

DOMINIQUE HOGAN-DORAN SC

Dominique Hogan-Doran SC conducts a national practice from chambers in Sydney (5 Wentworth Chambers), Melbourne (Douglas Menzies Chambers) & Adelaide (Jeffcott Chambers).

Dominique has a broad appearance & advisory practice in commercial disputes; regulatory investigations & enforcement; corporations, financial services, trusts & superannuation law; & Royal Commissions & public inquiries involving governance & integrity issues. She is also a Mediator and Arbitrator, and an experienced non-executive director.

Professional Recognition

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) – *Australian Women in Financial Services Awards* (2013)

Academic Qualifications & Awards

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)

Sir Robert Menzies Memorial Scholarship in Law (1994-1995)

University of Sydney Convocation Medal (1993)

Professional Development

Australian Institute of Company Directors – Applied Risk Governance (2019)

Australian Institute of Company Directors – Company Directors Course (2017)

Governance Institute of Australia – Financial Analysis for Directors & Officers (2016)

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

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

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

Previous Employment

Dominique was previously a lawyer with Mallesons Stephen Jaques, Research Director to the Chief Justice of New South Wales, the Hon. Murray Gleeson AC, and Research Assistant to the Dean of the Sydney Law School, Professor James Crawford AC SC.

She also worked as an Adjunct Lecturer with the Australian Graduate School of Management, as a Lecturer in *Contracts* at the UNSW Faculty of Law, and as a Tutor in *Evidence* at the University of Sydney.

Current Appointments

Australian Institute of Company Directors – Law Committee

Chartered Accountants Australia and New Zealand – Professional Conduct Committee

International Bar Association – Bar Issues Commission's Regulation Committee

Australian Bar Association – Futures Committee (Chair); International Committee (Deputy Chair)

UNSW Centre for Law, Markets and Regulation – Adjunct Associate Professor

Mediation and Arbitration Appointments

Chartered Institute of Arbitrators – Fellow

Supreme Court & District Court – Mediators Panels

Australian Franchising Code of Conduct – Mediators Panel

Superannuation Transactions Gateway Network Governance Body – Disputes Resolution Panel

Australian Energy Regulator – Arbitral Panel

National Broadband Network – Arbitral Pool

Essential Services Commission of South Australia – Arbitral Panel

Economic Regulatory Authority of Western Australia – Arbitral Panel

Select Previous Appointments

Club Plus Super Scheme – Trustee Director, Member of Audit, Risk & Compliance, Insurance & Claims, and Investment Committees (2015-2017)

Menzies Foundation – Alumni Director (2004)

National Foundation for Australian Women – Director (2004)

Australian Women Lawyers – President (2002-2003)

Women Lawyers Association of NSW – President (1999-2001)

Selected Matters

Royal Commissions & Public Inquiries

- [Royal Commission into Aged Care Quality & Safety](#) (2018-2020) for numerous aged care providers, briefed by Clayton Utz, Hall & Wilcox, Moray and Agnew, Piper Alderman
- [Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry](#) (2018-2019) for Commonwealth Bank of Australia (Aussie Home Loans), briefed by Clayton Utz, and for the Trustee of the Energy Industry Superannuation Scheme, briefed by Hall & Wilcox
- [NSW Ombudsman's investigation into Water Compliance & Enforcement](#) (2017-2018) for WaterNSW, briefed by Norton Rose Fulbright
- [NSW Public Inquiry into Charitable Fundraising](#) (2017-2018) for RSL LifeCare (successfully maintained fundraising licence, subject to additional conditions) briefed by Clayton Utz & PWC

- [Special Commission of Inquiry into Greyhound Racing Industry in NSW](#) (2015) for CEO GreyhoundsNSW (adequacy of regulatory enforcement of live baiting and animal welfare) briefed by Norton Rose Fulbright & Clayton
- [Commonwealth Royal Commission into Trade Union Corruption & Governance \(AWU Case Study\)](#) (2015) for Thiess/John Holland executive Stephen Sasse, re his negotiations with the Hon. Bill Shorten MP
- [NSW 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; see also [X v Australian Prudential Regulation Authority](#) [2007] HCA 4; (2007) 226 CLR 630; (2007) 81 ALJR 611 (challenge to use of Royal Commission evidence)

Regulatory Enforcement Action

For regulators

- [Registered Organisations Commissioner v Communications, Electrical, and Plumbing Union of Australia](#) (civil penalty proceedings re contraventions of ss 230 and 233 *Fair Work (Registered Organisations) Act*) briefed by Lander & Rogers, Melbourne
- [Kender v ASIC](#) [2018] AATA 4555 (application by disqualified director on basis of multiple insolvencies)
- [ASIC v Macdonald \(No 11\)](#) [2009] NSWSC 287; (2009) 256 ALR 199; (2009) 230 FLR 1; (2009) 71 ACSR 368 (liability); [James Hardie Industries NV v ASIC](#) [2009] NSWCA 18 (continuous disclosure); [ASIC v Macdonald \(No 12\)](#) [2009] NSWSC 714; 73 ACSR 638 (civil penalty proceedings re contraventions of *Corporations Act* for misleading and deceptive statements and continuous disclosure breaches)
- [Westpac v ASIC](#) [2009] FCA 1506; (2009) 181 FCR 379 (legality of issue of debit Mastercards under ASIC Act)
- [ASIC v P Dawson Nominees P/L](#) [2008] FCAFC 123; (2008) 169 FCR 227; (2008) 247 ALR 646; (2008) 66 ACSR 704; [P Dawson Nominees P/L v ASIC](#) [2008] HCATrans 409 (special leave refused); [P Dawson Nominees P/L v Multiplex Ltd](#) [2007] FCA 1659; (2007) 65 ACSR 239 (public interest immunity claim for whistleblower protection under Part 9.4AAA *Corporations Act*)

