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ALBUQUERQUE N.M.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Debtor.

Case No. 7-01-10779-SA
Chapter 7

MOTION TO APPROVE SETTLEMENT OF ADVERSARY PROCEEDING 02-1258-S

Yvette Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, moves the Court for an order approving the settlement of all claims against Eastman Kodak Company, including without limitation the recovery and turnover action the estate has against Eastman Kodak Company as set forth in the adversary proceeding No. 02-1258 S, captioned *Yvette J. Gonzales, Trustee v. Eastman Kodak Company* (the "Adversary Proceeding"), pursuant to F.R.Bankr.P.9019, and STATES:

1. **Commencement and Conversion of Case**. On February 8, 2001, (the "Petition Date"), the Debtor filed a Voluntary Petition in this Court under Chapter 11 of the Bankruptcy Code. On December 19, 2001, this Court entered an Order converting the Chapter 11 case to a case under Chapter 7.

2. **Appointment of Chapter 7 Trustee**. On December 19, 2001, the United States Trustee appointed Yvette Gonzales as the Trustee for the Debtor's bankruptcy estate, in which capacity she continues to serve.

3. **Jurisdiction and Venue**. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§1408 and 1409.

4. **The Adversary Proceeding**. In the Adversary Proceeding, the Trustee sought to

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recover Twenty-Two Thousand Eight Hundred Thirteen Dollars and 32/100 ($22,813.32) from Eastman Kodak Company, plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §542.

5. **The Settlement**. Eastman Kodak Company has offered to pay the Trustee Ten Thousand and No/100 Dollars ($10,000.00) in full satisfaction of any and all claims which the parties have against each other (the "Settlement"). No party admits or acknowledges any liability to any other party and specifically denies the existence of such liability. The Settlement resolves all claims, counterclaims and causes of action held by the Trustee against the Defendant, and by the Defendant against the Trustee, and, upon approval of the Settlement, the Trustee and the Defendant shall mutually release each other from any and all such claims. The Defendant shall retain its rights under any proof of claim or administrative expense claim filed herein, and retains the right to amend its unsecured proof of claim for pre-petition amounts due to include the Settlement.

6. The Settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and the creditors.

WHEREFORE, the Trustee requests that the Court enter an Order approving the Settlement and for such other relief as may be just.

DAVIS & PIERCE, P.C.

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I hereby certify that a true and
correct copy of the foregoing was
served on counsel and parties
as indicated below this 13th day
of November, 2003.

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