

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, ex rel., JOHN P. TANNER, D.D.S., M.D.,  
RELATOR**

**vs.**

**THE HONORABLE W. STEPHEN NIXON, JUDGE OF THE 16<sup>TH</sup> JUDICIAL CIRCUIT  
COURT,  
RESPONDENT**

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DOCKET NUMBER WD71240

DATE: APRIL 13, 2010

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**ORIGINAL PROCEEDINGS FOR REMEDIAL WRIT OF MANDAMUS**

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Appellate Judges:

Writ Division: Joseph M. Ellis, P.J., James M. Smart, Jr. and Alok Ahuja, JJ.

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Attorneys:

Richard T. Merker, Esq. for Relator

Larry Delano Coleman, Esq., for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, ex rel., JOHN P. TANNER, D.D.S., M.D., RELATOR**

**v.**

**THE HONORABLE W. STEPHEN NIXON, JUDGE OF THE 16<sup>TH</sup> JUDICIAL CIRCUIT  
COURT OF JACKSON COUNTY, RESPONDENT**

WD71240

Before Writ Division: Joseph M. Ellis, P.J., James M. Smart, Jr., and Alok Ahuja, JJ.

John P. Tanner, D.D.S., M.D. filed a petition for a writ of mandamus, seeking to compel the Honorable W. Stephen Nixon, Judge of the Sixteenth Judicial Circuit Court of Missouri, to dismiss a personal injury action filed by Tiffany Robinson (Plaintiff) for her failure to timely file a health care affidavit as required by § 538.225, RSMo Cum. Supp. 2005.

**PRELIMINARY WRIT OF MANDAMUS MADE ABSOLUTE.**

**Writ Division holds:**

Trial court failed to perform a duty within his jurisdiction when he failed to dismiss Plaintiff's action following her failure to submit a health care affidavit within ninety days pursuant to § 538.225, RSMo Cum. Supp. 2005.

Opinion by: Joseph M. Ellis, Judge

Date: April 13, 2010

**This summary is *UNOFFICIAL* and should not be quoted or cited.**