

Dominique Hogan-Doran SC



Clerk (Sarah Tiffen) +61 2 8066 6111

dhogan@counsel.net.au

www.dhdsc.com.au

LEGAL PRACTICE	Admission: 1994 Called to Bar: 1996 Appointed Senior Counsel: 2015
QUALIFICATIONS AND AWARDS	Master of Laws 2004 Bachelor of Laws (First Class Honours) 1988 – 1992 Bachelor of Economics (Social Sciences) <i>University of Sydney</i> <ul style="list-style-type: none">▪ Nancy Gordon Smith Memorial Prize at Graduation 1993▪ Convocation Medal 1993 (for ‘<i>outstanding academic achievement and contribution to University life</i>’) Bachelor of Civil Law (First Class Honours) 1994 - 1995 <i>University of Oxford (Balliol College)</i> <ul style="list-style-type: none">▪ Sir Robert Menzies Memorial Scholarship in Law Practitioner’s Certificate in Mediation 2013 <i>Institute of Arbitrators and Mediators Australia</i> Program on Negotiation and Leadership 2015 <i>Harvard Law School</i>
PRIOR ROLES	Research Director to Chief Justice of New South Wales, A.M. Gleeson AC: 1993 Lawyer, Mallesons Stephen Jacques (now King & Wood Mallesons): 1994
RANKINGS	<ul style="list-style-type: none">▪ <i>The Legal 500</i> – Regulatory (including White Collar Crime) (Leading Silk, Tier 1), Commercial (Leading Silk, Tier 1) (2021-2024).▪ <i>Chambers & Partners Asia Pacific</i> – Dispute Resolution (Band 4) (2021-2023).▪ <i>Best Lawyers/AFR</i> – Litigation, Alternative Dispute Resolution, Financial Institutions, Superannuation Law (2020-2023). ‘Lawyer of the Year, Sydney: Superannuation Law’ (2022).▪ <i>Doyle’s Guide to Australian Legal Profession</i> – Recommended Senior Counsel NSW, Commercial Litigation & Disputes Resolution (2015-2022).▪ <i>Doyle’s Guide to Australian Legal Profession</i> – Leading Mediators NSW (2018-2023).▪ <i>Lawyers Weekly Australian Law Awards</i> – Barrister of the Year (2016).

COMMENTARY

— *Chambers & Partners Asia Pacific*

“Dominique is a standout.”

“Maintains an impressively varied practice.”

“She’s a joy to work with - intelligent, hard-working and personable.”

“Has an amazing eye for detail. She can get across a huge amount of material and identify the key issues rapidly.”

“Renowned as an expert in superannuation. She has the practical experience and knows the legislation like the back of her hand.”

“She’s a safe pair of hands, commercial and easy to work with.”

— *The Legal 500*

“Has a diverse practice and is recognised for her experience in financial services and superannuation, along with numerous arbitral appointments.”

“Well regarded for her incisive and practical understanding of the financial sector regime.”

“A preeminent silk in relation to inquiries, investigations and Royal Commissions.”

SELECTED RECENT CASES

Royal Commissions

Royal Commission into the Robodebt Scheme (2022-2023)

- Counsel Assisting the Commonwealth (Australian Government Solicitor).

Royal Commission into National Natural Disaster Arrangements (2020)

- Senior Counsel Assisting the Royal Commission.

Royal Commission into Aged Care Quality and Safety (2018-2020)

- For AMP Capital (Hall & Wilcox) in *Funding, Financing & Prudential Regulation hearing* (2020).
- For Garden View Aged Care (Sparke Helmore) in *Dementia and Residential Care: Use of Physical and Chemical Restraints hearing* (2019); also re ABC TV 7.30 Report (2019).
- For Anglican Care (Hall & Wilcox) in *Carers for Older Australians hearing* (2019) and re ABC TV Four Corners program “Who Cares” (2018) and related complaints.

Royal Commission into Misconduct in Banking, Superannuation & Financial Services Industry (2018)

- For Commonwealth Bank of Australia (Clayton Utz).

