

Sister of man 'buried alive' files suit in Washington Twp. trench death

LOCAL By Mark Gokavi - Staff Writer



James B. Rogers

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The sister of a man who was “buried alive” while working in a trench at a Washington Twp. residence has filed a wrongful death lawsuit against the house’s developer, contractor and a subcontractor.

James B. Rogers, 33, of Winchester, died June 15, 2016, after a 12-foot deep trench collapsed on him while working for KRW Plumbing of Jamestown, a company that had a trench collapse about a month earlier at another job site, according to Occupational Safety and Health Administrations (OSHA) records.

Emergency personnel worked for nearly seven hours to extricate Rogers’ body at 463 Claxton Glen near Marshall Road.

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Williams and real estate developer and investor Donald C. Wright.

Wright owned the lot and South Dayton Builders and Remodelers hired KRW Plumbing, according to the complaint.

Attorneys for KRW, South Dayton Builders and Wright are not listed in the case's docket so they could not be reached for comment. No working phone numbers for KRW Plumbing or Williams could be located.

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A phone number for South Dayton Builders has been disconnected. Efforts to reach Dickey were unsuccessful. A message also was left with an attorney who has represented Don Wright Realty in other matters, but efforts to get comment were not successful.

Citing multiple OSHA violations against KRW, Brown's complaint alleges defendants knew a trench in excess of five feet in depth would be needed to connect a sewer line, that the trench would not be dug in stable rock and that it would impose a risk of a cave-in.

South Dayton Remodelers, Wright and Dickey "knew adequate sloping, shoring, or a trench box would be required when digging the trench" at the property, the complaint said.

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The lawsuit claims all other defendants knew KRW was a small contractor who did not have adequate education, training or experience about cave-in protection.

According to OSHA's website, KRW was found to have two "serious" and two "willful" violations from the Washington Twp. collapse, with negotiated penalties totaling nearly \$150,000

"This was tragic, preventable death and could have so easily been avoided by taking simple, inexpensive precautions," Brown said in a statement on behalf of her family provided by her attorney, Craig Matthews. "James can never be replaced, but our family expects those responsible to pay for what they did."

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The complaint said all defendants sent Rogers into a hole "with wet, heavy dirt piled high immediately next to and on only one side of the trench."

The complaint also alleged South Dayton Builders employees saw Rogers in the trench when it caved in, "burying Rogers alive" and that "Rogers' desperate cries and groans were heard for some time after the cave in."

The complaint alleged defendants could have removed any inherent danger by various means, including: digging the trench when the building's foundation was excavated; building the residence so the trench wasn't needed in a severely limited area; by not putting down a concrete driveway to prevent piling dirt on both sides of the trench; or by designing a lift box to eliminate the need for a lengthy, deep trench.

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"The failure of Wright, South Dayton and Dickey to remove the inherent danger through these methods resulted in Rogers' horrific death," the suit claimed.

KRW also was ordered by OSHA to pay a negotiated fine of \$74,825 for a May 10, 2016 incident in Beavercreek. That OSHA report said employees “were not adequately protected against cave-ins in that the walls of the trench were not properly sloped, shored, benched or otherwise adequately protected against a collapse.”

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Also on May 10, 2016, Rogers posted on Facebook that a 12-foot-deep sewer hole he was working in caved in about 10 minutes after he got out of it, Brown’s attorney said in June 2016, adding that Rogers was working for KRW at the Beavercreek site at the time.

“Never again (ain’t) worth it,” Rogers wrote.

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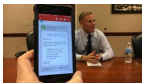


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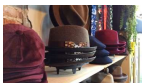
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