



“She’s outstanding and not to be messed with. Her advice is straight to the point and she doesn’t take prisoners.”

### Chambers & Partners

Susan Rodway KC has a wealth of experience from over 15 years acting as Leading Counsel across a wide spectrum of civil and commercial litigation, domestic and international arbitration, in particular sports arbitration, and mediation. She is renowned for her advocacy skills, particularly in cross examining experts in various fields such as medical or pharmaceutical science, forensic investigation including forensic accountancy, accident reconstruction, motorsports, equine and other sports issues. She has been instructed in numerous leading cases arising out of clinical negligence, catastrophic injuries, group litigation, professional negligence of accountants and solicitors and sports law and domestic and international sports arbitration, in particular arising out of motorsports, cycling or equine competition including anti-doping issues.

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## PRACTICE AREAS

- Clinical Negligence
- Personal Injury
- Arbitration and Mediation
- Professional Negligence

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## SECTORS

- Sports Law and Equine Law

- Education

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## PRACTICE AREAS

### CLINICAL NEGLIGENCE

*"She is extraordinarily brave, will not be bullied and will not give in easily."* Chambers & Partners 2015

In the field of clinical negligence Susan Rodway QC has a formidable reputation. Many of her cases have resulted in landmark decisions or record awards of damages. She acts mainly for Claimants in cases involving catastrophic birth injuries, acquired brain damage or failures to diagnose and has extensive experience of Hospital Acquired Infections. She is now increasingly instructed by international Claimants to pursue claims against health professionals in foreign jurisdictions. This is particularly the case in jurisdictions in which injured parties find it difficult to obtain expert witnesses willing to give evidence of poor practice. A current example is an action by a French national against a medical practitioner in Hong Kong.

Recent cases include:

**Joanna Wright v Hampshire Hospitals NHS Foundation Trust & Dr Fernando** 2014

An action for failure to diagnose a spinal abscess which led to the claimant becoming a permanent paraplegic. This was a very complex case of medical issues and issues of breach and causation.

**Coakley v Rosie** 2014

A 16 day clinical negligence trial concerning a GP's failure to identify meningitis which led to the claimant falling into a coma and, as a result of the infection, suffering a total loss of sight and substantial loss of hearing. A very high risk action, the case involved 17 experts and was fought on every aspect of liability and quantum – and was successful in all respects. The case was significant for many reasons, including access to justice for an impecunious patient in a fiercely contested case on the basis of pre-Jackson CFA. The award given to the claimant was very high value bearing in mind her circumstances.

**Anne Marie Roberts v Dr Sefton Fiddian and Others** 2014

An action for failure to diagnose a spinal abscess which led to paraparesis. The case was successfully settled.

**Charles Organ v Imperial College Healthcare NHS Trust and others** 2014

Acting for Claimant in case of clinical negligence following fall from his bicycle in charity London to Brighton race. Negligent medical mismanagement leading to catastrophic bleed into brain and permanent injury. Claimant in minimally conscious state. Complex issues on liability and quantum. Claimant aged 62 at trial and eventual award amongst highest for a Claimant of his age against NHS.

**Evans v United Lincolnshire NHS Hospitals Trust** 2014

High profile case of birth injury leading to severe cerebral palsy with gross physical disability and inability to speak but preserved intellect. Acting for Claimant. Father an ex RAF and Red Arrows pilot now employed in stunt flying team. Novel issues of quantum including educational issues and eye pointing equipment for communication and learning, costs of aeroplane as transport, newly constructed home with hydrotherapy pool, equipment for sailing and skiing. Eventual award amongst highest damages paid by NHS

**Brown v GSST NHS Foundation Trust**

Acting for Claimant who suffered catastrophic brain injuries as a child admitted for cardiac operation, whose

negligent clinical mismanagement led to a massive overdose of Prostin followed by cardiac arrest and other complications. Very complex issues on liability and quantum including legal issues surrounding applications for interim payments. Very high quantum case eventually successfully settled following round table meeting.

**AB v Heart Hospital 2014**

Acting for London Heart Hospital as Defendant in claim brought by Claimant, an infant Bahraini national with Down's Syndrome and a heart defect who suffered severe brain injury following operation at Defendant hospital. Issues of liability and causation, in particular with regard to Claimant's pre existing congenital disability. Complex issues of quantum because Claimant permanently resident in Bahrain. Issues of life expectancy as well as the usual heads of loss for a brain injured child. Case successfully settled following round table meeting.

**Amelia Evans v United Lincolnshire Hospitals NHS Trust 2012**

Catastrophic birth injuries with complex quantum issues including aircraft purchase and legal issues of "lost years" claim. Achieved one of highest ever awards against NHS.

