

[Cite as *State ex rel. Findlay Industries v. Indus. Comm.*, 121 Ohio St.3d 517, 2009-Ohio-1674.]

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

**[Cite as *State ex rel. Findlay Industries v. Indus. Comm.*,
121 Ohio St.3d 517, 2009-Ohio-1674.]**

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

(No. 2008-0700 — Submitted April 8, 2009 — Decided April 15, 2009.)

APPEAL from the Court of Appeals for Franklin County, No. 07AP-368.

Per Curiam.

{¶ 1} Appellant, Findlay Industries, filed a complaint in mandamus in the Court of Appeals for Franklin County, alleging that appellee Industrial Commission of Ohio had abused its discretion by failing to consider certain evidence that it had submitted in connection with Shirley Ruark’s application for permanent total disability compensation. Pursuant to Civ.R. 53 and Loc.R. 12(M) of the Tenth District Court of Appeals, the matter was referred to a magistrate, who issued a decision, including findings of fact and conclusions of law. The magistrate found that Findlay Industries’ evidence had not been timely submitted, relieving the commission of any duty to consider it. Findlay Industries filed no objections to that magistrate’s report, which the court of appeals adopted as its own.

{¶ 2} This cause is now before this court on an appeal as of right.

{¶ 3} Appellant’s arguments derive directly from the conclusions of law provided in the magistrate’s decision. Appellant, however, did not object to those conclusions as Civ.R. 53(D)(3)(b) requires. Thus, pursuant to that rule and *State*

SUPREME COURT OF OHIO

ex rel. Booher v. Honda of Am. Mfg., Inc. (2000), 88 Ohio St.3d 52, 723 N.E.2d 571, we can proceed no further.

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

Judgment affirmed.

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

William W. Johnston, for appellant.

Richard A. Cordray, Attorney General, and Colleen C. Erdman, Assistant
Attorney General, for appellee Industrial Commission.

Horenstein, Nicholson & Blumenthal and L. Frederick Sommer III, for
appellee Shirley Ruark.
