

**THE STATE EX REL. SCHMIEDER, APPELLEE, v. INDUSTRIAL COMMISSION OF  
OHIO ET AL., APPELLANTS.**

**[Cite as *State ex rel. Schmieder v. Indus. Comm.*, 1999-Ohio-276.]**

*Workers' compensation—Court of appeals' judgment affirmed.*

(No. 98-1755—Submitted February 23, 1999—Decided May 5, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 97APD05-662.

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

*Betty D. Montgomery*, Attorney General, and *Robert D. Strauss*, Assistant  
Attorney General, for appellant Industrial Commission.

*Eastman & Smith Ltd., Thomas J. Gibney and Margaret A. Mattimoe*, for  
appellant Daimler Chrysler Corporation.

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

MOYER, C.J., DOUGLAS, F.E. SWEENEY and PFEIFER, JJ., concur.

RESNICK, J., dissents.

COOK, J., dissents.

LUNDBERG STRATTON, J., dissents.

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**ALICE ROBIE RESNICK, J., dissenting.**

{¶ 2} I would reverse the judgment of the court of appeals.

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SUPREME COURT OF OHIO

**COOK, J., dissenting.**

{¶ 3} Because I would return this cause to the commission pursuant to *State ex rel. Noll v. Indus. Comm.* (1991), 57 Ohio St.3d 203, 567 N.E.2d 245, I respectfully dissent.

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**LUNDBERG STRATTON, J., dissenting.**

{¶ 4} I dissent and would reverse the judgment of the court of appeals and reinstate the order of the Industrial Commission.

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