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January 25, 2012

To:

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You are hereby notified that the Court has entered the following order:

2010AP2022

Ted Nickel v. Wells Fargo Bank (L.C. # 2010CV1576)

Before Higginbotham, J.

Nuveen Asset Management, Restoration Capital Management LLC, and Stone Lion Capital Partners L.P move to convert the voluntary dismissal of their appeal without prejudice, by order dated October 28, 2011, to a dismissal with prejudice. We note that voluntary dismissals are always without prejudice. Because such dismissals preclude this court from reaching the merits of the appeal, they cannot be used as the subsequent basis for claim or issue preclusion. That does not, however, mean that a party could not be barred from filing a

subsequent appeal due to other considerations, such as the intervening expiration of the filing deadline, which would appear to be the case here.

IT IS ORDERED that the motion to convert the movants' prior voluntary dismissal to a dismissal with prejudice is denied.

A. John Voelker
Acting Clerk of Court of Appeals