

Dismissed and Opinion filed March 29, 2001.



In The

Fourteenth Court of Appeals

NO. 14-00-01462-CV

**FLOATING BULK TERMINAL, L.L.C. and ECONO-RAIL CORPORATION,
Appellants**

V.

**COAL LOGISTICS CORPORATION, J. PATRICK DOWD and LILLIAN MOORE
DOWD, Appellees**

**On Appeal from the 61st District Court
Harris County, Texas
Trial Court Cause No. 98-08965**

MEMORANDUM OPINION

This is an appeal from an interlocutory order appointing a receiver, signed October 27, 2000. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(1) (Vernon Supp. 2000). The trial court subsequently signed a final judgment, which is being appealed under our Appeal No. 14-01-00055-CV. On January 30, 2001, the trial court amended the final judgment and vacated the order appointing a receiver.

On March 7, 2001, appellants filed a motion to abate the interlocutory appeal, asserting that the appeal will become moot once the trial court's plenary power has

expired. We deny the motion, finding that the appeal is moot because the order being appealed has been vacated. *See VE Corp. v. Ernst & Young*, 860 S.W.2d 83, 84 (Tex. 1993) (appeal is moot when appellate court's action on merits cannot affect rights of parties).

Accordingly, because this interlocutory appeal has been rendered moot by further proceedings in the district court, we dismiss the appeal for want of jurisdiction. *See City of Austin v. L.S. Ranch, Ltd.*, 970 S.W.2d 750, 755 (Tex. App.—Austin 1998, no pet.).

PER CURIAM

Judgment rendered and Opinion filed March 29, 2001.

Panel consists of Justices Edelman and Frost and Senior Chief Justice Murphy.¹

Do Not Publish — TEX. R. APP. P. 47.3(b).

¹ Senior Chief Justice Paul C. Murphy sitting by assignment.