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A&P and unions in tough negotiations

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The union locals representing employees at the stores owned by the Montvale-based Great Atlantic & Pacific Tea Co. Inc. are engaged in the most crucial negotiations they have conducted with that company. But this time, rather than negotiating gains in wages and benefits, the unions will bargain over how much of their contract protections they are willing to give up.

A&P, which filed for Chapter 11 bankruptcy protection on July 19, is trying to line up buyers for most of its stores, but it has told the bankruptcy court that potential bidders are interested in the stores only if they are sold free and clear of any contractual obligations to union workers. The unions, in documents filed Thursday, argued that the last time A&P was in bankruptcy the company made a promise to the unions that A&P is now trying to break.

After A&P filed for bankruptcy in 2010, the United Food and Commercial Workers Union, which represents 26,000 A&P store employees, agreed to wage and benefit concessions worth \$600 million over five years. In return, A&P, according to court documents, agreed to a clause in the union contract that said the company would require any future buyer to assume the labor contract and hire substantially all employees.

The union, in court documents, said it is "deeply concerned" that A&P will ask the court to reject its union contracts, and to ignore the deal reached as A&P emerged from the previous bankruptcy, "and thereby eliminate the benefit of the bargain from the prior bankruptcy proceeding, causing incredible human distress and dislocation."

A&P operates the A&P, Pathmark, and Food Basics stores in North Jersey and elsewhere, as well as Waldbaums, Superfresh and Food Emporium in other states.

The United States bankruptcy code allows companies that file for bankruptcy protection to reject or modify collective bargaining agreements, but the company must first try to reach an agreement with the union before asking the court to reject a contract.

"You have to give the union the opportunity to negotiate," said Stephen Packman, chairman of the bankruptcy, restructuring and insolvency litigation group at Archer & Grenier, a law firm with eight offices in four states, including an office in Hackensack. "You have to make a proposal to the union as to certain modifications of the existing contract and you have to meet in good faith," he said, "but if that doesn't work, then you can proceed before the Bankruptcy Court" and ask for the rejection of the contract.

Packman said requests for rejection of a contract typically happen in industries with union employees "where a buyer comes in and says, 'Listen, some of the benefits are just prohibitive, and in order to make this thing work, I'll offer to buy the company, but it's got to be without the union contract or the contract has to be substantially modified to make it cost-effective for me to do this.' "

A&P and union representatives met for six hours on Wednesday at the offices of Local 464A in Little Falls, and a second meeting is scheduled for Tuesday.

Local 464A is one of the largest locals representing A&P workers, with 7,200 members in New Jersey and New York.

A&P has received three lead, or "stalking horse," bids for 120 stores, from the Acme, Stop & Shop and Key Food chains. According to A&P, those three bidders are willing to negotiate with the unions to reach new agreements, but they don't want to be bound automatically to A&P's contractual obligations. Acme and Stop & Shop employ union workers in their stores. Key Food, which is a cooperative of independent owners, has both union and non-union stores, according to union officials.

A&P is trying to sell an additional 176 stores, and has said it needs to be released from contracts at those locations.

Union leaders declined to discuss what occurred in the bargaining session Wednesday, saying they don't want to interfere with the negotiations. Local 464a and Local 1262, based in Clifton, have posted messages on their websites saying that their prime objective will be to save as many jobs as possible.

John Niccollai, president of Local 464A, reached by phone, said he couldn't comment on the talks.

"What everyone's working on right now is to try to be helpful in selling as many stores as we can to union operators," he said. "That's our salvation' as far as our membership is concerned."