Advocacy Impact Report
2012
A Summary of ABLE’s Impact Litigation and Systemic Advocacy Work in 2012
This 2012 Advocacy Impact Report highlights the exceptional work of the attorneys and staff at Advocates for Basic Legal Equality, Inc. (ABLE). Our dedicated advocates address legal issues faced by low-income families and struggling communities throughout our region with a focus on systemic advocacy designed to achieve broad-based results. Our mission at ABLE drives us to approach our work with the goal of assisting individuals to achieve self-reliance, economic opportunity and equal justice under the law.

The staff in each of ABLE’s advocacy units – the Special Litigation and Support Unit, the Migrant Farmworker and Immigration Program, Legal Aid Line, and the Long-Term Care Ombudsman Program – respond to client needs by recognizing that poverty is a complex system which traps individuals and communities and denies those afflicted the chance for equal opportunity and participation in society. Our advocates utilize a full array of advocacy tools, including litigation, legislative and administrative advocacy, community outreach and client education in order to combat these complex forces of injustice and inequality.

We continue to work with our partner, Legal Aid of Western Ohio, Inc. (LAWO), to develop approaches to our work that will have the greatest impact on our client community, addressing both urgent immediate needs and achieving broad-based, long-lasting results. At ABLE, 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.

Aneel L. Chablani
Director of Advocacy
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* Client names identified with an asterisk have been changed in this report to respect the privacy of the client.
In 2012 ABLE began monitoring the implementation of a monumental consent decree entered in Ability Center of Greater Toledo v. Colbert, a federal court lawsuit challenging the illegal delays in processing applications for the Medicaid for the Disabled program. The Consent Decree certifies a class of Ohio residents who have applied or will apply for the Medicaid for the Disabled Program and whose applications have been pending for more than ninety (90) days without a determination of whether they are disabled. 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 Jobs 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 16,000 individuals have been made eligible for Medicaid pursuant to the consent decree.

ABLE continued as co-counsel in G.D. v. Riley, a case challenging the state’s failure to fully implement early and periodic screening, diagnosis, and treatment services (EPSDT) under Ohio’s Medicaid Program. In early 2011 a settlement of several of the claims resulted in the entry of a consent decree that will affect thousands of Medicaid eligible children in Ohio. The consent decree provides for system-wide reform in the administration and provision of the program, specifically requiring ODJFS 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.

Although the consent decree resolves significant claims in the case, the partial settlement provides that the parties will continue 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.

**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*

ABLE continues litigation in a case 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. The lawsuit seeks to ensure that the State meets its obligations to these individuals with mental illnesses and that services are properly planned, funded and, where possible, community-based.

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. This is despite the fact that the plaintiffs include one individual who was incarcerated at the time the case was filed and that the complaint includes detailed facts about the sad history of recidivism for each of the plaintiffs because of their inability to get proper treatment and services for their mental disabilities.

ABLE and OJPC have appealed the dismissal order to the U.S. Court of Appeals for the Sixth Circuit. In 2012 the parties submitted briefs on appeal while also engaging in settlement discussions to explore possible resolution of the issues presented by the complaint.
Lucas County Covering Kids and Families Workgroup

ABLE continues to actively 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 United Health Plans 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 eleventh 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. In 2012 ABLE continued distributing information in Spanish regarding the Earned Income Credit, refund anticipation loans, and tax levies against Social Security benefits. The migrant program distributed these brochures and tax information regarding ITINS and the Earned Income Credit to ESL taxpayers through its bi-lingual (English and Spanish) migrant harvest calendar, an annual publication distributed to thousands of immigrant workers, and to agencies that provide supportive services to them, throughout Ohio.
In 2012, the federal district court entered an order denying a Motion to Modify the Affirmative Action Plan filed by ABLE in the case of Jaimes v. Lucas Metropolitan Housing Authority and the U.S. Department of Housing and Urban Development. The Jaimes 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 20 years under this plan, there has been a lack of meaningful progress in desegregating the LMHA public housing development sites. Additionally, the recent demolition of approximately 400 units of public housing at the Brand Whitlock Development, where over 90% of the families were African American, and the relocation of many of these families with Section 8 Housing Choice Vouchers raises serious concerns about how the relocation can be done consistent with the goals of desegregating public housing and promoting opportunities for low-income families.

ABLE’s 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 Section 8 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 finding that any demonstration of progress toward the desegregation goals was sufficient to allow the existing plan to continue, the district court did acknowledge that the Affirmative Action Plan is, “not well suited to contemporary realities.” The court also recognized that with LMHA’s shifting focus to Section 8 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 the Jaimes litigation that will eventually transition the Affirmative Action Plan into a meaningful tool to bring about genuine opportunities for families living in public housing.
**Leaders for Equality and Action, Inc. (LEAD) v. City of Beavercreek**  
*Title VI Administrative Complaint*  
*U.S. Department of Transportation, Federal Highway Administration*

In 2012, ABLE continued its work with Leaders for Equality and Action, Inc. ("LEAD"), a Dayton-area coalition of community and religious leaders, in challenging the discriminatory actions by the City of Beavercreek in denying bus stop applications. 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 LEAD, alleging that 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. Title VI specifically precludes federal funding recipients from making determinations of sites or locations of facilities – including public transit stops - which have the effect of discriminating on the basis of race.

Beavercreek City Council denied the RTA application on March 28, 2011 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 objecting 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. This past year, ABLE has worked with the civil rights investigator from the Federal Highway Administration to provide additional information in support of the complaint and has continued to provide support for LEAD in organizing residents for the on-site investigation conducted in the Spring of 2012.

