

## Wrongful Death/Premises Liability/Negligence **Technician electrocuted trying to retrieve dropped wrench**

**\$750,000 arbitration award**



Given the deceased's level of skill and his employer's control over the worksite, the plaintiff had to overcome several defenses in order to achieve this \$750,000 arbitration verdict. Before reaching its verdict, the panel of three arbitrators denied 10 motions for summary disposition before the five-day hearing, and then denied the same number of directed verdicts at the close of the plaintiff's proofs.

Substantial questions of fact concerning control over the premises and responsibility for the death were resolved in the plaintiff's favor at the hearing through testimony of co-workers; agents of Ashley Capital and Ashley Finance, the owner of the property who disclaimed any control or responsibility for the death; and expert witnesses who reconstructed the events leading up to and causing the death, as well as the deadly conditions that remain at the property to this day.

The keys to winning a verdict in this four-year litigation were in the preparedness of the trial team, investment in and preparation of strong testifying experts and thoroughly undermining the defendants' expert witness on cross-examination.

Plaintiff's law firm provided case information.

**Type of action:** Wrongful death; premises liability; negligence

**Injuries alleged:** Economic loss associated with wrongful death

**Name of case:** Kalski v. Ashley Capital, et al.

**Court/Case no./Date:** Wayne County Circuit Court; 2018-010542-NO; 01/30/2023

**Tried before:** Arbitration

**Name of judge:** Hon. Charles S. Hegarty

**Name of mediator:** Daniel P. Ryan

**Name of arbitrators:** Amy P. Hathaway, Stuart A. Fraser IV and Peter M. Ruggirello

**Arbitration award:** \$750,000

**Most helpful experts:** Kenneth J. Kutchek, P.E., CFEI; David R. Clark, PE, Ph.D.; and Nitin V. Paranjpe, Ph.D.

**Attorneys for plaintiff:** Linda Roelans Oszust and Isra K. Khuja, Troy; Lindsay F. Sikora, Southfield