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Dear Alaska Legislature;

Many of you may have already heard my story and the reason that I support HB 30, as I did HB 38 last year that almost passed, and another similar Bill the year before, all sponsored by Representative Andy Josephson.

My name is Marianne E (Caudle) Burke. My daughter, Abigail Elizabeth Caudle- age 26, was a newer *Apprentice* with Raven Electric in Anchorage for almost a year. She delivered parts most of the year (1659 hrs) with them, but had only 194 hrs in the field training as an apprentice electrician.

On the late evening of June 20, 2011, Abigail went to work more overtime for the first time on the job at Alaska USA Credit Union remodel job site. She was very tired according to her Facebook pages and I wonder at apprentices being allowed or required to work as many hours as she was in a dangerous field.

At the job site, she was told to take down lights on **live 277/ 480 volt wire**. The Electrical Journeyman, Jeff, had not planned on doing lighting that night and had no Safety Plan.

The General Contractor for Criterion, had come in the evening that night with his guys and told Jeff that he wanted all the lights pulled down that night. Jeff did not have his temporary lights, so they left the building lights on- **the wires were hot**. (Also, the wires at the building were not properly grounded from a previous poor remodel job. The journeyman was aware of this possible danger, but Abigail, a newer apprentice, was not.)

Abigail, a new apprentice, was assigned to work on this huge open junction box with live wire. She had an inadequate “non-contact” wire tester which did not sense the live neutral wire (the unions and other good private electrical companies used “contact testers” which were more expensive, but were better at detecting live wire). She used this cheaper non-contact tester above her while on a ladder about 5 feet high.

Her tester showed “green” for “go”, according to co-worker depositions. **She was told to turn off the light switch which only stopped electricity on that direct route- *they did not turn off the electrical box***

Abigail went back up on the ladder and held the tester near the wire *again*- it showed green

again, so she, a first-year apprentice thinking it to be safe, proceeded to work on wire that she did not know was “hot”. (Many electricians told me later that **apprentices are never to work on live wire!**)

She hit the wrong wire at about 11:30 pm and got “locked up” on an electrical surge. She yelled and the journeyman- Jeff and other workers 10-15 feet away (according to their depositions), came over to push the ladder out from underneath her. It took over a few seconds for them to finally get her disconnected from the electrical surge. She fell sideways down to the floor, and went into seizures according to the Police Report.

She was initially conscious according to one of her co-workers. But as the paramedics came and worked on her with the defibrillator, she faded. They were unable to revive her. (Later, I found out that it is called a “slow death” from low voltage electrocution. High voltage contact causes instant death.)

She was pronounced dead late that night of June 21<sup>st</sup> (the summer solstice) at about 12:15 am in the hospital. That’s when we got “the call”.

I could not initially believe that Abigail had died. But when I saw her lying in the hospital with the white sheet over her head, it started to sink in. It is *still* hard to believe.

**OSHA inspectors investigated the accident scene and gave the employer five Citations, four of which contributed to Abigail’s death** (Inspection # 314287350). Raven was fined only \$11,000 for violations that led to my daughter’s death. These five Citations are considered “gross negligence” by any normal electrical standard, due to Raven Electric’s poor performance that night.

OSHA had said that I could use those Citations in a court of law. Yet after the accident, when I tried to find a lawyer to give me justice on behalf of my daughter’s death, all the lawyers which I talked to- about twenty of them- kept saying to me the same thing:

1) “You can’t sue the employer due to ‘no fault’ Workman’s Comp Insurance”: the employers had *no liability* due to state Worker Comp laws!!

2) “The death benefit for a single person with no dependents or spouse is (only) \$10,000”, which had gone to the funeral costs. (Had they not caused her death, they would not have had to pay the \$10K in funeral costs!)

3) Lawyers said “this was not a wrongful death case”, so a personal injury attorney would not help me. They said that I needed to be represented by a Workers’ Compensation attorney.

4) But **No** Workers’ comp attorney wanted the case because they believed that the maximum that could be attained was \$10,000 for the funeral costs according to current law.

5) “If you try to sue and lose, you could be liable for the defendant’s attorney costs” the attorney’s warned. They were afraid to try and made me nervous to go on to seek for justice.

During the next two years in trying to find an attorney, no one was willing to represent me. Finally, in desperation, though I thought Workers’ Comp was only for injury, I filed a Workers’ Comp claim on June 21, 2013, exactly 2 years from the date of death of my dear daughter, AWCB Case # 201108827. That was all that I was legally able and lawfully allowed to do!!

No one contacted me after Abigail’s death, except Skip Boomershine, the state’s previous Safety Inspector and a few appalled state electricians.

Skip was very upset at the sloppiness of Raven Electric. He told me to ask Raven if they would be willing for him to come into their shop to give a Safety presentation. But Raven declined.

**Engineers in the state said that the journeyman is *always* responsible for the apprentice and that the apprentice should never have been put on live wire!** Everyone I talked with was flabbergasted that I was essentially ignored by attorneys when my daughter should **never** have died!! So many basic safety laws and practices were violated and contributed to her death, and yet, I could not find anyone to give me justice!!! (A few of the lawyers had told me that they had just represented a big oil company, so they would not want to represent me...*politics*.)

