Fifty years ago, President Lyndon B. Johnson declared a war on poverty, challenging the nation to address the growing disparities in wealth and the expanding class of Americans unable to support themselves or afford basic necessities. President Johnson called upon Sargent Shriver and charged him with the task of leading these efforts and developing programs not only to provide a safety net for the most vulnerable, but, just as importantly, to address the underlying inequities and injustices in our communities which were denying equality and opportunity to all.

Fifty years later, Advocates for Basic Legal Equality, Inc. (ABLE) and our partner, Legal Aid of Western Ohio continue this struggle. In recent years, we have reaffirmed our commitment to addressing issues of poverty and injustice by focusing our priorities on those areas where legal interventions will have the greatest likelihood for broad-based impact. We have reexamined strategies for working more closely with struggling families and communities in efforts not only to provide legal counsel, but to contribute to the empowerment and long-term self-sufficiency of those with whom we work.

Our 2013 Advocacy Impact Report reflects our efforts in each of our priority practice areas and demonstrates the dedication and commitment of our advocates. Each day our advocates carry out our mission, approaching their work with the goal of assisting individuals to achieve self-reliance, economic opportunity and equal justice under the law. Our advocates utilize a full array of advocacy tools, including litigation, legislative and administrative advocacy, community outreach and client education in order to combat complex forces of injustice and inequality. We believe that equal justice must be a reality now, not an aspirational goal for the future, and we will continue our efforts working with our clients and our community partners towards this end.

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Amicus Brief in
Supreme Court of Ohio

In 2013, ABLE worked with Disability Rights Ohio and the Ohio Poverty Law Center to file an amicus brief on behalf of all of the legal services programs in Ohio and several local, statewide and national health organizations, in the case challenging the governor’s decision to adopt the Medicaid expansion permitted by the Patient Protection and Affordable Care Act of 2010.

The case was styled as a mandamus action in the Ohio Supreme Court to challenge the Ohio Controlling Board’s vote to appropriate the additional Federal money that would come to the state of Ohio pursuant to the expansion. The relators argued that the Controlling Board had acted against the will of the Ohio legislature in agreeing to accept the Federal funds.

In their brief, ABLE and co-counsel argued that a Court ruling on a complaint in mandamus must weigh the competing interests of those affected by the case. Thus, the Supreme Court had a duty to consider the interests of the thousands of low-income Ohioans who would gain access to health care through the expansion against the interests of the relators who claimed that there had not been adequate political debate over the issue. In a decision dated December 20, 2013, the Ohio Supreme Court rejected the relators’ claims, enabling the Medicaid expansion to go forward effective January 1, 2014.

Advocacy for Medicaid Expansion and the Affordable Care Act

ABLE continues to concentrate a great deal of its advocacy efforts on outreach and education regarding the Medicaid expansion and Affordable Care Act (ACA). Advocates designed educational materials and made presentations regarding the basics of Medicaid expansion and the ACA and how those new programs could benefit clients. Basic presentations were provided to client groups at senior centers and other community agencies, while more complex presentations were provided to a local bar association and community groups providing services to low income individuals. Advocates also developed outreach materials for the use of Low-Income Taxpayer Clinics around the country.

ABLE also participated in the Northwest Ohio Medicaid Expansion Coalition, a group that included providers, county officials, the Hospital Council of Northwest Ohio, Carenet, and numerous other stakeholders. That participation included a variety of outreach and education efforts to legislators and policy makers, participating in a letter to the editor campaign to The Blade in Toledo.
ABLE advocates also developed working relationships with navigators in the service area. One area of concentration was advocacy for Medicaid expansion and ACA enrollment in rural areas, many of whom have limited access to navigator services. After discovering there were three counties with no access to in-person navigator services, advocates were able to work with communities to arrange for meeting space in these counties and navigators began to make weekly visits to assist rural individuals with enrolling in the Medicaid expansion and ACA coverage. Advocates also participated in Medicaid outreach coalitions throughout Ohio in order to connect with community agencies and help target common areas of concern surrounding the ACA and Medicaid expansion. Advocates were also able to assist several clients who were having trouble enrolling in the Medicaid expansion and ACA health exchanges with successfully enrolling in these programs.

The Ability Center, et al. v. Colbert
U.S. District Court, Northern District of Ohio, Western Division

In 2013, ABLE continued monitoring the consent decree entered in Ability Center of Greater Toledo v. Colbert, a federal court class-action lawsuit challenging the illegal delays in processing applications for the Medicaid for the Disabled program. When the lawsuit was filed there were more than 22,000 pending cases in the disability determination system with an average processing time of 258 days. As part of the Consent Decree, the Ohio Department of Job and Family Services (ODJFS) agreed to begin automatically enrolling in Medicaid any individuals whose applications have been pending more than 90 days. ODJFS continued with the automatic enrollment until a private vendor was selected to begin implementing ODJFS’ new Disability Determination Case Development Services program. This major re-design in the disability determination process involves ODJFS contracting with a private vendor (instead of poorly resourced county offices) to collect and develop medical evidence in order to help applicants establish that they have a disability and therefore are entitled to Medicaid. Under the new consent decree, ODJFS has committed to having a system in place that processes 90 percent of all applications within 90 days and 100 percent of all applications within 120 days from the date of application. More than 29,000 individuals have been made eligible for Medicaid pursuant to the consent decree.

Serenity L. v. ODRC and ODMH
U.S. District Court, Southern District of Ohio, Western Division
U.S. Court of Appeals for the Sixth Circuit

In 2013, ABLE was able to negotiate a very positive settlement in an ongoing litigation challenging the lack of adequate discharge planning for Ohio prison inmates with severe mental illness. The class action complaint, filed in 2009 by ABLE and the Ohio Justice and Policy Center in Cincinnati alleges that the Ohio Department of Rehabilitation and Corrections (ODRC) and the Ohio Department of Mental Health (ODMH) failed to provide proper discharge services to individuals with severe mental illnesses who have recently been discharged, or will soon be discharged from prison. The planning required under the law for these
disabled individuals requires ODRC to assist in applications for Medicaid, Social Security Disability, Food Stamps and housing assistance. Without these services in place upon discharge and without a plan that provides for connecting these inmates to community-based mental health providers and healthcare facilities, many of these individuals are left without treatment and medication resulting in behaviors manifesting from their disabilities that lead to re-offending and perpetuate the cycle of re-incarceration. In 2011, the district court granted the state’s motion to dismiss, relying primarily on the state’s argument that the individual plaintiffs lacked proper standing to challenge the discharge procedures once they were released. ABLE and OJPC challenged the dismissal in an appeal to the U.S. Court of Appeals for the Sixth Circuit. Settlement negotiations took place throughout 2012 and 2013 and in September 2013 a final settlement was executed.

The settlement provides in part that incarcerated individuals with a serious mental illness will now be counseled through a Community Linkage Program to connect them with community based health and recovery services following their release. Appointments will be scheduled prior to release with a community based provider, prescriptions will be provided for 30 days post release and assistance will be provided in aiding eligible individuals in applications for Social Security Disability and Medicaid coverage. The settlement will be a positive step forward in provided severely needed services for this vulnerable group.

