

# DOMINIQUE HOGAN-DORAN SC

B Ec (Soc Sc), LLB (Hons I), LLM (USyd), BCL (Hons I) (Oxon)

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## RECENT CASES

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### **Re QSuper Board** [2021] QSC 276 ([link](#))

Successful application for judicial advice by the trustee of the Queensland Public Sector Superannuation Scheme to the Supreme Court of Queensland. The Australian Prudential Regulation Authority appeared as *amicus curiae*.

Ms Hogan-Doran SC was instructed for the QSuper Board by King & Wood Mallesons, Brisbane.

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### **Australian Securities and Investments Commission** (2021)

Investigation into and potential enforcement proceedings for pecuniary penalties, compliance orders and adverse publicity orders in connection with suspected contraventions of the *Australian Securities & Investments Commission Act 2001* (Cth) and of the *Corporations Act 2001* (Cth).

Ms Hogan-Doran SC is instructed by the Australian Government Solicitor on behalf of ASIC.

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### **Licensees of Registrable Superannuation Entities** (2021)

Various regulatory investigations and potential enforcement actions for alleged contraventions of the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Corporations Act 2001* (Cth).

Ms Hogan-Doran SC is currently instructed for the trustees of numerous RSE licensees by Minter Ellison, King & Wood Mallesons, Allens Linklaters, Dentons, KPMG Law, and Mills Oakley.

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### **Expert Determination** (2021)

Ms Hogan-Doran SC is jointly instructed by an RSE licensee and its administrator to determine a contractual dispute.

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### **Re CareSuper** (2021) Supreme Court of Victoria

Application for judicial advice by trustee of the Clerical Administrative and Retail Employees Superannuation Fund.

Ms Hogan-Doran SC is instructed for CareSuper by Mills Oakley, Melbourne.

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### **ASIC v RM Capital & The SMSF Club** (2021) (judgment reserved)

Federal Court of Australia proceedings for pecuniary penalties and compliance orders in connection with contraventions of s 963G of the *Corporations Act 2001* (Cth) in relation to acceptance of conflicted remuneration.

Ms Hogan-Doran SC was instructed for The SMSF Club by Hall & Wilcox, Sydney.

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### **Liquidators of The Ralan Group** (2021)

This concerns the collapse of one of Australia's largest private property developers. On appointment there was c.\$238 million owed to secured creditors, c.\$323 million to unsecured creditors and c.\$3 million in priority claims (employees). Recovery claims include unreasonable director-related transactions and unfair preferences.

Ms Hogan-Doran SC was instructed on behalf of the liquidators (Grant Thornton).

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***In re Black Range Metals (Resources) P/L (subject to DOCA)*** [2021] NSWSC 608

This case concerned a long running administration of a deed of company arrangement, on foot since 2003. The company had been part of the Black Range Group, which carried on the business of exploring and exploiting minerals. This *ex parte* application obtained orders to finalise the administration, including distributions and approval of remuneration.

Ms Hogan-Doran SC was instructed by Norton Rose Fulbright on behalf of the deed administrators (McGrath Nicol).

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***In the matter of Ovato Print Group*** [2020] NSWSC 1683 and [2020] NSWSC 1882 ([link](#))

By its implementation of the scheme established by the *Fair Entitlements Guarantee Act 2012* (Cth), the Commonwealth Government provides financial assistance to eligible employees who lose their job due to the liquidation of their employer. The underlying public policy objective of the FEG Scheme is for it to constitute a safety net scheme of last resort for eligible, redundant workers.

These proceedings raised public policy implications in the interplay between schemes of arrangement for trade creditors and employee claims proposed pursuant to ss 411 and 413 of the *Corporations Act 2001* (Cth) and the implementation of the FEG Scheme, particularly in the context of the fiscal support provided by the Commonwealth Government to corporate Australia during the COVID-19 pandemic. The Court decided not to refuse to approve the Ovato Schemes.

Ms Hogan-Doran SC was instructed by Norton Rose Fulbright on behalf of the Commonwealth Government.

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***Royal Commission into National Natural Disaster Arrangements*** (2020) ([link](#))

Sometimes referred to as the 'Black Summer' or 'Bushfires' Royal Commission, this inquiry examined coordination, preparedness for, response to and recovery from disasters as well as improving resilience and adapting to changing climatic conditions and mitigating the impact of natural disasters across the nation. The inquiry also considered the legal framework for Commonwealth involvement in national emergencies, and its recommendations led to passage of the *National Emergency Declaration Act 2020* (Cth) on 15 December 2020.

