

07/03/03 “See News Release 049 for any concurrences and/or dissents.”
SUPREME COURT OF LOUISIANA

NO. 02-C-1496

MICHAEL WILLIAM McGRAIL, ET AL.

V.

JESSIE R. LEE, ET AL.

PER CURIAM

We granted defendants’ application for a writ of certiorari in this case on October 4, 2002. On April 9, 2003, after hearing oral arguments and reviewing the record, we recalled our order of October 4, 2002 as improvidently granted and denied defendants’ writ application. Defendants then applied for rehearing from this order. We granted rehearing on June 6, 2003. Plaintiffs have now filed a motion to vacate the grant of rehearing.

Supreme Court IX, §6 provides that “an application for rehearing will not be considered when the court has denied . . . an application for writ of certiorari. . . .” In our order of April 9, 2003, we recalled our earlier grant of certiorari and denied defendants’ writ application. Accordingly, defendants’ application for rehearing from the April 9, 2003 judgment was procedurally improper and should not have been entertained by this court. Once we denied the writ, the judgment of the court of appeal became final and definitive under La. Code Civ. P. art. 2166(E) (“a judgment of the court of appeal becomes final and definitive when the supreme court denies the application for certiorari”).

Accordingly, plaintiffs’ motion is granted. The judgment of June 6, 2003 granting defendants’ application for rehearing is vacated and set aside.