



Turnaround & Restructuring Newsletter

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Views from our leaders

Robert Frezza, Managing Director

The restructuring roller coaster: How 2024's legal shifts affect corporate strategy

Restructuring activity and related court cases have followed an unpredictable path since the end of 2023.

The number of companies engaging restructuring advisors in 2024 soared compared with 2023, increasing 35% year over year. Advisor mandates in the second half of 2024 jumped 23% over the first half, which was also a 27% year-over-year increase. By sector, the consumer discretionary and healthcare spaces led overall, with consumer discretionary hiring activity increasing by 41% year over year, encompassing approximately 150 companies, while healthcare activity remained on par with 2023 across roughly 140 companies. The industrials sector, which ranked third in total companies overall, increased 92% for a total of 108 companies that engaged with restructuring advisors.¹

While restructuring activity increased substantially in the second half of 2024, a couple of major decisions in two landmark bankruptcy cases may have a cooling effect on



prospective bankruptcies or, at a minimum require a change in strategy for certain parties in interest.

The Supreme Court's (the "Court") decision in the Purdue Pharma case is one such major decision. The problem at issue is "whether a court in bankruptcy may effectively extend to non-debtors the benefits of a Chapter 11 discharge usually reserved for debtors". The Court equated the release of third-party claims against the defendant to the type of "clean slate" a debtor receives at the culmination of its bankruptcy case, after a distribution of its assets has been made to its creditors. Unlike a debtor in bankruptcy, the defendant did not submit themselves to the comprehensive process of a bankruptcy while achieving a benefit – a fresh start.²

Going forward, bankruptcy courts will have to pay close attention to plan provisions that purport to provide releases or injunctions to third parties. On the other hand, parties objecting to Plans of Reorganization (POR) may now have an additional basis for those objections. In addition, although the Court expressly limited its opinion to POR's subject to a stay, it remains to be seen whether parties will seek to undo POR's that have already become effective based on the Court's decision and whether bankruptcy judges will allow such challenges to be heard. For bankruptcy professionals, this decision may have an impact on their ability to negotiate and implement broad settlements with various parties in interest in exchange for meaningful contributions to creditors.

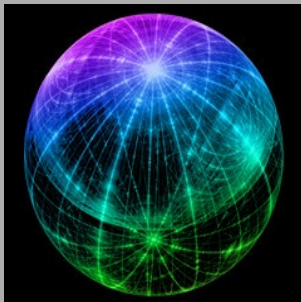
Another important issue that will have far reaching effects on balance sheet restructurings is the December 31, 2024, decision in the Serta case. Liability Management Exercises (LMEs) are the flavor du jour for solving issues such as impending maturities and tight liquidity. They involve an ad hoc group of lenders taking advantage of loopholes in credit agreements to rearrange a capital structure to the detriment of lenders not participating in the transaction. This behavior has given rise to multiple lawsuits and the overwhelming majority of these LMEs have resulted in these companies filing for Chapter 11 later or otherwise remaining distressed. Thus far, ad-hoc lenders engaging in LMEs have generally enjoyed

getting their way from judges overseeing LME litigation. The Serta decision appears to be signaling judicial skepticism toward these types of transactions in favor of disadvantaged parties especially given how so many LMEs result in bankruptcy or recurring distress.³

2025 will likely be a year of twists and turns in restructuring. We will keep a close eye on the developments in the marketplace and share insights on potential opportunities.

1. [Financial Content, "Octus Releases Americas Restructuring Advisor Rankings Showing Surge in 2024 Engagement Activity", January 23, 2025.](#)
2. [Chapman, "Supreme Court Rejects Non-Consensual Third-Party Releases for Sacklers in Purdue Pharma Bankruptcy, Reversing Second Circuit", July 3, 2024.](#)
3. [Akin, "Serta - Fifth Circuit Decision", January 9, 2025.](#)

Our latest eminence



M&A in 2025: Considerations as tailwinds signal promising outlook

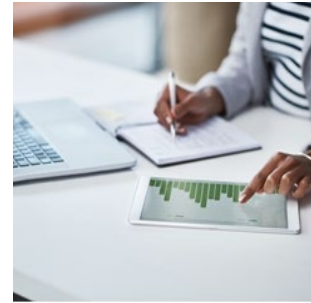
Explore the 5 key considerations that signal a promising outlook for the future of mergers and acquisitions.

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Recent engagements

Deloitte T&R offered working capital services to its client

Deloitte Turnaround & Restructuring (Deloitte T&R) was engaged by a fiber optics construction and network operator to perform a rapid working capital assessment for their order-to-cash and procure-to-pay cycles. The assessment identified a potential amount in working capital benefits and operational improvements for immediate implementation.



Deloitte T&R extended support to a telecommunications company

Deloitte T&R's Cash & Working Capital team performed an order to cash and procure to pay assessment for a fiber optics network services company, identifying over \$10M in cash improvement opportunities. In addition, the team also helped create a weekly cash forecasting model to provide increased visibility and help the company improve its cash management.



Recent highlight



Working Capital: How smaller companies can compete with bigger counterparts

Explore how internal cost rationalization and cash generation can help enhance the financial health and stability of smaller enterprises that often lack the benefits that come with scale.

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Upcoming Dbriefs Webcast



Quarterly accounting roundup: Q1 2025 update on important developments

March 26, Wednesday | 1:00 PM ET

Participants will demonstrate a new understanding of these and other important accounting issues and developments for the quarter.

[Register](#) to learn more.

Additional insights

Curious to find out more about T&R? [Read our latest insights](#) to find out.

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