

DOMINIQUE HOGAN-DORAN SC

Dominique Hogan-Doran SC conducts a diverse, Australia-wide, legal practice, with particular focus on commercial disputes & corporations matters, regulatory compliance & enforcement, and public inquiries involving governance and integrity issues. She maintains chambers in Sydney (5 Wentworth), Melbourne (Douglas Menzies) and Adelaide (Jeffcott).

Prior to the Bar, Ms Hogan-Doran was a lawyer with Mallesons Stephen Jaques & Research Director to the Chief Justice of New South Wales, the Hon. A.M. Gleeson AC.

Professional Recognition And Awards

Leading Commercial Litigation & Disputes Resolution Senior Counsel NSW - Doyle's Guide to the Australian Legal Profession (2016, 2017, 2018)

Leading Mediators NSW - Doyle's Guide to the Australian Legal Profession (2018)

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

Woman of the Year Finalist - Money Management and Super Review Australian Women in Financial Services Awards (2013)

Academic Qualifications

Master of Laws - University of Sydney (2004)

Bachelor of Civil Law (First Class Honours) – Balliol College, University of Oxford (1995)

Bachelor of Laws (First Class Honours) - University of Sydney (1992)

Bachelor of Economics (Social Sciences) - University of Sydney (1990)

Academic Scholarships And Awards

Sir Robert Menzies Memorial Scholarship in Law - University of Oxford (1994)

Fulbright Scholarship - Harvard University (not taken up) (1993)

Convocation Medal - University of Sydney (1993)

Nancy Gordon Smith Prize for Honours at Graduation in Law (3rd in year) (1992), Tress Cox Maddox Scholarship (1991), Phillips Fox John L Mant Scholarship (1990), 1st Place in Corporations Law, 1st Place in Criminal Law (Aaron Levine Prize, 1990) - University of Sydney

Professional Development

Practitioner's Certificate in Mediation - Institute of Arbitrators and Mediators of Australia (2013)

US & International Anti-Corruption Law - American University Washington College of Law (2014)

Program on Negotiation and Leadership - Harvard Law School (2015)

Diploma in International Arbitration - Chartered Institute of Arbitrators (2015)

Joint Course on International Commercial Arbitration - Columbia University & Chartered Institute of Arbitrators (New York Branch) (2015)

Trustee Directors Course - Australian Institute of Superannuation Trustees (2015)

Company Directors Course - Australian Institute of Company Directors (2004, 2017)

Current Appointments

Profession:

International Bar Association, Regulation Committee
Australian Bar Association, International Committee
Professional Conduct Committee, Chartered Accountants Australia and New Zealand
Adjunct Associate Professor, UNSW Centre for Law, Markets and Regulation
G20 Business Dialogue Integrity & Compliance Taskforce

Arbitration:

Fellow of the Chartered Institute of Arbitrators
Accredited Arbitrator, NSW Bar Association BarADR
Australian Energy Regulator Arbitral Panel
National Broadband Network Arbitral Panel
Essential Services Commission of South Australia Arbitral Panel
Economic Regulatory Authority of Western Australia Arbitral Panel
Superannuation Transactions Gateway Network Governance Body Disputes Resolution Panel

Mediation:

Accredited Mediator NMAS
Supreme Court of New South Wales Mediators Panel
District Court of New South Wales Mediators Panel
Australian Franchising Code of Conduct Mediators Panel

Previous appointments include:

Future of the Australian Legal Profession Committee, Law Council of Australia
Professional Conduct Committee, New South Wales Bar Association
President, Australian Women Lawyers
President, Women Lawyers Association of New South Wales

Adjunct Lecturer, Australian Graduate School of Management
Lecturer in Contracts, University of New South Wales
Tutor in Evidence, University of Sydney

Director, Trustee of Club Plus Superannuation Scheme (RSE Licensee) (Audit, Risk & Compliance Committee, Investment Committee, Insurance & Claims Committee)
Alumni Director, Menzies Foundation
Director, National Foundation for Australian Women
President, University of Sydney Union

