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The Anti-deprivation Rule and the Pari Passu Rule in Insolvency – Peter Niven	
In 2011 the UK Supreme Court delivered a judgment in <i>Belmont Park Investments Pty v BNY Corporate Trustee Services Ltd</i> that addressed 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 judgment has been applied in a number of cases in the UK. This article examines Belmont and its application in two subsequent cases.	5
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In 2016, following the collapse of Dick Smith Electronics there was a call for directors to be held personally liable to account in retailer insolvency with regard to certain behaviour, particularly in relation to pre-payment consumer creditors such as gift card holders. Although this call should not be and was not heeded, it does raise questions about the justifications for further protection of this class of creditors in an insolvency, which we consider in this article.	29
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