers over causes of action so that proceedings could be commenced prior to the restoration of the prospective claimants. She also routinely advises administrators and landlords on claims for permission to forfeit in administration and claims to pay rent and other sums as expenses of the administration.

Evie is a contributor to the third edition of Gough on Companies Charges.

Her notable experience includes:

- Advising on a number of COVID-19 related cases, including those relating to the enforceability of covenants during the period, frustration of leases, and recovery of rent and other arrears in light of various moratoria.
- Acting for the Chief Land Registrar in ***Longe v Chief Land Registrar*** [2020] EWHC 1517 (Ch), a successful application for summary judgment against a claim for *Norwich Pharmacal* relief and/or that the Land Registry had been involved in an unlawful means conspiracy and collusion.
- Acting for the successful respondent in ***Dao v Falmouth House Ltd*** [2020] EWHC 609 (Ch), an appeal against a master's decision striking out a claim under the Arbitration Act 1996 on the basis that the claim form had been served out of time and the test in CPR r.7.6(3) had not been met.
- Representing the freeholder of a central London block of flats on a number of claims including in a three day trial in the First-tier Tribunal (Property Chamber) and on an appeal to the Upper Tribunal.
- Advising and drafting proceedings for the landlord of a shopping centre against a supermarket regarding the construction of service charge provisions in the lease of the supermarket's unit.
- Acting for a bank in relation to a number of mortgage possession proceedings, including in respect of a number of forthcoming claims involving undue influence allegations and issues about subrogation and equitable charges.
- Along with Zia Bhaloo KC, acting as junior counsel for the claimant in a claim for declarations and an account into the sums due to the claimant in respect of rent, estimated to be between £9 million and £11 million, arising out of several hundred residential properties which the claimant supplied to a local housing authority pursuant to oral agreements.
- Along with Zia Bhaloo KC, acting as junior counsel for a tenant in a claim for declarations and an injunction restraining construction works at a shopping centre being carried out in derogation from grant and/or in breach of lease which the tenant

estimated would cause multi-million pound losses as well as reputational damage.

- Acting for a landlord at all stages, including successfully at trial, in a claim for possession of a Kensington mews house following forfeiture, in which the tenant alleged fraudulent misrepresentation and deceit.
- Acting for a foreign state in respect of an application for relief from forfeiture of a commercial property in central London.
- Advising and drafting proceedings for injunctive relief in respect of trespass and breaches of the Party Wall etc. Act 1996. Acting for a number of property development companies in obtaining various orders for possession of development properties in London occupied by trespassers.
- Drafting proceedings and appearing at trial for a licensee of agricultural premises in relation to a claim that the license had been frustrated.

Evie is a contributor to the forthcoming edition of Gough on Company Charges. She is an expert on the dissolution of companies, regularly advising on issues and appearing in applications relating to dissolution and restoration of companies.

Her recent experience includes:

- Regularly appearing on applications to suspend the dissolution of companies following the release of the liquidator in CVL, including in relation to putative group action proceedings in the High Court arising out of solicitors' negligence relating to property fraud.
- Regularly advising and appearing on applications arising out of the registration of company charges. Advising on the obligations of company directors for the purposes of proceedings in the Beth Din.
- Advising on a prospective unfair prejudice petition where a director in a quasi-partnership was accused of stealing the company's confidential information.
- Advising a company director on the consequences of potential breaches of permission from the court to act as a director while disqualified.

Commercial Landlord and Tenant

Evie is regularly instructed on a variety of commercial landlord and tenant cases, particularly forfeiture cases, those involving the Landlord and Tenant Act 1954, and those with an insolvency element.

Her recent experience includes:

- Advising in relation to the impact of sanctions on a tenant's liabilities under a lease.
- Advising on the application of ground (f) in an application where a beneficiary's occupation was relied upon.
- Advising on the potential waiver of a right to forfeit by the landlord of a shopping centre.
- Acting for the tenant at trial on a ground (g) opposition by their landlord.
- Acting for the tenant on an unopposed lease renewal at the trial of the determination of interim rent during the COVID-19 pandemic.
- Advising a landed estate on the recovery of rent from an insolvency company and a deceased guarantor.

- Advising a university about its repairing obligations and restrictions on alienation.
- Advising on and acting for a landlord on a winding up application of hospitality tenant incorporated outside of England and Wales.
- Along with Zia Bhaloo KC, acting as junior counsel for a tenant in a claim for declarations and an injunction restraining construction works at a shopping centre being carried out in derogation from grant and/or in breach of lease which the tenant estimated would cause multi-million pound losses as well as reputational damage.

Insolvency

Evie regularly acts on a variety of insolvency and restructuring cases: she is instructed at all stages from advising on enforcement options, to acting for companies and creditors in seeking bankruptcy, winding up and administration orders, as well as during insolvency proceedings, where she regularly acts on a variety of claims and applications including being frequently instructed in misfeasance and transaction avoidance cases.