Select Cases

Royal Commissions & Public Inquiries

Commonwealth Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018) (for CBA subsidiary Aussie Home Loans, an Australian Credit Licensee)

Public Inquiry under the Charitable Fundraising Act 1991 (NSW) (2017-2018) (for charity RSL LifeCare Ltd)

Special Commission of Inquiry into the Greyhound Racing Industry in NSW (2015-2016) (for CEO of industry regulator Greyhounds NSW)

Commonwealth Royal Commission into Trade Union Corruption & Governance (AWU Case Study) (2015) (for Thiess/John Holland executive, re his negotiations with the Hon. Bill Shorten MP)

Special Commission of Inquiry into The Medical Research & Compensation Foundation (the James Hardie Inquiry) (2004) (Junior Counsel Assisting the Commission)

Commonwealth Royal Commission into collapse of HIH Insurance Ltd (2001-2003) (for Hannover Re)

Integrity and Probity

Ombudsman's Inquiry into Water Compliance and Enforcement (2017-2018) (for WaterNSW)

ICAC Operation Ricco (Botany Bay Council) (2017) (for Deputy General Manager, Ms Lorraine Cullinane)

ICAC Operation Credo (Australian Water Holdings) (2014-2017) (for Senator the Hon. Arthur Sinodinos)

ICAC Operation Spicer (Political Donations) (2014-2016) (for Senator the Hon. Arthur Sinodinos)

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

ICAC Operation Vesta (Sydney Harbour Foreshore Authority) (2010-2011) (for witness informant)

ICAC Operation Ambrosia (NSW TAFE) (2005) (fraudulent occupational licensing schemes)

Commercial Disputes - Investor, Customer, & Creditor Claims

Various Investor & Consumer Class Actions (2016-2018) (confidential opinions on prospects – for various litigation funders, lead applicants, insureds)

ASIC v GDK Financial Solutions Pty Ltd (in liq) (2016) FCA (Middleton J); ASIC v GDK (No 14) [2013] FCA 459 (Gordon J); ASIC v GDK (No 11) [2012] FCA 1034 and ASIC v GDK (No 12) [2012] FCA 1035 (Dodds-Streeton J); ZMB Australia Pty Ltd v Warne [2011] FCA 311 (Ryan J); ZMB Australia Pty Ltd v Warne [2011] FCAFC 65 (appeal); ASIC v GDK (No 8) [2011] FCA 997 (Dodds-Streeton J); ASIC v GDK [2010] FCA 710 (Gray J); ASIC v GDK (No 6) [2010] FCA 1092 (Finkelstein J); AVS Property v McMaster [2010] FCAFC 81; (2010) 79 ACSR 89 (appeal); AVS Property v Western Retirement Village Management Ltd (In Liq) [2009] FCA 512 (Ryan J); ASIC v GDK (No 3) [2008] FCA 448 (2008) 169 FCR 497 (2008) 248 ALR 766; and ASIC v GDK (No 4) [2008] FCA 858 (Finkelstein J) (unregistered managed investment scheme - winding up - priorities)

In Re Retail Adventures Pty Ltd (in liq) (2015-2016) NSWSC (insolvency – contractual liens – foreign law – for international freight forwarder)

Westpac Banking Corporation v Nitopi (2015) NSWSC (commercial bill facility – guarantee – for Westpac)

Hanley v National Australia Bank (2015) VSC (settled) (financial advice – complex products - for NAB)

TSDack v Australian Water Holdings Pty Ltd [2015] FCA 93 (minority noteholders claim – for Senator Sinodinos)

Mercedes Holdings v Waters (No 6) [2012] FCA 1412; [2015] FCA 264 (class action - ss 208, 601FC, 601FD, 601HG, 601LC Corporations Act 2001 (Cth) – for founder & Chairman of MFS Premium Income Fund)

Leda Holdings Pty Ltd v Securcorp Ltd as Responsible Entity of Securcorp Mortgage Income Scheme [2013] FCA 1364; (settled at hearing, March 2015) (managed investment scheme – for responsible entity)

