OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

HAROLD BARNETT, Respondent, vs. COLUMBIA MAINTENANCE, COMPANY, et al., Respondents, AMCO INSURANCE COMPANY and DEPOSITORS INSURANCE COMPANY, Appellants.	)	No.. ED109008 Appeal from the Circuit Court of the City of St. Louis Honorable Christopher McGraugh Filed: June 29, 2021

AMCO Insurance Company and Depositors Insurance Company (collectively "Insurers") appeal the circuit court's order denying their motion to intervene in a proceeding to confirm an arbitration award. Insurers sought to contest confirmation of the award, which was entered in favor of Harold Barnett and against Insurers' policy holders. In addition to their motion to intervene, Insurers also filed a motion to deny and/or dismiss Barnett's application for approval of the arbitration award.

AFFIRMED

DIVISION THREE HOLDS: The circuit court did not err in denying Insurers' motion to intervene in the confirmation proceeding as a matter of right pursuant to Rule 52.12(a)(1), as Section 537.065.2 did not confer upon Insurers the unconditional right to do so. The circuit court also did not err in denying Insurers' motion to intervene as a right under Rule 52.12(a)(2) as Insurers did not establish they had the requisite interest relating to the property or transaction which was the subject of the confirmation proceeding. Next, the circuit court did not abuse its discretion in denying permissive intervention. Lastly, Insurers' points on appeal alleging error in the denial of their motion to deny and/or dismiss Barnett's application for approval of the arbitration award are not properly before this Court because the motion was never noticed up for hearing and the circuit court made no ruling on the motion.

Opinion by Angela T. Quigless, P.J.

Kurt S. Odenwald, J., concurs in a separate opinion and

James M. Dowd, J., concurs in a separate opinion

Attorney for Appellants: Russell F. Watters and John D. Cooney

Attorney for Respondent Harold Barnett: Gretchen Myers

Attorney for Respondents Columbia Maintenance Company, et al.: Joshua A. Sanders, Mark E. Parrish, and Erica Fumagalli

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.