

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

SITKA BEVERAGE CORPORATION,

Debtor.

Case No. J02-00457-DMD
Chapter 11

**Filed On
9/26/05**

**MEMORANDUM REGARDING MOTIONS TO REOPEN CASE
AND CORRECT JUDGMENTS**

Creditors Pacific Terminals, Ltd. and Puget Sound Truck Lines, Inc. allege jurisdiction arises through a provision in the debtor's management agreement with True Alaska Bottling Company (TAB). I disagree. The management agreement did not confer jurisdiction on the court for state law collection proceedings against TAB. First of all, the agreement was between the debtor and TAB. Creditors were not parties to the agreement. The provision in question addressed venue and choice of law issues; it could not and did not create jurisdiction where none existed. A state law claim against a non-debtor cannot be brought in bankruptcy court: it has no subject matter jurisdiction.¹ A motion for administrative expense status in a Chapter 11 proceeding is a core proceeding as to the debtor only, not as to third parties. Moreover, a proceeding to recover money must be brought as an adversary proceeding. Rule 7001(1), *Fed. R. Bkr. Pro.* Creditors have attempted to proceed by motion, creating an awkward and unworkable procedural morass. The answer to their dilemma is simple: sue TAB in a court of competent jurisdiction and get a judgment there.

¹*Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).

DATED: September 23, 2005.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: C. Christianson, Esq.
M. Riddle, Esq.
M. Jones, Esq.
U. S. Trustee
Pam Taylor
Robbi Canterbury, Case Mgr.

09/26/05