



5/180 Phillip Street
Sydney NSW 2000
+ 61 2 8066 6144
dhogan@barnet.com.au

DOMINIQUE HOGAN-DORAN SC

Practice Overview

Dominique Hogan-Doran SC practises in commercial disputes, financial services law (in particular superannuation trusts), corporate law & insolvency, public & administrative law, a wide range of regulatory investigations & enforcement action, and Royal Commissions & public inquiries involving governance & corruption issues. She is also an accredited Mediator *NMAS*, and Fellow of the *Chartered Institute of Arbitrators*, with numerous panel appointments.

Academic Qualifications

Dominique is a graduate of the University of Sydney (*BEC (Soc Sc)*, *LLB (Hons I)*, *LLM*) where she was awarded the Convocation Medal, and Oxford University (*BCL (Hons I)*) where she was the Sir Robert Menzies Memorial Scholar.

She has also undertaken the *Australian Institute of Company Directors* course, the *Australian Institute of Superannuation Trustees* course, and IAMA's *Practitioner's Certificate in Mediation*.

Professional Associations & Experience

Dominique is a member of the Council of the *NSW Bar Association*, Chair of the Futures Committee of the *Australian Bar Association*, and a past President of *Australian Women Lawyers* and the *Women Lawyers Association of NSW*.

She is an appointee to the *Chartered Accountants Australia & New Zealand* Professional Conduct Committee, the *Australian Institute of Company Directors* Law Committee, and the *International Bar Association's* Bar Regulation Committee.

Dominique is an experienced director in, and governance advisor to, the superannuation and financial services industry.

She was recently appointed by Cricket Australia to the *Australian Cricketers Retirement Account Board*, an investment fund for Australia's First Class cricketers, and was for several years a trustee director of top-ranking Australian industry superfund *Club Plus Super*, including serving on its Audit & Risk, Investments, and Insurance & Claims Committees.

Professional Recognition

The Best Lawyers - Australia 2020 – Litigation

Doyle's Guide to the Australian Legal Profession – Leading Commercial Litigation & Disputes Resolution Senior Counsel NSW (2016 - 2019); Leading Mediators NSW (2018, 2019)

Lawyers Weekly Australian Law Awards – Barrister of the Year (Winner) (2016)

Women in Financial Services Awards – Woman of the Year (Finalist) (2013)

Clerk: Trish Hoff – + 61 2 8066 6181 – trish.hoff@5wentworth.com
www.dhdsc.com.au – www.phillipstreetmediation.com

Liability limited pursuant to a scheme approved under professional standards legislation

Current and Recent Cases:

Commercial / Corporate / Insolvency

[*Roads & Maritime Services \(Transport for NSW\) v AZH Consulting*, NSW Supreme Court No. 2019/00162659](#) – for RMS/Transport for NSW – procurement fraud – freezing orders obtained – briefed by *Norton Rose Fulbright, Sydney*

[*Re Black Range Metals \(Resources\) \(subject to DOCA\) \(McGrath Nicol\)*, NSW Supreme Court \(2019\)](#) – for deed administrators – application for judicial advice & directions on distributions – briefed by *Norton Rose Fulbright, Sydney*

Department of Defence & Australian Signals Directorate v Optus Networks (2019) – for the Commonwealth – technology contract dispute – mediation before Bergin SC – briefed by *Ashurst, Canberra*

Tabcorp Holdings Limited (2019) – various matters – briefed *direct*

Class Actions – for litigation funders – prospects opinions – briefed *direct*

Superannuation / Trusts

[*Martin v Commonwealth Superannuation Corporation*, NSW Supreme Court No. 2018/00277432](#) – for CSC – Commonwealth Public Sector Superannuation Scheme – briefed by *Ashurst, Canberra*

NULIS (Australia) Nominees & MLC Nominees (NAB Group) (2018-2019) – numerous matters – briefed by *MinterEllison, Sydney* and by *K&L Gates, Sydney*

OnePath Custodians (ANZ Group) (2019) – IOOF superfund transfer – briefed by *MinterEllison, Sydney*

Energy Industries Superannuation Scheme (2015-2019) – numerous matters re both defined benefit schemes & public offer contribution schemes – briefed *direct* and by *DLA Piper*

Queensland State Public Sector Superannuation Scheme (2019) – briefed *direct*

Retail Bank Superannuation Trustee (2019) – ASIC investigation into suspected contraventions of [*s1017B Corporations Act 2001 \(Cth\)*](#) (disclosure of significant events) – briefed by *MinterEllison*

Industry Superfund Trustee (2019) – ASIC investigation into suspected contraventions of [*s101\(1\)\(d\) Superannuation Industry \(Supervision\) Act 1993 \(Cth\)*](#) (requirement to give reasons) – briefed by *MinterEllison*

