

DOMINIQUE HOGAN-DORAN SC

RECENT AND NOTABLE MATTERS

ROYAL COMMISSIONS

Royal Commission into the Robodebt Scheme (2022-2023)

Senior Counsel for the Commonwealth of Australia. Chaired by the former Chief Justice of Queensland, the Commission investigated the Commonwealth's unlawful automated welfare debt recovery program which the Federal Court had declared unlawful and required repayments exceeding \$1.8 billion. Led a team of 9 counsel (instructed by Australian Government Solicitor, supported by Clayton Utz, Minter Ellison & Ashurst).

Royal Commission into National Natural Disaster Arrangements (2020)

Senior Counsel Assisting. Established in response to the devastating 2019-20 bushfire season in Australia, the Commission was tasked with examining the national arrangements for dealing with natural disasters and making recommendations for improvement. Chaired by former Chief of the Defence Force, Air Chief Marshal Mark Binskin AC, assisted by former Federal Court justice, Dr Annabelle Bennett AC SC and environmental law academic Professor Andrew Macintosh. The Commission examined over 300 witnesses, & made 80 recommendations covering legislative reform, national coordination, climate risk research, disaster resilience, and community engagement.

Royal Commission into Misconduct in Banking, Superannuation & Financial Services Industry (2018-2019) Chaired by former High Court justice, the Hon. Kenneth Hayne AC KC.

Acted for Commonwealth Bank of Australia & Aussie Home Loans (instructed by Clayton Utz)
Acted for Energy Industries Superannuation Scheme trustee (instructed by Hall & Wilcox)
Subsequently acted for the Australian Securities and Investments Commission in investigations referred by the Royal Commission, and appeared in civil penalty proceedings against Westpac Banking Corporation (instructed by the Australian Government Solicitor).

Royal Commission into Aged Care Quality and Safety (2018-2020)

Acted for Garden View Aged Care (instructed by Sparke Helmore) and associated investigation by the Aged Care Quality and Safety Commission and ABC TV program (instructed by Hall & Wilcox). Also acted for AMP Capital, Anglican Care, & Aegis Aged Care Group (instructed by Hall & Wilcox), Catholic HealthCare (instructed by Moray & Agnew), and RSL LifeCare (instructed by Clayton Utz).

James Hardie Special Commission of Inquiry (2004)

Junior Counsel Assisting. The Inquiry determined there was a \$1.8 billion shortfall in funding for future asbestos related liabilities and claims against the James Hardie group of companies. Subsequently appeared for the Australian Securities and Investments Commission in related civil penalty proceedings against the directors, executives, and companies in the James Hardie group for breach of directors duties and continuous disclosure breaches (instructed by Clayton Utz).

Royal Commission into the Failure of HIH Insurance Ltd (2001-2003)

Acted for Hannover Re re alleged sham reinsurance contracts. Subsequently acted in related proceedings against the Australian Prudential Regulation Authority (**X & Y v APRA (2007) 226 CLR 630**), and in defence of a shareholder class action (instructed by Minter Ellison).

BANKING & FINANCIAL SERVICES REGULATION

Operations – Investigations - Enforcement - Law Reform

Financial Institutions & Financial Services Providers (numerous)

- Compliance with *Corporations Act 2001* (Cth) re Financial Services Disclosures (Pt 7.7), Best Interests Obligation and Remuneration (Pt 7.7A), Design and Distribution Obligations (Pt 7.8A), Financial Product Disclosures (Pt 7.9), Product Intervention Orders (7.9A), Market Misconduct (Pt 7.10), and Australian Financial Complaints Authority (Pt 7.10A)
- Issues under the *ASIC Act 2001* (Cth) including consumer protection in relation to financial services (Pt 2) and investigations and hearings (Pt 3)

Financial Services Council (2024)

Opinion for industry on *Treasury Laws Amendment (Delivering Better Financial Outcomes) Bill 2024* (Cth) re deduction of financial advice fees in superannuation (instructed by Herbert Smith Freehills). The Bill was subsequently amended to address the issues raised in the advice.

ASIC v RM Capital & The SMSF Club [2024] FCA 151

Federal Court NSD906/2019, Jackson J (penalty judgment reserved)

ASIC's first civil penalty case alleging breach of the conflicted remuneration prohibition provisions of the *Corporations Act 2001* (Cth). Acting for corporate authorised representative, The SMSF Club, also acted in investigation between 2016-2019 (instructed by Hall & Wilcox).

