

Opting into opting out: Due process and opt-out releases

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Davis Polk partner and Restructuring practice co-head Marshall Huebner and associate Kate Somers authored “Opting into opting out: Due process and opt-out releases” in *American Bankruptcy Institute Journal*. In the article, they explain that since the U.S. Supreme Court has issued its ruling barring nonconsensual releases, there will be an even greater focus on other types of releases with respect to third parties, including both opt-out and opt-in releases. Provided that factors are satisfied, opt-out releases (which are a mechanic on a ballot or notice of nonvoting status that allows claimants to check a box to opt out of nondebtor releases in a reorganization plan) will likely be the best available pathway for effectuating the will of – and providing the best available recovery to – creditors and victims.

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