

The anti-deprivation rule and the pari passu rule in insolvency

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Peter Niven, special counsel wrote an article on the anti-deprivation rule and the pari passu rule in insolvency for the *Insolvency Law Journal* ((2017) 25 *Insol* LJ 5).

"In 2011 the UK Supreme Court delivered a judgement in Belmont Park Investments Pty v BNY Corporate Trustee Services Ltd that addresses the common law anti-deprivation rule. The anti-deprivation rule is a rule that is aimed at attempts to withdraw an asset on bankruptcy, with the effect that the bankrupt's estate is reduced in value to the detriment of creditors. The underlying public policy is that parties should not be able to contract to defeat the insolvency laws. The Supreme Court in Belmont recognised, for the first time, that there are two distinct rules arising from that public policy, the anti-deprivation rule and the pari passu rule. The latter rule provides that parties cannot contract out of the statutory provisions for pari passu distribution in bankruptcy. The Supreme Court's judgement has been applied in a number of cases in the UK."

Read the full article [here](#).

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