Australian Mortgage & Finance Co v Rome Euro Windows (2014) NSWSC 29; [2014] NSWSC 1173; [2014] NSWSC 996 (minority oppression – fiduciary duties – statutory derivative action - freezing orders)

Espire Creations Pty Limited v Omniwealth Services Pty Ltd (2014) NSWSC (settled at mediation) (financial advice – complex products - negligence – for clients)

Tugrul v Tarrants Financial Consultants Pty Ltd [No 4] [2014] NSWSC 291; [No 2] [2013] NSWSC 1971; [No 1] [2013] NSWSC 1561 (financial advice – agribusiness schemes – for financial planner)

In re MF Global Australia Ltd (in liq) [2012] NSWSC 994; In re MF Global Australia Ltd (in liq) (No 2) [2012] NSWSC 1426; (2012) 267 FLR 27 (application by liquidator for directions - client money - ss 981A-981H Corporations Act 2001 (Cth) - complex priority dispute – for derivatives clients)

ZMB Australia Pty Ltd v Warne [2011] FCAFC 65 (appeal - scheme - approval of compromise)

AVS Property v McMaster [2010] FCAFC 81; (2010) 79 ACSR 89 (appeal - scheme - discharge of mortgage)

Peridon Village Nominees, application of Billingham [2006] NSWSC 464 and Warne v GDK Financial Solutions Pty Ltd; Billingham v Parbery [2006] NSWSC 259; (2006) 57 ACSR 525 (managed investment scheme – successor scheme – winding up – for lead investors)

Johnstone v HIH Insurance Ltd [2004] FCA 1414; Johnstone v HIH Limited [2004] FCA 190 (class action – defending shareholder claim on foreign insurer Hannover Re)

Regulatory Investigations & Enforcement

Responding to regulatory action:

Australian Competition and Consumer Commission v (confidential - international distributor) (2018) (Franchising Code of Conduct - Australian Consumer Law)

Canberra Raiders Sports Club v ACT Gambling and Racing Commission (2018) ACTSC & ACAT (Gaming Machine Act 2004 (ACT) - financial penalty & additional licence conditions set aside – reprimand substituted)

ASIC v (confidential - corporate authorised representative of Australian Financial Services Licensee) (2017-2018) (financial services - conflicted remuneration prohibition - Pt 7.7A, Div. 4 Corporations Act 2001 (Cth))

Australian Charities & Not-for-profits Commission v RSL LifeCare Ltd (2017-2018) (governance standards)

ASIC v (confidential - ASX listed company director) (2016) (insider trading - continuous disclosure – Part 7.10, Div. 3 and Chapter 6CA Corporations Act 2001 (Cth) – ‘no action’ letter successfully obtained)

The Sharemarket College Pty Ltd & Ors v ASIC [2016] AATA 1057 (licence cancellation – banning orders)

The Star Casino (2015) (Part 5 Casino Control Act 1992 (NSW) – casino operations)

ASIC v Hickman (Macquarie Equities Ltd) (2015) (options trading - unlicensed discretionary trading - falsification of records - Parts 7.6 and 7.12 Corporations Act 2001 (Cth) – banning hearing)

ASIC v (confidential - responsible entity of registered investment scheme) (2012-2013) (compliance with scheme constitution - Chapter 5C Corporations Act 2001 (Cth) – imposition of licence conditions)

Australian Taxation Office Project Wickenby (2012-2013) (tax evasion – for confidential informant)

ASIC v (confidential - senior executive) (2012) (insider trading - Part 7.10, Div. 3 *Corporations Act* 2001 (Cth))

Tarrant and ASIC [2011] AATA 945; (2011) 56 AAR 257; (2011) 128 ALD 376 (financial product advice – high risk products – advice to retail investors – investigation & subsequent appeal from ASIC banning order)

ASIC v Rodney Adler (2010) (allegation of managing corporation whilst disqualified - Part 2D.6 *Corporations Act* 2001 (Cth) – ‘no action’ letter successfully obtained)

