

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

[Cite as *State ex rel. Phares v. Indus. Comm.*, 2000-Ohio-413.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 99-1811—Submitted April 10, 2000—Decided May 24, 2000.)

APPEAL from the Court of Appeals for Franklin County, No. 98AP-1167.

Hochman & Roach Co., L.P.A., and Theresa M. Muhic, for appellant.

Betty D. Montgomery, Attorney General, and *Edward Roberts*, Assistant Attorney General, for appellee Industrial Commission.

Pickrel, Schaeffer & Ebeling, David C. Korte and Michelle D. Bach, for appellee Kmart Corporation.

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

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

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