



Down Memorial Day



## Sister of man 'buried alive' want lawsuit restarted

Crime | May 28, 2019

By [Mark Gokavi](#), Staff Writer



## Combine home & auto to save up to 35%.

Find An Agent

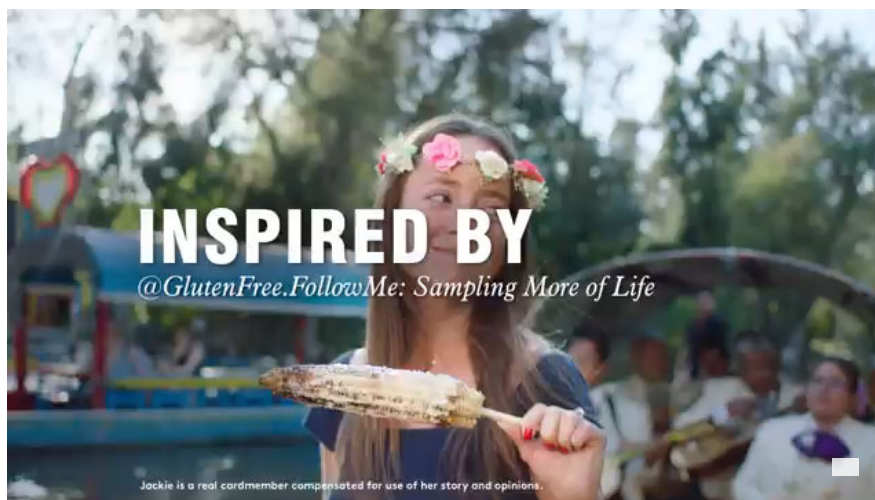
Discount names, percentages, availability and eligibility may vary by state.

The attorney for the sister of a man “buried alive” in a 2016 trench collapse filed a motion to reactivate the lawsuit in Montgomery County Common Pleas Court.

James B. Rogers, 33, of Winchester, died June 15, 2016, when he was covered by dirt after a nearly 11-foot trench collapsed while he was trying to install a sewer pipe during the construction of a Washington Twp. residence.

Tara Brown sued the house’s developer, contractor and a subcontractor, but the civil case had been on hold due to U.S. Bankruptcy Court proceedings against defendants.

ADVERTISING



### RELATED: [Company whose worker died in trench collapse had earlier safety violations](#)

Brown’s attorney, Craig Matthews, said Friday the bankruptcy court instead agreed to delay its case so the civil suit could proceed against KRW Plumbing Inc., its owner Richard Williams and others.

“Plaintiff therefore moves the Court to reactive these delayed proceedings so that the family of



death of James, two more Ohioans were killed in trench deaths.

Matthews referenced Dayton Daily News articles about the deaths of Zachary Hess in Morrow in 2017 and Dalbert Burton in Sugarcreek Twp. earlier this year.

**RELATED: [‘It’s getting deep’ man texted before death in trench](#)**

“Trench collapse deaths are entirely preventable when standard safety measures are followed,” Matthews wrote. “Plaintiff intends to prove that there is an obligation imposed upon developers, builders and contractors that they be aware of and construct buildings in accordance with basic safety standards.”

Burton was working for Payne Enterprises, a Dayton-based contractor that records show was cited for safety violations in 2017, 2018 and in January of this year, according to the U.S. Department of Labor Occupational Safety and Health Administration.

Payne Enterprises paid \$18,276 in fines from the citations in 2017 and 2018, a settlement amount from the initial penalties that totaled \$36,552, according to the records. A third safety violation was filed Jan. 14, and that case remains pending.

**RELATED: [Worker dies in trench collapse at Sugarcreek Twp. construction site](#)**

Rogers’ widow was awarded a workers compensation settlement, according to Ohio Industrial Commission records. Case records show Williams had no defense for violating specific trench safety codes.

“How many more Ohioans will unnecessarily die in trench collapses if courts throughout the State do not strongly admonish developers, builders and contractors to follow basic safety standards?” Matthews wrote. “The defendants should not be allowed to further delay this Court in answering that burning question.”

