



Katherine Smith

Special Counsel

Sydney
+61.2.9513.2416

Katherine.Smith@klgates.com

OVERVIEW

Katherine Smith is a special counsel in the firm's Finance practice. Originally admitted in New Zealand, she is an experienced restructuring and insolvency lawyer advising clients about contentious and non-contentious aspects of corporate insolvency, bankruptcy and recoveries, including examining antecedent transactions, securities enforcement, and investigations, and providing strategic advice to creditors and insolvency practitioners in relation to the tracing and recovery of funds.

Katherine's most recent significant matter involved advising liquidators appointed to a financial services business as to the distribution of client assets of over AU\$250 million. This was a multifaceted cross border insolvency project working with a variety of stakeholders to ensure delivery of time critical advice. Another recent cross border matter in which Katherine has taken a lead role involved advising administrators appointed to four ASX/NSX listed entities in the life sciences industry.

Katherine has advised major Australian banks in relation to exposure as secured creditor in a number of industries, including agribusiness, viticulture, and construction, as well as in relation to responding to regulator notices. Katherine also acts in matters on behalf of the Australian Taxation Office including proceedings involving preference claims, director penalty notices, and other enforcement measures.

With an approachable manner, Katherine prides herself on leading a team to provide responsive, commercial and practical legal solutions in the insolvency space. Katherine also has extensive experience developing policies and legislative reform relating to debt recovery and insolvency (serving on the current Law Society of NSW Business Law Committee, and having led the response to the Insolvency Practitioners Bill governing the regulation of insolvency practitioners in New Zealand and assisted in laying the foundation for increased governmental collaboration to address phoenix risk), as well as delivery of substantive training modules across a range of insolvency related fields.

Katherine serves on the firm's Reconciliation Action Plan (RAP) committee and is the Pro Bono Coordinator for the Sydney office, and received the Managing Partner's Women's Achievement Award in 2021.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Katherine worked in commercial and insolvency litigation at an Australian firm. She has also had extensive experience working in both the Australian and New Zealand Revenue Offices in their respective Debt Recovery areas.

PROFESSIONAL / CIVIC ACTIVITIES

- Australian Restructuring Insolvency and Turnaround Association (ARITA) member
- INSOL International member
- Turnaround Management Association (TMA) member
- Law Society of New South Wales member
- Law Society of New South Wales Business Law Committee member (2022-current)
- Volunteer mentor for HOST International, Law Society of New South Wales Women-in-Law, University of Sydney

SPEAKING ENGAGEMENTS

- “The Mainzeal Supreme Court Decision: Directors' Duties, Safe Harbour, Small Business Restructuring,” Restructuring Insolvency & Turnaround Association New Zealand, 13 September 2023

EDUCATION

- Insolvency Education Program, Insolvency Practitioners Association (now ARITA), 2009
- B.A., Victoria University of Wellington, 2001 (*Politics - International Relations*)
- LL.B., Victoria University of Wellington, 2001

ADMISSIONS

- High Court of New Zealand
- Supreme Court of New South Wales

THOUGHT LEADERSHIP POWERED BY HUB

- 20 July 2023, Australian Corporate Insolvency Reform: the PJC's Report Is in, So What Can We Expect Next?
- 19 May 2021, Halifax Update: "Unique" Joint Sitting of Trans-Tasman Courts

- 27 August 2019, Cross-border cooperation: Federal Court of Australia considers "classic candidate" for coordination with High Court of New Zealand

AREAS OF FOCUS

- Restructuring and Insolvency

REPRESENTATIVE EXPERIENCE

- Acting for liquidators of Halifax Investment Services, a winding up involving over AUD250 million of assets (commingled across accounts held in Australia and New Zealand) and 12,500 investors, advising in relation to a wide variety of complex issues including cross border issues, trust funds and managing the multiple work streams in the liquidation, including proceedings against the former lawyers and former auditors in the Federal Court of Australia alleging the former lawyers failed to advise it of an obligation to hold client funds on trust, and alleging that the former auditors failed to designate the funds correctly in audits conducted in 2016, 2017, and 2018 breaching auditing standards.
- Advising insolvency practitioners in relation to all aspects of the administration of four ASX/NSX listed entities in the life sciences industry, including a corporate advisory entity, asset manager of scientific intellectual property, investment fund manager, and a salesforce for pharmaceutical products.
- Acted for administrators of a pick-up drop-off parcel delivery logistics business, including obtaining court orders on an urgent basis for the extension of the administration period to enable ongoing negotiation with multiple competing parties interested in acquiring the business from its administrator.
- Advising and acted for insolvency practitioners in relation to voluntary administrations, liquidations, and bankruptcies, including in relation to competing priority claims, voidable transactions, and breaches of directors' duties.
- Advising creditors on creditor meeting procedures and challenging Deeds of Company Arrangement.
- Acting for liquidators in relation to examinations of directors and other officers in the Supreme Court of NSW and Federal Court of Australia, including successfully defending applications to set aside examination summonses.
- Acting for insolvency practitioners in applications for fixing their remuneration.
- Providing strategic advice to creditors and insolvency practitioners in relation to the tracing and recovery of funds.
- Advising creditors and insolvency practitioners about key documents used during the insolvency process, including Creditors' Reports, Deeds of Company Arrangements, Creditors' Trust Deeds, Agreements for Sale and Purchase, and general security documentation.
- Acting for wronged shareholders in oppression proceedings involving alleged forgery and fraud.