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## **Merchant West Working Capital Solutions (Pty) LTD v ...**

Company (Pty) Ltd and Another (13/12406) [2013] ZAGPJHC 109 (10 May 2013) (Merchant West). The position pursuant to this judgment was that, even if a creditor has a secured claim against the company, post-commencement financing takes preference over those claims, whether the post-commencement

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18 (13/12406) [2013] ZAGPJHC 109 (10 May 2013). Hereinafter referred to as 'Merchant West'. 20 Ibid at para 20 fn 10. 21. Priority issues in business rescue manual, 13 12406 2013 zagpjhc 109 southern african legal, rhetorica ad herennium english and latin edition, vendetta piccante jennifer probst,

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Urgent application by creditor for the attachment of an asset of a company in business rescue.  
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## **Merchant West Working Capital Solutions (Pty) LTD v ...**

10 May 2013 12/06766 [2013] ZAGPJHC 110 Van Rooyen v Anderson Rectification of ante n  
uptial contract. 10 May 2013 13/12406 [2013] ZAGPJHC 109 Merchant West Working Capital  
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Another Companies Act - business rescue. 7 May 2013

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This is so because a business plan cannot be invoked if the company is already insolvent -  
Merchant West Working Capital Solutions (Pty) Ltd v Advanced technologies and Engineering  
Company Ltd 13/12406 10 May 2013 (GSJ) ZAGPJHC 109 and Redpath Mining South Africa  
(Pty) Ltd v Marsden NO and Others 18486/2013 14 June 2013 (GSJ) ZAGPJHC 148.

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In terms of this section, post-commencement financiers are preferred in the order of preference created by the Companies Act. This was confirmed by the court in Merchant West Working Capital Solutions (Pty) LTD v Advanced Technologies and Engineering Company (Pty) Ltd and Another (13/12406) ZAGPJHC 109 (10 May 2013) (Merchant West).

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