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## A Tale of Two Cases: Bankruptcy Courts Take Divergent Approaches on Non-Pro Rata Rollups

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[External Link: A Tale of Two Cases: Bankruptcy Courts Take Divergent Approaches on Non-Pro Rata Rollups](#)

Chapter 11 debtors frequently rely on debtor-in-possession ("DIP") financing to fund their post-petition obligations and operate in the ordinary course of business during bankruptcy, with participating lenders often receiving the benefit of a rollup of their prepetition debt. While non-pro rata rollups are not novel, excluded lenders have recently sought to vigorously contest their permissibility in DIP financings.

In two recent matters within the Third Circuit, these disputes produced markedly different judicial approaches based on nuanced interpretations of the underlying credit agreements. In this client alert, the authors examine the *American Tire Distributors* and *Del Monte* Chapter 11 proceedings and the implications of their divergent decisions, which set the stage for a potential split in how bankruptcy courts approach non-pro rata rollups and underscore the importance of careful drafting of Serta blocker carveouts, payment waterfall provisions, and pro rata sharing clauses in credit agreements.

Read our legal analysis and key takeaways in this client alert.

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### Attorneys

- Joel Moss
- Jordan Wishnew
- Matthew Catone
- Tanner Bowen

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### Practices

- Bankruptcy & Restructuring
- Bankruptcy Litigation