Aon Hewitt Financial Advice (2018) – MySuper transition – remediation program – briefed by *Sparke Helmore, Sydney*

Re Simpson's Trust, Queensland Supreme Court No. 7887/16 – judicial advice – classification of dividends as income or capital following sale of business line – orders made for distribution following hearing in 2018 – briefed by *Bradley Allen Love, Canberra*

Administrative / Public Law

[*Arcare v Aged Care Quality & Safety Commission - Federal Court No. VID1395/2019*](#) – for Arcare – judicial review – directions under *Aged Care Quality & Safety Commission Rules 2018 (Cth)* – briefed by *Russell Kennedy, Melbourne*

[*Kender v Australian Securities & Investments Commission \[2018\] AATA 4445*](#) – for ASIC – administrative review – disqualified director – briefed by *ASIC's Chief Legal Office*

[*Canberra Raiders Sports Club v ACT Gambling & Racing Commission, ACT Supreme Court & ACAT*](#) (2018) – for Club – recording of problem gambling incidents – judicial review – administrative review - successfully set aside civil penalty & restrictive licence conditions – reprimand substituted – briefed by *Snedden, Hall & Gallop, Canberra*

[*The Sharemarket College & Ors v Australian Securities & Investments Commission \[2016\] AATA 1057*](#) – for Australian Financial Services License holder – licence cancellation by ASIC – administrative review – stay – briefed by *Innoinvest*

Regulatory Compliance / Enforcement

[*Australian Securities & Investments Commission v RM Capital & The SMSF Club*](#) - Federal Court NSD 906/2019 – civil penalty – alleged acceptance of conflicted remuneration in contravention of [s 963G Corporations Act 2001 \(Cth\)](#) – for authorised representative – briefed by *Hall & Wilcox*, Sydney (set down for final hearing: 21/9/20 - 2/10/20)

[*Registered Organisations Commissioner v Communications, Electrical, & Plumbing Union*](#) – Federal Court NSD802/2018 – for Commissioner – civil penalty – contraventions of [ss 230 & 233 Fair Work \(Registered Organisations Act\) 2009 \(Cth\)](#) – briefed by *Lander & Rogers*, Melbourne (judgment reserved, heard 7/19)

[*Australian Competition & Consumer Commission v Husqvarna Australia*](#) (2018) – for Husqvarna – [Franchising Code of Conduct](#) - [Australian Consumer Law](#) – s87B undertaking negotiated – briefed by *Holman Webb*, Sydney

[*Australian Charities & Not-for-Profits Commission v RSL LifeCare*](#) – for RSL LifeCare – investigation into directors' remuneration and charity governance arrangements – EU negotiated – briefed by *Clayton Utz*, Sydney

Australian Institute of Company Directors & Governance Institute of Australia (2019) – [Joint Opinion on the Law and Best Practice of Minutes of Directors' Meetings](#) – briefed *direct*

Law Society of South Australia – briefed *direct*

WaterNSW – various water theft prosecutions – briefed by *Norton Rose Fulbright*, Sydney

National Australia Bank – various matters – briefed by *MinterEllison*, Sydney & Melbourne

Director of ASX listed company – ASIC investigation into suspected insider trading in contravention of [s1013 Corporations Act 2001 \(Cth\)](#) – successfully obtained “no action letter” – briefed by *Saville Partners*

Royal Commissions / Public Inquiries

[*Royal Commission into Aged Care Quality & Safety*](#) (2018-2019)

- Pre- & post-publication advice for aged care providers featured in ABC TV *Four Corners* program “Who Cares” (2018) and *7.30 Report* (2019) briefed by *Hall & Wilcox*
- *Catholic Health Care* (briefed by *Moray & Agnew*), *RSL LifeCare* (briefed by *Clayton Utz*), *Anglican Care*, *Aegis Aged Care Group*, *United Protestants Association of NSW*, & others (briefed by *Hall & Wilcox*) - initial submissions (January & February 2019), Adelaide hearings (February & March 2019)
- *Garden View Aged Care* – Sydney hearing (dementia) (May 2019) – briefed by *Sparke Helmore*
- *Anglican Care* – Mildura hearing (respite) (July 2019) – briefed by *Hall & Wilcox*
- *Garden Village Aged Care* – Mildura hearing (respite) (July 2019) – briefed by *Hall & Wilcox*
- *Anglican Care* – Melbourne hearing (young people) (Sept 2019) – briefed by *Hall & Wilcox*

[*Royal Commission into Misconduct in the Banking, Superannuation & Financial Services Industry*](#) (2018-2019)

