Falcon Chambers

Elizabeth Fitzgerald

Called 2001



Practice Summary

Elizabeth specialises in commercial property litigation and, in particular, disputes relating to development land, including matters concerning **restrictive covenants** and **easements**, **overage disputes**, **option agreements**, and **collaboration and joint venture disputes**.

Elizabeth is regularly asked to act as a legal assessor in relation to such matters.

She has a specialist practice in **rights to light** disputes, both at the litigation stage and the advisory stage. However, her expertise extends to all aspects of real property law and commercial landlord and tenant law, including **rent review** and **high value commercial dilapidations claims**. Her practice also includes **insolvency** and **professional negligence** disputes.

Education

- St. Edwards College, Liverpool. Boraston Scholar
- Kings College, London. LLB (Hons) - First Class.

Professional

- Elected as Governing Bencher of Inner Temple
- Inns of Court School of Law - Very Competent
- Inner Temple BVC Scholarship
- Represented the Inner Temple at Princeton University Debating Competition 2001
- Member of the Chancery Bar Association, the Property Bar Association and the London Commercial Law and Commercial Bar Association.

Recent Cases

- **CBRS Estates Ltd v Foreman Homes Ltd** [2025] EWHC 3038 (Ch). A vendor purchase summons

under s.49(1) of the Law of Property Act 1925 relating to an agreement entered into to bring to an end a collaboration agreement relating to residential-led development land.

- **Macdonald Hotels Ltd & Anor v Bank of Scotland PLC (Rev1)** [2025] EWHC 32. Successfully represented the Bank of Scotland in a 7 week trial for alleged losses exceeding £100 million arising out of the sale of hotel assets and development land. The case raised issues concerning the extent to which good faith obligations arose in a banking context and also concerned allegations of fraud.
- **Lenkor Energy Trading DMCC v Puri** [2023] EWHC 2979. The case concerned the question as to when property purchased in the name of a private company owned (directly or through nominees) by its funder will be owned beneficially by the funder, rather than the company whose shares are owned beneficially by the funder. The question arose in the context of an application for a charging order over properties to secure a judgment debt of over £48 million.
- **Fearn & Ors v Board of Trustees of the Tate Gallery** [2023] UKSC 4. The Supreme Court appeal in what is now a well-known nuisance case concerning the Neo Bankside development on the south side of the River Thames and the adjacent building, the Tate Modern, Britain's national gallery of international modern art.
- **Bank of New York Mellon (International) Ltd v Cine-UK Ltd** [2022] EWCA Civ; **Bank of New York Mellon (International) Ltd & Ors v Cine-UK Ltd & Ors** [2021] EWHC 1013. The Court of Appeal ruled on the question of whether tenants had various defences to a claim for rent arrears in respect of periods when it was unlawful to operate from the demised premises because of the Government enactments introduced under the Coronavirus Act 2020.
- **Kanval v Kanval** [2021] EWHC 853. A dispute over the beneficial ownership of a family home involving three of eight brothers.
- **Fearn & Ors v The Board of Trustees of the Tate Gallery** [2020] EWCA Civ 104.
- **Beaumont Business Centres Ltd v Florala Properties Ltd** [2020] EWHC 550 (Ch). A rights to light infringement case concerning a poorly lit building. The High Court considered, for the first time, the effect of loss of light where a building was badly lit to start with.
- **Fearn v Board of Trustees of the Tate Gallery** [2019] 2 WLR 1335. No actionable nuisance in the case of four flats that were overlooked by a public viewing gallery outside Tate Modern.

Other Notable Cases

- **Zinc Cobham 1 Ltd v Adda Hotels** [2018] EWHC 1025 (Ch). An appeal concerning a claim for specific performance of an obligation to carry out works under a lease.
- **Davis v Davis** [2016] EWCA Civ 463
- **Davies v Davies** [2014] EWCA Civ 568. A claim by a daughter for an interest in her parents' farm based on proprietary estoppel. This case was concerned with the preliminary question of whether an equity existed.
- **Hammersmatch Properties (Welwyn) Ltd v Saint Gobain Ceramics & Plastics Ltd & Anor (No 2)** [2013] EWHC 2227. This concerned the assessment of costs following a dilapidations trial where the Claimant had narrowly beaten the Defendant's Part 36 offer and damages fell to be assessed after the Jackson reforms.
- **Hammersmatch Properties (Welwyn) Ltd v Saint Gobain Ceramics & plastics Ltd & Anor** [2013] EWHC 1161. This was a high value terminal dilapidations claim concerning purpose built industrial and office premises built in the 1930s.
- **Norwich Union Life & Pensions v Linpac Mouldings Ltd** [2010] EWCA Civ 395; [2009] EWHC 1602. This case concerned the construction of a personal tenant's break option; whether or not the reassignment of the lease to the original tenant could revive the personal option; the question of the reasonableness of the landlord's refusal to consent to such an assignment.
- **Foxtons v Puri** [2010] WECA Civ 925 (Estate Agents Commission)