I had been ignored, rejected, and treated like I was “off”, wrong, or not within the law. Yet this was crazy-- our state practices were not affording me any basic justice for my daughter’s life! Where were our Founding Father rights to “life, liberty and the pursuit of happiness” What about our Constitutional Rights, civil rights, “due process”, “equal protection under the law”, justice, fairness, and our inalienable rights?

I did not get justice from the Workers’ Comp Board and they slapped me with attorney fines to owe the other side. But on appeal to the WC board, they dismissed these attorney fines.

Then, I appealed to the Alaska Supreme Court. I was bumped up to the Alaska Supreme Court and told I was not to go to the Superior Court. Later, I found out that the Superior Court is where I should have gotten a trial by my peers. My “peers” would most certainly have given me justice because no common person in this city of Anchorage thinks that what happened to my daughter and our lack of justice was in any way, shape or form “*right*” under the law!

The Alaska Supreme Court did not give me justice either. In their Opinion, they kept stating that I was out for money for Abigail, which is how they kept posing the case as I fought all the way up from Workers’ Comp. No! **I am trying to get *Justice and Value for Abigail!*** -my dead daughter killed in the workplace by a very negligent employer.

**My case against the employer is now with the U.S. Supreme Court, docket #18-8191.**

This lack of justice is so blatant and obvious, but our court seem compromised.

I am, and have been, a Republican most of my life, but **I believe that Big Business has negatively influenced our Value of Human Life** (an age-old problem). Big business today seems only concerned about the financial net of any action that they take, yet disregards human life.

Raven Electric, their attorneys, and/or Liberty Mutual Insurance (Raven's Workers' Comp Insurance carrier) *could have* given us some kind of settlement early on to show concern and value for one of their workers- Abigail. But no, they have fought me all the way up in the courts like I was the "bad" one-- demeaning me and treating me in writing like I was the one breaking the law!

I believe that we need these legal changes:

1) **Liability needs to be much higher in fines and/or jail time for the grossly negligence employer.** Even the Superior Court judge, Andrew Guidi (in our current third party law suit) said on February 15, 2019 that "*someone has to be legally responsible for this (Abigail's) death*".

Our state law under Chapter 25 is called "**Employer's Liability for Negligence**" and **spells out that the employer is negligent in an accident like this. The employer is to be liable to the victim's children, parents, or close relatives.** But no one seems to be using this law. Why is that? Grossly negligent employers need to be held accountable so that our employees are safe in the workplace!

2) **We need a much larger death benefit** than \$10K to their funeral costs for single employees killed with no dependents or spouse. There is *absolutely nothing* currently going to the families of single people killed in the work place. Yet ***all human life should be valued!***

3) **We need lawyers who will represent wrongful death to parties of employees who die, rather than the lawyers just helping those who are injured.** Workplace death is given **no** justice for the victim's family in most of our states. ***Lawyers won't take these death cases because they think that they can't win, even tho it is obviously and Constitutionally injustice!***

4) **We need proper disclosure and direction to the family of the employee who died- to both parents in an accident.** My ex-husband *may have* gotten disclosure info, but I never did, i.e. what our legal rights were, a list of attorneys who might have be able to help us in a court of law, explanation of the Workers' Comp laws and Statute of Limitations, and a list of spiritual and counseling groups and professionals. I believe that these disclosures are given to employees who are injured, but not to the families of death victims.

5) We need a longer wrongful death Statute of Limitation than a measly two years for families of an employee who has died in the work place. The family is in great despair after the death and in no shape to try to find an attorney who will represent them, find out their rights under the law, fight for justice, etc. A parent is barely able to function within the first two horrible years and much more evidence surfaces over the following years.

I would appreciate your help in supporting Rep Andy Josephson's HB 30 Bill which covers many of these issues. This makes Abigail's death not a total waste of her life to me. She had so much more of her life to live! **I want her death to mean something of value, like changes in the law that will protect other people from losing, carelessly, their life in the workplace.**

We have all greatly felt the loss of Abigail's life. Her oldest brother, Corban was close to her in age, and they grew up like twins. He is hurting. Abigail's younger sister has not been the same since Abigail's accident. It is still *very difficult* for us to talk about Abigail together.

Abigail's youngest brother, Jeff, accepted her loss probably better than all of us, but greatly sees the complete injustice and reckless endangerment that Raven put upon Abigail, causing her loss of life. He keeps talking about the "Calculus of Negligence" theory: **"... rather than spending money on safety, the individual (business owner) will simply allow harm to occur and pay for the costs of that harm, because that will be more cost-efficient than taking precautions."**

(Source: Wikipedia.) Jeff talks about car companies, like the deadly Pinto trunk car cases, where the **car companies would allow accidents that they calculated were cheaper**, rather than changing out simple parts that could have saved many human lives.

Other family members are still reeling from Abigail's death, like her aunt Betty, whom Abigail lived with and was very close to. Abigail's friends were *devastated*.

Peter Ehrhardt, a Kenai lawyer told to me that **"the way that the law is written, a business owner has a license to murder an employee who is single"**. Now, how wrong is that??

Please help to bring justice to the workplace in making some kind of liability to these sloppy employers so that they don't hurt and kill again! *We have to do something!!* That's why Andy, myself, and many others are trying so hard to make safety and just changes through the legislature and the courts so that we might, again, *value human life*.

Sincerely,

Marianne E Burke