Commercial Litigation

Muffet v Qantas Superannuation Ltd [2024] FCA 39 (Yates J)

- For QSL. Successful defence of appeal by Australian & International Pilots Association from AFCA determination re defined benefits (King & Wood Mallesons).

Re AUSCOAL atf Mine Superannuation Fund [2024] NSWSC 32 (Robb J)

- For AUSCOAL. Judicial advice re defined benefits scheme deficit funding and merger with TWUSUPER (Mills Oakley).

Nature's Care Holdings v Chen [2024] NSWSC 14 (Rees J)

- For vitamins manufacturer. Successful application for interlocutory injunction against former directors/executives and lender (Clifford Chance).

Lehrmann v Network Ten (Federal Court No. NSD 103/2023) (Lee J)

- For Fiona Brown, Chief of Staff & PMO Director of Operations (Russell Kennedy).

Applications by abrdn Australia Ltd & abrdn Asia PLC (Rees J, unrep, 20 June 2023)

- For abrdn Group. Consent granted pursuant to s 249E *Crimes Act* 1900 (NSW) re retirement of RE of Australian funds management business (Minter Ellison).

Mercy Super Pty Ltd atf Mercy Super v Attorney-General for State of Queensland and Attorney-General for State of Victoria [2022] QSC 221 (Kelly J)

- For Mercy Super. Declarations obtained that consent not required for successor fund transfer of members and assets of Mercy Super to HESTA (Ashurst).

Sweeney v Australian Financial Complaints Authority & NULIS Nominees (Australia) Ltd [2022] FCA 1525 (O'Callaghan J)

- For NULIS atf MLC Super. Successful defence of appeal (Minter Ellison).

Re Energy Industries Superannuation Scheme [2022] NSWSC 1202 (Ball J)

- For trustee of EISS Super. Judicial advice re deed amendment to avoid insolvency (Dentons).

Re SCS Super [2022] NSWSC 686 (Hallen J)

- For trustee of Australian Catholic Super. Judicial advice re deed amendment to avoid insolvency (Minter Ellison).

Re Care Super (No 1) [2021] VSC 805 & Re Care Super (No 2) [2021] VSC 854 (Lyons J)

- For trustee of Clerical Administrative & Retail Employees Fund. Judicial advice re lost trust deed, shareholdings, and exercise of remuneration power (Mills Oakley)

Re NGS Super [2021] NSWSC 1694 (Henry J)

- For trustee of Non-Government Schools superannuation scheme. Judicial advice re deed amendment to avoid insolvency (Minter Ellison).

Re QSuper Board [2021] QSC 276 (Kelly J)

- For trustee of Queensland Public Sector Superannuation Scheme. Judicial advice re deed amendment to avoid insolvency (King & Wood Mallesons)

In re DSHE Holdings Limited [2021] NSWSC 608 (Williams J) (termination of DOCA)

- For deed administrators McGrath Nicol (Norton Rose Fulbright).

In re Ovato Print Group [2020] NSWSC 1683 and [2020] NSWSC 1882 (Black J) (scheme)

- For the Commonwealth (Norton Rose Fulbright).

Re NULIS Nominees (Australia) Ltd (2020, NSWSC, unrep, Foster J)

- For trustee of MLC Super Fund. Judicial advice (Minter Ellison).

Regulatory Proceedings

ASIC v RM Capital & The SMSF Club [2024] FCA 151 (Jackson J)

- For The SMSF Club. Conflicted remuneration (Hall & Wilcox).

ASIC Australian Financial Services Licence Cancellation Hearing (2023)

- For RE of managed investment scheme. 'No further action' (Hall & Wilcox).

ASIC v Westpac Banking Corporation (Omnibus) [2022] FCA 515 (Beach J)

- For ASIC. Civil penalties/compliance program ordered (AGS).

Registered Organisations Commissioner v Communications, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union [2020] FCA 96 (Flick J)

- For the Commissioner. Civil penalties ordered (Lander & Rogers).

