



 **IMPACT FUND**

2016 • ANNUAL • REPORT

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# **IMPACT FUND**

**O**ur *mission* is to provide grants, advocacy, and education to support impact litigation on behalf of marginalized communities seeking economic, environmental, racial, and social justice.

**O**ur *vision* is that these communities will have the same access to justice as corporations or governmental entities, to ensure that their rights are protected.

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## **Welcome From The Executive Director**



Executive Director Jocelyn D. Larkin at the 2015 Impact Fund Class Action Conference

**A**s advocates for social justice, the need has never been more urgent nor our work more necessary.

We must roll up our sleeves and get to work, using the tool of impact litigation to protect the rights of the most vulnerable. We face, as ever, an uphill struggle, but as we have these past 24 years, we will continue to provide the leadership to meet the profound uncertainty and challenges ahead.

I thank you for being there with us.

As we embark upon the next phase of the journey, we will, with your continued support, achieve justice.



Jocelyn D. Larkin  
*Executive Director, Impact Fund*



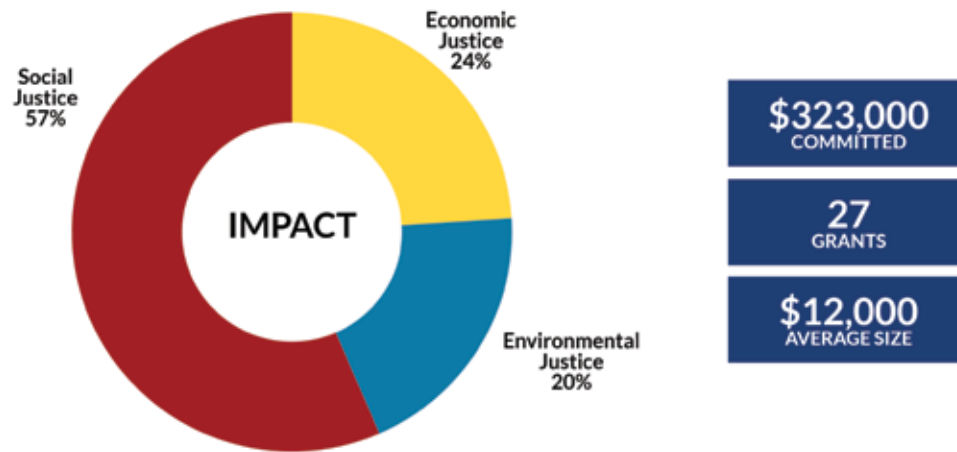
# Grants

## FOUR YEARS OF GROWTH

“We fund the cases that no one else will, because we support marginalized communities in their quest for justice.”

— Jocelyn D. Larkin,  
Executive Director,  
Impact Fund

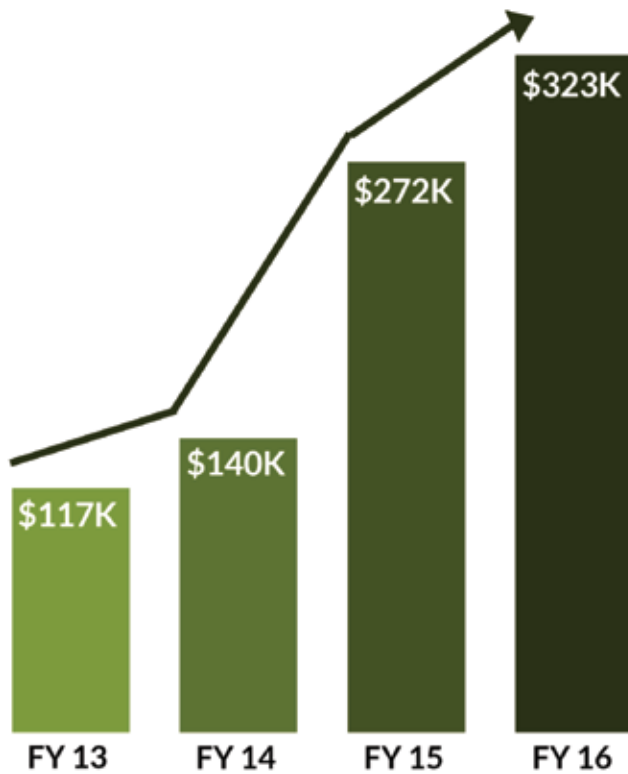
Every year, the Impact Fund makes grants to advance economic, environmental, racial, and social justice. Thanks to your support and major wins in the cases we have led, we are able to continue growing for a fourth successive year. We’ve nearly tripled our grant making – all while expanding grantee services.



**\$323,000**  
COMMITTED

**27**  
GRANTS

**\$12,000**  
AVERAGE SIZE



Grant Dollars Committed FY 2012-13 to FY 2015-16

Our Financial Year (FY) runs July 1 - June 30.