Advocacy for Recipients of Ohio Works First

ABLE continued its work on behalf of Ohio Works First recipients with disabilities who are at risk of losing their benefits because of their inability to perform full time work requirements. Ohio Works First (OWF) is the financial assistance portion of Ohio’s Temporary Assistance to Needy Families (TANF) program, providing time-limited cash benefits to eligible families. As a result of federal pressure to raise Ohio’s work participation rates, the State and county Departments of Job and Family Services began a campaign to require recipients to do full time countable work or to be sanctioned and removed from the OWF program. Clients with disabilities have faced difficulties verifying their disabilities and obtaining appropriate work assignments. They have also been sanctioned for not being able to complete their work assignments and denied hardship extensions from the time limits when they are unable to become self-sufficient. As result of this campaign, work participation rates have increased but the number of people receiving assistance has declined drastically despite high unemployment. Many of those losing benefits were people with disabilities.

ABLE has represented a number of recipients with disabilities seeking to obtain or keep OWF benefits. One family, comprised of two disabled parents and six children, had no income at the start of 2013 although the parents had SSI disability applications pending. Their 36 months on OWF had expired and Montgomery County DJFS had denied them a hardship extension from time limits despite their total lack of income. With ABLE’s representation the family prevailed in three state hearings in 2013, as the county repeatedly denied hardship extensions. After being directed to grant a hardship extension and devise a self-sufficiency plan, the county assigned the mother to full time work which she was unable to consistently attend due to her disability. The Department sanctioned her, but she again prevailed by administrative appeal.
ABLE has also joined with other Ohio legal services programs in advocating with the Ohio Department of Human Services that the Americans with Disabilities Act requires counties to make reasonable accommodations for people with disabilities even if this reduces their work participation rates. This resulted in a series of negotiations with the State, which has now proposed new regulations clarifying the county’s duties to accommodate recipients with disabilities and adopt ADA policies intended to fix a number of the problems clients are facing.

**G.D. v. Riley**

*U.S. District Court, Southern District of Ohio, Western Division*

Litigation was concluded in 2013 on a federal court case challenging the state’s failure to fully implement early and periodic screening, diagnosis, and treatment services (EPSDT) under Ohio’s Medicaid Program concluded. A major portion of the case, G.D. v. Riley, was settled in early 2011 resulting in the entry of a consent decree that affects thousands of Medicaid eligible children in Ohio. The consent decree provided for system-wide reform in the administration and provision of the program, specifically requiring the Ohio Department of Job and Family Services to:

- Modify administrative rules regarding notification of services through the EPSDT program and develop informational materials;
- Modify managed care agreements to clarify the obligations of MCO’s under EPSDT;
- Distribute periodic notifications about EPSDT;
- Update information on websites about EPSDT;
- Conduct training and education for state and county staff charged with administering the EPSDT program.

These new requirements are essential to allow for the thousands of Medicaid-eligible children and their families to understand the availability of this critical health care program and the services available, including services designed to discover problems early through a screening component and to provide medically necessary treatment to correct or ameliorate conditions such as autism, cerebral palsy, myopia, diabetes, and other physical and mental health conditions, discovered through the screens.

Following the consent decree, the parties continued to litigate the issue of whether the definition of medically necessary services in the Ohio Administrative Code conflicts with federal laws regarding coverage of EPSDT treatment services and results in the denial of treatment services. In 2012, cross-motions for summary judgment were filed and briefed with the court and in March 2013, the federal district court granted the State’s motion, however without directly resolving the issue of a conflict between the federal and state definition of medical necessity. Despite the dismissal of those remaining claims, positive discussions soon ensued directly with the Ohio Department of Medicaid to address the proper definition of medical necessity leading to a proposed adoption of a revised definition applying to services for children.
**Lucas County Covering Kids and Families Workgroup**

ABLE continues to participate in a local coalition of health providers, advocates, and county Department of Jobs and Family Services’ staff. The coalition was originally convened by the Neighborhood Health Association with funding from the Robert Wood Johnson Foundation to increase Medicaid enrollment among children in the Latino Community. The Lucas County Workgroup, co-chaired by the Lucas County Children Services and the East Toledo Family Center, is one of several workgroups around the state organized by Voices for Ohio’s Children from Cleveland. In the past, the groups won significant victories in the effort to simplify the Medicaid enrollment and re-certification processes so that children and families can obtain Medicaid coverage that will continue without unnecessary interruptions.

The group continues to meet monthly and work toward the following goals:

- Enroll (expanding enrollment) and retain more of the uninsured eligible children and families in Lucas County;
- Simplify the enrollment and renewal processes;
- Inform, educate and equip eligible families with the necessary tools provided by local government, community organizations and health care professionals to meet the many other social needs related to children and families.

**Low-Income Taxpayer Clinic**

The Low-Income Taxpayer Clinic (LITC) program operated by Advocates for Basic Legal Equality (ABLE) is now in its twelfth year of operation. The ABLE LITC provides Federal income tax information and advice to ESL (English as a Second Language) taxpayers in thirty-two counties in northwest and west central Ohio. The ABLE LITC also provides assistance to undocumented ESL taxpayers with tax controversies that primarily arise out of their attempts to adjust their immigration status or out of their attempts to file tax returns using Individual Taxpayer Identification Numbers (ITIN). In 2013, ABLE re-focused its outreach and representation efforts to include addressing the special tax status of workers who come to the United States on H-2A visas. Such workers usually are present in the United States for less than a full year but may qualify to file as resident taxpayers. Recent changes to the ITIN rules have made it more difficult for these workers to claim all of their eligible dependents on their returns. Finally, in an effort to get assistance in meeting their tax obligations, some H-2As employ “notarios” who file inaccurate returns, creating future problems. ABLE addressed all of these issues with H-2As and immigrant workers through its outreach and controversy representation.
Leaders for Equality and Action, Inc. (LEAD) v. City of Beavercreek
Title VI Administrative Complaint
U.S. Department of Transportation, Federal Highway Administration

In 2013 a significant victory resulted from a hard fought struggle in the transportation equity field. In August 2011, ABLE filed a complaint with the Offices of Civil Rights for the Federal Highway Administration and the United States Department of Transportation on behalf of Leaders for Equality and Action, Inc. (LEAD), a Dayton-area coalition of community and religious leaders. The complaint alleged that the City of Beavercreek discriminated based on race in violation of Title VI of the Civil Rights Act of 1964 by not allowing the Dayton Regional Transit Authority (RTA) to establish requested bus stops in the Fairfield Commons area. The Beavercreek City Council had denied the RTA application despite the fact that it met all design criteria as required by ordinance. The denial followed public council meetings and comments made to City Council voicing objections to the bus stops due to fears of safety and crime from West Dayton, a predominantly African-American section of Dayton. The decision by City Council to deny the application has a disparate impact on African Americans in the Dayton area who disproportionately rely on public transportation to get to work and access services. Following the filing of the complaint, ABLE worked with the civil rights investigator from the Federal Highway Administration to provide additional information in support of the complaint and provided support for LEAD in organizing residents for the on-site investigation conducted in the spring of 2012.

In June 2013 the Federal Highway Administration issued a decision on a Title VI complaint concluding that “African Americans have faced discriminatory impact as a result of the City’s decision to deny the RTA’s application” and no substantial legitimate justification exists for denying the application. The decision ordered that Beavercreek implement a non-discriminatory application process and reconsider the RTA application within 90 days or risk losing close to $11 million dollars in federal funding. On October 14, 2013 the Beavercreek City Council voted to approve the RTA bus stops which will now provide much needed access to jobs, healthcare and other services to residents of West Dayton. The Council also amended the Beavercreek “Transit Stop” ordinance to remove unnecessary barriers to future transit stops.