**United North Corp. vs. City of Toledo, et al.**  
*Lucas County Court of Common Pleas (removed)*  
*U.S. District Court, Northern District of Ohio, Western Division*

In 2012, United North community development corporation requested assistance from ABLE after the City of Toledo sought to end its interest in a mortgage on One Maritime Plaza, a property originally constructed by the City with the use of an Urban Development Action Grant in 1980. As a condition of the original grant, the mortgage agreement required the mortgagor to make all payments to the North River Development Corporation. The money could then be used to improve the quality of life for North Toledoans through community economic development efforts. United North is the successor to North River but had not received payments under the mortgage and wanted to ensure a reasonable payment toward community development in North Toledo before the final release of the mortgage.

Working with co-counsel, Cooper and Kowalski, ABLE quickly filed a temporary restraining order and complaint for foreclosure to prevent the release of the mortgage. Following the filing of the complaint, the parties were able to reach a settlement that favorably resolved the matter.
In 2012, ABLE briefed and argued in the Sixth Circuit, the appeal of a mixed district court ruling in the matter of *Woods v. Willis*. The 2011 district court ruling was a partial success on a long-standing effort to improve due process protections for Housing Choice Voucher participants subject to termination procedures. The original complaint, filed in 2009 against the Lucas Metropolitan Housing Authority (LMHA) alleged that the policies and procedures employed by LMHA in termination procedures for the Section 8 Housing Choice Voucher program violate Constitutional Due Process protections and fail to comply with the federal statute governing the Section 8 Housing Choice Voucher program. The lawsuit sought to prevent the arbitrary termination of this vital housing subsidy for thousands of Lucas County families. For many families, the housing assistance provided by the Section 8 program is the difference between safe and affordable housing and homelessness.

In ruling on cross-motions for summary judgment in September 2011, the district court entered a permanent injunction against LMHA preventing it from terminating a voucher holder’s subsidy based on the use of evidence where the participant had no opportunity to cross-examine or question the evidence. This was a significant affirmation of due process rights in the Section 8 program. The district court, however, ruled that there was no due process violation where the hearing officer alone determined what evidence to review as part of the hearing process and no separate employee of the housing authority was present to present evidence in support of the termination.

In early 2013, the Sixth Circuit affirmed the entirety of the district court ruling. Although success was not achieved in obtaining a favorable ruling on several due process grounds, the affirmation by the Sixth Circuit on the protections against the use of unreliable hearsay will stand as a clear articulation of rights afforded to voucher holders in termination proceedings. The case was co-counseled with the Washington, D.C. law firm of Relman, Dane and Colfax PLLC.

ABLE has continued its community economic development advocacy focused on legal support for small businesses through the Microenterprise Legal Assistance Project. The project, developed by attorney Anneliese Grytafey through an Equal Justice Works fellowship, is designed to facilitate economic empowerment in low-income and minority populations by bringing wealth to communities, creating jobs, and broadening economic equality for historically disadvantaged groups. The Project provides both brief advice and extended legal services to entrepreneurs who cannot afford an attorney. Pro bono attorney volunteers also provide free legal advice through business legal clinics organized through Legal Aid of Western Ohio’s Pro Bono program.
Toledo’s Old South End Project

In 2012, Equal Justice Works (EJW) fellow, George Thomas, continued work on a project that aims to solve problems associated with poverty and a lack of economic opportunities in one of Toledo’s struggling neighborhoods – the Old South End. The Old South End suffers from declining housing stock, increased crime and other problems associated with escalating poverty. The project centers on working with community-based groups to plan for long-term solutions, specifically on housing-related matters, and hopes to create lessons that can be applied to other struggling communities. George achieved significant success in 2012 on the project, including the following advocacy efforts:

Vacant Residential Building Registration, Toledo Municipal Code

As a result of George’s diligent advocacy efforts, the Toledo City Council recently passed updates to its Vacant Property Registry which will now include provisions to hold 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.

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. In 2012 and continuing in 2013, George has assisted Western Avenue Ministries with the acquisition of 1623 Broadway, a former ballroom and fraternal lodge. Western Avenue Ministries worked with community groups focused on the area to identify the building as an important part of improvement of the greater Old South End area. The large commercial building had been vacant for approximately fifteen years. If left vacant, its deterioration would continue to 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.
Litigation challenging the relocation services and support offered to public housing residents forced to relocate was completed in 2012. The challenge was initiated in February 2009 in a complaint alleging that the relocation process employed by the Dayton Metropolitan Housing Authority (DMHA) violated the Ohio Relocation Statute. The complaint originated from events beginning in late 2007, when DMHA informed the residents of the Cliburn Manor public housing development that it intended to demolish the development and relocate all residents. Residents were provided with a choice between relocating to another DMHA public housing development or relocation with a Section 8 Housing Choice Voucher. One resident, Wyticha Haynes, opted for the Section 8 voucher and an opportunity to relocate to a more desirable area. However, despite her efforts, Ms. Haynes was unable to locate an apartment that met the housing quality standards or a landlord willing to accept the voucher rental amount offered by DMHA.

Pursuant to the Ohio Relocation Statute, a displacing agency is required to conduct proper planning to ensure that those individuals forced to relocate will receive comparable housing and that the agency provide rental assistance to residents for up to forty-eight months if necessary to assist with finding comparable housing. The complaint argued that DMHA failed to meet these requirements for Ms. Haynes.