ASIC investigation into Westpac Banking Group

ASIC v Westpac (Omnibus) [2022] FCA 515; (2022) 407 ALR 1; (2022) 159 ACSR 381

Acted for ASIC in investigation into Westpac referred by the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*. Appeared for ASIC in subsequent civil penalty proceedings, successfully obtaining civil penalties for breaches of the *Corporations Act 2001* (Cth) and *ASIC Act 2001* (Cth) & compliance plan orders in relation to Westpac's distribution of insurance products to retail customers (instructed by the Australian Government Solicitor).

CLIMATE CHANGE & SUSTAINABILITY

Risk analysis – Disclosures - Products

Regulated Entities (various)

- Climate change financial risk considerations in investment portfolios, disclosures and reporting
- Proxy voting strategies for listed company investments
- Fossil fuel investments member information requests
- Product labelling and promotion including 'greenwashing' risks in investor information

COMMERCIAL DISPUTES

Litigation - Expert determinations

Raptis Properties v One Managed Investment Funds Ltd atf Diversified Fund

(Supreme Court of South Australia CIV-23-002352) (settled at mediation after multiple interlocutory disputes, October 2025)

Acted for investment manager Capital Property Funds Ltd & executive director in defence of cross-claim by responsible entity of diversified property fund (instructed by Corrs Chambers Westgarth).

Westpac Banking Corp v Jammal & Ors (Supreme Court NSW 2021/00366051) (settled 2024)

Acted for Westpac. Equitable mortgages, subrogation and laches (instructed by HWL Ebsworth).

Nature's Care Holdings v Chen [2024] NSWSC 14 (Rees J)

Acted for vitamins manufacturer against former directors and chief executive officer; injunction obtained (instructed by Clifford Chance).

Class Actions

Opinions on prospects & settlement terms for funders and parties.

Licensed superannuation trustee and fund administrator (2022)

Expert Determiner. Fund administration contract dispute.

CORPORATE REORGANISATIONS

Re abrdn Australia Ltd & abrdn Asia PLC (Supreme Court of NSW, Rees J, 20 June 2023)

Appeared for applicants (part of the Aberdeen Group). Successfully obtained Court's consent to retirement of responsible entities from the Australian funds management business. The decision allowed abrdn to focus on its global investment capabilities by outsourcing its trustee and responsible entity duties to MSC Trustees, while also partnering with Apex Group for the administration of its Australian equity funds (instructed by Minter Ellison).

H.E.S.T. Australia v Attorney-General (Qld) & Attorney-General (Victoria); Mercy Super v Attorney-General (Qld) & Anor [2022] QSC 221; (2022) 12 QR 144 (Kelly J)

Appeared for Mercy Super trustee. Successful action against the Attorneys-General of Queensland and Victoria for declaratory relief authorising fund merger between Mercy Super and HESTA in context of statutory corrupt benefits prohibition under local criminal laws (instructed by Ashurst).

Merger between QSuper and Sunsuper to create Australian Retirement Trust (2021-2022)

Advised trustee of QSuper on Australia's largest ever fund merger covering 2 million members & \$200bn in retirement savings, creating one of Australia's largest profit-for-members super funds (instructed by King & Wood Mallesons).

In re Ovato Print Group [2020] NSWSC 1683; 150 ACSR 32 and [2020] NSWSC 1882 (Black J)

Acted for Commonwealth of Australia. Creditors' and members' schemes of arrangement; public policy issues; FEG Scheme (instructed by Norton Rose Fulbright) (NRF note).

CORPORATIONS

Governance – Constitutions - Shareholder rights - Class rights

Australian Institute of Company Directors & Governance Institute of Australia (2025)

Opinion for industry on Law & Practice of Minutes of Directors Meetings (including use of GenAI).

Regulated Entities (various)

Board membership, fit and proper policies and processes, conflicts of interest policies and procedures, change of control, shareholder nominations, constitutional amendments, voting requirements, members meetings, risk management frameworks, policies and procedures, complaints handling, internal and external audit processes, financial reporting, climate related financial disclosures and reporting, insurance coverage, reserving, regulatory engagement and prudential reviews.

Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland v Queensland Master Builders Association & Anor: in re BUSS (Queensland) P/L [2022] FCA 283 (Greenwood J)

Acted for BUSSQ trustee in shareholder dispute following resignation of all employer representative directors (instructed by Thomson Geer).

James Hardie Civil Penalty Proceedings - acted for ASIC (instructed by Clayton Utz)
ASIC v Macdonald (No 11) [2009] NSWSC 287; (2009) 230 FLR 1; (2009) 71 ACSR 368; **ASIC v Macdonald (No 12)** [2009] NSWSC 714; 73 ACSR 638; **James Hardie Industries NV v ASIC** [2009] NSWCA 18. Directors' duties, company secretary duties, board minutes, corporate governance processes, continuous disclosure, scheme of arrangement.

