

June 12, 2003

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS

For the Fifth Circuit

No. 01-40807

In The Matter of : JOE ALVIN ANDREWS, SR.

Debtor

THE CADLE COMPANY

Appellant,

VERSUS

WHATABURGER OF ALICE, INC.; M. LOUISE ANDREWS; KATHY A. REESE;
GEORGE P. BRAUN; HERBERT E. POUNDS, JR.; JOE ALVIN ANDREWS, JR.;
MICHAEL BOUDLOCHE; JOE ALVIN ANDREWS, SR.

Appellees

Appeal from the United States District Court
For the Southern District of Texas, Laredo
L-00-CV-121

Before DAVIS and BENAVIDES, Circuit Judges, and RESTANI*, District
Judge.

PER CURIAM:**

The district court correctly dismissed this suit which was

*Judge, U.S. Court of International Trade, sitting by
designation.

**Pursuant to 5TH CIR. R. 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opinion should not be published and is not precedent except under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 5TH CIR. R. 47.5.4.

transferred to it from the Western District of Texas, San Antonio Division. The dismissal was proper because the issues presented in the Western District action substantially overlapped with the first filed suit in the Southern District of Texas. Cadle identifies no error in the district court's application of the rule that the court in which an action is first filed is the appropriate court to determine the disposition of the later filed case involving substantially similar issues.

We also find no merit to Cadle's jurisdictional argument. Even if he is correct that this is a non-core proceeding, the district court stated that if the bankruptcy court had no jurisdiction to dismiss the second filed suit, it would treat the bankruptcy court's order as a recommendation for dismissal and adopt that recommendation.

AFFIRMED.