

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

**[Cite as *State ex rel. Wainer v. Indus. Comm.*,
111 Ohio St.3d 263, 2006-Ohio-5701.]**

Workers' compensation — Court of appeals' judgment affirmed.

(No. 2006-0005 — Submitted September 19, 2006 — Decided
November 15, 2006.)

APPEAL from the Court of Appeals for Franklin County,
No. 05AP-86, 2005-Ohio-6212.

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

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

RESNICK, PFEIFER and O'DONNELL, JJ., dissent and would reverse the
judgment of the court of appeals.

Livorno & Arnett Co., L.P.A., and John F. Livorno, for appellant.

Jim Petro, Attorney General, and Charissa D. Payer, Assistant Attorney
General, for appellee Industrial Commission of Ohio.
