Securing Labor Savings In Chapter 11 Cases

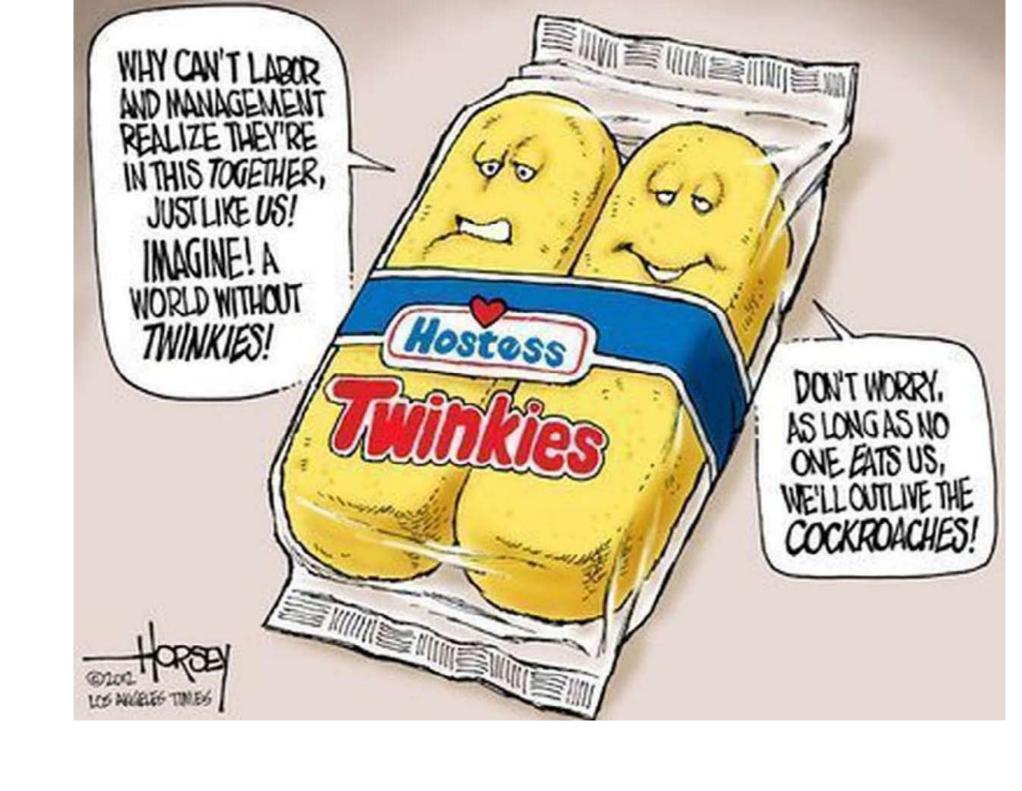
Micha

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 2019 Jay L. Westbrook Bankruptcy eConference

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"