Regulatory Investigations

Commonwealth regulators (2023-2024)

- Advising Commonwealth regulators (instructed direct).

APRA investigation into RSE licensee (2023-2024)

- Advising RSE licensed trustee re payments to trade union for services (Ashurst).

ACT Gambling & Racing Commission (2022-2024)

- Advising the Commission re licensee investigation (ACT Government Solicitor).

Greenwashing; proxy voting; s1017C member information requests (2022-2023)

- Advised RSE licensed trustee (King & Wood Mallesons).

ASIC investigation into RSE licensee (2022)

- Advised RSE licensed trustee. Re investment choice campaign and concerns of misleading and deceptive conduct (Dentons).

APRA investigation into RSE licensee (2022)

- Advised RSE licensed trustee re Prudential Standard *CPS 520 Fit and Proper* compliance. No adverse action taken (Thomson Geer).

APRA investigation into RSE licensee (2021-2022)

- Advised RSE licensed trustee re Prudential Standard *CPS 520 Fit and Proper* compliance. Licence conditions imposed (Dentons).

ASIC investigation into RSE licensee (2021)

- Advised RSE licensed trustee re superannuation advertising and disclosure and suspicion that advertising of performance characteristics was misleading and deceptive (Dentons).

Financial Sector Transactions

Acquisition by Betashares of Bendigo & Adelaide Bank superannuation business (2023)

- Advised Betashares Group (King & Wood Mallesons).

Merger between Mine Super and TWU Super (2023)

- Advised AUSCOAL, trustee of Mine Super (Mills Oakley).

Application by Diversa Trustees Ltd atf Future Super Fund [2023] VSC 279 (Delany J)

- Advised Future Super Investments Ltd (Herbert Smith Freehills).

Merger between QSuper and Sunsuper, to create Australian Retirement Trust (2021)

- Advised QSuper Board (King & Wood Mallesons).

Merger between Club Plus Super and Australian Super (2021)

- Advised Club Plus Super (King & Wood Mallesons).

Special Commissions and Public Inquiries

Public Inquiry into Charitable Fundraising (aka the RSL Inquiry) (2017-2018)

- For RSL LifeCare Ltd (Clayton Utz).

Ombudsman's Inquiry into Water Compliance & Enforcement (2017-2018)

- For WaterNSW (Norton Rose Fulbright).

Special Commission of Inquiry into NSW Greyhound Racing Industry (2015-2016)

- For CEO of Greyhounds NSW (Clayton Utz).

Anti-corruption Inquiries

ICAC Operation Ember (Roads and Maritime Services) (2019-2022)

- For Transport for NSW (formerly RMS) (Norton Rose Fulbright).

ICAC Operation Credo (Australian Water Holdings) (2014-2017) and

ICAC Operation Spicer (Political Donations) (2014-2016)

- For the Hon. Senator Arthur Sinodinos (Arnold Bloch Leibler). Also appeared in related case: *TSDack Pty Ltd v Australian Water Holdings Pty Ltd* [2015] FCA 931.

ICAC Operation Tunic (NSW Mine Subsidence Board) (2014-2015)

- For the NSW Mine Subsidence Board (Kilmurray Lawyers, Newcastle).

Expert Determinations

Superannuation trustee and fund administrator (2021-2022)

- Acted as expert determiner of administration contract dispute.

