

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

[Cite as *State ex rel. Gauvey v. Indus. Comm.*, 2002-Ohio-74.]

Workers' compensation—Court of appeals' judgment affirmed.

(No. 01-1144—Submitted November 13, 2001—Decided January 9, 2002.)

APPEAL from the Court of Appeals for Franklin County, No. 00AP-979.

{¶ 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, RESNICK and F.E. SWEENEY, JJ., dissent.

ALICE ROBIE RESNICK, J., dissenting.

{¶ 2} I would reverse the judgment of the court of appeals and grant relator the requested relief in accordance with *State ex rel. Gay v. Mihm* (1994), 68 Ohio St.3d 315, 626 N.E.2d 666.

DOUGLAS and F.E. SWEENEY, JJ., concur in the foregoing dissenting opinion.

Lonas, McGonegal & Tsangeos and *Terrance J. McGonegal*, for appellant.

Betty D. Montgomery, Attorney General, and *Keith D. Blosser*, Assistant Attorney General, for appellee Industrial Commission.

Roetzel & Andress, *Douglas E. Spiker* and *Noel C. Shepard*, for appellee Handy & Harmon Automotive Group, Inc.
