

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

[Cite as *State ex rel. Witherspoon v. Indus. Comm.*, 1999-Ohio-448.]

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

(No. 98-1272—Submitted February 23, 1999—Decided March 31, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 97APD06-861.

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*Shapiro, Kendis & Associates Co., L.P.A.*, and *Rachel B. Jaffy*, for appellant.

*Betty D. Montgomery*, Attorney General, and *Michael E. George*, Assistant Attorney General, for appellee.

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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., PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.

DOUGLAS and RESNICK, JJ., dissent.

F.E. SWEENEY, J., dissents and would reverse the judgment of the court of appeals.

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

{¶ 2} I would reverse the judgment of the court of appeals and order relief pursuant to *State ex rel. Noll v. Indus. Comm.* (1991), 57 Ohio St.3d 203, 567 N.E.2d 245.

DOUGLAS, J., concurs in the foregoing dissenting opinion.

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