

# US bankruptcy judge overturns A&P supermarket labor agreements

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A federal bankruptcy judge has recently made a number of rulings in favor of the US supermarket chain A&P (Great Atlantic & Pacific Tea Company, Inc.). A&P is seeking to use a Chapter 11 bankruptcy to rip up the contractual rights of almost 26,000 union employees, over 90 percent of its workforce.

Those affected by A&P's attack work in 301 stores in six mid-Atlantic states, primarily in New York, New Jersey and Pennsylvania, with others in Connecticut, Delaware and Maryland.

Judge Robert Drain ruled September 2 at the US Bankruptcy Court in White Plains, New York that the severance pay of about 2,500 A&P workers already fired could be cut to 52 percent of what they were entitled to receive under the labor agreement between the company and the unions representing them.

Under the contract, the workers who were supposed to get \$300 for each year of work will now get \$156 per year. The supermarket's creditors must still approve this number. The judge also ruled to destroy contractual job security rights of the senior workers, many of whom have given their entire working lives to the company.

The ruling immediately impacts the most experienced workers at 25 supermarkets owned by A&P that are slated to close. The workers will not be able to use their seniority rights to keep their jobs. The stores owned by the company include A&P, Pathmark, Waldbaums, Food Basics, Superfresh and Food Emporium.

The judge had asked A&P and the unions to create a cost-neutral plan that would allow the senior workers to utilize what are commonly referred to as bumping rights. However, the two sides were not able to come up with such a plan in time. A&P had argued that enforcing such rights would be too complex and costly for the company.

Local 1776 of the United Food and Commercial Workers (UFCW) in Pennsylvania had originally proposed that bumping rights could take place at no cost

to the supermarket if the senior workers agreed to assume the pay and benefits of the lower-paid workers that they replaced.

The union employed a similar procedure the last time A&P filed for bankruptcy in 2010. In some instances, senior workers who make \$25 per hour would be forced to accept \$10 per hour plus a reduction in vacation time.

Other unions, however, have a different procedure for bumping junior employees, under which senior workers keep their pay and benefits. Twelve UFCW locals represent most workers, and the Service Employees International Union (SEIU) represents a small number of pharmacy workers.

Justifying his decisions, judge Drain said, "Bankruptcy as a whole is about broken promises."

Last month, A&P announced that another 472 workers would lose their jobs between October 19 and November 1. The unions have accepted this and a spokesman for the UFCW international union has claimed that they are working to get the laid-off workers jobs in other "union stores."

A&P filed for Chapter 11 bankruptcy on July 19 with the US Bankruptcy Court for the Southern District of New York. Founded in New York City in 1859, the company helped create the modern supermarket, but has suffered a decline in profits recently as a result of competition from low-wage supermarket chains such as Walmart and niche retailers such as Whole Foods and Trader Joe's.

When A&P originally filed for bankruptcy in 2010, the UFCW agreed to wage and benefit cuts worth more than \$625 million over five years. In return, the company had agreed that any future buyer would assume the labor contract.

But in this year's bankruptcy proceedings, A&P has argued in court that labor costs must be low enough to attract potential buyers to its stores. The companies who put in bids for the stores have already stated that they are

unwilling accept the union contracts already agreed at A&P.

Following this, the judge on September 21 approved the sale of 95 out the 301 stores owned by A&P to Acme Markets and Stop & Shop for \$370 million, about \$36 million less than the company had originally sought, which potentially could save about 10,700 jobs.

However, all the remaining stores without bids will be auctioned off on October 1 and 2. The court has not yet determined the wages and working conditions of these workers. How many employees of the supermarket chain will lose their jobs depends to some extent on how many more stores A&P is able to sell.

A&P had also requested that it be allowed to spend \$5 million in bonus money to retain what it called its prime staff to keep them on the job as the corporation sells its stores. On September 11, the judge indicated that he will allow A&P to spend \$3.9 million that the company said it needs to retain managers before closing. While almost \$4 million would go to only 495 executives, only \$1.1 million in severance pay would be divided up among more than 25,000 wage workers.

A report in the *Wall Street Journal* last week revealed that in the months preceding the July bankruptcy, a small group of executives awarded themselves nearly \$9 million in payments and bonuses.

The union has played the role of assisting A&P in its attacks on workers: first, by helping the company extract millions of dollars in employee concessions and, second, by telling its members to have faith in the same courts that have eliminated workers' jobs and benefits in the interest of management.

Greg Mimms, a stock worker of nine years at the Pathmark in Harlem, New York, told the WSWS, "This store is said to be closing just before Thanksgiving. They have been cutting hours down and want to give you a hard time. For the little time left, why give us a hard time?"

"Every penny counts. I had wage increases in the past, but then they are taking it back. I was supposed to have five weeks' vacation but that was cut down to two. I used to have 24 to 28 hours work a week but they cut that down to 16 hours. If people quit then they do not want to have to pay unemployment and they don't want to pay severance pay.

"The union sucks. A couple of guys used to go to bat for you but then they put in a couple of guys who do nothing. They should be calling a meeting to let you know what's happening. A handful of us talk at breaks about getting hard on the union. It all goes back to the union

because a lot of us are paying dues. I pay \$15 to \$20 a month. The union dues just go up."

Mimms added, "From day one they are dead wrong in closing this store. People need it. This is the number one rated store for Pathmark. They will miss this place. People need this place. It is convenient, near the train station. Some people stop and buy groceries and get back on the train.

"We are being shut down and the union is not fighting. We have people working here as much even as 36 years. A lot of young ones with little time, they can kick them to the curb. I do get dental and medical benefits but they won't give you 40 hours work. They believe in making you starve. They give each man 16 hours to save a lot of money. I stared out on 40 hours, but they don't want you to have full time. I have a second job as a porter."

Jaquon has worked at a Food Emporium, a higher-priced subsidiary of A&P, on the upscale Upper East Side of Manhattan for two years since he got out of high school. "This store is supposed to close soon," he said. "A lot of my generation has joined the military, which would have been my fate if I had not found this job.

"But I make only \$8.75 an hour. Living in New York City, with its high prices, is hard. I would be homeless without my mother's help. Rent in the Bronx is \$2,000. She works in telemarketing. I have found another job with the online 'InstaCart' that does home deliveries, but I am trying to get into construction.

"A&P does not want to pay the \$300 severance pay that workers with more than a year are supposed to get. That is a slap in the face to the people who are here a long time.

"Unemployment insurance is only half of what I make. They need to make jobs that give young people the chance to get better. Otherwise I would be with my mother the rest of my life."



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