

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

[Cite as *State ex rel. Fresh Mark, Inc. v. Indus. Comm.*, 1999-Ohio-498.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 97-2545—Submitted November 10, 1998—Decided January 20, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 96APD08-1122.

Buckingham, Doolittle & Burroughs, L.L.P., and *Eleanor J. Tschugunov*,
for appellant.

Betty D. Montgomery, Attorney General, and *Vincent T. Lombardo*,
Assistant Attorney General, for appellee Industrial Commission.

Ward, Kaps, Bainbridge, Maurer & Melvin and *William J. Melvin*, for
appellee Ricky Cummings.

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

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

LUNDBERG STRATTON, J., dissents.

LUNDBERG STRATTON, J., dissenting.

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