**Charles Organ v Imperial College Healthcare NHS Trust 2012**

Acquired brain damage with complex medical causation. PVS/ Locked in syndrome/ Minimally aware issues. Complex quantum. Achieved very high award for patient with limited life expectancy.

**AB v London Heart Hospital and others 2012 [Bahrain] 2012**

Acquired brain damage in Bahraini national with Down's Syndrome. Issues of jurisdiction, complex medical, complex quantum. Further legal issues on time from which judgment interest should run.

**Anne – Marie Roberts v Dr Sefton Fiddian and ors 2012**

Acquired spinal injury due to failure to diagnose spinal abscess

## COURT OF PROTECTION

Many of the cases of catastrophic injury or clinical negligence with which Susan Rodway QC is involved also encompass issues in the Court of Protection related to Protected Parties within the meaning of the Mental Capacity Act 1995. She is familiar with matters such as residency issues, best interests cases, removal or appointment of Litigation Friend, involvement of the Official Solicitor etc. Her expertise within the medical arena means that she is also an ideal choice for claims arising out of the administration or withdrawal of medical treatment and other complex or sensitive issues involving local authorities or NHS bodies.

## PERSONAL INJURY

*"Very forthright, great with clients and an excellent advocate."* Chambers & Partners 2015

Susan Rodway QC is an experienced and established personal injury practitioner and is instructed by both Claimants and Defendants across the whole range of circumstances giving rise to liability from tort to breach of statutory duty to criminal prosecutions. She regularly acts in cases leading to catastrophic injuries such as acquired brain damage, spinal injury, multiple trauma and loss of limbs as well as claims for psychiatric injury, stress, bullying or harassment and fatal accidents. She is held in high regard as a fearless advocate for her clients and her willingness to pursue novel arguments which challenge and seek to extend the boundaries established decisions.

For example, she has appeared in most of the leading cases of actions under the Animals Act 1971 for injury or damage caused by horses. It is significant that a number of recent decisions have exonerated keepers of animals

from liability by applying the statutory defence of “volenti” under section 5 of the Act . This is an argument which she has long promoted in the Appellate tribunals. In another but related area, she has regularly pursued cases arising out of hospital acquired infections. These cases were difficult to establish in the early days but this field of litigation has led to changes of policy within the health system. She has also acted in emerging areas of industrial/occupational diseases such as claims for bladder cancer caused by petro-chemicals or aerotoxic syndrome caused by inhaling aircraft cabin air [which is thought to have an association with organophosphates]. This is complemented by her wide experience of injury claims related to the aviation and shipping industries. Examples of these are a claim by a Merchant Seaman for injuries caused when working overseas by an Exocet missile fired during war and a claim by a foreign national for alleged brain injury caused by the dropping of an overhead door on a plane. Her case load often involves an international element and she is comfortable with disputes as to the correct legal forum or those requiring the application of foreign law and practice.

Cases include:

**Black v London United Buses Ltd 2015**

Case involving leg amputation to Claimant cyclist in collision with bus. Acting for Claimant. Succeeded on liability and case settled on quantum following round table meeting. Issues of prosthetics, accommodation, medical costs, transport etc and additional complex issue of care for disabled son.

**Green v Haynes 2014**

Liability trial in case of catastrophic brain injury caused to innocent claimant driver in stationary vehicle that was driven into, at high speed, by the defendant. The defendant raised the defence of automatism. Awaiting judgment she talks to clients very clearly and is able to express complicated legal and medical terminology in a simple way.”

**RD v Northampton Borough Council and DD 2015**

Case of near death drowning of a child at a local swimming pool, leading to catastrophic brain damage. The case raises complex issues concerning breach of duty and causation.

**Dr Morris v Benjamin Stallard 2014**

A fatal accidents case of a university lecturer who was killed in a cycle accident. The deceased, who was about to emigrate, had several dependants including a son who is severely disabled. The case was very high value and settled successfully.

**Tobi Phethean – Hubble v Coles 2014**

Representing Claimant, a child of 16, who was catastrophically injured and suffered permanent severe brain damage after a collision when riding his bicycle from a pavement into the road in front of car driven by Defendant. Many legal issues on evidence, disclosure, expert evidence and redaction of police reports prior to trial. Issues of expert medical and accident reconstruction evidence at trial relating to negligence and causation [ in relation to the circumstances of the collision as well as medical causation of injury]. Issue of contributory negligence in failure to wear a cycle helmet and considerable expert evidence on the same. Trial on preliminary issue of liability succeeded at first instance. Defendant appealed and judgment on appeal delivered in favour of Claimant.