RSPCA v Granada & ITV (2009) (animal welfare offences - "I'm a Celebrity, Get Me Out of Here")

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 (*Insurance Act* 1973 (Cth) – fit and proper)

Australian Prudential Regulation Authority v (confidential - corporate superannuation fund trustee) (2005-2006) (*Superannuation Industry (Supervision) Act* 1993 (Cth) – fit and proper)

Acting for regulators:

Registered Organisations Commission v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (2018) FCA (civil penalty proceedings – alleged breaches of s 230 and s 233 *Fair Work (Registered Organisations) Act* 2009 (Cth))

Kerr v CGU Insurance Ltd; Donnelly v CGU Insurance Ltd (2010-2011) (One.Tel Ltd (in liq) compensation order indemnity action - for ASIC intervening - public interest immunity - settlement privilege)

ASIC v Macdonald (No 12) [2009] NSWSC 714; 73 ACSR 638 and ASIC v Macdonald (No 11) [2009] NSWSC 287 (2009) 256 ALR 199; (2009) 230 FLR 1; (2009) 71 ACSR 368; James Hardie Industries NV v ASIC [2009] NSWCA 18 (civil penalty proceedings - misleading and deceptive statements - continuous disclosure)

ASIC v Australian Lending Centre (2009-2010) (consumer credit – unconscionable conduct)

Westpac Banking Corporation v ASIC [2009] FCA 1506; (2009) 181 FCR 379 (issuing of debit Mastercards – payment systems)

ASIC v Ezybonds Pacific Limited Partnership (2007-2009) (*ASIC Act* 2001 (Cth) – payments)

P Dawson Nominees Pty Ltd v ASIC & Ors [2008] HCATrans 409 on appeal from ASIC v P Dawson Nominees Pty Ltd [2008] FCAFC 123; (2008) 169 FCR 227; (2008) 247 ALR 646; (2008) 66 ACSR 704; P Dawson Nominees Pty Ltd v Multiplex Ltd [2007] FCA 1659; (2007) 65 ACSR 239 (for ASIC - public interest immunity – whistleblowers – Part 9.4AAA *Corporations Act* 2001 (Cth))

ASIC v Offset Alpine & Estate of Late Renee Rivkin (2006-2007)

Trusts, Associations, and Charities

RSL LifeCare Limited (2018) (charitable trust – *cy pres* scheme - trustee duties)

Simpson v Simpson QSC No. 7887/16 (settled at hearing, March 2018) (application for judicial advice – s 96 *Trusts Act* 1973 (Qld) - testamentary trust – division of capital and income – for income beneficiary)

Re Greek Atlas League Inc NSWSC No. 2017/213531 (settled at hearing, Feb 2018) (associations – elections)

Trustee of the Energy Industries Superannuation Scheme v State of New South Wales (2016) (superannuation trust – defined benefits scheme – future funding - “Poles and Wires” privatisation of State network assets – for trustee)

Cupic v Cupic; Zelenovic v Cupic (2017) NSWSC (probate – foreign property – foreign law)

SR Tech v Kousba Holdings (2013) FCA (ACT Registry) (unit trust – construction of deed)

In re MF Global Australia Ltd (in liq) (2012) 267 FLR 27; [2012] NSWSC 994 (application for judicial advice - s 63 Trustee Act 1925 (NSW) – distribution of over \$200 million in client segregated accounts – for clients)

Greek Orthodox Church Community (2012) (charitable trust – trust deed – amendment)

Telecommunications & Intellectual Property

Adobe Systems Inc & Microsoft Corp v Broadcast Operations Group (2013) FCA (copyright – account of profits - for 29 companies of the Super Radio network)

Prime Media Group v Seven Network (2013) (television program supply – for Prime)

Universal Music Australia Pty Ltd v Sharman License Holdings Ltd [2004] FCA 183 (Anton Piller orders - for Nippon Telecom, University of NSW, University of Queensland and Monash University)