Logistics for this public inquiry were very challenging, getting underway during the height of the COVID-19 pandemic. Over 300 witness appearances using remote hearings technology and thousands of exhibits and public submissions were canvassed. Some witnesses, with first-hand experience of natural disasters, were examined in-situ, including in the coastal Victorian town of Mallacoota, where over 4000 people, including some 3000 tourists, had been trapped by the approaching fires on New Year's Eve 2019.

Ms Hogan-Doran SC, appointed by the Commonwealth Attorney-General, led the Counsel Assisting team, instructed by Solicitors Assisting King & Wood Mallesons.

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***In re NULIS Nominees (Australia) Ltd*** Supreme Court of New South Wales (unreported, orders August 2020)

This was a successful application by the NAB group pursuant to s 63 of the *Trustee Act 1925* (NSW). The plaintiff superannuation trustee (part of NAB's MLC Wealth business) sought the Court's opinion, advice or direction in relation to issues that had arisen in the administration of the MLC Super Fund. Following receipt of the advice, on 31 August 2020, NAB announced the successful sale of MLC Wealth to IOOF Holdings Ltd for \$1,440 million.

Ms Hogan-Doran SC was instructed by MinterEllison on behalf of the National Australia Bank group.

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***Registered Organisations Commissioner v CEPU*** [2020] FCA 96 (2020)

In these proceedings the Registered Organisations Commissioner successfully obtained declarations and civil penalties against the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union for multiple contraventions of the *Fair Work (Registered Organisations) Act 2009* (Cth).

Ms Hogan-Doran SC was instructed by Lander & Rogers on behalf of the Commissioner.

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***ICAC Operation Ember*** (2019 – 2020) ([link](#))

This public inquiry by the NSW Independent Commission Against Corruption was part of an investigation into the state transport agency and allegations concerning two employees and how they exercised their official functions when awarding government contracts for the Heavy Vehicle Safety program.

Ms Hogan-Doran SC was instructed by Norton Rose Fulbright on behalf of the NSW Government's Roads and Maritime Services agency (now Transport for NSW) in the inquiry, as well as related Supreme Court of NSW proceedings, for

injunctions and freezing orders against contractors the subject of the ICAC investigation. Those proceedings were ultimately resolved favourably, securing repayment of substantial amounts of public money.

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**Royal Commission into Aged Care Quality and Safety** (2018-2020) ([link](#))

This Royal Commission was established in 2018 in response to growing concerns about the quality of aged care in Australia highlighted by the ABC TV *Four Corners* program “*Who Cares?*”. The Commissioners began their investigations by seeking from major Approved Providers detailed responses to extensive questions raised by the Terms of Reference, subsequently conducting hearings and case studies on a wide range of issues arising from those responses. The Commissioners delivered an interim report on 31 October 2019, a special report on COVID-19 and aged care on 1 October 2020, and a final report on 26 February 2021.

Ms Hogan-Doran SC acted for:

- AMP Capital, instructed by Hall & Wilcox (Sydney Hearing 5 - *Funding, Financing and Prudential Regulation*) (September 2020)
- Anglican Care, instructed by Hall & Wilcox (Mildura Hearing - *Carers for Older Australians*) (July 2019)
- Garden View Aged Care instructed by Sparke Helmore (Sydney Hearing 1 - *Dementia and Residential Care: Use of Physical and Chemical Restraints Case Study*) (March 2019)
- An Approved Provider, instructed by Moray & Agnew (Written Response, January 2019)
- An Approved Provider, instructed by Clayton Utz (Written Response, January 2019)
- An Approved Provider, instructed by Hall & Wilcox (Written Response, January 2019)
- An Approved Provider, instructed by Hall & Wilcox (Written Response, January 2019)
- An Approved Provider, instructed by Hall & Wilcox (ABC TV and Written Response of Approved Providers)

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

Ms Hogan-Doran SC was instructed by Clayton Utz on behalf of the Commonwealth Bank of Australia in relation to the Consumer Lending hearings, including the Case Study into CBA-owned Aussie Home Loans and mortgage broker misconduct (March 2018).

Ms Hogan-Doran SC was also instructed by Hall & Wilcox for EISS Super, trustee of the Energy Industry Superannuation Scheme, in relation to the Superannuation hearings (September 2018).

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**October 2021**