For subjects of regulatory action

- [Canberra Raiders Sports Club v ACT Gambling & Racing Commission](#) [2018] ATSC (successfully set aside record civil penalty & additional licence conditions re problem gambling incidents, successfully negotiated substituted reprimand & no further penalty) briefed by Snedden, Hall & Gallop, Canberra
- [Australian Competition & Consumer Commission v Husqvarna](#) (allegations of breach of *Australian Consumer Law* and *Franchising Code of Conduct*, successfully obtained Enforceable Undertaking) briefed by Holman Webb

- [*Australian Charities & Not-for-profits Commission v RSL LifeCare*](#) (director governance arrangements of registered charity, successfully obtained Enforceable Undertaking) briefed by Clayton Utz
- [*The Sharemarket College P/L & Ors v ASIC* \[2016\] AATA 1057](#) (application for stay of licence cancellation and banning orders)
- *ASIC v (confidential: director)* (2016) (insider trading & continuous disclosure investigation, successfully obtained 'no action' letter)
- [*ASIC v Hickman \(Macquarie Equities\)* \(2015\)](#) (banning hearing for unlicensed discretionary trading, falsification of records, Parts 7.6 & 7.12 *Corporations Act*)
- [*ASIC v GDK Financial Solutions Pty Ltd \(in liq\) \(No 3\)* \[2008\] FCA 448](#) (2008) 246 ALR 580; (2008) 26 ACLC 256 (Finkelstein J) (receiver appointed to wind up unregistered managed investment scheme to develop retirement village in Western Australia); [*ASIC v GDK \(No 4\)* \[2008\] FCA 858](#); (2008) 169 FCR 497 (2008) 248 ALR 766 (Finkelstein J) (winding up procedures & adjudication); [*AVS Property v Western Retirement Village Management Ltd \(In Liq\)* \[2009\] FCA 512](#) (joinder and carriage of appeal); [*AVS Property v McMaster* \[2010\] FCAFC 81](#); (2010) 79 ACSR 89 (appeal; discharge of mortgage as condition of winding up of unregistered scheme); [*ASIC v GDK \(No 6\)* \[2010\] FCA 1092](#) (Finkelstein J) (ability of representative to compromise proceedings on behalf of the group); [*ASIC v GDK* \[2010\] FCA 710](#) (Gray J) (trial of priority dispute turning on construction of terms of deed of purchase); [*ZMB Australia P/L v Warne* \[2011\] FCA 311](#) (Ryan J); [*ZMB Australia P/L v Warne* \[2011\] FCAFC 65](#) (Full Court) (compromise of appeal re priority dispute); [*ASIC v GDK \(No 8\)* \[2011\] FCA 997](#) (Dodds-Streeton J) (approval of settlement of claims on scheme fund); [*ASIC v GDK \(No 11\)* \[2012\] FCA 1034](#) (Dodds-Streeton J) (admission and rejection of claims on scheme fund); [*ASIC v GDK \(No 12\)* \[2012\] FCA 1035](#) (Dodds-Streeton J) (payment of tax liability); [*ASIC v GDK \(No 14\)* \[2013\] FCA 459](#) (Gordon J) (settlement of claim on scheme fund); *ASIC v GDK* (2016) FCA (Middleton J) (completion of winding up)
- *ATO re Project Wickenby* (2012-2013) (for confidential informant - tax evasion investigation)
- [*Tarrant v ASIC* \[2011\] AATA 945](#); (2011) 56 AAR 257; (2011) 128 ALD 376 (successful application for stay of publication); [*Tarrant v ASIC* \[2013\] AATA 926](#); (2013) 62 AAR 192 (application for review of banning order against financial planner re financial product advice concerning investments in Astarra Strategic Fund managed by Trio Capital)
- [*ASIC v Addwealth Financial Services* \(2012\)](#) (compliance with Chapter 5C *Corporations Act*; licence conditions imposed)
- *ASIC v Adler* (2010) (allegation of managing corporation whilst disqualified contrary to Part 2D.6 *Corporations Act*, successfully obtained 'no action' letter)
- *RSPCA v Granada Productions & ITV* (2009) ("I'm a Celebrity - Get Me Out of Here" re animal welfare investigation)
- [*X v Australian Prudential Regulation Authority* \[2007\] HCA 4](#); (2007) 226 CLR 630; (2007) 81 ALJR 611; *Applicant Y v APRA* [2006] FCAFC 37; *Applicant X v APRA* [2005] FCA 1288 (challenge to disqualification of senior insurance managers)

