

1 The State ex rel. Whitmer, Appellee, v. Industrial Commission of Ohio;
2 Anchor Tool & Die Company, Appellant.

3 [Cite as *State ex rel. Whitmer v. Indus. Comm.* (1997), _____Ohio
4 St.3d ____.]

5 *Workers' compensation -- Customer companies of temporary*
6 *service agencies are "employers" subject to claims for*
7 *violations of specific safety requirements.*

8 (No. 95-490 -- Submitted April 16, 1997 -- Decided May 14, 1997.)

9 Appeal from the Court of Appeals for Franklin County, No.

10 94APD01-59.

11 Hours, Inc. is a temporary-employment-service agency. In 1985,
12 Hours, Inc. assigned appellee-claimant, James Whitmer, to work at
13 appellant, Anchor Tool & Die Company ("Anchor"). On December 4,
14 1985, claimant was severely injured when a punch press at the Anchor plant
15 came down on his left hand.

16 After his workers' compensation claim had been allowed by the
17 Industrial Commission of Ohio, claimant filed an application for additional
18 compensation, alleging that Anchor had violated several specific safety
19 requirements ("VSSR"). The commission denied the application. It named

1 Hours, Inc. as claimant's employer and found that the agency's lack of
2 ownership or control over the punch press foreclosed a VSSR award against
3 it. The commission did not address whether Anchor may have committed a
4 VSSR.

5 Claimant eventually filed a complaint in mandamus in the Court of
6 Appeals for Franklin County, alleging that the commission abused its
7 discretion in denying his VSSR application. The court of appeals vacated
8 the order and returned the cause to the commission to determine whether
9 Anchor had violated any of the cited specific safety requirements.

10 This cause is now before this court upon an appeal as of right.

11 *Berger & Kirschenbaum Co., L.P.A.*, and *Linda U. Elliott*, for
12 appellee.

13 *Stevens & Mack* and *David E. Mack*, for appellant.

14 *Per Curiam.* On authority of *State ex rel. Newman v. Indus. Comm.*
15 (1997), 77 Ohio St.3d 271, 673 N.E. 2d 1301, the judgment of the court of
16 appeals is affirmed.

17 *Judgment affirmed.*

1 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK
2 and LUNDBERG STRATTON, JJ., concur.
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