

# Dominique Hogan-Doran SC



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**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)**

*University of Sydney*

- Nancy Gordon Smith Memorial Prize at Graduation 1993
- Convocation Medal 1993 (for ‘*outstanding academic achievement and contribution to University life*’)

**Bachelor of Civil Law (First Class Honours)** | 1994 - 1995

*University of Oxford (Balliol College)*

- Sir Robert Menzies Memorial Scholarship in Law

**Practitioner’s Certificate in Mediation** | 2013

*Institute of Arbitrators and Mediators Australia*

**Program on Negotiation and Leadership** | 2015

*Harvard Law School*

**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**

- *The Legal 500* – Regulatory (including White Collar Crime) (Leading Silk, Tier 1), Commercial (Leading Silk, Tier 1) (2021-2024).
- *Chambers & Partners Asia Pacific* – Dispute Resolution (Band 4) (2021-2024).
- *Best Lawyers/AFR* – Litigation, Alternative Dispute Resolution, Financial Institutions, Superannuation Law (2020-2024). ‘Lawyer of the Year, Sydney: Superannuation Law’ (2022).
- *Doyle’s Guide to Australian Legal Profession* – Recommended Senior Counsel NSW, Commercial Litigation & Disputes Resolution (2015-2022).
- *Doyle’s Guide to Australian Legal Profession* – Leading Mediators (2018-2023).
- *Lawyers Weekly Australian Law Awards* – 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

### Court Proceedings

Lehrmann v Network Ten Pty Limited (Trial Judgment) [2024] FCA 369 (Lee J)

- For Fiona Brown, Chief of Staff & Director of Operations, Prime Minister’s Office (Russell Kennedy).

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 Superannuation Pty Limited. Judicial advice re defined benefits scheme deficit funding and merger with TWUSUPER (Mills Oakley).

Application by AUSCOAL Superannuation P/L atf Mine Superannuation Fund (2023/00438881) (ongoing)

- Application for a determination under s 23 of the *Coal and Oil Shale Miners Superannuation Act 1941* (NSW) (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).

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).

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 (Dentons).

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

- For trustee of Australian Catholic Super. Judicial advice (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 scheme. Judicial advice (Minter Ellison).

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

- For trustee of Queensland Public Sector Superannuation Scheme. Landmark judgment giving judicial advice re deed amendment to establish trustee capital reserve to avoid insolvency in case of fines or penalties (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 Enforcement Action**

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).

### **Challenges to Regulator Action**

RSE Licensee (confidential) v Australian Prudential Regulation Authority (2022)

- For RSE trustee. Threatened Federal Court challenge to purported exercise of power pursuant to s 29EA *Superannuation Industry (Supervision) Act 1993* (Cth) imposing additional conditions. Revocation obtained (Mills Oakley/Herbert Smith Freehills).

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 trustee. Declarations successfully obtained that consent not required for successor fund transfer of members / assets of Mercy Super (Ashurst).

Arcare Pty Ltd v Aged Care Quality & Safety Commissioner (Fed Court VID1395/2019)

- For Arcare (Russell Kennedy). Challenge to purported exercise of regulatory powers to give directions pursuant to *Aged Care Act 1997* (Cth) (settled).

## **Regulatory Matters and Investigations**

Commonwealth regulator (2023-2024)

- Advising Commonwealth regulator re major investigation (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 ACTGRC re licensee investigation (ACT Government Solicitor).

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

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

ASIC investigation into RSE licensee (2022)

- Advised RSE licensed trustee. Re investment choice campaign(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. Additional 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).

ASIC investigation into RSE licensee (2019-2021)

- Appearing for general counsel of retail superannuation trustee in compulsory examinations involving complex legal professional privilege claims (MinterEllison).

## **Expert Determinations**

Superannuation trustee and fund administrator (2021-2022)

- Appointed expert determiner of administration contract dispute.

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

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

**Financial Sector Transactions**

Merger between Mine Super and TWU Super (2023-2024)

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

Merger between Alcoa Super and Australian Retirement Trust (2024)

- Advised Alcoa Super, trustee of Alcoa of Australia Retirement Plan (Hall & Wilcox).

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

- Advised Betashares Group (King & Wood Mallesons).

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

- Advised Future Super Investments Ltd re transaction (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).

**Royal Commissions**

Royal Commission into the Robodebt Scheme (2022-2023)

- Senior 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 & 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).

**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).

Special Commission of Inquiry into the Medical Research and Compensation Foundation (the James Hardie Inquiry) (2004)

- Junior Counsel Assisting the Special Commission (NSW Crown Solicitors).

**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).

**RECENT PAPERS**

- *Reputation Risk and Governance* – Association of Independent Schools of NSW Governance Symposium (April 2024)
- *David McLean Memorial Plenary: 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* - (2024) *Australian Restructuring, Insolvency & Turnaround Assn Journal* 26
- *Assisting Royal Commissions: Reflections of Counsel* - (2024) 54 *Australian Bar Review* (forthcoming) (presented to ANU, 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)

## 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)