- **Bocardo SA v (1) Star Energy UK Online Ltd (2) Star Energy Weald Basin Ltd** [2008] 2 P&CR 23; [2009] 1 All ER; [2008] 30 EG 83. (Trespass by extracting oil by way of deviated drilling beneath the Al Fayed family estate pursuant to a licence granted under the Petroleum Act 1998. Whether an action in trespass could be maintained in respect of an interference at a substantial depth beneath the surface of the land. Damages for trespass and the relevance of the right to compulsory acquire ancillary rights under the Mines (Working Facilities and Support) Act 1966. Limitation and deliberate concealment).
- **Coors Holdings Ltd v Dow Properties** [2007] EWCA Civ 255. (Rent review. Whether a provision which required the annual rental value to be the value which "the site comprised in the demised premises might reasonably be expected to be let ..." required an assumption of vacant land and that the building erected on the land had not been erected.)
- **Crestfort Ltd (2) Hale Point Ltd (3) Yorkstream Properties Ltd v (1) Tesco Stores Ltd (2) Magspeed Ltd** [2005] 3 EGLR 25; [2005] L&TR 20. (Whether there had been an unlawful underletting of a warehouse or whether the landlord was in breach of his obligations under the Landlord and Tenant Act 1988. Breach of a restrictive covenant contained in the lease and whether the commission of the tort of wrongful interference with a contract entitled the landlord to a mandatory injunction to surrender underlease.)
- **Dandara Holdings Ltd v (1) Co-Operative Retail Services Ltd (2) Co-Operative Group (CWS) Ltd** [2004] 2 EGLR 163; [2004] EWHC 147. (Breach of an exclusivity agreement (or 'lock-out' agreement) by estate agent. The assessment of damages for breach. Whether damages could be claimed for the loss of a chance to purchase property on favourable terms.)

Publications

- Co-Author of Commercial and Residential Service Charges (2013) Bloomsbury
- Contributor to New Law Journal.

Published Comments

"Elizabeth gives really excellent advice. In the most pressured of commercial and legal situations, she remains completely cool and does not let the law get in the way of a good outcome for the client." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"Superb on the detail and a very robust advocate. No nonsense and extremely responsive." *Legal 500 UK Bar Guide 2027 (Property Litigation)*

"Elizabeth knows her stuff, reacts quickly and understands the problem." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"Elizabeth is exceptional and a true star of the property bar. She is excellent on the detail, a real team player and clients love her down-to-earth but confidence-instilling approach." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"She is a superb junior and one of our preferred counsel for a broad range of work." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"She gets to the heart of the matter and her advice is always commercial and spot on." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Elizabeth is a sharp and intelligent junior, who can get to the heart of complex issues quickly and articulate her advice with brevity and in a client-friendly way." *Legal 500 UK Bar Guide 2026*

"Elizabeth Fitzgerald focuses her impressive practice on commercial property matters, including development disputes and leasehold issues. She is adept at handling real property claims, including those relating to rights of light and other easements." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Elizabeth is exceptionally user-friendly and always a pleasure to work with." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Elizabeth is a force to be reckoned with. Her legal knowledge of all areas of property is second to none, and she has a great ability to decipher the law in a commercial and practical way that is easily digestible and understood by clients." *Legal 500 UK Bar Guide 2025*

"Elizabeth absolutely gets to the heart of the matter straightaway."

"Elizabeth is hard-working, clear-thinking and bright." *Chambers and Partners UK Bar Guide 2024*

"Elizabeth Fitzgerald is not afraid to stand up to a judge." *Chambers and Partners UK Guide 2023*

"Elizabeth is methodical, determined and persuasive in court, with very strong personable skills." *Chambers and Partners UK Guide 2023*

"She is very responsive and robust. She is a fine advocate." *Chambers and Partners UK Guide 2023*

‘Elizabeth is fantastic at grasping the details of a case and providing sound advice. She is responsive to her clients needs and a real team player. ’ *Legal 500 UK Bar Guide 2023*

Elizabeth Fitzgerald focuses her impressive practice on commercial property matters, including development disputes and leasehold issues. She is adept at handling real property claims including those relating to rights of light and other easements. "She has an excellent legal and commercial view." "She is analytical and measured in her advice." *Chambers UK Guide 2022 (Real Estate Litigation)*

‘ Incredibly driven and determined; very clever; personable; great at assimilating evidence and very much a QC in the making.' *Legal 500 UK Bar Guide 2022*

Elizabeth Fitzgerald is a "top-notch junior" who applies a profound understanding of property law on development and leaseholder disputes. *Who’s Who Legal UK Bar Report 2022*

Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: "She is willing to really engage with the case, and she's approachable." "She's incredibly user-friendly and very diligent." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"Elizabeth is an outstanding technical lawyer." *Legal 500 UK Bar Guide 2021*

Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: "Very bright, engaging and committed to exploring every possible angle." "Extremely user-friendly and tactically-minded." "Very hard-working and efficient." Recent work: Acted in the Tate Modern case concerning whether a public viewing platform from which residential flats can be seen amounts to nuisance or a breach of human rights. *Chambers and Partners 2020*

"Very user-friendly but sharp on her feet." *Legal 500 UK Bar Guide 2020*

"incredibly bright, always good and a tough fighter" according to sources who commend her considerable experience in landlord and tenant matters as well as land development disputes. *Who's Who Legal UK Bar 2019 Guide*

"Advises her clients on both commercial and residential landlord and tenant matters. She is also adept at handling compulsory purchase orders and professional negligence cases. She works across commercial and development cases as well as agricultural matters. Strengths: 'Very bright and able.' 'Clever, hard-working and incredibly commercially minded.' Recent work: Represented the Curzon Mayfair Cinema in a forfeiture case." *Chambers UK Guide 2019 (Real Estate Litigation)*