

**SUCCESSION OF MRS.
MARIE LOUISE SCHMIDT
LANDRY DE FRENEUSE,
WIDOW BY FIRST
MARRIAGE OF COL.
HUGHES JULES DE LA
VERGNE, AND WIDOW BY
SECOND MARRIAGE OF
HENRY J. LANDRY DE
FRENEUSE**

*** NO. 2002-CA-1807
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

**APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 387-537, DIVISION "F"
Honorable Yada Magee, Judge**

Judge Terri F. Love

**(Court composed of Judge Steven R. Plotkin, Judge Miriam G. Waltzer,
Judge Terri F. Love)**

**ON MOTION TO DISMISS APPEAL AND MOTION FOR LEAVE
TO FILE PETITIONS FOR INTERVENTION**

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APPEAL DISMISSED; MOTION FOR INTERVENTION DENIED

A judgment that determines the merits in whole or in part is a final judgment. La. C.C.P. art. 1841. A final judgment may be rendered by either a trial court or an appellate court, and a judgment by an appellate court that decides the merits of the case is a final judgment, regardless of whether the case reached the appellate court on appeal or on supervisory writs. *Tolis v. Board of Supervisors of Louisiana State Univ*, 95-1529 p. 2 (La. 10/16/95), 660 So.2d 1206.

In this case this Court addressed the merits of the appellants' claims in writ 2002-C-0104. When the Supreme Court denied the appellants' writ, the

judgment of this Court became final. La. C.C.P. 2166(D). Therefore appellants' instant appeal is barred by *res judicata* and is dismissed.

As for the motions for leave to file a petition for intervention by Charles E. de la Vergne, Jr. and Hughes de la Vergne, trustees when this Court denied the writ but now attempting to intervene as beneficiaries, the motions are denied as one may intervene only in a "pending action," and final judgment has been rendered in this case. See La. C.C.P. art. 1091.

**APPEAL DISMISSED; MOTION FOR INTERVENTION
DENIED.**