

# Securing Labor Savings In Chapter 11 Cases

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WHY CAN'T LABOR  
AND MANAGEMENT  
REALIZE THEY'RE  
IN THIS TOGETHER,  
JUST LIKE US!  
IMAGINE! A  
WORLD WITHOUT  
TWINKIES!



DON'T WORRY,  
AS LONG AS NO  
ONE EATS US,  
WE'LL OUTLIVE THE  
COCKROACHES!

HORSEY  
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# Things to Discuss Today

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- 11 U.S.C. §1113
- 11 U.S.C. §1114
- Withdrawal from Multi-Employer Pension Plans (MEPPs) in Chapter 11 cases
- Distress Termination of Single-Employer Pension Plans in Chapter 11 cases

# Section 1113 is Unique In The Bankruptcy Code

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- In bankruptcy, most contracts can be assumed or rejected at a debtor's discretion
- CBAs are treated differently; they are protected in Chapter 11 cases
- In Chapter 11 cases, CBAs must be assumed unless they are: (1) voluntarily modified agreement; or (2) "rejected" after a detailed process mandated by Section 1113 of the Bankruptcy Code.
- Thus, because of Section 1113, reducing unionized labor costs during a bankruptcy can be a hybrid between a typical collective bargaining process and a court-supervised litigation process.
- The rules encourage consensus, and provide opportunities for a consensual deal throughout process, but ultimately permit the Court to authorize rejection if the Debtor satisfies the statutory standards.
- Even post-rejection you still need to keep negotiating because all rejection does is put the parties in a situation governed by economic leverage: unionized employees can generally strike if a debtor rejects a CBA and imposes terms

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## Title search: Securing Labor Savings In Chapter 11 Cases

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38<sup>th</sup> Annual Jay L. Westbrook Bankruptcy Conference session  
"Modifying Labor and Retirement Obligations in Bankruptcy"