IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
OFFICE OF THE CLERK
01 MAY 23 AM 9:58
U.S. BANKRUPTCY COURT
ALBUQUERQUE, N.M.

IN RE:	§	CASE NO. 11-01-10768-SA
	§	
FURR'S SUPERMARKETS, INC.	§	CHAPTER 11
	§	
DEBTOR	§	

MOTION FOR RELIEF FROM STAY BY CREDITOR JAVIER ORTIZ

NOW COMES JAVIER ORTIZ, hereinafter referred to as "Movant" an files this his motion seeking relief from the automatic stay provided by 11 U.S.C. § 362 of the Bankruptcy Code and in support thereof would show the following:

1. THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS. IF NO TIMELY RESPONSE IS FILED WITHIN FIFTEEN DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD. A TIMELY RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

2. On February 8, 2001, the above named Debtor filed its Voluntary Petition under Chapter 11 of the Bankruptcy Code.

3. Prior to the filing of Debtor's Chapter 11 Petition, Movant and Debtor were parties to a pending lawsuit in the 210th Judicial District Court of El Paso County, Texas, said lawsuit bearing Cause No. 96-4624 and styled Javier Ortiz v. Furr's Supermarkets, Inc.

4. Debtor is the Defendant Furr's Supermarkets, Inc., which is a party to the aforementioned State Court lawsuit.

442

5. Movant's claims which are the subject of the aforementioned lawsuit are for personal injuries and damages that occurred on or about July 27, 1996 in El Paso County, Texas.

6. Based upon currently available information and belief, the claims against the Debtor in the aforementioned personal injury State Court lawsuit are covered by liability insurance that was in full force and effect at the time of the incident made the basis of said lawsuit. (See Exhibit A attached "Declarations of Policy No. 5460001542").

7. The State Court personal injury lawsuit is being defended on behalf of the Debtor by Mr. Mark C. Walker, Mounce, Green, Myers, Safi & Galatzan, 100 N. Stanton, Suite 1700, P.O. Box 1977, El Paso, Texas 79950-1977, Phone (915) 532-2000.

8. Insurance coverage provided by applicable liability insurance policies are not an asset of the estate.

9. Any recovery against any applicable insurance policies will not deplete the estate.

10. Therefore, the Automatic Stay of U.S.C. §362 (a) should be terminated for cause to allow Movant to proceed with the State Court personal injury lawsuit initiated in the 210th Judicial District Court, El Paso County, Texas against the Debtor for recovery under any applicable liability insurance policies to the extent that such policy coverage exists.

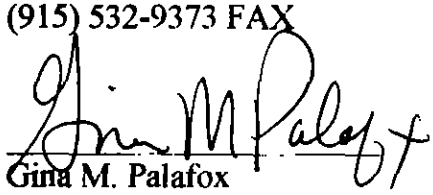
WHEREFORE PREMISES CONSIDERED, the Movant, Javier Ortiz respectfully prays that the Court enter an Order granting relief from the Automatic Stay to allow the Movant to proceed with the State Court personal injury lawsuit initiated in the 210th Judicial District Court, El Paso County, Texas against the Debtor for recovery under any

applicable liability insurance policies to the extent that such policy coverage exists and such further relief to which the Movant shows himself justly entitled.

RESPECTFULLY SUBMITTED THIS 25 DAY OF MAY, 2001.

Respectfully submitted,

GINA M. PALAFOX
4157 Rio Bravo
El Paso, Texas 79902
(915) 533-4884
(915) 532-9373 FAX



Gina M. Palafox
Attorney for Plaintiff
Texas State Bar No. 15420780
New Mexico State Bar No. 6871

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been mailed, certified mail, return receipt requested to all parties of record on this the 21st day of May 2001.

Debtor Representative
Mr. Steven L. Mortensen
Furr's Supermarkets, Inc.
Senior Vice President and
Chief Financial Officer
4411 The 25 Way N.E., Suite 100
Albuquerque, New Mexico 87109

Attorneys for Debtor (Bankruptcy Case)
Jay Hoffman
Richard Levin
Peter W. Clap
Alan J. Carr
Jamie L. Edmonton
Stephen J. Lubben
Amy S. Park
Skadden, Arps, Slate, Meagher & Flom L.L.P.
300 South Grand Ave.
Los Angeles, CA 90071-3144
(213) 687-5000

Robert H. Jacobvitz
Davit T. Thuma
500 Marquette Ave. N.W.,
Suite 650
Albuquerque, New Mexico 87102
(505) 766-9287

Attorney for Debtor (Personal Injury Case)
Mr. Mark C. Walker,
Mounce, Green, Myers, Safi & Galatzan,
100 N. Stanton, Suite 1700,
P.O. Box 1977,
El Paso, Texas 79950-1977,
(915) 532-2000

Gina M Palafox
GINA M. PALAFOX

Policy Number
5460001542

Crum&Forster Insurance

COMMERCIAL GENERAL LIABILITY COVERAGE PART
SUPPLEMENTAL DECLARATIONS
UNITED STATES FIRE INSURANCE COMPANY

Named Insured FURR'S SUPERMARKETS
Agent Name MARSH & MCLENNAN INC

Effective Date: 12-31-95
12:01 A.M., Standard Time
Agent No. C05393

Item 1. Business Description: SUPERMARKETS

Item 2. Limits of Insurance

General Aggregate Limit (Other Than Products - Completed Operations)	$ 3,000,000	
Products - Completed Operations Aggregate Limit	$ 2,000,000	
Personal and Advertising Injury Limit	$ 1,000,000	
Each Occurrence Limit	$ 1,000,000	
Fire Damage Limit	$ 100,000	Any One Fire
Medical Expense Limit	$ NOT COVERED	Any One Pers

Item 3. Retroactive Date

Coverages A and B of this insurance do not apply to "bodily injury", "property damage", "personal injury" or "advertising inj which occurs before the Retroactive Date, if any, shown here: _____
(Enter Date or "None" if no Retroactive Date appears)

Item 4. Form of Business and Location of Premises

Form of Business:
CORPORATION

Location of All Premises You Own, Rent or Occupy:

See Schedule of Locations

Item 5. Location of Premises

Code No.	Premium Basis	Premises/Operations	
52050	SALES		
Location	Exposure	Rate	Premium
Classification: COMPOSITE RATE GROUP #001 RETAIL TRADE		Products/Completed Operations	
		Rate	Premium

Code No.	Premium Basis	Premises/Operations	
Location	Exposure	Rate	Premium
Classification:		Products/Completed Operations	
		Rate	Premium

Item 6. Forms and Endorsements

Form(s) and Endorsement(s) made a part of this policy at time of issue:

See Schedule of Forms and Endorsements

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

FM 101.0.1404 04 94

Exhibit A

UNITED [illegible]
U. S. BANKRU[illegible]
DISTRICT OF NEW [illegible]
Albuquerque [illegible]

2100S782 [illegible]
May 23, [illegible]

Code Case # [illegible]

STAY 1/1 01-10779 [illegible]

Judge - James [illegible]
Debtor - FUKK[illegible]

TOTAL→ [illegible].00

FROM: PALAFOX
2475