

**THE STATE EX REL. POVZNER, APPELLANT, v. INDUSTRIAL COMMISSION OF
OHIO ET AL., APPELLEES.**

[Cite as *State ex rel. Povzner v. Indus. Comm.*, 1999-Ohio-175.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 98-2238—Submitted June 22, 1999—Decided September 8, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 97APD10-1319.

Crowley, Frank & Ahlers Co., L.P.A., and *Edward C. Ahlers*, for appellant.

Betty D. Montgomery, Attorney General, and *Steven P. Fixler*, Assistant Attorney General, for appellees Industrial Commission and Administrator, Bureau of Workers' Compensation.

{¶ 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 enter judgment pursuant to *State ex rel. Gay v. Mihm* (1994), 68 Ohio St.3d 315, 626 N.E.2d 666.

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