The trial court initially granted a motion to dismiss finding that the state relocation statute was preempted by federal law governing the relocation requirements and rights afforded to public housing residents. ABLE appealed the decision and, in 2010, was successful in the Second District Appellate Court in reversing the trial court’s order. Following the remand, the case proceeded to discovery and cross-motions for summary judgment were filed in the case. The trial court again ruled in favor of DMHA on preemption grounds, finding that since DMHA did not receive additional state funding for its demolition activity, the Ohio Relocation Statute is preempted by federal law with respect to the relocation process. ABLE once again appealed this decision to the Second District Court of Appeals where it was briefed and argued in 2012. Disappointingly, the decision was ultimately affirmed by the Court of Appeals.
2012 saw significant developments in ABLE and LAWO’s efforts to address the school-to-prison pipeline crisis with Toledo Public Schools (TPS). 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. In 2012, in response both to the investigation and to a new incident of an arrest of an 11-year old African American girl in school, TPS agreed to commence serious discussion directly with ABLE, LAWO, the Juvenile Court, the teachers’ and administrators’ unions and other community-based groups to begin working together on implementing alternative behavioral intervention programs that avoid police and juvenile court referrals.
Ohio Department of Education Complaint against Toledo Public Schools

In 2012 ABLE and Legal Aid of Western Ohio continued advocacy efforts seeking to force compliance by Toledo Public Schools (TPS) with the Child Find provisions of the Individuals with Disabilities Education Improvement Act (IDEIA). ABLE and LAWO had previously filed a class administrative complaint with ODE alleging that TPS was in willful non-compliance with IDEIA. The complaint included the stories of seven students within TPS who had been diagnosed with disabilities but whom TPS had failed to identify as students with disabilities and, even when requests were made by parents and counselors, failed to evaluate these students and provide services required under IDEIA. The complaint requested that the Ohio Department of Education conduct a review of TPS records and order compliance with IDEIA. The Department of Education, in July 2009, found that TPS was in fact failing to comply with their responsibilities under federal law to identify and serve these children in need. The Department issued an extensive compliance order setting forth the steps to be taken by TPS to come into compliance.

Disappointingly, in July 2010, ODE closed the complaint finding that TPS had complied with all of the terms of the Letter of Findings. Contrary to ODE’s findings, cases investigated by ABLE and LAWO indicate that TPS has not taken meaningful steps to comply and that violations of Child Find still persist. As a result, children with disabilities within the TPS system continue to fail, face school removals and disciplinary sanctions, and suffer prolonged frustrations in school for lack of necessary supports and services.

Despite promising signs in 2011 following a meeting with TPS officials, including the Superintendent, there has been little follow through or commitment by TPS on the proper implementation of Child Find and services for students with disabilities. ABLE and LAWO continue to press for much needed reforms both through representation on individual cases and continued administrative advocacy.

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.
**Fisher v. Perma-Fix of Dayton, Inc.**  
*Federal District Court, Environmental Review Appeals Commission*

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 land fill 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.
ABLE and LAWO provide assistance to homeowners at risk of losing their home to foreclosure through the Homeownership Preservation Project (HOPP). HOPP focuses its casework on achieving outcomes of financially sustainable, long-term homeownership for families. In addition to a high volume of individual representation in foreclosure cases, HOPP also focuses on developing and litigating cases to effectuate systemic change and produce relief for a large number of homeowners. HOPP currently prioritizes two types of cases: government-insured loans (FHA, VA, RHA, and USDA) and cases in which there are HAMP-related issues. For both of these types of cases, advocacy efforts involve ensuring that loss mitigation programs work correctly so that unrepresented homeowners can obtain the appropriate mitigation and resolution without the involvement of an attorney. The project has aggressively litigated issues surrounding the failure of lenders to comply with HAMP mortgage modification requirements and with FHA loss-mitigation rules, including several cases argued in the Ohio Appellate Courts.

The Project also provides support and assistance to private pro bono attorneys who represent homeowners in foreclosure. HOPP attorneys host monthly webinars for the volunteer attorneys it previously trained to keep them up-to-date on foreclosure-related issues and to review important items from previous trainings. More than 100 attorneys have attended these webinars.

The efforts of ABLE attorneys in the HOPP program are reflected in the significant monetary benefits to homeowners through litigation and negotiated settlements. In 2012, ABLE’s work resulted in over $375,000 in home equity retained, over $425,000 in interest rate savings, more than $325,000 in debt write-off, and over $220,000 in reduced principal, arrearages, fees and penalties. In all, the Project saved more than $1.3 million for its clients.

Behind these impressive financial outcomes are the stories of real families who have been able to save their homes because of ABLE’s assistance. ABLE represented Mr. and Mrs. Sherman, who are parents of three young children, one of which has special needs. The Shermans completed two separate trial plans with their mortgage servicer, but the servicer refused to modify the loan as promised. ABLE conducted discovery into the servicer’s actions and raised those issues in the foreclosure lawsuit. Mr. and Mrs. Sherman entered into a third trial plan, and, after ABLE negotiated with the servicer and its attorney, the servicer converted the trial plan into a permanent loan modification. The servicer waived $1,120.97 in fees and the loan modification will save Mr. and Mrs. Sherman $25,172.27 over the life of the loan.
ABLE represented Mr. and Mrs. Coles, a husband and wife who bought their home with an FHA mortgage loan in 1988. They got behind with their mortgage payments when Mr. Cole’s hours at work were cut and Mrs. Cole started to experience the symptoms of a debilitating neurological disorder. Since Mr. and Mrs. Cole had an FHA loan, the bank should have performed specific types of loss mitigation, including a face-to-face meeting with an employee of the servicer before the Coles became sixty days delinquent. However, the servicer did not follow these requirements. ABLE raised this issue as an affirmative defense to the foreclosure and initiated discovery. ABLE also submitted a loss mitigation packet to the bank on behalf of Mr. and Mrs. Cole. In response, the bank dismissed the foreclosure case and offered Mr. and Mrs. Cole a three-month trial plan. The Coles made the three payments, but the bank did not initially offer them a permanent loan modification. After persistent inquiries by their ABLE attorney, the Coles finally received a permanent loan modification that lowered their monthly payment by $160 per month and saved more than $35,000 in equity in their home.