Jordan v. Greater Dayton Premier Management
U.S. District Court, Southern District of Ohio, Western Division

In 2013, ABLE, Legal Aid of Western Ohio and Disability Rights Ohio filed a federal court complaint on behalf of Renee Jordan. Ms. Jordan, who is legally blind, is a participant in the Section 8 Housing Choice Voucher Program administered by Defendant Greater Dayton Premier Management (GDPM). Ms. Jordan sought an accommodation requesting that all written communications from GDPM regarding this crucial program...
be made in a format that is accessible to her and her unique needs. GDPM originally agreed to provide communications by use of audio recordings of written communications. However, GDPM discontinued this practice and refused to make any further accommodations regarding written materials. When negotiations failed, a complaint was filed that alleges violations of Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act. A motion for preliminary injunctive relief was filed along with the complaint. Discovery and a hearing on the preliminary injunction ensued along with post-hearing briefs. In early 2014, Judge Rice granted the motion and entered an order requiring GDPM to make the appropriate accommodations for Ms. Jordan by providing her with all written communications by audio recording.

**Grayson (Jaimes) v. Lucas Metropolitan Housing Authority**  
*U.S. District Court, Southern District of Ohio, Western Division*

ABLE continues as Plaintiffs’ class counsel in the case of *Grayson (Jaimes) v. Lucas Metropolitan Housing Authority* and the U.S. Department of Housing and Urban Development. The case was originally filed in 1974 challenging the historic racial segregation in Toledo public housing. The entry of permanent injunctions by the Court in the 1980’s included desegregation mandates governing housing assignments for new applicants to public housing and a prohibition on expending funds to construct low-income housing in racially impacted areas. Despite over 25 years under this plan, there has been a lack of meaningful progress in desegregating LMHA public housing development sites or locating public housing outside of racially impacted areas.

In 2012, the federal district court entered an order denying a Motion to Modify the Affirmative Action Plan filed by ABLE. The Motion to Modify argued that the current plan failed to achieve meaningful progress and is fundamentally flawed for its failure to account for the increased use of Housing Choice Vouchers as units of public housing are demolished and no longer replaced on a one for one basis. In support of its Motion, ABLE retained Professor John Powell, former Director of the Kirwan Institute for the Study of Race and Ethnicity at the Ohio State University, to prepare an expert report. The report includes the opinion that without incorporating Section 8 Housing Choice Vouchers into the remedial plan and utilizing an opportunity framework to connect families to areas where real opportunities exist, the harm created by decades of segregation will never be redressed.

Although denying the motion, the district court did acknowledge that the Affirmative Action Plan is, “not well suited to contemporary realities.” The court also recognized that given these realities, including the shift to housing choice vouchers, it is possible that the goals of the plan could never be reached as progress may have plateaued under the terms of the current plan. ABLE continues to explore advocacy options with respect to this historic litigation that will eventually transition the Affirmative Action Plan into a meaningful tool to bring about genuine opportunities for families living in public housing.
Voucher Mobility Planning with LMHA

ABLE, along with the Toledo Fair Housing Center, began significant efforts in 2013 to work with the Lucas Metropolitan Housing Authority (LMHA) on an enhanced mobility program for Housing Choice Voucher participants. The Housing Choice Voucher program allows low-income families to use a rental voucher to financially assist them in accessing rental units in the private market. Although the goal of the Housing Choice Voucher program was to increase opportunities for better housing conditions and to access housing in higher opportunity areas, in practice it has resulted in voucher participants accessing units in highly segregated, low-income, low-opportunity neighborhoods. The collaboration with LMHA and the Fair Housing Center seeks to reverse this trend by identifying the barriers to accessing high-opportunity neighborhoods and developing solutions to overcome these impediments. Working together, the groups seek to develop a progressive mobility program that will connect families to the resources they need for self-sufficiency and economic mobility.

Dayton Vacant Property Registration Ordinance

At the request of a Dayton City Commissioner ABLE drafted a vacant foreclosed property registration ordinance, a step that would begin to address the effects of houses that become vacant as the result of the foreclosure process. The Dayton City Commission adopted the Vacant Property Registry in September 2013. The ordinance currently applies in select zip codes only. ABLE has initiated an evaluation of how the ordinance is being implemented and will likely suggest a city-wide rollout with improvements in its administration.

Toledo’s Old South End Project

In 2013, Equal Justice Works (EJW) fellow, George Thomas, completed a very successful fellowship focusing on problems associated with poverty and a lack of economic opportunities in Toledo’s Old South End. The Old South End suffers from declining housing stock, increased crime and other problems associated with escalating poverty. George’s project centered on working with community-based groups to plan for long-term solutions, specifically on housing-related matters. George’s work helped build capacity within the community to sustain long-term efforts at community development. This included formation of a neighborhood coalition, called the Broadway Corridor Coalition, which continues to meet regularly to discuss opportunities for plans and advocacy to improve the area. In addition to the formation of the neighborhood coalition, the project included the following advocacy efforts:
Vacant Residential Building Registration, Toledo Municipal Code

As a result of George’s diligent advocacy efforts, the Toledo City Council passed updates to its Vacant Property Registry which will now include provisions that make it possible for the City to hold certain mortgagees—including banks and lending institutions —responsible for vacant abandoned foreclosures and problems stemming from “toxic title.” This is an important result because cities in the Midwest, especially Toledo, have struggled with increased crime, fires, and deterioration of property values in the aftermath of the foreclosure crisis. These problems particularly plague inner-city and minority-concentrated areas where much of the subprime and abusive lending practices were targeted. Now the City has improved policies in place that make it possible for the City's administration to address these issues.

Acquisition of 1623 Broadway for Community Development

Blight is a major problem for development in Toledo’s neighborhoods, especially for Toledo’s many older commercial buildings. Legal issues surrounding toxic liens, property taxes, and title can complicate the acquisition and development of these buildings. George has assisted Western Avenue Ministries with the acquisition of 1623 Broadway, a former ballroom and fraternal lodge, and a building that represents an important part of improvement of the greater Old South End area. The large commercial building had been vacant for approximately fifteen years and, left vacant, would continue to deteriorate and blight the larger community. With assistance from pro bono counsel, ABLE assisted in resolving the title and toxic lien issues and helped present the development of the building to City Council to remove back property taxes and approve its acquisition. In early 2013, the parties successfully closed on the acquisition and Western Avenue Ministries is busily developing plans to turn the building into a community center to encourage economic development and improve education in the area.

Demolition of vacant homes in the South Toledo area

George has helped to organize and facilitate a community coalition in the Southside area, the Broadway Corridor Coalition. The group consists of area nonprofits, churches, and other institutions, and collaboratively discusses development in the area. The group helped to identify vacant homes in need of demolition, and advocated to the Lucas County Land Reutilization Corporation for increased demolitions in the area. Thanks in part to these advocacy efforts, ninety-six vacant properties in the area have been demolished. The group continues to push for development in the area.

Changes to LMHA’s Administrative Plan

With many housing choice voucher recipients currently living in the Old South End area, the recent demolition of public housing projects and residents being relocated with vouchers has further increased the demand for safe, sanitary and affordable housing in the area. Unfortunately, many of the housing choices do not provide the best access to opportunities for better employment and education for voucher recipients. In addition, an abundance of housing choice vouchers in
impoverished areas leads to both segregation and poverty concentration. According to some research, extending the period of time in which a family may search for appropriate housing may expand their choice of neighborhoods beyond the central-city area.

