

**NOT DESIGNATED FOR PUBLICATION**

**SHAWN TIFFANY BRENNAN                   \*           NO. 2014-CA-0032**  
**AND SAMANTHA SCOTT**  
**BRENNAN, IN THEIR                   \*           COURT OF APPEAL**  
**CAPACITY AS INDEPENDANT**  
**CO-EXECUTORS OF THE               \*           FOURTH CIRCUIT**  
**SUCCESSION OF JAMES**  
**CHARLES BRENNAN                   \*           STATE OF LOUISIANA**

**VERSUS   \*\*\*\*\***

**BRENNAN'S INC.**

**APPEAL FROM**  
**CIVIL DISTRICT COURT, ORLEANS PARISH**  
**NO. 2011-06458, DIVISION "L-6"**  
**Honorable Kern A. Reese, Judge**

**\*\*\*\*\***

**JUDGE SANDRA CABRINA JENKINS**

**\*\*\*\*\***

**(Court composed of Judge Joy Cossich Lobrano,  
Judge Sandra Cabrina Jenkins, and Judge Regina Bartholomew-Woods)**

***LOBRANO, J., CONCURS IN THE RESULT.***

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**APPEAL DISMISSED AS ABANDONED**

**JUNE 12, 2019**

This appeal arises from a suit on a promissory note brought by Plaintiffs/Appellants, Shawn Tiffany Brennan and Samantha Scott Brennan, in their capacity as independent co-executors of the Succession of James Charles Brennan (the “Succession”), against Appellee, Brennan’s, Inc. (“Brennan’s”). Because there has been no activity in this appeal for three years, we dismiss this appeal on the grounds of abandonment pursuant to La. C.C.P. art. 2165 and Fourth Circuit Local Rule 20.

### **The State Court Suit**

On June 17, 2011, the Succession filed a Petition for Declaratory Judgment against Brennan’s in Civil District Court for the Parish of Orleans (No. 2011-6458) (the “State Suit”). On April 25, 2012, the Succession amended its Petition against Brennan’s to allege default under a promissory note. On July 10, 2012, the Succession obtained a \$204,425.85 money judgment against Brennan’s. On May 22, 2013, Brennan’s deposited the funds in the registry of the court, and moved to compel the Succession to execute a satisfaction of judgment.

On September 23, 2013, the state court entered a judgment granting Brennan’s motion to compel execution of satisfaction of judgment and ordered the

inscription of the judgment cancelled from the mortgage records, even though the funds remained in the registry of the court.

### **The Bankruptcy Suit and This Appeal**

On October 28, 2013, certain creditors of Brennan's filed an involuntary petition for relief in the U.S. Bankruptcy Court for the Eastern District of Louisiana. Because the funds in the registry of the court were allegedly property of the bankruptcy estate, and the Succession was enjoined from accepting payment of the judgment, on December 9, 2013, the Succession filed a Notice of Removal of the State Suit to Bankruptcy Court. On January 7, 2014, the Succession filed an appeal in this Court. On January 10, 2014, the Succession filed a Notice of Filing of Notice of Removal in this Court (No. 2014-CA-0032). On January 10, 2014, by order of the Court, the briefing schedule was suspended.

### **Abandonment**

Pursuant to La. C.C.P. art. 2165, an appeal is abandoned when the parties fail to take any step in its prosecution or disposition for the period provided in the rules of the appellate court. Fourth Circuit Local Rule 20(A) provides as follows:

Except as provided hereafter when no activity occurs in an appeal for three years, the appeal shall be dismissed as abandoned, and notice thereof shall be sent to the appellant or the appellant's attorney at the last address shown on the court's records.

On May 14, 2019, pursuant to Fourth Circuit Local Rule 20, this Court issued an Order directing the Succession to show cause why the appeal should not be dismissed as abandoned, as no activity had occurred in the appeal for three years. On May 28, 2019, the Succession filed a response to the Order in which it stated that the matter had been resolved and the appeal may be dismissed as abandoned.

Accordingly, we hereby dismiss the captioned appeal, with prejudice, on the grounds of abandonment.

**APPEAL DISMISSED AS ABANDONED**