

**THE STATE EX REL. JOHNSON, APPELLANT, v. RYAN, ADMR., ET AL.,
APPELLEES.**

[Cite as *State ex rel. Johnson v. Ryan*, 127 Ohio St.3d 267, 2010-Ohio-5676.]

*Civil procedure — Civ.R. 53(D)(3)(b) — Objections to magistrate’s decision
necessary to preserve issue for appeal.*

(No. 2010-0505 — Submitted November 16, 2010 — Decided
November 24, 2010.)

APPEAL from the Court of Appeals for Franklin County,
No. 08AP-1006.

Per Curiam.

{¶ 1} The Industrial Commission of Ohio determined that appellant, Olivia Johnson, was not the common-law wife of the late Silas Johnson and thus could not receive death benefits arising from the occupational disease that claimed his life. The Court of Appeals for Franklin County upheld that decision and denied Johnson’s request for a writ of mandamus. Johnson now appeals to this court as of right.

{¶ 2} In the course of the proceedings below, the matter was referred to a magistrate pursuant to Civ.R. 53 and Loc.R. 12(M) of the Tenth District Court of Appeals. The magistrate, in turn, issued a decision, including findings of fact and conclusions of law. Johnson filed no objections to this report.

{¶ 3} Civ.R. 53(D)(3)(a)(iii) specifically prohibits a party from “assign[ing] as error on appeal the court’s adoption of any finding of fact or legal conclusion, * * * unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).” Johnson’s arguments derive directly from the conclusions of law in the magistrate’s

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decision, yet she did not object to them. Accordingly, we can proceed no further. *State ex rel. Findlay Industries v. Indus. Comm.*, 121 Ohio St.3d 517, 2009-Ohio-1674, 905 N.E.2d 1202; *State ex rel. Wilson v. Indus. Comm.*, 100 Ohio St.3d 23, 2003-Ohio-4832, 795 N.E.2d 662; *State ex rel. Booher v. Honda of Am. Mfg., Inc.* (2000), 88 Ohio St.3d 52, 723 N.E.2d 571.

{¶ 4} The judgment of the court of appeals is affirmed.

Judgment affirmed.

BROWN, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

Podor Law Firm and Dustin S. Lewis, for appellant.

Timothy J. Krantz, for appellee Ford Motor Company.

Sammon & Bolmeyer Co., L.P.A., and Albert C. Sammon, for appellee Jillian Johnson.

Richard Cordray, Attorney General, and Sandra E. Pinkerton, Assistant Attorney General, for appellees Marsha Ryan and Industrial Commission of Ohio.