**Jardine v Hurley 2014**

High profile case of wife of Formula 1 PR representative suffering amputation of arm after road traffic accident. Acting for Defendant in case on quantum. High value claim and extensive expert issues on accommodation, aids and equipment, transport, therapies and prostheses. Further issues on loss of earnings. Claim successfully concluded following round table meeting.

### **Hubble v Coles** 2012 CA

First instance and appeal in case of child cyclist involved in road accident and consequential catastrophic brain injuries.

### **Skalli v Billings** 2012

Very complex fire causation case involving burn injuries in domestic dwelling and origin and spread of fire.

### **AB v Lincolnshire County Council Court of Protection and QB** 2012

Attempted suicide of child in care and complex legal issues / Court of Protection/ Litigation Friend / together with difficult matters of quantum.

### **Lightfoot v Go North East Limited Court of Protections and QB** 2012

Acquired brain damage in previously brain damaged Claimant. Issues of Court of Protection / residence / consent to marriage and complex liability and quantum.

### **Nina Hartley v Generali Versicherung** AG 2011

Foreign RTA with issues of liability in Macedonia and legal issues of insurance law in Austria.

## INSURANCE AND FRAUD

She practises across a wide gamut of insurance related work, acting for insured bodies and individuals in issues related to Health and Safety prosecutions, employers' and public liability as well as cases of insurance fraud and policy interpretation disputes.

## GROUP LITIGATION AND PRODUCT LIABILITY

She has acted in Group Litigation cases and product liability claims, notably the LSD and ECT litigation, which arose out of historical events and raised significant issues on the law of limitation. She is at home with complex technical, pharmaceutical and scientific issues and was involved in the organophosphate litigation as well as dealing with cases of carbon monoxide and other forms of poisoning and pharmaceutical product liability.

## ARBITRATION AND MEDIATION

Despite her grounding in litigation and her fearsome reputation as an advocate, Susan Rodway QC has always been interested in Dispute Resolution. She was involved at the outset in initiatives within the NHS to find methods of dealing with patient complaints without resort to litigation and qualified as an Accredited Mediator over 13 years ago. She acted as Vice Chairman of the NHS Tribunals which decided complaints against general practitioners and pharmacists. She frequently resolves her own cases by ADR and is as member of the Chartered Institute of Arbitrators, the London Court of International Arbitration as well the Singapore Institute of Arbitrators, enabling her to act or sit as an International Arbitrator.

## PROFESSIONAL NEGLIGENCE

In professional negligence work, she has been instructed in cases involving solicitors, barristers, veterinary surgeons, surveyors, architects and accountants. She was junior counsel in the landmark case of **Allied Maples v Simmons & Simmons** which re-established loss of a chance as a basis for the assessment of damages.

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## SECTORS

## SPORTS LAW AND EQUINE LAW

In the arena of sports law, Susan Rodway QC is well known for dealing with equine disputes, from veterinary, bloodstock and contractual disputes to issues arising out of the conduct of equine sports including racing under rules. She has appeared in many of the leading cases decided under the Animals Act 1971. As an active motorcyclist as well as a regular driver of sports and supercars on and off track, she is also familiar with and instructed in cases and claims arising from motorsport issues and accidents.

Many of these cases have involved issues with a potentially far reaching impact. For example, she acted in a case brought by a severely spinally injured jockey who claimed that the all weather racing surface caused his fall. This required assimilation and understanding of the technical aspects of such a surface, as well as familiarity with the movement and action of racehorses and riders. Had the claim succeeded, there would have been serious adverse repercussions for the racing industry, both here and abroad. Another case involved allegations about the construction of barriers on a motorcycle racetrack. Had the allegations been made out this would also have had a significant and international impact.

Cases include:

### **Melliard v Bennis & Gover 2014**

This Animals Act case concerned a motor cycle collision with a loose horse which resulted in serious brain injuries to the claimant.

### **McKeever v Motorsport Vision Ltd, New Era Motorcycles and Auto Cycle Union and other. 2014**

Acting for ACU in substantial claim by injured rider competing in motorcycle race. Claimant rendered tetraplegic. Issues of Rules of Motorsport etc required. Instructed shortly before trial. Knowledge of motorcycling, racing and handling of bikes a considerable advantage in identifying probable cause of accident, dealing with expert evidence in the light of this and provoking Claimant into discontinuing his claim.

