

DOMINIQUE HOGAN-DORAN SC

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Recent Matters

Australian Prudential Regulation Authority investigation into FirstSuper; Federal Court disqualification proceedings against co-chair Michael O'Connor (2023-2024)

- For superannuation fund trustee (briefed by Ashurst)
- Re payments by trustee to CFMEU shareholder for member services

Regulator investigation of complex corporate group (ongoing)

- For the regulator (briefed by Australian Government Solicitor)

Reynolds v Higgins (Supreme Court of Western Australia CIV1840/2023) (Tottle J) and Lehrmann v Network Ten Pty Limited (Trial Judgment) [2024] FCA 369 (Lee J)

- For Ms Fiona Brown, former Chief of Staff to Defence Industry Minister & Director of Operations for the Prime Minister's Office (briefed by Russell Kennedy)

Financial Services Council (2024)

- Published opinion on aspects of the *Treasury Laws Amendment (Delivering Better Financial Outcomes) Bill 2024* (Cth) (briefed by Herbert Smith Freehills)

HUB24's Investor Directed Portfolio Service (2024)

- Advising HUB24 (briefed by Herbert Smith Freehills)

Apple (2024)

- Advising Apple (briefed by Herbert Smith Freehills)

Commonwealth of Australia (Federal Circuit and Family Court of Australia) v Comcare (Federal Court, Raper J, 27 June 2024)

- For the Federal Circuit and Family Court of Australia (briefed by K&L Gates)
- Judicial review of FOI decision. Consent orders setting aside decision obtained

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

- For QSL as trustee for Qantas Super (briefed by King & Wood Mallesons)
- Successful defence of appeal by Australian & International Pilots Association from AFCA decision affirming trustee's decision as to calculation of defined benefits for long-haul pilots

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

- For AUSCOAL as trustee for Mine Super (briefed by Mills Oakley)
- Judicial advice re defined benefits scheme deficit funding and merger with TWUSUPER

Australian Securities & Investments Commission v RM Capital & The SMSF Club [2024] FCA 151 (Jackson J) (and ongoing)

- For The SMSF Club (briefed by Hall & Wilcox)
- Civil penalty proceedings concerning conflicted remuneration

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

- For vitamins manufacturer. Interlocutory injunction (briefed by Clifford Chance)

Merger of Alcoa Super to Australian Retirement Trust (2024)

- Advised Alcoa Super P/L atf Alcoa of Australia Retirement Plan (briefed by Hall & Wilcox)

ACT Gambling & Racing Commission action against gambling licensee (2022-2024)

- For the Commission (briefed by the ACT Government Solicitor)

Royal Commission into the Robodebt Scheme (2022-2023)

- For the Commonwealth (briefed by Australian Government Solicitor, with Clayton Utz for Services Australia, Minter Ellison for Department of Social Services, and Ashurst for ATO)
- Led team of 9 junior counsel in all aspects of the Commission's work

Applications by abrdn Australia Ltd & abrdn Asia PLC (NSWSC, Rees J, 20 June 2023)

- For the Aberdeen Group (briefed by Minter Ellison)
- Supreme Court consent pursuant to s 249E *Crimes Act* 1900 (NSW) to the giving of benefits on retirement of Responsible Entities of Australian funds management business

Merger between Mine Super and TWU Super to create TEAM Super (2023-2024)

Advising AUSCOAL Superannuation P/L atf Mine Super (briefed by Mills Oakley)

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

- Advised Betashares Group (briefed by King & Wood Mallesons)

Replacement of trustee for the Future Super Fund (2023)

- Advised Future Super Group (briefed by Herbert Smith Freehills).
- Also advised as to related proceedings: Application by Diversa Trustees atf Future Super Fund [2023] VSC 279 (Delany J)

HEST Australia v Attorney-General for State of Queensland and Attorney-General for State of Victoria; Mercy Super Pty Ltd atf Mercy Super v Attorney-General for State of Queensland and Attorney-General for State of Victoria [2022] QSC 221; (2022) 12 QR 144 (Kelly J)

- For Mercy Super trustee (briefed by Ashurst)
- Declaratory relief, confirming Court consent not required under Queensland *Criminal Code* and Victorian *Crimes Act* to benefits in context of successor fund transfer