Based in part on these concerns, ABLE made detailed recommendations as part of the Lucas Metropolitan Housing Authority’s (LMHA) review of its Annual Plan. As a result of ABLE’s advocacy, LMHA has enacted a number of broad systemic changes that will benefit thousands of low-income families in Lucas and Wood counties over the coming years. In particular, LMHA agreed to extend the amount of time permitted to locate housing with the use of a voucher so that the voucher term no longer includes an absolute ceiling of 120 days. The initial voucher term is now 90 days instead of 60 days and the family may request additional extensions for a broader variety of reasons. These changes are important because they will give families an opportunity for more time to locate and secure an appropriate housing unit. LMHA has also updated its annual plan to include more detailed information and statistics with respect to fair housing compliance, and has agreed not to deny an application in the HCV program for reasons that are not listed in the federal regulations.
In 2013, ABLE continued work on a taskforce created in response to a U.S. Department of Justice investigation of Toledo Public Schools (TPS) and the disproportionate discipline of African American students and students with disabilities. The taskforce includes the Juvenile Court, the teachers’ and administrators’ unions and other community advocacy groups. Through the taskforce, TPS has agreed to implement Positive Behavior Interventions and Supports (PBIS) throughout the district and has begun to phase the program in at five schools during the 2013-14 school year. PBIS serves as an alternative to zero tolerance punitive discipline policies that result in police and juvenile court referrals.

The process was begun in April of 2011, ABLE and LAWO filed a complaint with the U.S. Department of Justice alleging that the discipline policies and practices employed by TPS violated Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, based, in part, on data which shows obvious and troubling disparities in discipline rates of African American children and children with emotional and behavioral disabilities. An African American child in TPS during the 2010-2011 school year was 3.4 times more likely than a white child to be disciplined for engaging in the same behavior. Children with emotional disabilities were almost 3 times more likely than children with no disability to be disciplined and 6.2 times more likely to be suspended from school. Moreover, Toledo is the only city in Ohio with an ordinance that makes it a crime for a child to be disruptive in school (Toledo Municipal Code 537.16). TPS actively seeks the arrest of students under this ordinance, which during the 2009-2010 school year resulted in the arrests of 648 children, 82% of whom were African American, despite the fact that only 45% of TPS students are African American. Many of these arrests were for non-violent behavior.

As a result of the complaint, the Department of Justice initiated an investigation into the disciplinary policies and practices at TPS. This included extensive data gathering and in October 2011, two attorneys from the Department of Justice came to Toledo to conduct an on-site investigation. As part of the investigation, ABLE and LAWO coordinated numerous interviews with parents of students who had been subjected to harsh discipline under these policies and many students with disabilities whose rights under the IDEIA were not being protected.
Toledo Lead Safe Housing Advocacy

In 2013, ABLE joined with Toledoans United for Social Action (TUSA) to organize a community coalition with the goal of implementing a proposal to significantly reduce lead poisoning in the city of Toledo. While lead exposure has many adverse health effects, the most common risk of harm to children is subtle impairment of neurodevelopment, with small but measurable effects on cognitive and behavioral outcomes. The cognitive and behavioral effects of lead poisoning permanently limit children from fully benefiting from educational and economic opportunities. In Toledo, African Americans and low-income residents are at a much greater risk for lead poisoning than other groups. African Americans and low income populations of city of Toledo are concentrated in high risk zip codes for lead poisoning.

In addition to developing wide-ranging community support, ABLE and TUSA have drafted and submitted to Toledo City Council a proposed lead-safe housing ordinance. The Ordinance would require that every owner of residential rental property constructed prior to 1978 have the property inspected for lead hazards and maintain such property free from the same. If an inspection of the residential rental property shows the existence of lead hazards, the owner must have the lead hazard corrected, before the property can be rented. The Ordinance would further require that the owner obtain a Certificate of Registration of Lead Safe Residential Rental Property from the Toledo Lucas County Health Department before leasing or otherwise permitting the occupancy of such residential rental property. The ordinance is currently under review and consideration with a proposed introduction for adoption in 2014.

Behr Chrysler – TCE Contamination

Dayton, Ohio

ABLE continues its representation of a community group that has organized to address a serious environmental contamination in the McCook Field neighborhood in Dayton. ABLE works with the community group, Behr VOC Area Leaders, or BVOCAL, in efforts to have a groundwater plume of TCE, a volatile organic compound, tested and cleaned up and to protect the health of the neighborhood residents. The TCE is migrating into homes and businesses through a process called vapor intrusion. BVOCAL, with ABLE’s assistance, has been successful in obtaining more extensive testing and ventilation for homes in the affected area and also have been addressing the lack of accurate appraisals in this neighborhood by the County. The site has been listed on the U.S. Environmental Protection Agency Superfund list and the U.S. EPA continues involvement in the testing of indoor air TCE levels. ABLE is committed to assisting BVOCAL effectively participate in the superfund process.
ABLE continues to work with a community group in Dayton to monitor enforcement of a major settlement involving environmental contamination by the Perma-Fix Company. ABLE previously filed numerous claims against Perma-Fix for violations of environmental laws by their plants in the Dayton area. The claims included a complaint to enjoin the Army from bringing partially treated VX nerve agent (VX hydrolysate) to the Perma-Fix landfill for treatment, and actions designed to reduce air emissions from the facility. ABLE also filed an appeal of “industrial pretreatment local limits” to the Environmental Review Appeals Commission (ERAC). The administrative appeal sought to limit the total toxic organics being emitted from Perma-Fix into the sewers, a source of air emissions into the neighborhood near Perma-Fix. ABLE then subsequently filed a Clean Air Act case in the Federal District Court for the Southern District.

After months of settlement negotiations, the parties reached a settlement that provides, among other things, compensation to the plaintiff and funding for a Neighborhood Environment Committee to monitor compliance with remediation and to address environmental issues that may affect the community in the future.

ABLE continues its involvement assisting the group with monitoring compliance with remediation efforts. The facility was purchased by Clean Water Limited, who continues to implement the terms of the settlement agreement, including obtaining Clean Air Act permits. ABLE assists the Neighborhood Environment Committee in obtaining expert review and drafting of comments to permit applications.
In 2013, ABLE was successful on an appeal in the Sixth Circuit Court of Appeals, winning a victory that reversed and remanded to the district court the case challenging profiling of Hispanics by the U.S. Border Patrol and local law enforcement agencies.

Efforts to challenge the profiling began in late 2009, when ABLE, along with the law firm of Murray & Murray in Sandusky, filed a class action lawsuit alleging that Border Patrol agents along with local law enforcement agencies were engaging in profiling against Hispanics in violation of the Fourth Amendment and the Due Process and Equal Protection clauses of the Fifth and Fourteenth Amendments. The lawsuit was filed after outreach workers and advocates in ABLE’s migrant farmworker project began receiving complaints from Hispanic farmworkers who had been detained without cause and questioned about their immigration status by U.S. Border Patrol agents and local law enforcement in Northwest Ohio. ABLE investigated the claims and learned of an increase in profiling of Hispanics that correlated with the opening of a U.S. Border Patrol office in Sandusky, Ohio. The Complaint alleges that the Border Patrol held seminars, meetings, and communicated with local law enforcement agencies in Northwest Ohio urging them to restrain and interrogate persons of Hispanic appearance regarding their immigration status. Local law enforcement authorities in Northwest Ohio have no jurisdiction regarding the enforcement of the civil provisions of federal immigration law. The seizures and interrogations resulting from the profiling have taken place in gas stations, retail establishments, at soccer games, and in other public settings and have caused fear and concern in Hispanic communities.

