

**THE STATE EX REL. BENDER, APPELLANT, v. LINTERN CORPORATION ET AL.;
INDUSTRIAL COMMISSION OF OHIO, APPELLEE.**

[Cite as *State ex rel. Bender v. Lintern Corp.*, 98 Ohio St.3d 390, 2003-Ohio-1489.]

Workers' compensation — Court of appeals' judgment affirmed.

(No. 2002-0962 — Submitted February 25, 2003 — Decided April 9, 2003.)

APPEAL from the Court of Appeals for Franklin County, No. 01AP-901.

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

MOYER, C.J., RESNICK, COOK, LUNDBERG STRATTON and O'CONNOR, JJ., concur.

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

Green, Haines, Sgambati Co., L.P.A., Ronald E. Slipski and Shawn Scharf, for appellant.

Jim Petro, Attorney General, and Phil Wright Jr., Assistant Attorney General, for appellee.