CORRUPTION & INTEGRITY

Independent Commission Against Corruption Operation Landan (School Infrastructure) (2025)
Acting for the NSW Department of Education (instructed by Norton Rose Fulbright). Public inquiry held over 7 weeks of hearings into alleged serious corrupt conduct by former chief executive, staff and others in the \$6.7 billion school infrastructure building and maintenance program.

National Anti-Corruption Commission

Advised the Commonwealth Government in context of the Royal Commission into the Robodebt Scheme which referred 6 people to the NACC for further investigation for possible corrupt conduct.

Independent Commission Against Corruption Operation Ember (Transport for NSW) (2019-2022)

Acted for Transport for NSW (Roads & Maritime Services) (instructed by Norton Rose Fulbright). Public inquiry found serious corrupt conduct in the awarding of contracts in the Heavy Vehicles Programs unit. Also acted in related Supreme Court recovery proceedings, including obtaining ex parte freezing orders to secure proceeds from fraudulent procurement activities.

Independent Commission Against Corruption Operation Credo (Australian Water Holdings) (2014-2017) Operation Spicer (NSW public officials & Members of Parliament) (2014-2016)

Acted for Senator the Hon Arthur Sinodinos, Assistant Treasurer and later Cabinet Secretary in the Commonwealth Government (instructed by Arnold Bloch Leibler) in relation to his former roles as AWH Chairman and Liberal Party Finance Director. Also acted in related Federal Court shareholder proceedings and NSW Electoral Commission investigation into donations in 2011 state election.

INDUSTRIAL & EMPLOYMENT

Contract disputes - Fair Work claims - Trade Unions - Whistleblowers

Fiona Brown v Commonwealth of Australia (NSD327/2025) (ongoing Perram J)

Acting for former Director of Operations, Prime Minister's Office. Fair Work Act general protections claim and associated claims (instructed by Russell Kennedy).

Cricket Australia/Australian Cricket Players Inc MOU Players Grievance Panel (2025)

Panel Member determining contractual dispute between player and employer.

Registered Organisations Commissioner v Communications, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union [2020] FCA 96 (Flick J)

Acted for Commissioner. Successful prosecution of registered organisation, civil penalties ordered (instructed by Lander & Rodgers).

INSOLVENCY

Australian Taxation Office (2025) (instructed by Norton Rose Fulbright).

The Ralan Group liquidation

Acted for liquidators (Grant Thornton) (instructed by Norton Rose Fulbright).

In re DSHE Holdings [2021] NSWSC 608 (Williams J)

Acted for administrators (McGrath Nicol). Successful application for termination of deed of company arrangement and application for remuneration approval (instructed by Norton Rose Fulbright).

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 (Black J)

Acted for Contracts for Difference Client Group and also on behalf of all Client Groups in final stages. Winding up of financial services business (instructed by Arnold Bloch Leibler).

INSURANCE

LawCover professional negligence claims (since 2018)

Appointed Mediator in numerous matters.

Barich v Zurich Australia & RI Advice Group (NSWSC 2022/265912) (settled at mediation 2025)

Acted for Zurich in defence of income protection claim (instructed by Turks Legal).

Martin v Commonwealth Superannuation Corporation (NSWSC 2018/277432) (2020) (settled)

Acted for CSC as trustee for the Public Sector Superannuation Scheme in defence of income protection insurance claim (instructed by Ashurst).

X & Y v APRA [2007] HCA 4; (2007) 226 CLR 630 on appeal from **Applicant Y v APRA [2006] FCAFC 37; Applicant X v APRA [2005] FCA 1288**; & related AAT proceedings **[2007] AATA 1966; (2007) 46 AAR 115**

Resisted disqualification of senior managers of foreign reinsurer following collapse of HIH Insurance Ltd and evidence to the Royal Commission (instructed by Minter Ellison).

PUBLIC LAW

Executive power - Freedom of information - Public interest immunity - Parliamentary privilege

Commonwealth of Australia

Advising the Commonwealth Government relating to the Robodebt Scheme (instructed by AGS).

Commonwealth (Federal Circuit and Family Court of Australia) v Comcare (Federal Court QUD33/2024) (Raper J - consent final orders 27 June 2024)

Acted for the Federal Circuit & Family Court of Australia. Judicial review application concerning Comcare decision under the Freedom of Information Act. Successfully quashed adverse access decision by Comcare (instructed by K&L Gates).

Lehrmann v Network Ten (Trial Judgment) [2024] FCA 369 (Lee J) and **Reynolds v Higgins & Sharaz** (Supreme Court Western Australia CIV1840/2023) (Tottle J) (reserved)

Acted for Fiona Brown, formerly Director of Operations, Prime Minister's Office and Chief of Staff to Senator Reynolds. Public interest immunity (instructed by Russell Kennedy).