Through extensive discovery conducted in 2011 and 2012, Plaintiffs obtained a Sandusky Bay Station Apprehension Log which reflects the disparate impact directed against Hispanics by Sandusky Bay Station Border Patrol Agents. Of the 1,880 persons listed on the Apprehension Log, nearly 88% were Hispanics. Of those only about 10% were apprehensions with the “border zone,” and none of the apprehensions were actually of persons attempting to enter the United States without inspection by coming across Lake Erie and arriving in Ohio.

Following the completion of discovery, a series of settlement negotiations with the local law enforcement agencies took place in early 2012. As a result, settlement agreements were reached with local law enforcement which included the adoption of anti-discriminatory policing policies and monetary awards to individual plaintiffs.

In October 2012, the federal district court judge issued an opinion dismissing the case based on sovereign immunity grounds. On appeal, the Sixth Circuit reversed the district court and held that the Plaintiffs constitutional claims seeking injunctive relief are not barred by sovereign immunity and may proceed.
Vasquez-Palafox v. United States
U.S. District Court, Northern District of Ohio, Western Division
U.S. Court of Appeals for the Sixth Circuit

In a related case to Muñiz v. Gallegos, ABLE filed a subsequent federal court complaint on behalf of an individual who was questioned by two Border Patrol Agents while walking down a street in Fremont, Ohio, after picking up his son at school. The plaintiff believes he was targeted for questioning because he is Hispanic. He alleges in his Federal Tort Claims Action against the United States that two Border Patrol Agents committed the Ohio torts of assault, false imprisonment, deprivation of civil rights through ethnic intimidation, and intentional and negligent infliction of emotional distress. In 2013, the federal district court judge granted the United States’ motion for summary judgment. The dismissal was appealed and, while pending in the Sixth Circuit, the parties were able to reach a settlements.

Saucedo-Carrillo, et al. v. United States
U.S. District Court, Northern District of Ohio, Western Division
U.S. Court of Appeals for the Sixth Circuit

In another related case to Muñiz v. Gallegos, ABLE filed a Federal Tort Claims Action on behalf of a mother and daughter who allege that a Border Patrol Agent profiled them for arrest because they are Hispanic. The Plaintiffs were purchasing gasoline at a gas station in Norwalk, Ohio, when an Agent blocked their vehicle and started questioning them. This lawsuit against the United States alleges the Border Patrol Agent committed the Ohio torts of assault, false imprisonment, deprivation of civil rights through ethnic intimidation, and intentional and negligent infliction of emotional distress. In 2013, the federal district court judge granted the United States’ motion for summary judgment. The case is currently on appeal in the Sixth Circuit Court of Appeals.

U.S. District Court, Northern District of Ohio, Western Division

In 2013, ABLE continued litigation in federal court on another case alleging illegal profiling of Hispanic farmworkers. In 2012, ABLE filed a federal court complaint on behalf of two Hispanic married couples from Norwalk Ohio. The married couples, traveling in the same car, were stopped by the Wakeman Police Department while on their way to work early one morning. Without reasonable suspicion or cause, the Wakeman police officer contacted the U.S. Border Patrol. When Border Patrol agents arrived at the scene, they proceeded to interrogate and verbally harass the occupants of the car. The individuals were aggressively removed from the car, handcuffed and taken to the Sandusky Bay Station. At the station, the individuals were then placed in a room where they were harassed and interrogated by ten to twelve different agents over the course of the day.
The complaint filed against the Village of Wakeman and the U.S. Border Patrol alleges claims under the Fourth Amendment, the Equal Protection Clause, Title VI of the Civil Rights Act, *Bivens* claims against the individual Border Patrol agents and claims pursuant to the Federal Tort Claims Act. The complaint alleges that the U.S. Border Patrol and the Wakeman Police Department have engaged in illegal profiling of Hispanics and seeks injunctive relief to prohibit the use of race as a motivating factor in stops and detentions.

Following extensive discovery and contested motions in 2013, the parties entered into settlement discussions and reached a resolution of the case in early 2014.

**Housing Conditions Advocacy for Farmworkers**

In 2013, ABLE was invited to participate in the Ohio Department of Health’s Agricultural Labor Camp Rule Review Committee. The Committee’s task was to review the regulations governing health and safety for housing for migrant farmworkers in Ohio. ABLE worked with a team of law students from The Ohio State University to compare and contrast Ohio migrant regulations with other states. Areas of research included more than twenty topics, including water access, overcrowding, first aid, and unsanitary toilet facilities. Working nearly a year, the Committee developed recommendations for proposed changes to the housing regulations. The adoption of these proposed changes, which are to be finalized in 2014, will affect close to 10,000 migrant farmworkers and their families in the form of safer and healthier living conditions.

**In re: R-R-C-**

*Immigration Court and Board of Immigration Appeals,*

*U.S. Department of State, and U.S. Department of Homeland Security*

In November 2011, a Cleveland Immigration Judge found that despite the fact that Mr. R-C-, who was facing removal, was born in the Dominican Republic to two U.S. citizen parents, had not acquired U.S. citizenship at birth because his parents were not married at the time of his birth.

Mr. R-C became ABLE’s client when the U.S. Department of Homeland Security (DHS) detained Mr. R-C- for immigration purposes in 2009. After submitting a brief to DHS establishing Mr. R-C’s eligibility for citizenship, DHS released Mr. R-C- from immigration custody, but he remained in removal (deportation) proceedings. DHS’ position was that Mr. R-C- did not acquire U.S. citizenship at birth, and because he is not a U.S. citizen, he is subject to removal proceedings. ABLE filed a Motion to Reconsider with the Immigration Judge arguing, amongst other things, that Mr. R-C- is a U.S. citizen and that discriminating against “out of wedlock” individuals violates the Constitution’s guarantee of Equal Protection and the United Nation’s Declaration of Human Rights.
In 2012, ABLE appealed the decision to the Board of Immigration Appeals, primarily focusing on the troubling Constitutional Equal Protection implications of the immigration judge’s decision. ABLE had also filed an application with the Department of State for a U.S. passport on behalf of Mr. R-C-, which was approved in March 2014. Issuance of a U.S. passport is proof that Mr. R-C- is a U.S. citizen. The U.S. Department of Justice agreed, and removal proceedings against Mr. R-C- were terminated with prejudice. To ensure agency consistency about Mr. R-C-’s citizenship status and further secure his citizenship rights, ABLE filed an application for a Certificate of Citizenship with the U.S. Department of Homeland Security. It remains pending.

In Re: C-M-S-
Immigration Court

The Cleveland Immigration Court issued a favorable decision on an application for Cancellation of Removal, which terminated Mr. M-S-’s removal proceedings and granted him lawful permanent residency. Mr. M-S- first came to the United States from Mexico in 2001. In September 2013, Mr. M-S- was stopped by local police and placed in removal proceedings. He was detained by Immigration and Customs Enforcement for three months. Before and during his detention, Mr. M-S-’s U.S. citizen wife struggled with a high-risk pregnancy, kidney stones, and congestive heart failure, and was unable to work to support the family. His children also suffer health problems: one of his sons is autistic, another son suffers from reoccurring testicular hernias, and his daughter suffers from seriously impaired vision. While Mr. M-S- was detained, the family was forced to live off of a dwindling savings account, and struggled to get by.

