

NOT DESIGNATED FOR PUBLICATION

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

CA 21-797 consolidated with CA 21-798

MAYEHAUL TRUCKING, LLC, ET AL.

VERSUS

SASOL CHEMICALS LLC, ET AL.

C/W

SUPERIOR TRUCKING, LLC, ET AL.

VERSUS

SASOL CHEMICALS, LLC

**APPEAL FROM THE
FOURTEENTH JUDICIAL DISTRICT COURT
PARISH OF CALCASIEU, NO. 2016-2356 C/W 2016-5163
HONORABLE KENDRICK J. GUIDRY, DISTRICT JUDGE**

JOHN E. CONERY

JUDGE

Court composed of John E. Conery, D. Kent Savoie, and Gary J. Ortego, Judges.

MOTION TO DISMISS APPEAL DENIED.

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CONERY, Judge.

On February 1, 2022, Defendants-Appellees, Kent Materials and/or Kent & Smith Holdings, LLC, K&S Brokerage d/b/a K&S Logistics, Gerard L. Smith, Tyler Smith, and Roosevelt “Tiger” Canty, filed a Motion and Order for Dismissal of Appeal as Abandoned in accordance with La.Code Civ.P. art. 2162. For the reasons stated herein, we deny the motion.

The instant appeal was filed by Plaintiffs-Appellants, Mayehaul Trucking, LLC; F&S Trucking, LLC; B&M Dumping, LLC; JMK Trucking, LLC; KJJ Trucking, LLC; Calcasieu Trucking, LLC; James Crew Trucking, LLC; Jimmy Comeaux d/b/a Comeaux’s Dump Truck Service; Allen Jay Handy d/b/a JHandy Hauling; Charles and Elijah Goodwin d/b/a Goodwin Trucking; BBT Construction Management, LLC; Loris Ausama d/b/a L.O. Ausama Enterprises, Inc.; Superior Trucking of LC, LLC; Big Daddy Dumping, LLC; P&L Roofing and Construction, LLC; D&G Enterprises, Inc. of LC; Clifton Johnson d/b/a Johnson Trucking; Exodus Trucking, LLC; and Quality Trucking Services of LC, LLC. In their Notice of Appeal and Request for Return Date, Plaintiffs-Appellants seek to appeal the trial court’s October 12, 2021 judgment granting the Peremptory Exception of No Right of Action filed by Defendants-Appellees (Kent Exception Judgment) and the December 13, 2021 judgment granting the Peremptory Exception of No Right of Action/No Cause of Action filed by SASOL Chemicals, LLC and/or SASOL Chemicals North America, LLC, and Michael Hayes (SASOL Defendants Exception Judgment).

Defendants-Appellants assert that in Plaintiffs’-Appellants’ brief filed in this court, they only appealed the Sasol Defendants’ Exception Judgment of December 13, 2021. A review of the brief indicates that Plaintiffs-Appellants set forth three

assignments of error, all of which are directed at the Sasol Defendants' Exception Judgment, only. There are no assignments of error related to the Kent Exception Judgment. Pursuant to Uniform Rules—Courts of Appeal, Rule 2-12.4(B)(4), “[a]ll assignments of error and issues for review must be briefed. The court may consider as abandoned any assignment of error or issue for review which has not been briefed.” Accordingly, we deem the issue of the Kent Exception Judgment rendered on October 12, 2021, to be abandoned.

Next, pursuant to La.Code Civ.P. art. 2162, Defendants-Appellees argue that the instant appeal should be dismissed as it pertains to them and the Kent Exception Judgment of October 12, 2021. Article 2162 provides that “[a]n appeal can be dismissed . . . if, under the rules of the appellate court, the appeal has been abandoned.” Defendants-Appellees subsequently pray that an order be issued herein dismissing, with prejudice, the instant appeal as it pertains to Defendants-Appellees.

We find that the remedy sought by Defendants-Appellees for Plaintiffs'-Appellants' failure to brief an issue is not provided for in Article 2162. Plaintiffs-Appellants have abandoned an argument on appeal, not the appeal itself. Accordingly, we deny the motion to dismiss the appeal filed by Defendants-Appellees.

MOTION TO DIMISS APPEAL DENIED.

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.
Uniform Rules—Courts of Appeal, Rule 2-16.3.