

**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 03-1079-S
(Pan American Fixture Company, d/b/a Custom Craft Fixtures)**

Yvette Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, moves the Court for an order approving the settlement of all claims the estate has against Pan American Fixture Company, d/b/a Custom Craft Fixtures ("Pan American" or the "Defendant"), as set forth in the adversary proceeding No. 03-1079-S, captioned *Yvette J. Gonzales, Trustee v. Pan American Fixture Company, d/b/a Custom Craft Fixtures* (the "Adversary Proceeding"), pursuant to F.R.Bankr.P.9019, and in support hereof 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 originally sought to recover Fifty-Three Thousand Three Hundred Thirty Seven and 46/100 (\$53,337.46)

from Pan American, plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §547.

After further investigation, the Trustee sought to recover Thirty Seven Thousand Six Hundred Fifty Five and 97/100 (\$37,655.97).

5. **The Settlement.** Pan American has offered to pay the Trustee Twenty-Seven Thousand and 00/100 (\$27,000.00), with \$3,000.00 to be paid on the first day of the month immediately following the date of the entry of an Order approving the settlement, and the remainder of \$24,000.00 to be paid in equal monthly installments of \$3,000.00 each on the first day of each month thereafter until fully paid, in full satisfaction of any and all claims, including without limitation claims asserted in the Adversary Proceeding (the "Settlement"). The full terms of the Settlement are set forth in the attached Settlement Agreement. 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.
/s/ filed electronically 8/12/04
Chris W. Pierce, Esq.
Post Office Box 6
Albuquerque, New Mexico 87103
(505) 243-6129

I hereby certify that on August 12, 2004,
a true and correct copy of the foregoing
was either electronically transmitted,
faxed, delivered or mailed to:

Gerald R. Velarde, Esq.
PO Box 2226
Albuquerque, NM 87103

David T. Thuma, Esq.
Jacobvitz, Thuma & Walker
500 Marquette NW, Suite 650
Albuquerque, New Mexico 87102

Ronald F. Andazola
Post Office Box 608
Albuquerque, New Mexico 87103
/s/ filed electronically 8/12/04
Chris W. Pierce, Esq.

F:\FURRS\REFERENCE EXPENSE\Custom Craft\Pleadings\Motion Approve Settlement.doc:jg