ABLE represented Mrs. Shively, who had problems making her mortgage payments when her husband passed away unexpectedly. To help with the household expenses, her daughter’s family moved in with her. Ms. Shively completed a Trial Period Plan under the Home Affordable Modification Program, but the bank did not offer her a permanent loan modification. Based on the bank’s breach of the agreement, ABLE filed counterclaims on Mrs. Shively’s behalf. At a mediation session, the bank offered a new Trial Period Plan, this one being under the Attorneys’ General Settlement. After Ms. Shively successfully made the three trial payments, the bank offered her a permanent loan modification which reduced the principal by nearly $70,000, lowered the monthly mortgage payment from $775.65 to $404.25, and will save Mrs. Shively $149,638.73 over the life of the loan.

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 a decision is expected by the end of the year.
**Federal Home Loan Mortgage Corp. v. Schwartzwald**

*Amicus Curiae Brief, Supreme Court of Ohio*

In late 2011, ABLE was part of the writing team with other Ohio legal aid programs on an amicus curiae brief in *Federal Home Loan Mortgage Corp. v. Schwartzwald*, in the Supreme Court of Ohio. The case involved a foreclosure action in which the plaintiff did not have ownership of the promissory note and the mortgage when it filed its complaint. The *Schwartzwald* amicus brief focused on the need for courts to apply existing case law to foreclosure actions and the public policy behind holding foreclosing plaintiffs to the same standards as any other litigants. In October 2012, the Court unanimously ruled in favor of the homeowners, finding that a foreclosing plaintiff must have an interest in the promissory note or mortgage when it files its complaint. The decision is a major victory for homeowners who now have another defense against the often-careless practices of foreclosing plaintiffs.

**Foreclosure Rescue Scam Prevention and Advocacy**

In addition to the foreclosure defense work, ABLE and LAWO have also continued their focus on foreclosure rescue scam issues through the support of a grant award through the U.S. Department of Housing and Urban Development. The work in this area includes outreach to community groups and collaboration with fair housing agencies to identify individuals who may have been targeted by rescue scam operations. Typically these scams involve the homeowner paying the operation on the belief that they will receive assistance to avoid foreclosure. In reality, these operations abscond with the funds and do little of anything to assist the homeowner.

The Project has obtained successful outcomes in 2012, including assisting a senior citizen in receiving a refund of rescue scam payments and then negotiating a reasonable loan modification ending the foreclosure and enabling the client to remain in her home.
### Legislative and Administrative Advocacy

In 2012, ABLE participated in several legislative and regulatory advocacy efforts in the consumer law and foreclosure defense area. In January, ABLE sent a letter to the Consumer Financial Protection Bureau regarding the need for regulations of trade schools and the student loans that fund them. The letter focused on ABLE’s previous experience with such issues in the Five Star Trucking case which involved trade school fraud and defaulted loans. In April, ABLE sent a letter to the Ohio Attorney General’s office regarding the state’s use of funds from the national mortgage settlement. The letter discussed the problems with previous loss mitigation programs at the state and federal level and urged the Attorney General to learn from the failures of past programs in developing plans for the settlement funds. Also in April, ABLE submitted comments to the Consumer Financial Protection Bureau regarding payday lending. The comments summarized the history of payday lending in Ohio, highlighted the negative effects of payday lending on our communities, and urged the Bureau to create a safe marketplace for Ohio consumers. ABLE was joined in the letter by legal aid organizations from throughout the state. Finally, in September, ABLE joined five other legal aid programs in Ohio in drafting and submitting lengthy comments to the Consumer Financial Protection Bureau regarding the Real Estate Settlement Procedures Act and the Truth in Lending Act. The comments urged the Bureau to adopt regulations that provide the necessary protections to consumers.
Special Litigation and Support Unit

Voter Protection Advocacy and Enforcement of Voting Rights

Over the past year, ABLE has continued to advocate for enforcement of voting rights on behalf of low-income and minority communities. ABLE coordinated Election Day poll monitoring in Montgomery, Greene and Lucas Counties in 2012 covering more than 50 polling locations and more than 100 precincts, reviewed complaints about the conduct of the election and followed up as appropriate. 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. We also continue to monitor new Secretary of State opinions and orders and any legislation that might affect voting rights.

Telecommunications and Utility Rights for Low-Income Consumers

In 2012 on the telecommunications front, ABLE worked closely with other low income advocates in Ohio to defeat Senate Bill 271, a bill that would have allowed phone companies that provide basic landline service to discontinue service to entire areas and to raise rates.

At the Federal Communications Commission we filed Comments and Reply Comments in the “Transition of the Voice Network” docket. Along with other low income groups, we advocated for preserving access to basic phone service at affordable rates while modernizing the network and encouraging access to broadband services. We also filed Comments and Reply Comments in the Broadband Pilot rulemaking. That docket established the rules for a pilot program to promote broadband adoption in low income households. The grant awards under that program have been made and the pilots are being rolled out in the Spring of 2013. When the “Lifeline” program, which helps low income families afford phone service, came under attack in Congress in late 2012 and early 2013 we helped organize support for this important program.

ABLE Senior Attorney Ellis Jacobs was also reappointed to the Universal Service Administrative Company (USAC) Board of Directors for a second three year term. 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.

In gas and electric matters, ABLE represented the Edgemont Neighborhood Coalition in the DP&L Electric rate case which, after lengthy unsuccessful efforts to negotiate a settlement, went to a two week long evidentiary hearing. Our advocacy focused on maintaining low rates for low income customers and securing emergency shut-off prevention and weatherization funds.
Finally, ABLE was involved in two rule-making dockets at the Public Utilities Commission of Ohio. In the docket to revise rules which govern electric completion in Ohio, we partnered with a broad coalition of low income advocates from around the state to file Comments and Reply Comments aimed at preserving low and stable prices in the electric market. In the other, we attended a staff workshop on Credit, Disconnect and PIPP rules. The workshop began the process of rule revision. Draft rules are expected and a comment period will follow in 2013.
In 2012, ABLE continued intense litigation on behalf of individual plaintiffs, the Immigrant Worker Project and the Farm Labor Organizing Committee challenging the profiling of Hispanics by the U.S. Border Patrol and local law enforcement agencies.