### **Millbank v Luca Cumani and others**

Acting for Claimant who suffered catastrophic spinal injuries at work on the gallops when stirrup parted from saddle. Issues of employers liability and product liability relating to manufacture and adaptation of racing saddle. Complex issues of quantum. Case settled for substantial damages following round table meeting.

## EDUCATION

Within the field of education work, she acted for the Local Education Authority in *G v London Borough of Bromley* under the lead case of *Phelps v Hillingdon*, in which the House of Lords concluded that there was a duty of care on teachers and the local authority to identify and treat dyslexia in pupils.

Cases include:

### **Croft v Broadstairs (CA) 15 April 2003 Lawtel 15/4/2003**

Stress case arising out of local government employment.

### **G v London Borough of Bromley (HL) 27 July 2000 (2002) 1 AC 619; (2000) LGR 651; (2000) 3 WLR 776; (2000) 4 All ER 504; (2000) 56 BMLR 1; The Times, July 28 2000; Independent, November 13 2000**

Acting for Defendant Education Authority in landmark decision concerning the duties of teachers to provide adequate education. Heard together with *Phelps*.

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## RECOMMENDATIONS

Susan is recommended in Chambers & Partners and Legal 500 for Personal Injury & Clinical Negligence.

### QUOTES

*"She has great depth of knowledge and an incredible court presence."* Chambers & Partners 2017

*"A very impressive operator with a great feel for the essential points of a case"* Legal 500 2016

*"Hugely experienced, good with clients, and a tough litigator."* Legal 500 2015

*"A very tenacious barrister, who is prepared to run a difficult argument and take a calculated risk."* Legal 500 2015

*She is extraordinarily brave, will not be bullied and will not give in easily." "Good with the clients," she is "full of energy and determination."* Chambers & Partners 2015

*"Very forthright, great with clients and an excellent advocate." "Tenacious and committed, she doesn't shy away from the difficult cases."* Chambers & Partners 2015

*"A powerful advocate, who takes no prisoners."* Legal 500 2014

*"A committed and passionate lawyer."* Legal 500 2014

*"She's outstanding and not to be messed with. Her advice is straight to the point and she doesn't take prisoners."* Chambers & Partners 2014

*"She has a very good negotiating style and a nice manner with the clients."* Chambers & Partners 2014

*"She is outstanding, and certainly at the very top of her game on high-value cases. I have seen some truly amazing work from her in court and at round table meetings."* Chambers & Partners 2014

*"Someone you would want on your side"* Legal 500 2013

Comes highly recommended for her performances in court and is *"extraordinarily robust and fights ferociously for her clients"* Chambers & Partners 2013

*"Outstanding..a first choice for high value, complex claims. Clients warm to her immediately and she proves 'tenacious and committed' in all she does. Solicitors approve of her as "she does not shy away from difficult cases"* Chambers & Partners 2013.

Wins huge praise for her *"innovative ideas, cutting-edge analysis and impressive track record"* Chambers & Partners 2012

*"a good barrister to instruct if you have a fight on your hands"* Chambers & Partners 2012

*"extremely sharp"* Legal 500 2011

*"a pleasure to work with,"* say sources. She is held in high regard for her *"bullish defence of her clients."* Chambers & Partners 2010

*"ferocious advocate"* Chambers & Partners 2010

"exceptionally supportive of clients" Chambers & Partners 2009

"A brave barrister when the going gets tough, she can be a bit of a rottweiler when she needs to be" Chambers & Partners 2009

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## QUALIFICATIONS

Bencher, Middle Temple 2009

Deputy Chairman NHS Tribunals 2000–2004

Accredited Mediator

### Memberships

Lay Member Clinical Standards Committee Guys and St Thomas's NHS Foundation Trust 1998–2001

Executive Committee member of the Professional Negligence Bar Association

Executive Committee member of the Personal Injury Bar Association

Former Secretary of the Pegasus Club [Bar Point to Point Club]

International Bar Association

Chartered Institute of Arbitrators

The London Court of International Arbitration

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## ADDITIONAL INFORMATION

### Lectures

Susan has given numerous lectures and talks in particular to NHS Foundation Trusts / MPS / AVMA annual conference / Various Royal Colleges Annual lectures. Recently she gave a series of lectures to medical organisations and other employers and insurers on the implications and application of the Corporate Manslaughter Act.

### Articles

"Solutions for the Insecure" Article first published in KEMP News in December 2009

The 39 Set (June 2007, Susan Rodway QC)

Mirvahedy – Three Years On (May 2006, Susan Rodway QC and James Todd)

### Other Publications

Clinical applications of artificial neural networks Cambridge University Press 9 August 2001

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