A generation ago, alone and in collaboration with Douglas Baird, Tom Jackson developed the first complete normative theory of bankruptcy, the “creditors’ bargain model,” which argues that bankruptcy’s principal role is to provide a collective forum for resolving financial distress, and that bankruptcy should not otherwise alter the parties’ nonbankruptcy entitlements. The creditors’ bargain theory assumed that troubled companies would invariably use the traditional Chapter 11 reorganization process, and that the absolute priority rule (which requires the higher priority creditors be paid before lower priority creditor receive any recovery) would and should govern distributions to creditors.

All of these assumptions are now up for grabs. Chapter 11 bankruptcy is a different place. There are new parties in interest. Existing members of the cast of characters —issuers and secured and unsecured creditors—face new problems and challenges. Standing fact patterns and assumptions no longer obtain. Finally, and critically, the creditors’ bargain is itself changing. Debt contracts have made adjustments and whole new categories of agreement have appeared. Out-of-court workouts have returned to salience for the first time in three-quarters of a century, reviving old policy questions and raising new ones.

In this symposium, which will be memorialized in an issue of the University of Pennsylvania Law Review and in the University of Pennsylvania Law Review Online, the nation’s leading bankruptcy and financial distress experts will take stock of the new landscape. In keeping with the Law Review’s long tradition of publishing much of the classic literature, “Bankruptcy’s New Frontiers” will, we hope, chart the course for the next generation of scholarly inquiry.