In late 2009, 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.

Litigation continued against the U.S. Border Patrol with dispositive motions filed by each side in the summer of 2012. In October 2012, the federal district court judge issued an opinion finding that the Plaintiffs’
constitutional claims for injunctive relief against the Border Patrol were barred under the sovereign immunity doctrine. ABLE and Murray & Murray have appealed the decision on behalf of the Plaintiffs and the case is currently pending in the Sixth Circuit Court of Appeals.

**Vasquez-Palafox v. United States**

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

This is a related case to *Muñiz, supra*. Mr. Palafox was questioned by two Border Patrol Agents while walking down a street in Fremont, Ohio, after picking up his son at school. He 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. This case is being co-counseled with the Sandusky, Ohio, firm of Murray & Murray.

**Saucedo-Carrillo, et al. v. United States**

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

This is a related case to *Muñiz, supra*. Mrs. Saucedo and her mother, Mrs. Carrillo, allege in their Federal Tort Claims Action against the United States 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. This case is being co-counseled with the Sandusky, Ohio, firm of Murray & Murray.


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

In September 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, \textit{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.

\textbf{In Re: A-A-}
\textit{U.S. Citizenship and Immigration Services, Chicago Asylum Office}

In 2012, a Ugandan client’s asylum application was approved by U.S. Citizenship and Immigration Services. The Ugandan client was born in France, but he holds only Ugandan nationality. While in Uganda in 2004, he was beaten with sticks, kicked, stabbed with a dagger and machete, punched, and burnt with a lit cigarette by a mob of government agents and local people. He faced this persecution because he is gay. As a result of this brutal attack, the client suffered - and continues to suffer from - post-traumatic stress disorder and major depression. Not having the financial means to treat these conditions, the client attempted suicide. After his suicide attempt, he was admitted to a psychiatric hospital and prescribed counseling, and anti-psychotic and anti-depressant medications.

ABLE argued that the client’s attack in 2004 rose to the level of persecution and that the client has a well-founded fear of future persecution should he return to Uganda. Because LGBT asylum claims are a relatively new and developing area of law, the best chance for success was to work with expert witnesses proficient in these issues. ABLE retained a social worker and counselor, a clinical psychologist, a historian and African Studies professor, a Queer Studies and Africana Studies professor, a medical doctor, and an LGBT anti-violence activist, all of whom provided their professional services without cost. The academic experts were affiliated with the University of Toledo and the University of Michigan. The medical doctor, who specializes in trauma victims and treatment, drove from Chicago to meet with our client.

After submitting his application for relief, ABLE represented the client in his interview at the Chicago Asylum Office. The interview was followed by submission of a brief with supporting documents, which required an in-depth research and analysis of 20th century French citizenship law. Within a matter of weeks, the Chicago Asylum Office granted the client’s application for asylum. The client’s asylee status is granted for an indefinite period of time. He is now authorized to work in the United States, and in one year, he is eligible to apply for lawful permanent residency.
**In Re: R-R-C**

*Immigration Court and Board of Immigration Appeals*

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

Mr. R-R-C became ABLE’s client when the U.S. Department of Homeland Security (DHS) detained Mr. R-R-C- for immigration purposes in 2009. After submitting a brief to DHS establishing Mr. R-R-C’s eligibility for citizenship, the DHS released Mr. R-R-C- from immigration custody, but he remained in removal (deportation) proceedings. DHS’ position is that Mr. R-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-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 has also filed an application with the Department of State for a U.S. passport on behalf of Mr. R-C-C-, which remains pending.

**In re: P-K- and A-A-G**

*Immigration Court, Cleveland, OH*

ABLE received favorable decisions for a number of clients in immigration removal proceedings during 2012 that resulted in the granting of lawful permanent residency status. Mr. P-K, originally from Cameroon, filed an application for asylum upon arriving in the U.S. in 2002. As a member of the English-speaking minority in Cameroon, he was involved in the Southern Cameroon National Council, a group that advocated for the right of self-determination for the English-speaking southern provinces. As an active member, Mr. P-K suffered arbitrary arrests, detentions, and beatings due to his beliefs. While Mr. P-K’s asylum application was on appeal to the Board of Immigration Appeals after having been denied by an Immigration Judge, he became eligible to apply for his lawful permanent residency through his wife, who had recently become a U.S. citizen. However, the government continued to challenge his case, stating that his political activities in Cameroon amounted to terrorism and that he should not be granted the opportunity to stay in the U.S. with his U.S. citizen wife and two U.S. citizen children. After taking testimony on the issue and reviewing written closing arguments, the Immigration Judge agreed with ABLE advocates that the government’s claim of terrorism was unfounded and granted Mr. P-K’s application for permanent residency.
Mr. A-A-G, originally from Mexico, was brought to the U.S. by his mother when he was a young child and has lived in the U.S. for the last 33 years. He is married to a U.S. citizen and together they have six children. Prior to meeting his wife, Mr. A-A-G had a handful of youthful indiscretions that, unbeknownst to the client, were still unresolved at the time of his first individual hearing. These unresolved matters caused numerous complications and delays in his applications. However, in 2012, he was able to present his case, which including putting on evidence that he had been fully rehabilitated from his past problems that occurred over 20 years ago, and that his U.S. citizen wife, six children, and mother would suffer “extreme hardship” if he were removed from the U.S. Not only did the Immigration Judge rule in the client’s favor, but the government did not oppose this application being granted and agreed that the difficult legal standard had been met. Mr. A-A-G now has his lawful permanent residency and no longer has to fear being forced to return to a country of which he has very few memories.

