

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

CA 13-106

IN RE: KITE RV, LLC

**APPEAL FROM THE
FOURTEENTH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU, NO. 2008-2682
HONORABLE RONALD F. WARE, DISTRICT JUDGE**

VAN H. KYZAR

JUDGE

Court composed of Billy H. Ezell, John E. Conery, and Van H. Kyzar, Judges.

**STAY LIFTED.
CASE RETURNED TO THE DOCKET.**

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KYZAR, Judge.

On September 6, 2018, upon the motion of Plaintiff-Appellee, R. Alan Kite, this court issued a rule to show cause why the matter should not be placed back on the docket. For the reasons stated below, we hereby place the matter back on the docket.

On July 24, 2018, counsel for Plaintiff-Appellee, R. Alan Kite, moved this court to place the instant matter back on the docket. The matter was stayed on July 18, 2014, when this court was notified by opposing counsel of the bankruptcy of R. Alan Kite, bearing docket number 13-20270, in the United States Bankruptcy Court for the Western District of Louisiana. Mr. Wright states that the bankruptcy proceeding is now over and motions this court to proceed with the matter.

In response to the rule, counsel for Defendants-Appellants, Robert Kite, Jeffrey D. Kite, and Kite Bros., LLC, asserts that the instant matter involves the liquidation of Kite RV, LLC, a company formed in 2006 and equally co-owned by brothers R. Alan Kite and Jeffrey D. Kite. According to counsel, R. Alan Kite placed Kite RV, LLC, in liquidation and subsequently formed another company, R. Alan Kite, LLC. Further, counsel argues that the instant appeal should not be placed back on this court's docket for the following reasons:

- 1) Kite RV, LLC, is no longer in existence;
- 2) R. Alan Kite, LLC, is no longer in existence;
- 3) R. Alan Kite passed away on July 18, 2015; and,
- 4) All issues which were the subject of this appeal were resolved through R. Alan Kite's bankruptcy.

We find that that mere recitation of alleged facts in response to the Appellee's motion to place the matter back on this court's docket is not sufficient for this court to deny the Appellee's motion. However, upon the return of the matter to the docket, the Appellants may choose to move for the dismissal of the appeal. Accordingly, in light

of the conclusion of R. Alan Kite's bankruptcy proceeding, we hereby lift the stay ordered by this court on July 18, 2013, and order the case placed back on the docket.

STAY LIFTED.

CASE RETURNED TO THE DOCKET.

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.

Rule 2-16.3 Uniform Rules, Court of Appeal.