

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20213
Summary Calender

In The Matter of: IMMUDYNE, INC.,

Debtor

BYRON DONZIS; MARTHA GIBSON DONZIS; CARMEL RESEARCH INC.,

Appellants-Cross-Appellees,

VERSUS

IMMUDYNE INC.,

Appellee-Cross-Appellant.

Appeals from the United States District Court
for the Southern District of Texas
(H-98-CV-2659)

September 20, 1999

Before DAVIS, EMILIO M. GARZA, and DENNIS Circuit Judges.

PER CURIAM:*

The only issue presented in this appeal is whether the bankruptcy court clearly erred in finding that the petitioning creditors failed to establish that the debtor was not paying its debts when they became due. 11 U.S.C. § 303(h)(1). We review these findings of fact for clear error. In re Concrete Pumping Service, Inc., 943 F.2d 627, 630 (6th Cir. 1991). After

*Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

reviewing the record we conclude that the bankruptcy court's findings are adequately supported by the record and the bankruptcy court correctly dismissed the involuntary petition. The record supports the bankruptcy court's finding that, with one exception, the debtor's debts are the subject of a bona fide-dispute, are deferred by agreement, or the debtor satisfactorily explained non-payment. The judgment of the district court is therefore affirmed.

AFFIRMED.