In re: G-K
Immigration Court and Board of Immigration Appeals

In 2012, ABLE received a favorable decision from the Board of Immigration Appeals in the case of Ms. G-K. Ms. G-K is from Rwanda and lived through the genocide of 1994. She is half Hutu and half Tutsi, but because Ms. G-K’s father was Hutu, she is considered Hutu. Her family fled to Tanzania and lived in a refugee camp after the war. In 1996, Ms. G-K’s family returned to Rwanda, only to be separated from her father at the border, after which she never saw him again. Ms. G-K and her family received threats and suffered beatings due to government officials accusing her father of having participated in the genocide. She was able to flee to the United States and filed a pro se application for asylum. Her initial affirmative application was referred to the Immigration Court, where advocates from ABLE represented her at her individual hearing. The Immigration Judge denied her applications for relief, stating that there were inconsistencies between her original pro se application and her testimony.

ABLE appealed Ms. G-K’s case to the Board of Immigration Appeals, pointing out the inaccuracies in the judge’s decision and challenging his determinations and the final decision denying her asylum application. In 2012, the Board of Immigration Appeals found that the judge had made a number of errors and remanded the case back to the Immigration Court for a new individual hearing where Ms. G-K will have a fresh chance at presenting her case to a different judge.
**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-visa 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. 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. In one example in 2012, our application for a U-Visa on behalf of a year-round agricultural worker was approved by the USCIS Vermont Service Center allowing the worker, his wife and two children to lawfully remain in the United States. The petition was especially challenging because it required a request to waive a total of fourteen inadmissibility grounds and establish that granting the waivers would be in the “national or public interest.” With this U visa approval, this agricultural worker will, after a period of time, be eligible to apply for a green card and then, eventually, for naturalization.

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 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.
**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 2012. 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 has developed a reputation in the state as being a leader and resource for other attorneys in these types of cases.

**Deferred Action for Childhood Arrivals**

In June 2012, the Obama Administration created a Deferred Action for Childhood Arrivals (DACA) program through the United States 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.

In 2012 ABLE represented 19 individuals in filing for Deferred Action under this program; nine have been approved and ten are still pending. 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.
**Obtaining ITIN’s for Immigrant Workers**

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 and particularly as comprehensive immigration reform is currently under consideration. 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.

**Community Partnership**

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. As part of this plan, ABLE and LAWO entered into a contract with the Human Relations Council to assist immigrants with legal issues related to housing, including access to housing, landlord/tenant problems, and discrimination.

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

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 covered immigration, employment rights, tax issues, and civil rights. Immigration matters included 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 included 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 included 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 focused 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 2012 Planning Committee and attending and providing education materials at the event.

**OPLC Immigrant Advocacy Task Force**

Program staff was also instrumental in creating and maintaining the statewide Ohio Poverty Law Center (OPLC) Immigrant Advocacy Task Force. Since its development, 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. Past presentations have included a wide variety of topics affecting immigrants, including immigrant eligibility for an Ohio driver license, immigrant eligibility for employment authorization, post-9/11 law enforcement, how to use technology to better serve LEP (Limited English Proficient) clients, immigration-related unfair employment practices, and experiences in requesting prosecutorial discretion from Immigration and Customs Enforcement. Task Force members also received state and federal legislative advocacy updates from the Ohio Commission on Hispanic and Latino Affairs, the Ohio Poverty Law Center, and the ACLU of Ohio. ABLE staff members have used this information to discuss immigrant-related issues with legislators at Ohio Hispanic Legislative Day.

**Midwest Farmworker Law Conference 2012**

Members of ABLE’s Migrant Farmworker staff presented on several topics, including immigrant eligibility for public benefits and effective outreach strategies, at the 2012 Midwest Farmworker and Immigrant Worker Law Conference in Kalamazoo, Michigan. Every year, farmworker advocates from Midwest states meet to discuss changes in the law, collaborate on ideas, and train new summer staff. In 2012, staff members from Ohio, Michigan, Indiana, Illinois, Wisconsin, and Texas Rio Grande Legal Aid were able to participate in this three-day intensive training and conference.
Central Point of Access for Legal Services in Northwest and Western Ohio

Legal Aid Line serves as the point of access for legal assistance for thousands of low-income individuals throughout thirty-two counties in Northwest and Western Ohio. In 2012 Legal Aid Line was contacted by 20,445 applicants seeking legal assistance. Of those requests, 10,244 resulted in a completed application for legal assistance; 10,201 requests for assistance were denied. Almost 70% of those requests that were denied were denied because of a lack of resources to provide assistance.

Legal Aid Line attorneys provided counsel and advice or brief service to 5,753, or 55%, of the 10,244 applicants. Legal Aid Line Intake Specialists, under the supervision of a Legal Aid Line attorney, delivered information and pro se forms with instructions to 350 applicants whose requests for help would have otherwise been denied. Approximately 3,500, or 34%, of the 10,244 applicants were referred to ABLE, Legal Aid of Western Ohio or Pro Bono partners for extended legal service.

Applicants continue to request legal assistance via the web application process, which is available 24 hours per day, 7 days per week. 5,870 applications were received online in 2012, with 46% of those originating in the service area’s two urban counties, Montgomery and Lucas, and 54% originating in the remaining thirty rural service area counties.

Mobile Benefit Bank Project

In 2012, the Mobile Benefit Bank continued to successfully identify both benefits for clients and client legal needs in a holistic approach to client service delivery. Using mobile technology, AmeriCorps members and Legal Aid Line staff reach out to community members in Lucas and Wood County to provide access to public benefits to populations who are eligible, but for one reason or another are not accessing them. The overwhelming success of the project, now in its fourth year, has led to considerable recognition at the state level resulting in successful applications for both an additional AmeriCorps member and an AmeriCorps VISTA. During the term of service, the AmeriCorps VISTA will focus on: (1) building collaborations with prospective project partners to increase ABLE and LAWo capacity to provide current services and to explore expansion of the project to additional counties served by ABLE and LAWo; and (2) exploring the feasibility of sustaining and growing the project through the development of a corps of volunteer Benefit Bank Counselors.

