

**THE STATE EX REL. RUTLEDGE, APPELLANT, v. INDUSTRIAL COMMISSION OF
OHIO, APPELLEE, ET AL.**

[Cite as *State ex rel. Rutledge v. Indus. Comm.*, 2002-Ohio-5783.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 2002-0346—Submitted September 17, 2002—Decided November 6, 2002.)

APPEAL from the Court of Appeals for Franklin County, No. 01AP-498.

{¶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, J., dissents.

RESNICK and F.E. SWEENEY, JJ., dissent, would reverse the judgment of the court of appeals, and would order relief pursuant to *State ex rel. Gay v. Mihm* (1994), 68 Ohio St.3d 315, 626 N.E.2d 666.

Butkovich, Schimpf, Schimpf & Ginocchio Co., L.P.A., and Robert E. Hof, for appellant.

Betty D. Montgomery, Attorney General, and Erica L. Bass, Assistant Attorney General, for appellee.
