



## AccessPlus® Jury Verdict Case Details



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(00 Au/3) WORK INJURY--WALL COLLAPSES ON LABORER--BUILDING OWNER  
LIABLE (6)

*Gerald Bowers v Ted Nicholas, Ted's Shoes Inc. v Carl Powell, d/b/a Powell Masonry* 96L-140 Tried Aug. 21-24, 2000

**Verdict:** \$403,000 to Gerald v Nicholas and Ted's Shoes (\$29,000 medl.; \$54,000 LT; \$110,000 pain & suffering; \$210,000 disability); Not Guilty to Nicholas and Ted's Shoes v 3rd-party deft Powell

**Judge:** Fred S. Carr, Jr. (IL, Kankakee 21st Jud Cir)

**Pltf Atty(s):** Stephen J. Smalling of Capron & Avgerinos for Bowers

**Deft Atty(s):** James E. Priestley of James M. Hoffman & Associates (Schaumburg) for both defts (American Family) OFFER: TN \$85,000; Bradley C. Knell and Marc J. Cairo of Knell & Poulos for Powell Masonry (Grinnell Mutual)

**Pltf Medl:** Dr. Mark Webster (Orthopedist) for Bowers

**Pltf Expert(s):** Kurt Salm of Walker Parking Consultants Engineers Inc., 505 Davis, Elgin, IL (847-697-2640) (Civil Engineer) and James Birkenbeil, 154 E. Court St., Kankakee, IL (815-933-8073) (Architect) for Bowers

**Deft Expert(s):** Daniel Wojnowski of Engineering Systems Inc., 3851 Exchange Ave., Aurora, IL (630-851-4566) (Civil Engineer) for Nicholas

May 21, 1997, pltf M-40 was a laborer hired to remove stucco from a former shoe store in Kankakee owned by the deft. The wall behind the stucco collapsed onto pltf resulting in a comminuted right humerus fracture (\$28,730 medl., \$54,000 LT for 2.5 years). In 1994 and again in 1995, deft M-75 was cited by the City of Kankakee for code violations as a result of falling masonry at the store. In April 1995, an architect's inspection revealed substantial structural defects which were noted to be a safety hazard. While in the process of attempting to sell the building, the deft hired the pltf's employer to make cosmetic changes to the front of the building. Deft failed to disclose the code violations and the architect's warnings regarding the structural defects. The defense argued the pltf's employer should have noticed the structural problems on his own and taken additional safety measures. The third party deft claimed he inspected the property and could not find any structural deficiencies that would prohibit the facade repair. Third party deft further claimed he would not have proceeded with the job if he had known of the structural deficiencies. The jury awarded the pltf more than the amount asked for and deliberated for less than an hour. Pltf's employer has a worker's compensation lien in excess of \$65,000. Deft filed a post-trial motion.