ABLE staff represented Mr. M-S- in his application for Cancellation of Removal, a form of deportation relief available to immigrants whose removal from the United States would cause exceptional and extremely unusual hardship to a U.S. citizen or permanent resident spouse, parent, or child. Applicants who receive this status become lawful permanent residents. In late 2013, at Mr. M-S-’s individual hearing in immigration court, the immigration judge orally granted the client’s request for relief. He was released from detention and returned to Lima that afternoon. His wife arranged a surprise reunification for his children at the Lima Public Library, telling them only that “Santa had brought an early Christmas gift to the library this year.”

U Visa Advocacy Work

ABLE continues to assist victims of serious criminal offenses eligible for immigration relief through a U Visa. To be granted U non-immigrant status the applicant must show that: (1) she has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity; (2) that she has been or is likely to be helpful in the investigation or prosecution of that crime; and (3) the crime must have occurred in the United States. Those who qualify for U visas can have their spouse and/or children under 21 apply to be derivative beneficiaries of the visa.
Our U visa work has helped spouses and children escape from the physical abuses of their spouse or parent and allow individuals to continue to stay in the United States lawfully and free from danger. We also assist parents whose young children have been victims of sexual or other abuse, and whose young age prohibits the children from helping law enforcement on their own. This security allows them to establish a better future for themselves and their families and allows them to contribute more to the societies in which they live. In addition, it furthers the public interest by preventing similar abuses from happening to others. Working with law enforcement officials to obtain the required documents necessary to file an application for a U Visa has also helped establish working relationships with these agencies, and thus opened additional avenues for advocating for our clients. For example, the Dayton Police Department (DPD) recognized the importance of U Visas to their community policing practices, and as a direct result of ABLE advocacy, adopted a standard operating procedure that states that they will not question a victim or witness about his or her immigration status. This, in turn, will make the victims and witnesses less fearful of reporting criminal activity to the police and assist the police in reducing crime. In addition, ABLE does community outreach to immigrants to inform the public of DPD’s immigrant-friendly policing policies and the availability of legal representation if an immigrant is the victim of a serious crime. DPD has contracted with ABLE to provide representation to these victims in U visa cases if the victim has been cooperative during the investigation or prosecution of the case. ABLE’s first successful case under this innovative partnership not only prevented the removal of a client who had been shot defending himself against a home invasion, but it also successfully released him from immigration detention and on a path towards becoming a U.S. citizen.

**Police Relations and Immigration Know Your Rights Presentations**

ABLE’s Immigrant Integration Project, made possible through an Equal Justice Works Fellowship sponsored by the Ohio Legal Assistance Foundation, has designed a Know Your Rights program for police relations, 4th Amendment rights, and immigration remedies for victims of crime. This year, ABLE conducted more than twenty Police Relations and Immigration Know Your Rights Presentations with community groups and English Language classes in the greater Dayton and Springfield areas. As a result of these presentations, ABLE has received many applications for client services, created new community partnerships, and increased awareness of police relations and racial profiling in migrant and urban immigrant communities in Southwest Ohio.

**Agency Advocacy to Adopt Immigrant-Friendly Policing Policies**

Also through the Immigrant Integration Project, ABLE has collaborated with local government and community leaders to advocate for the adoption of immigrant-friendly policing policies with local law enforcement and civic groups in the greater Dayton area. Suggested policies include recognition of the *Matrícula Consular* (Mexico’s consular document) as a valid form of identification, policies not to ask immigrant victims about
their immigration status, and language access policies for Limited English Proficient victims and witnesses. ABLE met with thirteen different police chiefs in 2013. Thus far, two jurisdictions have re-written their policies to adopt immigrant-friendly policing policies and procedures, and eight others are currently considering similar policy changes.

**Special Immigrant Juvenile Status and Unaccompanied Children**

Immigrant children, especially those who arrive in the U.S. unaccompanied, are a particularly vulnerable population. When they are caught up in immigration enforcement actions, they face the same deportation process as adults and are not entitled to free representation in immigration court. ABLE represented approximately a dozen of these youths during 2013. While a few had no immigration relief available, and others were eligible for remedies such as a U Visa or Temporary Protected Status, many of these children have applied for Special Immigrant Juvenile Status (SIJS). SIJS applicants must have been the subject of proceedings in state juvenile court in which the court found that (1) the juvenile is dependent upon the state or should be placed into someone’s custody; (2) reunification with one or both of the parents is not viable due to neglect, abuse, abandonment, or other similar basis; and (3) that it is not in the juvenile’s best interest to return to their country of origin. Armed with a juvenile court order that makes those special findings, these juveniles can apply for SIJS and their lawful permanent residency and have their immigration removal proceedings terminated.

The children represented by ABLE have survived horrible experiences of abuse, abandonment, neglect, and even being sold into slavery. Without ABLE’s representation, they would have most likely been returned to the dire situations from which they escaped, instead of now having the opportunity to live, go to school, and work in the U.S., and for many, experience safety and nurturing care for the first time. ABLE continues to be a leader and resource for other attorneys in these types of cases throughout Ohio. ABLE has been asked to present at statewide Community Legal Education seminars and also took part in a meeting with the Cleveland Immigration Court on effective strategies to proceed with these cases in the future.

**Deferred Action for Childhood Arrivals**

In June 2012, the Obama Administration created a Deferred Action for Childhood Arrivals (DACA) program through the U.S. Citizenship and Immigration Services. DACA provides for temporary lawful presence in United States for undocumented individuals who were under 31 years of age as of June 15, 2012, who came to the U.S. while under the age of 16 and who have continuously resided in the U.S. since June 15, 2007. Individuals must also be in school or have graduated from high school, obtained a GED or have been honorably discharged from the armed forces, and have no significant criminal background. According to the most recent statistics compiled by U.S. Citizenship and Immigration Services, 2,853 Ohioans hold DACA status.
Since the program’s inception, ABLE has represented more than forty individuals in filing for Deferred Action. DACA approval is extremely significant; grantees are protected from removal (deportation) for two years (with the possibility of future extensions), are now eligible for work authorization, and may openly participate in and continue to contribute to our communities, which for most of these individuals has been the only home they have ever known.

ABLE was instrumental in helping to extend both driver license privileges and in-state tuition rights to Deferred Action for Childhood Arrival (DACA) recipients in Ohio. ABLE worked closely with a number of statewide community partners, including Dream Activist Ohio and the Ohio Commission on Hispanic and Latino Affairs.

**Obtaining ITIN’s for Immigrant Workers and Assisting with Tax Controversies**

Program staff continues work assisting immigrant workers applying for an Individual Tax Identification Number (ITIN) with the IRS to file income taxes. It is especially important for undocumented immigrants to file income taxes in the event a legalization program becomes law. By doing so, a worker can demonstrate good moral character and prove presence in the United States. Also by securing an ITIN, immigrants are eligible to receive their tax overpayments from the IRS.

Staff from the Migrant Farmworker Program took over as director of ABLE’s Low-Income Taxpayer Clinic, funded by the IRS. This change has assisted staff in obtaining additional tax controversy cases, especially issues surrounding taxes for H-2A foreign agricultural guest workers whose tax returns are very frequently ill-prepared due to the lack of knowledge of the special tax rules that apply to them. The Program expects that this project will continue to grow.

