

Insights



Andrew Stafford KC and James Chapman-Booth on Using Insolvency to Recover Assets

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Kobre & Kim lawyers Andrew Stafford KC and James Chapman-Booth detailed the use of insolvency as a tool in aid of judgment enforcement in an article they wrote for *Commercial Dispute Resolution*.

Stafford and Chapman-Booth explain how insolvency, if part of a well thought-out strategy, can be used to achieve the client's ultimate objective – to receive money. A final judgment “establishes the defendant as a judgment debtor and the claimant as an unsecured creditor,” which is the principle underpinning the use of the insolvency process as an asset recovery tool. Stafford and Chapman-Booth analyzed the situations insolvency may be useful and when it may not, considering the situation of other potential creditors, the friendliness of various jurisdictions, and whether the debtor is asset- or revenue-rich, for example.

These nuances highlight the fact that choosing to use insolvency should not be a “reflex decision,” but should be a sensible conclusion reached following analysis and based on information about the target. Stafford and Chapman-Booth looked at how this information can be found: sometimes through discovery procedures, other times using a liquidator or receiver. These methods may be costly, which is where third-party funding can come in. Ultimately, while these strategies should not be used “without prior careful consideration,” when wielded properly, insolvency can be an extremely valuable asset to the client.

[Read the full article here.](#)