

## Susan Chan

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Susan has been a barrister practising in civil law for 30 years. She specialises in employment law, public law, inquests and personal injury and clinical negligence claims. She was on the Attorney-General's panel of Civil Treasury Counsel for 16 years including 5 years on the highest 'A' panel, during which she acted for the government in many hundreds of public law matters including immigration and human rights challenges, personal injury matters, employment disputes and inquests. She was also junior counsel to Lord Cullen's Inquiry into the 1999 Paddington Train Crash, which examined the circumstances of the SPAD causing the accident, as well as wider railway safety.

## Employment Law

Susan has extensive experience of advising and representing claimants and respondents in all areas of employment law, particularly in discrimination and whistleblowing claims. Her practice is conducted predominantly in employment tribunals and the Employment Appeal Tribunal.

### Reported cases

- *Keep v First Great Western* [2024] EAT: Susan acted for the claimant who had endured sexual harassment from a fellow employee and successfully obtained an extension of time on 'just and equitable' grounds from the employment tribunal, to bring her Equality Act 2010 claim over a year out of time. The employer appealed to EAT but Susan successfully defended the tribunal judge's decision on all six grounds.
- *Carabott v London Borough of Newham* (2023): Susan, acting for the council, successfully applied to strike out all of the claimant's unfair dismissal, trade union detriment and whistleblowing claims on first day of hearing as they were out of time, when it emerged that his dismissal letter had been emailed to him earlier than the posted letter had reached him, and he had had reasonable opportunity to read it.
- *Agbeze v Barnet, Enfield and Haringey Mental Health Trust* [2022] IRLR 115 EAT: whether zero hours worker is entitled to full pay when suspended during a disciplinary investigation;
- *Dobbie v Felton* [2021] IRLR 679 EAT: what is required to satisfy the required "public interest" element in a whistleblowing disclosure. On remittal from the EAT, Susan and her client were completely successful at the employment tribunal hearing, in showing that none of the alleged detriments were found to be due to the protected

disclosures.

- *O'Connor v Jaguar Land Rover (27.1.20)*: Susan acted for successful Claimant who was found to have been automatically unfairly dismissed for walking off-site from the factory, despite his action being prompted by his reasonable belief that his health was in serious danger from unextracted car exhaust fumes on the factory line.
- *Fahim Afzal v Domino's Pizza* [2018] ICR 1652 EAT: Susan acted for the claimant in his successful appeal to the EAT: employer's failure to give him an appeal in circumstances where the employer had believed his immigration leave had expired, made his dismissal potentially unfair.
- *Witts v Wyre Forest School* (13.3.17) EAT: Susan acted for a teaching assistant in his successful appeal to EAT against a tribunal's decision dismissing his unfair dismissal claim. He had been dismissed for gross misconduct after a special needs pupil fell after attacking the appellant, but the tribunal had failed to take account that appellant was acting in self-defence.
- *Unison v Lord Chancellor and Equality and Human Rights Commission* [2014] IRLR 226: Unison and ECHR's challenge to legality of Fees Scheme introduced in Employment Tribunals and Employment Appeal Tribunal in July 2013. Susan was successful on every occasion that she represented the Lord Chancellor, either as sole counsel defending two separate 2013 and 2014 judicial review challenges in the Divisional Court, or when led in the Court of Appeal (by David Barr QC);
- *Jones v Judicial Appointments Commission* [2014] EWHC 1680: Susan successfully defended the JAC when its refusal to appoint a judicial applicant on character grounds, because he had 7 current driving licence points, was challenged by the applicant in judicial review proceedings.
- *Sivanandan v Cole* (2011): Susan successfully defended an employment judge in a 6-week long hearing against multiple discrimination claims brought by a lawyer who had appeared in front of him.

## Inquests

Susan acts for both families of the deceased and interested parties in inquests, including article 2 ECHR inquests where a fuller investigation by the coroner is justified.

Her experience has included acting for the MOD in numerous inquests involving the deaths of service personnel in Iraq or Afghanistan. Issues explored included "human error" after five servicemen died in Afghanistan when the pilot misjudged the helicopter's height from the ground whilst flying in the Kandahar desert; the protection granted by helicopter defence systems against Surface-to-Air missiles; the balancing of the need to win "heart and minds" when patrolling in Snatch Land Rover vehicles against the limited protection afforded by such vehicles against Improvised Explosive Devices; the efficiency of night goggles whilst on clandestine reconnaissance missions.

Susan has also represented parties at multiple article 2 ECHR inquests into prison deaths, including an inmate who passed through five different prisons whilst suffering from psychotic depression with psychotic symptoms and many others who were being monitored for risk of self-harm when they took their lives.

More recently, Susan has acted for the family of a young man who died after being restrained by the police, following his suffering an episode of drug-induced delirium and representing a hospital when a young lady died from metabolic acidosis following a paracetamol overdose.

## Direct Access

Susan is authorised to accept instructions direct from members of the public. She encourages clients with employment issues or who seek representation at inquests, to contact Chambers and discuss their problem.

In suitable cases, Susan can provide client conferences, written advice and representation at court.

## Qualifications

- BA (Hons) Law from Magdalen College, Oxford (1993).
- Bar Vocational Course, Inns of Court School of Law (1994)

## Scholarships & Awards

- Appointed a Demy (Scholar) in Law of Magdalen College, Oxford (1991)
- Awarded Gray's Inn Prince of Wales Scholarship (1993)

## Memberships & Committees

- ELBA
- PIBA
- Visiting fellow of Sheffield University (since 2014)
- A secondary school governor (Parent Governor 2015-2023; Community Governor from 2023)