**Migrant Farmworker and Immigrant Community Partnerships**

Each year, Migrant Farmworker and Immigration Program staff participate in a number of regional, statewide, and national coalitions working on behalf of the legal rights of farm workers. FALCON, the Farmworker Agencies Liaison Communication and Outreach Network, is a group of community based organizations, advocacy groups, and governmental agencies that interface with migrant farmworkers. Meetings are held monthly during the migrant farm worker season, almost monthly during the off-season, and a “pre-season” conference features agency updates and opportunities for inter-agency collaboration.

The Program and its staff are also in close and constant communication with the Farm Labor Organizing Committee (FLOC) in Toledo and the Immigrant Worker Project (IWP) in Canton. FLOC has three-party labor agreements in effect in Northwest Ohio covering cucumbers and tomatoes (both fresh market and cannery). The IWP works around the state organizing immigrants, including immigrants engaged in agricultural employment,
around labor rights, interpretation and translation in legal and medical settings, English as a Second Language (ESL) classes, cultural and athletic events, and bi-national economic development projects.

ABLE has been a member of a committee working with the Dayton Human Relations Council to promote Dayton as an immigrant friendly city. The committee produced a report entitled “Welcome Dayton” showcasing Dayton as an immigrant friendly city, “to welcome and integrate new residents and help them on a path to citizenship, or to allow old stereotypes, fears and preconceptions to hinder future success.” The report serves as a roadmap for the City of Dayton to become a nationally recognized Immigrant Friendly City. ABLE staff were appointed by the City Commission to serve on the permanent implementation board for Welcome Dayton and was chosen to serve as chair of the Government and Justice subcommittee.

ABLE also continues to be involved with the Latino Connection in Montgomery County. The Latino Connection is a coalition of Latino member and service organizations whose mission is to improve communication and cooperation between member organizations, and identify and address needs particular to the Latino community. The Connection conducts community educational and social events for Latinos and those who work with Latinos. They also serve as a referral agency for Latino residents.

ABLE staff members are also active in Latino Migrant Coalition, a networking group for agencies providing services to agricultural and immigrant workers, in the neighboring Springfield area.

Community Outreach and Education

Each year, the Migrant Farmworker and Immigration Program makes presentations to groups of low-income farmworkers as part of its education and outreach efforts. These events cover immigration, employment rights, tax issues, and civil rights. Immigration matters includes avenues and procedures for legalizing immigration status; rights immigrants can exercise if interrogated by local law enforcement and U.S. Department of Homeland Security officers; how to respond to worksite issues, including worksite enforcement raids and “No Match” letters from the Social Security Administration; and explanations of removal (deportation) procedures. Employment rights includes state and federal minimum wage and overtime provisions; worksite safety, including Occupational Safety and Health Administration (OSHA) and field sanitation issues; and employment eligibility for immigrants. Tax advice includes how people can apply for an Individual Tax Identification Number (ITIN), determining eligibility for Earned Income Tax Credit (EITC), and assisting with tax disputes with the IRS. Civil rights presentations focus on racial and ethnic profiling and federal immigration enforcement by U.S. Border Patrol and local law enforcement agencies and the educational rights of Limited English Proficient students.

The Program made numerous outreach visits to licensed agricultural labor camps throughout Ohio. In addition to distributing thousands of written materials regarding ABLE’s services and workers’ rights, ABLE staff members answered workers’ questions at the camps and took applications for services. Distributed materials included a helpful 36-page bilingual “Harvest Calendar” that contains information about workers’ rights, workbooks for
workers to properly log their hours worked, and brochures specific to the rights of H-2A temporary workers. ABLE also continues to support the annual Farmworker Appreciation Day, participating on the 2013 Planning Committee, organizing annual recognition “Harvest Awards,” and attending and providing education materials at the event.

**OPLC Immigrant Advocacy Task Force**

Program staff was instrumental in creating and maintaining the statewide Ohio Poverty Law Center (OPLC) Immigrant Advocacy Task Force. Since its development in 2007, statewide advocates from legal aid societies, community organizations, domestic violence shelters, and government agencies have attended and participated in quarterly Task Force meetings. The Task Force has a listserv where advocates can post questions and a website to help share valuable information. Presentations in 2013 have included a wide variety of topics affecting immigrants, including Immigration and Customs Enforcement operations, the Child Citizenship Act and access to public benefits, advanced topics in Ohio wage and hour laws, immigrant integration, and human trafficking. Task Force members also received state and federal legislative advocacy updates from the Ohio Commission on Hispanic and Latino Affairs and the Ohio Poverty Law Center. ABLE staff members have used this information to discuss immigrant-related issues with legislators at Ohio Hispanic Legislative Day.

**Midwest Farmworker Law Conference 2013**

Every year, farmworker advocates from Midwest states meet to discuss changes in the law, collaborate on ideas, and train new summer staff. Members of ABLE’s Migrant Farmworker staff hosted and presented on several topics at the 2013 Midwest Farmworker Law Conference in Toledo. ABLE staff members presented on topics such as immigration law, field sanitation, public benefits eligibility, and effective outreach strategies. Staff members from the Ohio, Michigan, Indiana, Illinois, and Wisconsin farmworker programs participated in this intensive training and conference.
Statewide Foreclosure Legal Assistance Initiative

In 2013, ABLE’s Homeownership Preservation Project closed 141 cases in which it provided legal assistance to homeowners involving their foreclosure issue throughout its thirty-two county service area. In 22 of these cases, ABLE negotiated settlements in which the homeowners remain in their home. The settlements also brought $1,064,969.16 in monetary benefits to the clients including $417,685.21 in reduced mortgage principal, $216,980.66 in debt write-off, $170,927.19 in interest rate savings, $153,860.67 in reduced arrearages, and $54,338.03 in home equity retained.

**Beyond these monetary figures, the cases included several great outcomes for the homeowners. Here are four of these stories:**

ABLE represented Ms. Armstrong, a seventy-five year old retired civil servant who lives on a fixed income. When she got behind with her mortgage payments, she tried to work with the servicer to prevent a foreclosure. The servicer did not want to work with her even though it was required to do so by federal regulations. ABLE argued that the servicer should not be able to foreclose because it did not follow the federal regulations. ABLE was able to negotiate a loan modification with the servicer that created lower monthly payment that was affordable for Ms. Green. She remains in her home.

ABLE also represented Ms. Orton, an 82-year-old retired schoolteacher whose income comes from her teacher’s pension and a small Social Security check. Ms. Orton refinanced her home to provide educational opportunities for her granddaughter. She fell behind in her mortgage due to the combination of the loss of her granddaughter’s Social Security income when she came of age and some appliance repairs. She contacted her mortgage servicer asking for help. The servicer placed her into a repayment plan that she could not afford. She then sought the assistance of a housing counselor who contacted the servicer. The servicer eventually denied her a modification, sent back her payments and filed for foreclosure. ABLE represented her in the trial court, but the court ruled in favor of the servicer. The servicer then scheduled a sheriff’s sale even though it was not permitted to do so by federal rules. ABLE was able to stop the sale, and the case was argued in the court of appeals. Before the court issued its decision, the servicer agreed to a permanent loan modification that created an affordable mortgage payment for Ms. Orton. The loan modification reduced the mortgage principal by $57,763.42, waived $1,393.47 in fees, and will save Ms. Orton an additional $76,422.03 over the life of the loan. Ms. Orton now has an affordable mortgage payment and remains in her home.

