

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50080

IN THE MATTER OF: INTELOGIC TRACE, INC.,

Debtor.

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
and TEXAS EMPLOYMENT COMMISSION,

Appellants,

versus

INTELOGIC TRACE, INC.,

Appellee.

Appeal from the United States District Court
for the Western District of Texas
(CA-SA-94-893)

June 4, 1996

Before DUHÉ, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

The appellants concede that their challenge to the bankruptcy court order authorizing the debtor to pay, prior to plan confirmation, employee claims exceeding the limits for priority wage and benefit claims under 11 U.S.C. § 507(a)(3) and (4), is moot. They assert, however, that we have jurisdiction to review the order under the "capable of repetition, yet evading review" exception to the mootness doctrine, because payment of the claims

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

at issue had been completed before an appeal of the order could be litigated, and there is a reasonable expectation that the appellants will be subjected to the same action again. See, e.g., ***Southern Pacific Terminal Co. v. ICC***, 219 U.S. 498 (1911).

We do not reach whether this exception applies. The appellants' proof of claim was disallowed as untimely, and they did not appeal the disallowance. Accordingly, the appeal is

DISMISSED.