Australian Securities and Investments Commission v Westpac Banking Corporation (Omnibus) [2022] FCA 515; (2022) 407 ALR 1; (2022) 159 ACSR 381 (Beach J)

- For ASIC (briefed by the Australian Government Solicitor)
- Civil penalties and compliance program ordered

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

- For NULIS as trustee for MLC Super (briefed by Minter Ellison)
- Successful dismissal (as incompetent) of appeal against AFCA decision on jurisdiction

Re Energy Industries Superannuation Scheme P/L atf Energy Industries Superannuation Scheme (Pool A and Pool B) t/a EISS Super [2022] NSWSC 1202 (Ball J)

- For trustee of EISS Super (briefed by Dentons)
- Judicial advice re amendment of trust deed to fund new trustee capital reserve and related

Re SCS Super P/L atf Australian Catholic Superannuation & Retirement Fund [2022] NSWSC 686 (Hallen J)

- For trustee of Australian Catholic Super (briefed by Minter Ellison)
- Judicial advice re deed amendment to fund new trustee capital reserve

Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland v Queensland Master Builders Association & Anor [2022] FCA 283 (Greenwood J)

- For trustee of BUSSQ (briefed by Thomson Geer)
- Shareholder dispute re filling of vacancies on board of trustee of superannuation scheme.

Merger of Australian Ethical Super with Christian Super (2022)

- Advised trustee of Australian Ethical Super (briefed by Norton Rose Fulbright)

Superannuation trustee and fund administrator (2021-2022)

- Expert Determiner of administration contract dispute

Re Care Super (No 1) [2021] VSC 805 & (No 2) [2021] VSC 854 (Lyons J)

- For trustee of Clerical, Administrative, Retail Employees Fund (briefed by Mills Oakley)
- Judicial advice re lost trust deed, shareholdings, and exercise of remuneration power

Re NGS Super P/L atf NGS Super [2021] NSWSC 1694 (Henry J)

- For trustee of Non-Government Schools Superannuation (briefed by Minter Ellison)
- Judicial advice re deed amendment to fund new trustee capital reserve

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

- Advised Queensland Public Sector Scheme trustee (briefed by King & Wood Mallesons)

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

- For Queensland Public Sector Super Scheme trustee (briefed by King & Wood Mallesons)
- Judicial advice re deed amendment to fund new trustee capital reserve

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

- For McGrath Nicol. Termination of DOCA (briefed by Norton Rose Fulbright)

Hunter & Central Coast Development Corporation atf Doma Group – Expert Determination (2020-2021)

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

Royal Commission into National Natural Disaster Arrangements (2020)

- Senior Counsel Assisting the Royal Commission

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

- For the Commonwealth (briefed by Norton Rose Fulbright). Scheme of arrangement

Commonwealth Bank of Australia sale of Colonial First State business to KKR Inc (2020)

- Advised Commonwealth Bank of Australia (briefed direct)

Re NULIS Nominees (Australia) Ltd (NSWSC, Foster J, August 2020)

- For trustee of MLC Super Fund (briefed by Minter Ellison)
- Judicial advice re lost trust deed in context of sale of NAB wealth management business

Martin v Commonwealth Superannuation Corporation (NSW Supreme Court 2018/277432)

- For trustee of Public Sector Superannuation Scheme (briefed by Ashurst)
- Member challenge to adverse Total and Permanent Disability determination (settled, 2020)

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

- For the Commissioner (briefed by Lander & Rogers)
- Civil penalties ordered

Australian Institute of Company Directors and Governance Institute of Australia (2019)

- Published opinion on the practice of board minutes (briefed direct)

ICAC Operation Ember (Roads and Maritime Services) (2019-2022)

- For Transport for NSW (formerly RMS) (briefed by Norton Rose Fulbright)

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

- For Arcare (briefed by Russell Kennedy)
- Challenge to power to give directions pursuant to *Aged Care Act 1997* (Cth) (settled)

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

- For AMP Capital - *Funding, Financing & Prudential Regulation hearing* (2020)
- For Garden View Aged Care - *Dementia and Residential Care: Use of Physical & Chemical Restraints hearing* (2019); also re *ABC TV 7.30 Report* (2019)
- For Anglican Care - *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 (2018-2019)

- For Commonwealth Bank of Australia & Aussie Home Loans (briefed by Clayton Utz)

September 2024