**RELATED: [More than 150 people tried to save man who died in Warren County trench](#)**

**RELATED: [\\$20M lawsuit filed over trench collapse death in Warren County](#)**



**SOCIAL MEDIA: Follow Mark Gokavi on [Twitter](#) or [Facebook](#)**

**DOWNLOAD OUR FREE MOBILE APP**

Thank you for supporting in-depth local journalism with your subscription to the Dayton Daily News. Get more news when you want it with email newsletters just for subscribers. Sign up [here](#).

News | Yesterday

North Dayton hardest hit: 'It was pure devastation.'

News | 19 days ago

Ohio woman breaks into home, pets dog, does dishes, investigators

News | 19 days ago

Sheriff: Man who tortured 2-year-old while wearing werewolf mask dead af...

News | 16 days ago

Davton. Klan group reach agreement over guns, masks

Business | Yesterday

Clark County treasurer wants EF Hutton back taxes paid first

Progressive | Sponsored

Switch and save an average of \$699. Savings make me smile.

Noteably | Sponsored

Her Ex- Husband Won \$273 Million Lottery After Divorce But She Only ...

InvestmentGuru | Sponsored

Elizabeth Taylor's Granddaughter Looks Like The 'Reincarnation' of He...

DirectExpose | Sponsored

World's First Surviving Octuplets Are All Grown Up. Look At Them 9 Years...

Soma | Sponsored

Today Only! Shop 5 For \$25 Embraceable Panties



Drivepedia | Sponsored

Woman Pays For Stranger's Groceries, Doesn't Realize ...

Beverly Hills MD | Sponsored

Plastic Surgeon Reveals: "You Can Fill In Wrinkles ...

NerdWallet | Sponsored

How to Pay Off \$10,000 Fast

creativetimez.com | Sponsored

Dad Invites This Unexpected Guest To Daughter's Wedding

Simbaly | Sponsored

Mike Tyson: 'She Was The Love Of My Life'

White House Black Market | Sponsored

Workplace Style: Your 9 to 5 Has Never Looked Better

News | Yesterday

Vandalia, Butler Twp. damage: 84 Lumber 'pretty much gone'

News | 26 days ago

Ex-Planet Fitness employee sentenced for filming multiple women

Miss Penny Stocks | Sponsored

Pierce Brosnan's Wife Is So Skinny Now And Looks Li...

BrainSharper | Sponsored

Minutes After Meeting His Bride On 'Married At First ...

LendingTree HARP Mortgage Quotes | Sponsored

6 Reasons People Are Refinancing Through Lend...

Gundry MD Proplant Supplements | Sponsored

Top Doctor: 1 Simple Thing People Aren't Doing to Los...

BridesBlush | Sponsored

After Finding Out His Girlfriend Cheated, He Planned The Perfect Rev...

DomesticatedCompanion | Sponsored

Facts Freddie Mercury's Life That No One Would Show in Any Documenta...



## Hilarious Kids' Test Answers That Are Too Brilliant To Be Wrong

Past Factory | Sponsored

## Why Ozzie And Harriet Were Considered The Ideal American Fam...

Definition | Sponsored

## The Disturbing Truth Behind Donny Osmond

History101 | Sponsored

## 'Selfie'? So Not A Millennial Invention

City Beauty | Sponsored

## Do This To Make Your Arms Firm Again

Cars&Yachts | Sponsored

## Cher Takes off Makeup, Leaves Us With No Words

Money Versed | Sponsored

## People Have No Idea What These 80s Stars Are Doing ...

Beverly Hills MD | Sponsored

## Over Plucked Eyebrows? Surgeon Reveals Fix, And ...

Warped Speed | Sponsored

## 30 Hidden Facts About the Titanic Revealed

**Dayton Daily News**  
Local. In-Depth. Always updated.

Sign up for our newsletters 



Marketplace



Subscribe



© 2019 [Cox Media Group](#). All Rights Reserved. By using this website, you accept the terms of our [Visitor Agreement](#) and [Privacy Policy](#), and understand your options regarding [Ad Choices](#) . Learn about [careers at Cox Media Group](#).