Since the inception of the project in 2009, 1,819 clients have been enrolled through the project, providing assistance to over 3,162 household members. HEAP, prescription assistance, Healthy Start, Healthy Families,
and Medicaid assistance are among the benefits procured. Nutrition assistance totaling $1.75 million dollars in annual allotments have been obtained for 602 households.

In 2012, target project populations included older Americans, individuals with disabilities and families with children. Mobile Benefit Bank AmeriCorps members and Legal Aid Line staff trained as Benefit Bank counselors visited Senior Centers and Senior Apartment complexes throughout Lucas and Wood counties meeting with residents and assisting them in applying for public benefits and completing legal needs assessments. These members share that many of the older Americans they encounter experience challenges and difficulties reaching the services meant to help them. Whether the individual challenge is limited access to the internet, little or no transportation, or endless “waits on hold” for agency assistance, getting the help they needed was proving to be extremely difficult. These older Americans unanimously express gratitude in having someone come to them and offer the opportunity to sit down face to face without having to sit in a waiting room or stand in a line.

State and Federal Income tax form completion assistance is a significant service offered through the Mobile Benefit Bank. AmeriCorps members continue to report a significant number of “return clients.” Prior clients continue to take advantage of the services, and bring family members or friends to obtain tax assistance. The Outreach sites where Mobile Benefit Bank tax clinics were previously offered continue to receive specific requests for the Benefit Bank tax services. The Mobile Benefit Bank has become a provider of choice. Since its inception, the project has secured over $600,000 in federal income tax refunds and $51,000 in state income tax refunds for low income persons.

Legal Aid Line/LAWO Pro Bono Clinics

In 2012 Legal Aid Line, in its continuing partnership with LAWO, added two additional attorney affinity groups to its on-site corporate attorney and attorney affinity group pro bono counsel and advice clinic model resulting in the scheduling of five pro bono counsel and advice clinics in 2012. The model offers pro bono attorney volunteers the opportunity to provide scheduled counsel and advice to clients by telephone. Feedback continues to be extremely positive. Participants emphasize both the predictability of the contact and their personal satisfaction with the direct service component of the experience. Positive feedback led to LAWO’s submission of an application to the Legal Services Corporation for a Technology Initiative Grant to adapt the Live Help/LiveChat technology to a pro bono counsel and advice experience. The goal is to expand volunteer opportunities to attorneys residing in the thirty rural counties in the ABLE and LAWO service area by providing service delivery alternatives. The application was approved and work will begin on that project in 2013.

In addition, pro bono attorney clinic volunteers offered to fund the production of an instructional video designed to recruit additional volunteers as well as train attorney volunteers. Video production began in the last quarter of 2012 with a roll out of the video planned for a volunteer test group in February 2013.
Pro Bono Materials Development Collaborations

In 2012, Legal Aid Line partnered with a University of Toledo School of Law Employment Law class as well as a pro bono volunteer attorney to develop materials for the Legal Aid Line Client Information library in the areas of employment law and consumer debt collection defense. The collaborations resulted in the creation of several client information sheets, pamphlets and pro se forms and instructions.

Access to Justice Initiative

The ABLE and LAWO strategic planning process resulted in the adoption of six Joint Advocacy Initiatives, among them, the Meaningful Access to Justice Initiative. For those struggling in poverty, meaningful access to justice is critical – often proving the difference between living in safety or in fear of violence, living in a safe and secure home or living in unsafe conditions or on the street, keeping or losing a job, maintaining or losing parental rights, receiving needed medical treatment or going without, preserving or losing even limited income or assets. Nationally, less than 20 percent of the legal needs of low income Americans are currently being met. The goal of the Access to Justice Initiative is to improve these odds despite limited resources.

Matters Level of Service

To begin to address unmet need in our service area, the “Matters” level of service component of the Access to Justice Initiative was implemented in 2012. After identifying certain relatively uncomplicated “problem types” which could potentially be resolved by the applicant for legal assistance with appropriate information and perhaps forms and instructions, an “abbreviated intake” process was developed. Based upon the established guidelines, certain applicants completed the “abbreviated intake” process. “Abbreviated intake” applicants determined to be financially eligible, receive general information about their legal problem, along with forms and instructions. The information is distributed by trained intake specialists under the supervision of a Legal Aid Line attorney in a service delivery model called a “Practice Pair.” Beginning in June of 2012, Legal Aid Line launched a Practice Pair in each of four substantive areas, namely, Family, Public Benefits, Housing and Consumer. As a result, 350 low income people who would otherwise have been denied due to insufficient resources were able to receive assistance.

Legal Aid Line Client Information Materials Library

An ongoing effort to address unmet need in our service area is client information and materials development. In 2012, Legal Aid Line continued its plain language Client Materials development project resulting in the creation of comprehensive client information packets in the areas of Family, Public Benefits, Housing and Consumer law.
In 2012, the staff of the Long Term Care Ombudsman Program worked on 419 cases that included 773 various complaints. The most frequent complaints were discharge and evictions from facilities, accidental or injuries of unknown origin related to falls or improper handling, medication administration errors, lack of dignity and respect by facility staff and personal property lost or stolen. The ombudsman staff presented 18 provider in-services to over 300 staff members of nursing homes and assisted living facilities and participated in 24 community education presentations and events.

The impact of the advocacy provided by the dedicated staff of the LTCOP can be seen in the affect it has on individual residents. One example is that of a 59-year-old physically disabled nursing home resident whose physician contacted the LTCOP to report suspected abuse of the resident by nursing home staff. This resident was in such fear that she had refused to come out of her room. The ombudsman visited this resident and verified that one particular nursing assistant was verbally abusive, calling the resident names, and was placing food in front of the resident without assisting her to eat or assisting her in getting water. Because of her disability, the resident is unable to feed herself. The ombudsman reported the abuse to the facility’s administration and to the Ohio Department of Health. As a result of the ombudsman’s investigation and advocacy on behalf of this resident, the nursing assistant was immediately removed from providing care for this resident and eventually terminated. In addition, the facility was issued a citation by the Ohio Department of Health for failure to report an allegation of abuse. The resident is now at ease coming out of her room and eating her meals in the dining area with other residents.

