

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**ZUBRES RADIOLOGY, et al.,
APPELLANTS**

vs.

**PROVIDERS INSURANCE CONSULTANTS, et al.,
RESPONDENTS**

WD69587

DATE: JANUARY 20, 2009

Appeal from:
COLE COUNTY CIRCUIT COURT
THE HONORABLE JON E. BEETEM, JUDGE

Appellate Judges:
Division Three: Victor C. Howard, P.J., Joseph M. Ellis and Alok Ahuja, Judges

Attorneys:
Patricia Ann Wilcox, Esq., St. Louis, MO., for Appellants

Lori R. Koch, Esq., St. Louis, MO, for Respondent Providers Insurance

Dana Lee Frese, Jefferson City, MO., for Respondent Medical Liability Alliance
and Missouri Hospital Plan

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS, WESTERN DISTRICT

ZUBRES RADIOLOGY, et al.,

Appellants

v.

PROVIDERS INSURANCE CONSULTANTS, et al.,

Respondents

WD 69587

Cole County, Missouri

Before Division Three Judges: Victor C. Howard, P.J., Joseph M. Ellis and Alok Ahuja,
Judges

Zubres Radiology, Inc., P.C. and Mark Zubres (collectively Zubres) appeal the dismissal of their petition against Providers Insurance Consultants, Inc.; Hospital Services Group, Inc.; Medical Liability Alliance; Missouri Hospital Plan; Healthcare Services Association; William Robert Leigh; and Helen M. Winge (collectively Providers).

AFFIRMED.

Division Three holds:

- (1) Where Zubres' petition alleged that Providers had a legal duty to notify if of the financial downgrade of the insurer by A.M. Best and to give it the opportunity to renew or place its policy with another insurer, its allegations were not sufficient to create a duty beyond procuring the originally requested insurance; therefore, the trial court did not err in dismissing the petition.
- (2) Where Zubres failed to identify any new or additional facts or claims it wished to assert to cure the defects of its petition, the trial court did not abuse its discretion in not granting Zubres leave to amend its petition.

Opinion by: Victor C. Howard, Judge

January 20, 2009

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