OTHER REGULATORY & DISCIPLINARY ACTION

A.C.T. Gambling & Racing Commission and Hellenic Club of Canberra (2024-2025)

Acting for the ACTGRC. Notice of Disciplinary Action; A.C.T. Civil and Administrative Tribunal proceedings and threatened Supreme Court proceedings (briefed by A.C.T. Government Solicitor).

Australian Health Practitioner Regulation Agency investigation (2025)

Acted for medical specialist, successfully quashed investigation (instructed by Hall & Wilcox).

Khalafallah v Director, Professional Services Review Agency & Anor (Federal Court NSD44/2025) (Downes J - consent final orders 12 June 2025)

Acting for medical specialist. Judicial review application of decisions re Medicare billing and professional services. Successfully quashed two decisions of agency (instructed by Hall & Wilcox).

Australian Charities & Not-for-Profits Commission investigation into Hillsong Church (2023-2024)

Acted for the ACNC. Court enforceable undertaking obtained (instructed by AGS).

NSW Public Inquiry into Charitable Fundraising (aka the RSL Inquiry) (2017-2018)

Acted for RSL LifeCare in public inquiry (instructed by Clayton Utz) chaired by former NSW Chief Judge in Equity, the Hon. Patricia Bergin SC. Also acted in related investigation by the Australian Charities and Not-for-profits Commission, resolved by a Court enforceable undertaking.

SUPERANNUATION TRUSTEES

Judicial advice - AFCA appeals - APRA & ASIC investigations - Prudential regulation

Australian Retirement Trust (2025)

Advising trustee (instructed by King & Wood Mallesons)

Re AUSCOAL Superannuation P/L atf Mine Superannuation Fund [2024] NSWSC 32 (Robb J)

Acted for Mine Super trustee. Judicial advice application concerning funding of defined benefits scheme in context of pending merger with TWUSUPER (instructed by Mills Oakley).

Muffet v Qantas Superannuation [2024] FCA 39 (Yates J)

Acted for Qantas Super trustee. Successful defence of appeal by Australian & International Pilots Association from Australian Financial Complaints Authority decision re defined benefits calculations (instructed by King & Wood Mallesons).

Sweeney v Australian Financial Complaints Authority & NULIS Nominees (Australia) [2022] FCA 1525 (O'Callaghan J)

Acted for second respondent, the MLC Super trustee. Successful defence of appeal from decision of Australian Financial Complaints Authority (instructed by Minter Ellison).

Australian Prudential Regulation Authority investigation into Registered Superannuation Entity Licensee (2022)

Acted for licensed superannuation trustee. Compliance with APRA Prudential Standard CPS 520 Fit and Proper. Compulsory examinations of CEO (instructed by Ashurst).

Australian Prudential Regulation Authority investigation into EISS Super (2021-2022)

Acted for EISS trustee. Compliance with APRA Prudential Standard CPS 520 Fit and Proper. Additional license conditions imposed (instructed by Dentons).

Re Energy Industries Superannuation Scheme [2022] NSWSC 1202 (Ball J)

Acted for EISS trustee. Judicial advice re trust deed amendment in context of ongoing regulatory investigations (instructed by Dentons)

Re SCS Super P/L atf Australian Catholic Superannuation Fund [2022] NSWSC 686 (Hallen J)
Acted for Australian Catholic Super trustee. Judicial advice application (instructed by Minter Ellison).

Re NGS Super P/L atf NGS Super [2021] NSWSC 1694 (Henry J)
Acted for Non-Government Schools Super trustee. Judicial advice application (instructed by Minter Ellison).

Re Care Super (No 1) [2021] VSC 805 and Re Care Super (No 2) [2021] VSC 854 (Lyons J)
Acted for trustee. Judicial advice applications re exercise of trustee power to charge remuneration to fund risk reserve; ownership of shares in trustee company; lost trust deed (instructed by Mills Oakley).

Re QSuper Board [2021] QSC 276 (Kelly J)
Acted for Queensland Public Sector Superannuation Scheme trustee. Landmark judicial advice application to amend trust deed authorising introduction of a fee charging power to build a fund to pay for potential Commonwealth fines and penalties (instructed by King & Wood Mallesons).

Qantas Super (2020)
Advised trustee of Qantas Super in context of staff stand-downs due to Covid-19 pandemic (instructed by King & Wood Mallesons).

Licensed superannuation trustees (various)
Applications for APRA approval of changes in control
APRA Prudential Reviews
Compliance with APRA Prudential Standards