Evie has particular expertise of cases involving insolvent tenants, whether they be in a company voluntary arrangement, administration, liquidation or bankrupt. She also has considerable experience in rating cases where there are insolvency issues.

Her notable experience includes:

- Acting for a landlord in a challenge to a high street retailer's CVA on the grounds that it is unfairly prejudicial.
- Representing the Secretary of State, including at trial, in seeking disqualification of a director, on the grounds that the company had been involved in MTIC fraud.
- Appearing for the successful local authority in ***Agba v Luton BC*** [2020] 2008 (Admin), which is the leading authority on the question of whether a bankrupt has standing to challenge liability orders.
- Acting for trustees of a bankruptcy in a claim for possession of a property held on trust which is alleged to be a sham, including at the two day trial of the trustees' application.
- Appearing for the respondent in an appeal concerning the application of Hong Kong law to an application to set aside a statutory demand.
- Appearing for the liquidator in ***Re Cre8atsea Ltd*** [2016] EWHC 2522 (Ch), the leading case on applications for extensions of time in relation to rescissions of winding up orders.
- Acting for the liquidators of Tiuta International Limited in relation to an application to set aside a statutory demand for liabilities under a personal guarantee in the High Court and the subsequent enforcement of a costs award for the liquidators.
- Advising several hundred off-plan purchasers in relation to the impact of the potential compulsory liquidation of the developer as well as their rights in such an event and property law remedies.
- Advising a landlord on the potential opposition to the appointment of liquidators by deemed consent, as well as the consequences of CVL on a rent deposit and disclaimer.
- Appearing for a qualifying floating charge holder on an urgent application for a retrospective administration order in circumstances where a prior appointment of administrators out of court was called into question.

Mortgages, Charges, Charging Orders and Securitisation

Evie routinely acts for banks in mortgage possession proceedings, particularly in cases involving allegations of undue influence by borrowers. She also regularly acts for receivers in claims. She has recently:

- Acted at trial on a claim where the borrowers alleged mutual mistake as to the extent of the charge, and various breaches of contract and/or duty by the lender.
- Acting for receivers on claims where occupiers alleged they had been granted tenancies which bound the receivers and which appeared to be fabricated.
- Advising receivers on vacant possession strategies.
- Advising for a bank in relation to the enforcement of liabilities under several guarantees of company liabilities and the validity of demand notices.

Rating and Valuation

Evie has a busy and growing Rating and Valuation practice.

Recent highlights include:

- Appearing for the successful respondent in ***Agba v Luton Borough Council*** [2020] EWHC 2008 (Admin) and [2020] EWHC 1160 (Admin), on when a bankrupt has standing to challenge liability orders.
- Acting for the Valuation Office Agency in an appeal from the VTE concerning the correct valuation method for a private health care clinic.
- Acting for the VOA in an appeal concerning the application of ***Newbiggin (Valuation Officer) v S J & J Monk*** [2017] UKSC 14 during a period of works to a warehouse.

Qualifications

- New College, Oxford (BA, English, First Class)
- Kaplan Law School (GDL, Distinction; BPTC, Outstanding)

Recommendations

"Evie is very sharp, very good on her feet and very user-friendly."

Real Estate Litigation, Chambers and Partners, 2024

"Evie is clear, concise and commercial. She cuts right to the crux of an issue and always provides strategic and pragmatic recommendations to complement her legal analysis. She is a hit with clients in conference."

Property Litigation, Legal 500, 2024

"Evie is very approachable and has a collaborative communication style. She picks up on points that are not so obvious."

Real Estate Litigation, Chambers and Partners, 2023

"With a tremendous ability to simplify and streamline the most complicated and unwieldy of issues, Evie's specialism in property-related insolvency work separates her from her peers. With her easy and collaborative approach with solicitors, she shows great potential and is undoubtedly a go-to junior for property litigation work."

Property Litigation, Legal 500, 2023

"She is excellent all round. She is prompt, commercial and provides detailed and insightful advice." "Recently she has advised on some unusual legal practices and provided very clear and sensible advice and solutions." "I am never afraid to put her advice in front of clients. She is very professional and client-friendly."

Real Estate Litigation, Chambers and Partners, 2022

"Thorough with great attention to detail but also sets out advice in a clear and digestible way. Approachable and commercially minded."

Property Litigation, Legal 500, 2022

Cases and inquiries

22 02 23	Holly Walk Developments Limited v Livingstone and Livingstone
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20 01 23	Kirby v Electricity North West Limited [2023] EWHC 75 (TCC)
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01 01 23	E-type Fabs Limited and Braveheart Capital Limited v Dmyterko
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22 04 22	William Simon Fattal v Elias Simon Fattal [2022] EWHC 950 (Ch)
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