

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**IN RE:** )  
**BRUNO'S SUPERMARKETS, LLC,** ) **Chapter 11**  
 ) **Case No. 09-00634**  
**Debtor.** )

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**MOTION FOR EXPEDITED HEARING ON DEBTOR'S EMERGENCY MOTION TO  
PAY CERTAIN PRE-PETITION DEBTS TO COMPLY WITH ALABAMA AND  
FLORIDA LAWS REGULATING SUPPLY OF ALCOHOLIC BEVERAGES**

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**COMES NOW**, Bruno's Supermarkets, LLC ("Bruno's" or "Debtor"), as debtor and debtor-in-possession, by and through their undersigned counsel, and moves this Court (this "Motion") to set an expedited hearing on *Debtor's Emergency Motion to Pay Certain Pre-Petition Debts to Comply with Alabama and Florida Laws Regarding Supply of Alcoholic Beverages* (the "Alcoholic Beverages Motion") as quickly as the Court's docket will allow. In support of the Motion, Debtor states as follows:

**JURISDICTION AND VENUE**

1. On February 5, 2009 (the "Petition Date"), Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Clerk of this Court. Debtor continues to operate its business and manage its assets as debtor in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

2. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of Debtor's chapter 11 case and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

**BACKGROUND**

3. Prompt entry of the relief requested in the Alcoholic Beverages Motion is critical to maintaining Debtor's ongoing operations and the value of its bankruptcy estate. Accordingly, prompt consideration of such motion is justified because absent such emergency relief, the bankruptcy estate will be severely impacted.

4. The viability of Debtor's business depends on its relationships with its vendors and if these relationships are brought to a standstill, they will likely have a detrimental effect on Debtor's reorganization. Beer and Wine Suppliers are among the group of vendors whose trade relations with Debtor are currently in jeopardy.

5. Debtor's retail business is located in Alabama and Florida. Under the laws of the State of Alabama, all sales of alcoholic beverages made by wholesalers to retail licensees shall be for cash. Ala. Admin. Code Chapter 20-X-8-.09. *See also* ALA. CODE § 28-3-49. The Alabama Code prohibits any credit from being extended to an alcoholic beverage retailer and failure to comply with the Code results in separate violations of the regulation by both the vendor and the vendee. *Id.* Therefore, Debtor is required to pay the Beer and Wine Suppliers at the time of delivery.

6. Additionally Florida law has strict punishments if any credit to vendors is not reimbursed within 10 days. FLA. STAT. ANN. § 561.42 (2008). Therefore, if Debtor is prevented from making payments for pre-petition expenses incurred by deliveries of the Beer and Wine Suppliers, further alcoholic beverage deliveries from all suppliers within the state of Florida may be discontinued. *Id.*

7. In order to comply with both Alabama and Florida law, and to alleviate the risk of having suppliers cease deliveries, Debtor needs to be able to pay the pre-petition indebtedness to the Beer and Wine Suppliers.

**BASIS FOR RELIEF**

8. Section 105(a) of the Bankruptcy Code provides the Court with the power to set an expedited hearing on the Alcoholic Beverages Motion. Section 105(a) states that a bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a).

9. Contemporaneously herewith, Debtor filed its Alcoholic Beverages Motion seeking authorization pursuant to §§ 105(a) and 363(b) and (c) of the Bankruptcy Code to pay its pre-petition obligations arising from the supply of alcoholic beverages by the Beer and Wine Suppliers in the ordinary course of business.

10. Due to the exigent nature of the relief requested in the Alcoholic Beverages Motion, Debtor hereby respectfully request this Court set an immediate hearing regarding the same as soon as practicable on the Court's calendar.

11. Debtor has determined, in the exercise of its reasonable business judgment, that payment of the pre-petition debt owed to the Beer and Wine Suppliers is essential for compliance with state statutes, Debtor's successful reorganization, and is in the best interests of Debtor and its customers, creditors, and the estate.

12. An Order approving payment of the pre-petition debt owed to the Beer and Wine Suppliers must be entered before Debtor may tender such payment.

13. Consequently, it is crucial that this Court conduct an hearing on the Alcoholic Beverages Motion as soon as possible as the relief sought in the Alcoholic Beverages Motion is essential to avoid substantial disruption and irreparable harm to the normal operations of Debtor's business. As such Debtor respectfully requests this Court conduct an hearing on said motion as soon as possible.

14. Finally, if this Court determines that an expedited hearing is necessary, for the convenience of the relevant parties to this matter, Debtor also requests that certain out-of-town parties be allowed to attend the hearing via telephonic conference if such is needed to further expedite this motion.

**NOTICE AND PRIOR MOTIONS**

Notice of this Motion has been provided to (1) the Office of the Bankruptcy Administrator for the United States Bankruptcy Court for the Northern District of Alabama, Southern Division; (2) counsel to Regions Bank, Debtor's pre-petition lender and post-petition lender (3) the holders of Debtor's equity interests; (4) Debtor's twenty (20) largest unsecured creditors; and (5) the District Director of the Internal Revenue Service for the Northern District of Alabama. In light of the nature of the relief requested herein, Debtor submits that no further notice of this Motion is needed or required.

No previous motion for the relief sought herein has been made to this or any other court.

**WHEREFORE**, Debtor requests that the Court enter an order, substantially similar to the order attached hereto as Exhibit "A," granting this Motion, setting an expedited hearing and granting such other and further relief as the Court deems appropriate.

/s/Derek F. Meek

Robert B. Rubin  
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Attorneys for Debtor  
BRUNO'S SUPERMARKETS, LLC

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# **EXHIBIT A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

IN RE: )  
BRUNO'S SUPERMARKETS, LLC, )  
 ) Chapter 11  
Debtor. ) Case No. 09-00634  
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ORDER GRANTING DEBTOR'S MOTION FOR EXPEDITED HEARING ON  
DEBTOR'S EMERGENCY MOTION TO PAY CERTAIN PRE-PETITION DEBTS TO  
COMPLY WITH ALABAMA AND FLORIDA LAWS REGULATING SUPPLY OF  
ALCOHOLIC BEVERAGES

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This matter came to be heard upon the motion (the "Motion") of Bruno's Supermarkets, LLC ("Bruno's" or "Debtor") for the Court to set an expedited hearing on the *Debtor's Emergency Motion to Pay Certain Pre-Petition Debts to Comply with Alabama and Florida Laws Regarding Supply of Alcoholic Beverages* (the "Alcoholic Beverages Motion") as quickly as the Court's docket will allow. Upon consideration of the Motion, and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and having determined that the relief requested in the Motion is in the best interests of Debtor, its estate, its creditors, and other parties in interest; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby **ORDERED, ADJUDGED, AND DECREED THAT:**

The Motion is **GRANTED**. It is further **ORDERED, ADJUDGED, AND DECREED THAT:**

Due to the exigent nature of the relief requested in the Alcoholic Beverages Motion, the Court shall a conduct hearing at the United States Bankruptcy Court For The Northern District Of Alabama, Southern Division, 1800 Fifth Avenue North, Birmingham, Alabama 35203, on February \_\_\_\_, 2009 , at \_\_\_\_\_, in Courtroom \_\_\_\_\_. Additionally, for the convenience of the relevant parties to this matter, out-of-town parties shall be allowed to attend such hearing via telephonic conference to further expedite this motion.

It is **FURTHER ORDERED** that counsel for Debtor shall serve a copy of this Order on those parties that receive notice of the Motion. Such service shall be made by expeditious means (including by facsimile or by electronic mail).

DATED this the \_\_\_\_ day of February 2009.

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UNITED STATES BANKRUPTCY JUDGE