A&P supermarket chain asks bankruptcy court to overturn labor agreements

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Supermarket chain, Great Atlantic & Pacific Tea Co Inc., popularly known as A&P, appealed in bankruptcy court last week to disregard provisions related to seniority and cut severance pay in order to speed up the sale of stores.

A&P filed for Chapter 11 bankruptcy last July with the intention of closing at least 25 stores and selling roughly 275 stores—including its Waldbaum's, Food Basics, Food Emporium, and Pathmark divisions. A&P has since received bids for 118 stores—from Acme Markets, Stop & Shop, and Key Foods—and will continue to accept bids until September 11. The grocery chain expects court approval for the store sales as early as October.

A&P reported to the New York State Department of Labor the possibility of laying off nearly 13,000 employees, including 3,174 in the Hudson Valley, 5,191 in New York City, and 4,732 in Long Island. The grocery chain also stated that, by Thanksgiving, over 9,000 employees in New Jersey could also lose their jobs.

The companies, which placed bids, have stated that they are unwilling to except collective bargaining agreements and pension obligations, agreed upon between A&P and unions representing their employees, according to court documents. Roughly 93 percent of A&P's 28,500 workers are unionized.

A&P, after failing to negotiate an agreement with the unions, has asked the bankruptcy court judge to set aside two key provisions, including the elimination of bumping rights—the right for a senior employee at a store that closes to take the position of a newer employee at a store that remains open—and full severance pay.

The company has instead proposed that severance pay be cut by 75 percent, claiming that this cut was needed in order for the company to have funds to pay creditors. Under this proposal an employee that worked at the store for 40 years would have their severance pay reduced from $12,000 to $3,000, according to a representative from the United Food and Commercial Workers (UFCW) union.

US Bankruptcy Court Judge Robert Drain, who is overseeing this case, is set to rule on the issue of bumping rights, and has stated that he would like a compromise between the unions and the company. One proposal is for a "cost-neutral" stipulation within the bumping rights, which would require senior workers that replace newer workers to be paid at the same rate as the newer workers. Under this stipulation a longtime employee might be forced to have a pay cut from $25 an hour to $10 an hour, or become unemployed.

The "cost-neutral" stipulation might also violate some local unions contracts, because locals have different versions of the bumping rights.

The UFCW and Retail, Wholesale and Department Store Union (RWDSU), have responded to the bankruptcy by appealing to the bankruptcy judge. Union executives are claiming their priority is to "save jobs," a common refrain for imposing sweeping concessions. During A&P's 2010 bankruptcy, the UFCW played a similar role, agreeing to $625 million worth of concessions.

A&P, in a separate appeal to the Bankruptcy Court, requested approval to pay $5 million in retention pay to 495 executives and managers, in order to prevent them from leaving their jobs early. Under the proposed plan, two unidentified executives would receive $125,000, and another nine employees would receive between $55,000 and $100,000.

A&P filed this retention plan as a report drafted by consulting firm, FTI Consulting. FTI demonstrated in a

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chart that similar retention plans were used in other recent bankruptcies, including Borders bookstores and Hostess Brands. Out of the 11 examples cited by FTI, the A&P plan was larger than 10 of them.

The A&P bankruptcy follows the same model as recent bankruptcies, such as the auto industry in 2008 and Hostess in 2012, in which bankruptcy courts are allowed to rip up contracts to extort further concessions. In this process the unions have played an invaluable role, forcing through concession contracts and diverting opposition by workers into appeals to the bankruptcy courts and corporate backers.

The WSWS spoke with workers at A&P's divisions. Rafael Escalera, a worker with a year's experience at Pathmark, said, "The store has been going downhill since A&P bought it, and you can see that a lot of people have had their hours cut.

"I'm not too worried about losing my job, since I can always go back to school. I never expected that I was going to be working here a long time, and the job only pays me $9.50 an hour."

After some discussion on retention pay for executives and managers, he added, "If you owned this store you would want to keep your employees happy, to look after them. When you reward the executives like that, you are basically stealing from your employees."

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