

**THE STATE EX REL. SINGER, APPELLANT, v. INDUSTRIAL COMMISSION OF
OHIO, APPELLEE.**

[Cite as *State ex rel. Singer v. Indus. Comm.*, 1998-Ohio-13.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 98-266—Submitted September 15, 1998—Decided November 10, 1998.)

APPEAL from the Court of Appeals for Franklin County, No. 96APD09-1199.

Fell, Marcus & Koder Co., L.P.A., and *George N. Fell II*, for appellant.

Betty D. Montgomery, Attorney General, *Mark S. Barnes* and *Reeve W. Kelsey*, Assistant Attorneys General, for appellee.

{¶ 1} The judgment of the court of appeals is affirmed consistent with the opinion of the court of appeals.

MOYER, C.J., PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.

DOUGLAS, RESNICK and F.E. SWEENEY, JJ., dissent.

ALICE ROBIE RESNICK, J., DISSENTING.

{¶ 2} I would reverse the judgment of the court of appeals and return the cause to the Industrial Commission for compliance with *State ex rel. Noll v. Indus. Comm.* (1991), 57 Ohio St.3d 203, 567 N.E.2d 245.

DOUGLAS and F.E. SWEENEY, JJ., concur in the foregoing dissenting opinion.
