

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

BH HOLDINGS, LLC,

Appellant,

v.

BANK OF BLUE VALLEY,

Respondent.

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**DOCKET NUMBER WD72664**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** April 26, 2011

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**APPEAL FROM**

The Circuit Court of Jackson County, Missouri  
The Honorable Gregory B. Gillis, Judge

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**JUDGES**

Division Two: Smart, P.J., and Pfeiffer and Martin, JJ.

CONCURRING.

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**ATTORNEYS**

James C. Wirken and Christopher B. Wirken  
Kansas City, MO

Attorneys for Appellant,

Stewart M. Stein and Megan McCurdy  
Kansas City, MO

Attorneys for Respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**BH HOLDINGS, LLC,** )  
 )  
 ) **Appellant,** )  
**v.** ) **OPINION FILED:**  
 ) **April 26, 2011**  
**BANK OF BLUE VALLEY,** )  
 )  
 ) **Respondent.** )

**WD72664**

**Jackson County**

**Before Division II Judges:** James M. Smart, Jr., Presiding Judge, and  
Mark D. Pfeiffer and Cynthia L. Martin, Judges

BH Holdings, LLC (“BH”) appeals from the circuit court’s dismissal without prejudice of its petition against the Bank of Blue Valley.

**APPEAL DISMISSED.**

**DIVISION TWO HOLDS:**

“A dismissal without prejudice permits the party to bring another civil action for the same cause, unless the civil action is otherwise barred.” Rule 67.01. Accordingly, the general rule is that a dismissal without prejudice is not a final judgment from which an appeal may be taken. There are exceptions to this general rule where dismissals without prejudice have been found appealable. No such exceptions are present in this case. Nothing in the circuit court’s dismissal precludes BH from filing a new petition and seeking a judgment on the merits. Accordingly, the trial court’s dismissal without prejudice is not a final and appealable judgment.

**OPINION BY:** Mark D. Pfeiffer, Judge

April 26, 2011

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.