Financial Services, Trusts & Superannuation

- *Energy Industry Superannuation Scheme* (2013-2019) briefed direct, and by Hall & Wilcox, & by Sparke Helmore
- *National Australia Bank* (2019) briefed by MinterEllison
- *OnePath Custodians* (ANZ Group) (2018) briefed by MinterEllison
- *NULIS (Australia) Nominees & MLC Nominees* (NAB Group) (2018) briefed by K&L Gates, & by MinterEllison
- *Aon Hewitt Financial Advisory* (2018) briefed by Sparke Helmore
- *Re Simpson's Trust* [2018] QSC (Crow J) (for income beneficiary in Queensland Supreme Court judicial advice application - orders made for apportionment & distribution after contested hearing including cross-examination of expert accountants), briefed by Bradley, Allen, Love, Canberra
- *RSL LifeCare* (2018-2019) (charitable trust) briefed by Clayton Utz
- *In re MF Global Australia (in liq)* [2012] NSWSC 994; (2012) 267 FLR 27; *In re MF Global Australia (in liq) (No 2)* [2012] NSWSC 1426; (2012) 267 FLR 27 (insolvency of financial services business; application for judicial advice s 63 *Trustee Act* 1925 (NSW) re distribution of \$200 million in client money & complex priority dispute)

General Commercial Disputes

- *Re Bridgeland Investment* [2018] NSWSC (White J) (successful termination of winding up)
- *Re Greek Atlas League Inc* [2018] NSWSC (Robb J) (orders made affirming election results in incorporated association & requiring delivery up of books and records by former leadership)
- *TSDack v Australian Water Holdings* [2015] FCA 93 (shareholder dispute, for Senator Sinodinos)
- *Hanley v National Australia Bank* (2015) VSC (settled at mediation pre-hearing, 2015) (alleged negligent financial advice re complex products, for NAB)
- *Mercedes Holdings v Waters (No 6)* [2012] FCA 1412; *Hodges v Waters (No 7)* [2015] FCA 264 (approval of compromise of MFS class action, for founder & Chairman)
- *Australian Mortgage & Finance Co v Rome Euro Windows* (2014) NSWSC 29; [2014] NSWSC 1173; [2014] NSWSC 996; [2014] NSWSC 1744 (minority oppression, fiduciary duties, freezing orders, for successful applicant)
- *Leda Holdings v Securcorp Limited* [2013] FCA 1364 (settled at hearing, 2015) (managed investment scheme & responsible entity provisions)
- *Tugrul v Tarrants Financial Consultants [No 4]* [2014] NSWSC 291; *[No 2]* [2013] NSWSC 1971; *[No 1]* [2013] NSWSC 1561 (alleged negligent financial advice re agribusiness schemes, for financial planner)
- *Adobe Systems & Microsoft v Broadcast Operations Group* (2013) FCA (defending breach of copyright & account of profits claim, for 29 companies of the Super Radio network)

- *Prime Media Group v Seven Network* (2013) (television program supply, for Prime)
- *Nowland v Maiolla; Casbee Properties P/L v Eastwood Air Conditioning P/L* [2013] NSWSC 980 (shareholder dispute re minority oppression)
- *In re Nevada P/L* [2011] NSWSC 1499 (company title redevelopment & class rights)
- *Henderson v Body Corporate of Merrimac Heights CTS 19563* [2011] QSC 336 (community title scheme)

Corruption Inquiries

- *ICAC - Operation Ricco (Botany Bay Council)* (2016-2017) for Deputy General Manager, briefed by McCabes (misfeasance in public office)
- *ICAC - Operation Spicer (Political Donations) & Operation Credo (Australian Water Holdings)* (2014-2017) for Senator Arthur Sinodinos, briefed by Arnold Bloch Leibler
- *ICAC – Operation Tunic (NSW Mine Subsidence Board)* (2015-2016) for NSW Mine Subsidence Board, briefed by Kilmurray Lawyers, Newcastle (corrupt practices in contract procurement)
- *ICAC Operation Vesta (Sydney Harbour Foreshore Authority)* (2014-2015) for witness informant (2010-2011)
- *ICAC Operation Ambrosia (NSW TAFE)* (2005) fraudulent occupational licensing schemes

Recent Publications

“New approaches to proof of foreign law: a practitioners' assessment” chapter in *Commercial Issues in Private International Law: A Common Law Perspective*, Hart Publishing, 2019 (forthcoming, 2019)

“Minutes of directors' meetings: minimising the risk” (February 2019) 71:1 *Governance Directions*, published by the Governance Institute of Australia

“Computer says 'No'”: Automation, Algorithms and Artificial Intelligence in Government Decision-Making (2017) 13 *The Judicial Review* 345, published by the Judicial Commission of New South Wales

“International Law Developments in Australia “ (2017) 51 *International Legal Developments Year in Review: 2016* at 579-82, published by the American Bar Association Section of International Law

“The Problem of Lost Trust Deeds” (2017) *Retirement and Estate Planning Bulletin* (Vol 19, Issue 10) published by Lexis Nexis

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