ABLE represented Ms. Jackson, an individual with disabilities who lives on a fixed income. ABLE represented her in a foreclosure lawsuit and negotiated a loan modification that created an affordable monthly mortgage payment for Ms. Jackson. The servicer failed to implement the loan modification, rejected Ms. Jackson’s
monthly payments, and said Ms. Jackson was in default on her mortgage again. This aggravated Ms. Jackson’s
disabilities. ABLE attempted to resolve these issue without litigation but was unable to do so. As a result, ABLE
filed a lawsuit on behalf of Ms. Jackson. As a result of the settlement, the servicer properly implemented
the loan modification and paid Ms. Jackson the statutory amount for damages and attorneys’ fees. The loan
modification will also save Ms. Jackson more than $23,000 in interest rate payments and home equity. Ms.
Jackson remains in her home.

John is a married-but-separated Vietnam veteran who lives alone. He works for a small business that is
sometimes unable to pay him on time. He lives paycheck to paycheck so, when a paycheck is late, he falls
behind on his bills. John came to ABLE facing his second foreclosure in the past four years, and was worried
he had ruined his chances for saving his home. He had already missed the deadline to answer the complaint,
and the bank had filed a motion for default judgment. ABLE helped John apply for assistance through Save the
Dream Ohio, but it took several weeks to get his application reopened after his original housing counselor had
closed it because John had not submitted the required documentation on time. ABLE worked closely with the
client’s new housing counselor to make sure he provided all the necessary documentation for his application.
After ABLE filed an answer and served discovery, the bank voluntarily dismissed the case. ABLE continued
working with the housing counselor on the Save the Dream application which was approved and, with the loan
reinstated, John has been able to save his home.

**Amicus Brief in Bank of America, N.A. v. Kuchta**
Supreme Court of Ohio

ABLE assisted in drafting an amicus brief on behalf of Ohio legal aid programs filed in the case of *Bank of America,
N.A. v. Kuchta* in the Supreme Court of Ohio. The case involved a foreclosure lawsuit filed by Bank of America
against a homeowner. Bank of America did not have an interest in the promissory note or mortgage when it filed
its lawsuit but the homeowners did not challenge the issue until after the trial court entered a judgment against
them. The homeowners then challenged the judgment. The amicus brief argued that the judgment was void
because Bank of America did not invoke the jurisdiction of the trial court. The case is a successor to *Fed. Home
Loan Mtge. Corp. v. Schwartzwald*, a 2012 Ohio Supreme Court case which held that a foreclosing plaintiff must
have an interest in the promissory note or mortgage when it files its lawsuit. ABLE also assisted on the amicus brief
in *Schwartzwald*. The Supreme Court of Ohio heard oral arguments in January 2014.

**Amicus Brief in Cashland v. Scott**
Supreme Court of Ohio

ABLE also assisted in drafting an amicus brief on behalf of Ohio legal aid programs filed in the case of *Cashland
v. Scott* in the Supreme Court of Ohio. The case involves a challenge to an attempt by Cashland to continue to
make payday loans despite the 2008 Short-Term Loan Act by the Ohio General Assembly which restricts the
most common and damaging features of payday loans—the high interest rate and fees, the short loan duration, and the single-installment repayment requirement. After the enactment of the ACT, Cashland continued to issue payday loans, in blatant disregard of the law. The amicus brief argued that Cashland and other Ohio payday lenders should not be permitted to continue issuing illegal payday loans in circumvention of the Short-Term Loan Act and emphasized the harm to low-income consumers from these predatory loan products.

**Anderson v. Barclays Capital Real Estate, d.b.a. HomeEq Servicing**  
*Amicus Curiae Brief, Supreme Court of Ohio*

ABLE led a statewide team of advocates in drafting and filing and amicus curiae brief with the Supreme Court of Ohio in the case of *Anderson v. Barclays Capital*. The case presents the important issue of whether the actions of mortgage servicers are covered by Ohio Consumer Sales Practices Act (CSPA). The amicus brief explains the integral role played by mortgage servicers and the various forms of consumer transactions in which they are engaged as part of the servicing of a loan. Excluding servicers from liability under the CSPA would overlook the reality of a borrower’s experience in having to deal with servicers as part of their loan and would strip borrowers of a powerful tool to protect them from unfair and deceptive practices. The amicus brief was joined by all of the Ohio legal aid program as well and the National Consumer Law Center, the Coalition on Homelessness and Housing in Ohio, the Toledo Fair Housing Center, and the Miami Valley Fair Housing Center. Oral arguments were held in February 2013 and, disappointingly, in a May 2013 decision the Supreme Court of Ohio held that homeowners cannot turn to the CSPA for protections against abusive practice by mortgage servicers.

**Legislative and Administrative Advocacy**

ABLE’s advocacy on preserving homeownership for families in need also involved efforts advocating with elected officials and supporting legislative efforts to increase protections for consumers. In January 2013, ABLE hosted a meeting with Senator Sherrod Brown, community advocacy groups and the local media during the Senator’s visit to Toledo to discuss the billion dollar nationwide settlement with mortgage servicers and the assistance available to homeowners as a result of the settlement. In April 2013, ABLE hosted a meeting with Congresswoman Marcy Kaptur and the Toledo Fair Housing Center to update the Congresswoman on major litigation brought against the mortgage and banking industry and on predatory lending and foreclosure issues in Northwest Ohio. In December 2013, ABLE sent letters to Congressional representatives in ABLE’s service area urging support for the H.R. 2994, the Mortgage Forgiveness Tax Relief Act of 2013. The letters stressed the importance of tax-exempt mortgage debt forgiveness in assisting homeowners regain economic stability and recover from the housing market collapse.
Voter Protection Advocacy and Enforcement of Voting Rights

ABLE continues its advocacy efforts to protect voting rights and has worked in coalition with others to ward off continued efforts to disenfranchise low-income and minority communities. In 2013, ABLE Senior Attorney Ellis Jacobs testified against two bills that reduced the opportunity to vote in Ohio, including testimony presented in November of 2013 in the Senate against SB 238 which eliminated the first week of early voting. The bill passed and was signed into law. In February 2014, Ellis testified in the House against Sub SB 216 and proposed an amendment which was eventually adopted and became part of the law as signed. ABLE continues to work with the national advocacy groups, and local boards of election to ensure that for each election, the rights of every citizen are protected and their voices heard.

Telecommunications and Utility Rights for Low-Income Consumers

In 2013, ABLE continued to represent the Edgemont Neighborhood Coalition in the DP&L Electric rate case at the Public Utilities Commission of Ohio. ABLE’s advocacy focused on maintaining low rates for low-income customers and securing emergency shut-off prevention and weatherization funds. The matter went to hearing in March 2013 and, after an initial unfavorable Opinion and Order in September 2013, ABLE filed a motion for rehearing which was unsuccessful.

ABLE also worked with other low income advocates to draft Ohio legislation that would address electricity resale abuses in rental properties. The bill, HB 422, was introduced in January 2014. The bill had a hearing but has since stalled. A group of interested parties has formed to draft a bill that will garner more support and ABLE remains engaged.

ABLE has also continued participated in the Public Utilities Commission of Ohio docket to revise rules which govern electric competition in Ohio. ABLE partnered with a broad coalition of low income advocates from around the state to file additional comments aimed at preserving low and stable prices in the electric market.

On the telecommunications front, ABLE Senior Attorney Ellis Jacobs continues his service as a member of the Universal Service Administrative Company (USAC) Board of Directors and was recently elected as Secretary of the Board. USAC administers all telecommunications universal service programs for the nation including those aimed at schools and libraries, high cost areas, rural health clinics, and low-income customers.