- *Commonwealth Bank of Australia / Aussie Home Loans* – briefed by *Clayton Utz*
- *Energy Industries Superannuation Scheme* – briefed by *Hall & Wilcox*

[*NSW Public Inquiry into Charitable Fundraising \(aka RSL Inquiry\)*](#) (2017-2018) – for RSL LifeCare – briefed by *Clayton Utz*

[*NSW Ombudsman's Inquiry into Water Compliance & Enforcement 2007-2017*](#) (2017-2018) – for WaterNSW – briefed by *Norton Rose Fulbright*

[*Senate Economics References Committee Inquiry into Foreign Bribery*](#) (2016-2018) – for Leightons Holdings senior executive Stephen Sasse – briefed *direct*

[*Special Commission of Inquiry into Greyhound Racing Industry in NSW*](#) (2015-2016) – for CEO GreyhoundsNSW – briefed by *Norton Rose Fulbright & Clayton Utz*

[*Royal Commission into Trade Union Corruption & Governance \(AWU Case Study\)*](#) (2015) – for Thiess/John Holland senior executive Stephen Sasse re negotiations with the Hon. Bill Shorten MP when AWU National Secretary

Earlier Notable Inquiries & Related Matters:

Special Commission of Inquiry into the Medical Research & Compensation Foundation (aka the James Hardie Inquiry) (2004) – Junior Counsel Assisting – briefed by *NSW Crown Solicitors* – later briefed by ASIC in civil penalty proceedings against the James Hardie companies, directors, and officers: *ASIC v Macdonald (No 11)* [2009] NSWSC 287; (2009) 256 ALR 199; (2009) 230 FLR 1; (2009) 71 ACSR 368; *(No 12)* [2009] NSWSC 714 – briefed by *Clayton Utz*

Royal Commission into the collapse of HIH Insurance Ltd (2001–2003) – for Hannover Re (and in AAT, Federal Court, and High Court proceedings: *X & Ors v Australian Prudential Regulation Authority* [2007] HCA 4; (2007) 226 CLR 630; *Applicant Y v APRA* [2006] FCAFC 37; *Applicant X v APRA* [2005] FCA 1288, and shareholder class actions) – briefed by *Minter Ellison*

Corruption Inquiries & Investigations

ICAC Operation Ember (Roads and Maritime Services) (hearings throughout June-August, October 2019) – for the NSW Roads & Maritime Services Agency (now Transport for NSW) – briefed by *Norton Rose Fulbright, Sydney*

ICAC Operation Credo (Australian Water Holdings) (2014-2017) – for Senator the Hon. Arthur Sinodinos AO (previously Chairman, Australian Water Holdings) – also appeared in related shareholder proceedings: *TSDack v Australian Water Holdings* [2015] FCA 93 – briefed by *Arnold Bloch Liebler, Melbourne & Sydney*

ICAC Operation Spicer (Political Donations) (2014-2016) – for Senator the Hon. Arthur Sinodinos AO (previously Finance Director, Liberal Party of Australia (NSW Division)) – also acted in related NSW Electoral Commission investigation – briefed by *Arnold Bloch Liebler, Melbourne & Sydney*

ICAC Operation Ricco (City of Botany Bay Council) (2017) – for City of Botany Bay Council Deputy General Manager, Lorraine Cullinane (written submissions & related proceedings) – briefed by *McCabes, Sydney*

ICAC Operation Tunic (NSW Mine Subsidence Board) (2014-2015) – for NSW Mine Subsidence Board – briefed by *Kilmurray Lawyers, Newcastle*

Recent Publications / Presentations

Commercial Issues in Private International Law: A Common Law Perspective (Hart Publishing, 2019) - “New approaches to proof of foreign law: a practitioners' assessment” (chapter co-authored with brother Justin Hogan-Doran)

Law Society of New South Wales Government Solicitors' Conference (2019) - *Lessons for Government from Recent Royal Commissions and Public Inquiries*

5 Wentworth Chambers Retreat (2019) - *The Work of Counsel in Royal Commissions and Public Inquiries*

Law Council of Australia Superannuation Lawyers' Conference (2019) - *Current Thinking on the Sole Purpose Test*

Governance Directions Governance Institute of Australia (2018) - *Minutes of directors' meetings: minimising the risk*

UNSW Centre for Law, Markets & Regulation - Practitioners' Forum (2017) - *Directors and Officers Duties - Recent Cases and Regulatory Developments*

The Judicial Review Judicial Commission of New South Wales (2017) - *Computer says 'No': Automation, Algorithms and Artificial Intelligence in Government Decision-Making*

International Bar Association Annual Conference (2017) - *What role has good advocacy in mediations?*

More at <https://dhdsc.com.au/paper-presentations>