Another example involved advocacy efforts to prevent the improper discharge of residents from an Erie County nursing home with a history of issuing involuntary discharge notices for non-payment more frequently than most nursing homes in the area. When the facility issued discharge notices for non-payment against five individual residents during the same period of time, the LTCOP staff recognized this was a systemic problem within this facility. The ombudsman was able to work with the facility’s administration to review its business policies and procedures, identify areas in need of change and improvement, and prevent the involuntary discharges of all five residents. As a result of these efforts by the LTCOP, there have been no further involuntary discharge notices for non-payment issued by this facility.
**Liberty Nursing Home Closure**

In August 2012, the staff of ABLE’s LTCOP quickly mobilized to respond to the impending closure of a nursing home facility in Toledo. The facility, Liberty Nursing Home, had a history of poor performance and had previously been designated a focus facility by the Ohio Department of Health (ODH) subjecting it to an increased number of inspections. In August 2012, citing the facility for multiple severe violations, including abuse, ODH proposed to revoke the facility’s license to operate as a nursing home. Soon thereafter, the Center for Medicare and Medicaid Services (CMS) revoked Liberty’s Medicare and Medicaid certification which led to the facility’s need to close. At the time the closure was announced, 89 residents resided at Liberty, 88 of which were Medicaid recipients, and all of whom required transition planning and identification of an appropriate new placement upon discharge.

The LTCOP became a daily presence at Liberty to ensure residents were aware of their right to safe and appropriate discharge planning, as well as their right to participate in the planning. The LTCOP further ensured resident rights were not being violated by the facility ownership and administration. With many of the residents requiring intensive services, the LTCOP also brought together several local agencies to resolve issues and address legal obstacles with housing, government benefits and community supports and services. Through these intensive efforts and a significant commitment of staff time over a six month period, the LTCOP coordinated the safe and appropriate discharge of every single resident by the facility’s closure date of February 7, 2013.

**Person-Centered Care**

In 2012 the Long-Term Care Ombudsman Program continued work through a support grant from the Office of the State Long-Term Care Ombudsman focusing on person-centered care for nursing home consumers. Person-centered care is the transformation of long-term care services, based on values and practices where the voices of the consumers and those working with them are considered and respected. Core person-centered care values are choice, dignity, respect, self-determination and purposeful living. Nursing home consumers are entitled to feel at home wherever they live and, by promoting person-centered care, the ombudsman can help nursing homes create this type of environment.

In connection with the grant, the program has identified select nursing homes for focused training and piloting of person-centered care efforts, conducted a workshop for 86 nursing home staff on implementing person-centered care practices, provided training for ombudsman volunteer associates on how they can promote person-centered care efforts, and conducted focused outreach activities within the community.
**HOME Choice Program**

In 2012, ABLE’s Long-Term Care Ombudsman Program was approved to begin providing coordinated transition services through the HOME Choice Demonstration Program. Administered through the Ohio Department of Jobs and Family Services, the HOME Choice Program assists older adults and persons with disabilities to move from long-term care facilities to home and community-based settings. The transition services include locating housing, setting up a household and connecting to community-based services. Since referrals began in the last quarter of 2012, the program has already successfully transitioned three nursing home residents back into the community.

One of these success stories involved a resident who learned that his nursing home was pursuing an involuntary discharge based on his level of care needs. The nursing home planned to discharge this resident just days before Christmas and the resident had no adequate housing to transition into. The ombudsman quickly assisted the resident with a HOME Choice application while advocating to prevent discharge until safe and appropriate housing could be found, as required by law. After extensive communication back and forth with the HOME Choice office, the resident was approved and the ABLE’s LTCOP was designated as the transition coordinator. As the discharge date rapidly approached, the ombudsman and the transition coordinator successfully advocated with the nursing home to allow the resident to remain at the facility until after the Christmas weekend. This allowed time for an apartment to be secured, furniture to be purchased and delivered, medical equipment to be ordered, a home health agency to be scheduled, and for this client to enjoy a stress-free holiday weekend with friends in the nursing home. As a result of these advocacy efforts, this client was successfully transitioned into his own apartment – and on his own terms.
Volunteer Development

Volunteer associate ombudsmen play a critical role in providing education and advocacy for residents of long term care facilities. There are currently 50 volunteers working with the Long-Term Care Ombudsman staff throughout the 10-county service area. These volunteer associates visit residents in their assigned facility; educating residents about their rights and empowering them to take action. If the resident’s concern is complicated, the volunteer associate completes an intake and refers the matter to the Long-Term Care Ombudsman staff who will open a case. Volunteer associates also attend resident council meetings to assist residents in having more effective meetings as well as assist staff in case investigation and follow up. In 2012 volunteer associates made 1,202 visits to facilities, contributed 189 hours working on cases and 2,232 hours making advocacy visits.

Coalition of Organizations Protecting Elders (COPE)

In 2012, the Long-Term Care Ombudsman Program continued its active participation in the Coalition of Organizations Protecting Elders (COPE), a local elder abuse coalition. Originally implemented in 2010 with a grant received from the Administration on Aging, U.S. Department of Health and Human Services through the National Center on Elder Abuse, COPE is comprised of community professionals coming together to solve issues with individual cases and clients and address systemic issues related to elder abuse and neglect in the City of Toledo and Lucas County. COPE provides a single forum for partnering organizations to outline their responsibilities and exchange resource information to address the care needs of victims of elder abuse and neglect.