Hunter & Central Coast Development Corporation atf Doma Group (2020- 2021)

- For Hunter & Central Coast Development Corporation & NSW Department of Planning, Industry & Environment (Hall & Wilcox) (site remediation)

APPOINTMENTS**Current***Associations*

- Fellow – *Australian Academy of Law*
- Fellow – *Governance Institute of Australia*
- Fellow – *Chartered Institute of Arbitrators*
- Disciplinary Tribunal – *Chartered Accountants Australia New Zealand*
- Vice-Chair – *International Bar Association Bar Regulation Committee*
- Chair – *Australian Bar Association Practice Development Committee*
- Member – *Law Council of Australia Superannuation Law Committee*

Dispute Panels

- *Australian Centre for International Commercial Arbitration* – Mediators Panel
- *NBN Co* – Panel of Arbitrators
- *Australian Energy Regulator* – Panel of Arbitrators
- *Essential Services Commission of SA* – Arbitrator Panel
- *Economic Regulation Authority of Western Australia* – Panel of Arbitrators

Boards

- *Natural Hazards Research Australia* – Director; Audit & Risk Committee
- *Australian Cricketers' Retirement Account* (investment fund) – Director
- *Players Cordon Foundation* (Australian cricket charity) – Director

Previous

- *Australian Bar Association Futures Committee* – Chair (2019-2022)
- *New South Wales Bar Association* – Councillor (2019-2020)
- *Australian Institute of Company Directors* – Law Committee (2018-2021)
- *Chartered Accountants Aust NZ* – Professional Conduct Committee (2018-2021)
- *University of New South Wales* – Adjunct Associate Professor (2016-2019)
- *Club Plus Superannuation* – Employers-sponsored Director; Investment Committee, Insurance & Claims Committee; Audit, Risk & Compliance Committee (2015-2018)
- *Menzies Foundation Ltd* – Alumni Director (2004)
- *National Foundation for Australian Women* – Director (2004)
- *Australian Women Lawyers* – President (2002-2003)
- *Women Lawyers Association of New South Wales* – President (1999-2002)
- *University of Sydney Union* – President (1990-1991)

**RECENT
PAPERS AND
SEMINAR
PRESENTATIONS**

- *David McLean Memorial Lecture: Extent & limits of ASIC & APRA's regulatory powers*
- Law Council of Australia Superannuation Lawyers Conference (March 2024)
- *Insolvency of regulated superannuation trusts and their licensed trustees*
- Australian Restructuring, Insolvency & Turnaround Assn Journal (March 2024)
- *Assisting Royal Commissions: Reflections of Counsel*
- Australian National University School of Regulation & Global Governance (Feb 2024)
- *Avoiding insolvency – judicial advice to a superannuation trustee*
- Australian Restructuring, Insolvency & Turnaround Association Quarterly (Dec 2023)
- *Robodebt Royal Commission: Issues for Government Lawyers*
- Australian Institute of Administrative Law (Dec 2023)
- *Legal accelerators and the role of climate litigation*
- Conference on Legal Accelerants for Climate Change: Taking Stock for COP28, University of Sydney (Oct 2023)
- *Going Green? Lawyer Regulation and Climate Change*
- International Bar Association Annual Conference (Paris) (Oct 2023)
- *Post Disaster Public Inquiries and Policy Learning*
- AFAC Lessons Management Forum (June 2023)
- *Environmental, Social, and Governance Fundamentals*
- College of Law (May 2023)
- *Leaves, Trees, Roots & Branches: Update on Parliamentary Inquiry into Insolvency*
- Australian Restructuring Insolvency & Turnaround Assn Conference (March 2023)
- *Driving change: evidence informed policy and strategy*
- Natural Hazards Research Forum (Oct 2022)
- *Trustee Resilience: Balancing Liability and Indemnity*
Law Council of Australia Superannuation Lawyers Conference (March 2022)
- *Disaster Law and Governance*
- New South Wales Government Solicitors Conference (Sept 2021)
- *Computer says 'no': automation, algorithms and artificial intelligence in Government decision-making* - NSW Judicial Commission *Handbook for Judicial Officers* (2019) also published in (2017) 13 *The Judicial Review* 345
- *Lessons for Government from Recent Royal Commissions and Public Inquiries*
- New South Wales Government Solicitors Conference (Sept 2019)
- *New approaches to proof of foreign law: a practitioners' assessment*
- *Commercial Issues in Private International Law: A Common Law Perspective* (Hart Publishing, 2019) (with J. Hogan-Doran)