

Law firm Johnson Winter Slattery launches *Insolvency & Restructuring Case Summaries* publication with commentary on 45 essential cases

Leading independent Australian law firm Johnson Winter Slattery (**JWS**) has launched the next edition of its comprehensive *Insolvency & Restructuring Case Summaries* publication, providing commentary on the most high-profile and precedent-setting cases in the insolvency and restructuring space.

With more than 45 case summaries highlighting the key takeaways and the practical implications for insolvency practitioners, this publication is written and distributed annually as a reference tool for in-house counsel and insolvency professionals.

The publication is written by the Restructuring & Insolvency Partners from Johnson Winter Slattery: Sam Johnson, Joseph Scarcella, Peter Smith, Paul Buitendag, Ben Renfrey, Lucas Wilk, Pravin Aathreya, Rena Solomonidis, Eve Thomson and Emily Barrett.

[Read the publication.](#)

[Visit the publication's landing page on the JWS website.](#)

About Johnson Winter Slattery

JWS is a leading independent Australian law firm of more than 450 people, including 85+ partners. The firm is engaged by major corporates and investment funds on their most challenging transactions and disputes.

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As Barrister Michael Izzo (Senior Counsel at Eleven Wentworth) says in the foreword:

"This volume is an indispensable tool for directors, lawyers and insolvency practitioners who wish to understand and follow important developments in the field of corporate insolvency.

The need to do so is underlined by the High Court's increased forays into the area. The first two High Court decisions delivered in 2023, Metal Manufacturers v Morton and Bryant v Badenoch Integrated Logging, dealt with set off in insolvency and the peak indebtedness rule respectively. In the second half of 2023, the High Court granted special leave to appeal from the New South Wales Court of Appeal's decision in Greylag Goose Leasing v PT Garuda Indonesia (concerning the availability of foreign state immunity in a winding up application) and the Full Court of the Federal Court's decision in McMillan Investment Holdings Pty Ltd v Morgan (concerning pooling orders under the Corporations Act). All four decisions are carefully and helpfully digested in this year's Case Summaries.

The Case Summaries deal with many other decisions of considerable complexity and importance, such as the appellate decisions in Anchorage Capital Master Offshore v Sparkes (addressing the circumstances in which a company is insolvent because of inability to pay future debts and the consequences of company officers making representations as to solvency); Resilient Investment Group v Barnet (clarifying the operation of central concepts in the Personal Property Securities Act 2009 in the context of a priorities dispute); and Sino Group International v Toddler Kindy Jamberoo (identifying circumstances when a DOCA may be terminated as misleading). "

And as the Johnson Winter Slattery Restructuring & Insolvency Partners state in their introduction:

"This is the second year that we have published a collated version of the Case Summaries in addition to our regular 'Insolvency In Focus' updates." [...]

"The number of corporate insolvencies for the 2022/2023 financial year almost returned to pre-pandemic levels and were at their highest level since 2019. A number of key indicators point to corporate insolvencies increasing further during 2024: the rise in interest rates since May 2022 is likely to be felt acutely in some sectors; continuing upward inflationary pressures impacting the cost of living; credit being more difficult to source and an increase in enforcement action by the ATO pursuing unpaid corporate tax. An uptick in corporate insolvencies is likely to be accompanied by a commensurate increase in insolvency-related litigation during 2024.

The Courts handed down several landmark insolvency decisions during 2023. Most notable were the High Court decisions in Bryant v Badenoch Integrated Logging Pty Ltd and Morton as Liquidator of Woodman Electrical Contractors (in Liq), which provided some long sought after clarity on the application of the peak indebtedness rule and the set off defence in preference claims. Also, in a decision that was welcomed by liquidators, the Court of Appeal of the Supreme Court of NSW in Commonwealth of Australia v Tonks resolved the uncertainty created by the interplay between the priority regimes under sections 556 and 561 of the Corporations Act when resolving a contest between a liquidator's claim for remuneration and the entitlements of former employees to be paid out of circulating assets."