Griffith & Ors v Australian Broadcasting Corporation & Anor [2004] NSWSC 582; earlier [2003] NSWSC 1244 (defamation – injurious falsehood – for the ABC)

Real Property

Webb v Borg [2012] NSWSC (Nicholas J, unrep.) (strata title – exclusive use by-law)

In re Nevada Pty Ltd [2011] NSWSC 1499 (company title – redevelopment – class rights)

Victoria Point Docklands Real Estate v OC1 & OC4 (Plan of Subdivision PS 509916K) (2011) VSC; VCAT (management rights)

Henderson v Body Corporate of Merrimac Heights CTS 19563 [2011] QSC 336 (community title)

West Apartments Pty Ltd v Austino Property Development & 19 Ors (2011) NSWSC (strata development – conveyancing - rescission – specific performance)

Vale v Rosychamp Pty Ltd [2008] NSWSC 1373; Vale v Rosychamp Pty Ltd [2006] NSWSC 1341 (retail tenancy - unconscionability)

Mediation of commercial & financial services disputes (as mediator)

Retail Banking Transformation Project (NSW Supreme Court Commercial List dispute)

Rural Investors & Retail Bank (Federal Court of Australia proceedings concerning advice to invest in complex structured financial products)

Insurers & Premium Funder (pre-action mediation between professional indemnity insurers and insurance premium funder of architectural business in external administration)

Resort Development Joint Venture (NSW Commercial List dispute re treatment of share allocations, claims for unpaid directors' fees, fee and profit share claims, contribution adjustments, & burden of prior costs orders)

Medical Services Practice & Retail Bank (NSW District Court proceedings re alleged cheques frauds by former business manager)

For more information concerning mediation services, visit www.phillipstreetmediation.com.

Recent Papers & Presentations

Enforcing the Banking Executive Accountability Regime - UNSW Centre for Law, Markets & Regulation (2018)

Royal Commissions in Australia - South Australian Bar Association (2018)

“Computer says ‘No’”: Automation, Algorithms and Artificial Intelligence in Government Decision-Making - Judicial Commission of New South Wales - *The Judicial Review* Vol 13, Issue 3 (2017)

Managing Corporate Interests in Public Inquiries - UNSW Issues for In-House Counsel Seminar (2017)

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

Challenges for the Legal Profession: Data Management, Confidentiality and Cyber Security - Fiji Law Society Annual Convention (2017)

In Conversation with His Excellency His Honour Judge James Crawford, International Court of Justice - Australian Bar Association Bi-Annual Conference (2017)

Modern Corporate Governance: The Practice of Minutes - Governance Institute of Australia 2017 Corporate Governance Forum (2017)

Conflicts of Interest and Duty - Women on Boards Australia, Sydney Directors' Circle (2017)

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

Accountability Mechanisms - Beyond Merits Review and Jurisdictional Error - Law Council of Australia Annual Immigration Law Conference (2017)

The Problem of Lost Trust Deeds - Retirement and Estate Planning Bulletin Vol 19, Issue 10 (2017)

International Law Developments in Australia - American Bar Association Section of International Law (2017)
51 International Legal Developments Year in Review: 2016 at 579-82

Advocating the Complexity of Corporate Law - Governance Institute of Australia National Conference (2016)

Cross-Border Issues in International Commerce - 28th LAWASIA Conference (2015)

The Future of Financial Advice & Liability of Financial Advisors - NSW Bar Association (2015)

Challenges for the Rule of Law in Australia Today - Economic & Business Educators NSW (2015)

Evidence on behalf of the NSW Bar Association - Productivity Commission Inquiry into Access to Justice Arrangements (2014)

Shareholder protection in complex capital markets - Commercial Bar Association of Victoria (2014)

Dealing with Self represented Litigants in Civil Proceedings: Practitioner Tips and Duties - The College of Law's Unrepresented Litigants Forum (2014)

Challenges for Investment: Legal and Regulatory Issues - American Chamber of Commerce (Hong Kong) and Australian Chamber of Commerce (Hong Kong) Joint Seminar on Financial Services (2014)