Securing Labor Savings In Chapter 11 Cases

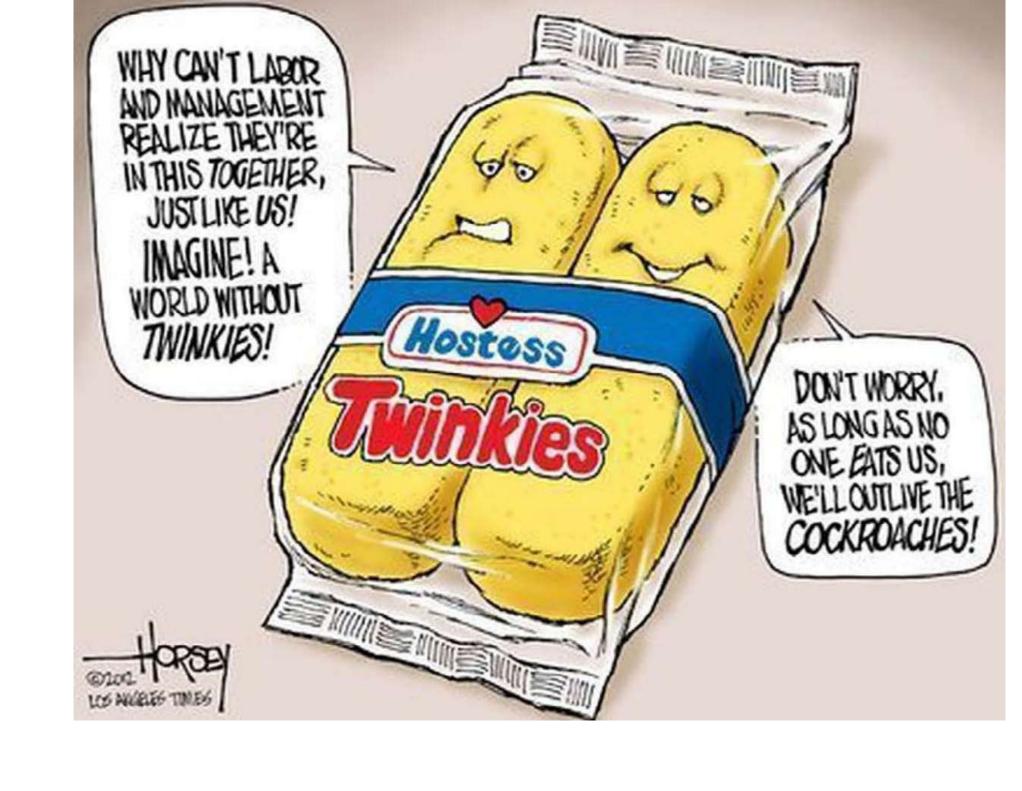
Micha

Gregor

Kirkland

November 14, 2019

Steven Centerview



Things to Discuss Today

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

Section 1113 is Unique In The Bankruptcy Code

- 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 <u>must</u> 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 a hybrid between a typical collective bargaining process and a court-supervised litigate process.
- The rules encourage consensus, and provide opportunities for a consensual deal throughout process, but ultimately permit the Court to authorize rejection if the Debto satisfies the statutory standards.
- Even post-rejection you still need to keep negotiating because all rejection does is pur parties in a situation governed by economic leverage: unionized employees can gene strike if a debtor rejects a CBA and imposes terms





Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Securing Labor Savings In Chapter 11 Cases

Also available as part of the eCourse

<u>Current Issues in Business Bankruptcy: Recidivist Debtors, Rights Offerings, the Retail Crisis, and more</u>

First appeared as part of the conference materials for the 38th Annual Jay L. Westbrook Bankruptcy Conference session "Modifying Labor and Retirement Obligations in Bankruptcy"