# New Grants FY 2015-16

## CAUSES FUNDED

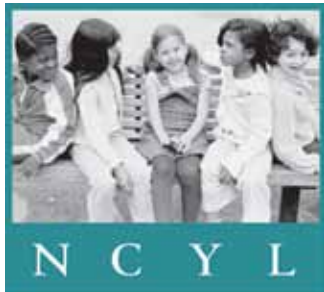


## NEW GRANTEES

Alternativas y Procesos de Participacion Social • California Rural Legal Assistance, Inc. • Capital Area Immigrants' Rights Coalition • Children's Law Center • Children's Rights Communities for a Better Environment • Connecticut Legal Rights Project, Inc. • Disability Rights Ohio • Environmental Justice Coalition for Water • Law Office of Peter L. Fels • Leadership Counsel for Justice & Accountability • Legal Aid Justice Center • Muslim Advocates • National Center for Youth Law • New Energy Economy • New Mexico Center on Law and Poverty • Ohio Justice & Policy Center • Prisoners' Legal Services • Public Counsel • Rhode Island Center for Justice • Southern Legal Counsel • Sugar Law Center for Economic & Social Justice • Texas Fair Defense Project • Towards Justice • UC Irvine School of Law • Wage Justice Center • Western Center on Law & Poverty

# Grantee Stories

## REPRODUCTIVE JUSTICE FOR FOSTER YOUTH



National Center for Youth Law

### *Planned Parenthood v. Promesa Behavioral Health*

Young women's health choices and privacy violated.

When Rachel (not her real name) entered the foster care system, she had suffered years of sexual abuse. At age seventeen, already a young mother, she was placed in a Promesa Behavioral Health group home in California. Upon arrival, the group home made Rachel sign a document promising that she wouldn't engage in sexual activity while she lived there.

When Rachel later asked to visit Planned Parenthood, the home wouldn't allow her. Later, after she experienced unexplained bleeding, Rachel found out that she was pregnant. When the staff found out, she had her 'privileges' taken away, including visits home and with her baby.

Rachel is not alone in her experiences. Numerous foster youth and former staff members have reported that Promesa staff refuse to permit youth to obtain health services from their provider of choice.

Promesa's practices are not only contrary to good public health policy, they also violate the law. The California constitutional right to privacy protects the fundamental right of California adolescents to retain personal control over the integrity of their bodies and to decide whether and when to parent.

In February this year, and in order to protect and defend foster youth, National Center for Youth Law filed a lawsuit in Fresno Superior Court, seeking to protect and enforce the privacy rights of young women living in Promesa group homes.



Young women blocked from obtaining health services from Planned Parenthood.

## ENVIRONMENTAL JUSTICE IN THE FLINT OF CALIFORNIA



### *City of Tulare v. Pratt Mutual Water Company and Matheny Tract Committee*

Residents win clean drinking water after 10-year battle.



After years of community-led struggle, residents of Matheny Tract – the 1,200-strong historical farmworker community immediately outside of Tulare city limits – will finally see clean drinking water run from their faucets.

The majority of the population is Latino, and almost a third of the residents live below the federal poverty line.

Residents first received notice in 2006 that their drinking water, provided to them by Pratt Mutual Water Company, was contaminated with an excessive amount of arsenic.

The City made it clear that Matheny Tract was not a priority and so the residents filed suit.

In March 2016, as the trial was quickly approaching, the City of Tulare finally agreed to consolidate its water supply with that of Matheny Tract by June 1st. This is a big victory not only for the Matheny Tract community but for California as well because it showed that there are feasible solutions for communities that don't have access to clean drinking water.

Matheny Tract's victory will pave the way for other communities suffering from the same problems to receive the basic infrastructure, services, and amenities they need.



The Matheny Tract Committee fought for ten years for arsenic-free drinking water.



## Grantee Stories (CONTINUED)

### NATIVE AMERICAN VOTING RIGHTS UPHeld IN NORTH DAKOTA



*Richard Brakebill et al. v. Alvin Jaeger, North Dakota Secretary of State*

Judge halts pernicious law disenfranchising Native Americans.

Tribal elder Dorothy Herman voted in North Dakota for more than 40 years — until 2014, when a new state law meant she couldn't obtain acceptable identification for that election, no matter how hard she tried.

So, earlier this year, we made a grant to the Native American Rights Fund so that she and six more Native voters who were disenfranchised in 2014 could file a federal lawsuit challenging the state's recently enacted limitations on the types of documents that can be used to obtain a ballot. The document must show a residential address, and some tribal cards do not because some tribal members' residences don't have the kind of street numbers used in off-reservation communities. The election safety net of past years was also gone; voters no longer had options such as signing an affidavit attesting to their identity.

The Native plaintiffs said the restrictions disproportionately burden and even disenfranchise Native American voters who, among other issues, live farther from offices where they can obtain alternative identification and are less likely to have the vehicle needed to get there. For example, Standing Rock residents have to drive up to 120 miles round trip to the nearest office that issues driver's licenses.

The lawsuit alleged that these burdens violated the Voting Rights Act and the United States and North Dakota constitutions. On August 1st this year, a federal judge agreed and has issued an injunction preventing North Dakota from enforcing the law.



From left, Native American Rights Fund attorneys John Echohawk (Pawnee) and Matthew Campbell (Native Village of Gambell) look over a voting-rights complaint just filed in U.S. District Court in North Dakota.

This is an edited summation of an article written by Stephanie Woodard that first appeared in *Indian Country Today*. Many of her stories are archived at [stephaniewoodard.blogspot.com](http://stephaniewoodard.blogspot.com).

### ECONOMIC JUSTICE FOR NEW MEXICO'S POOREST WORKERS



*Noe Rodriguez v. Brand West Dairy*

Agricultural Workers now covered by Workers' Comp.

Robert was attacked by a bull while working at the dairy where he had been employed for seven years. His injuries left him permanently disabled. He had no health insurance and no workers' compensation. In almost constant pain, he could not work.

Roughly one-fifth of all agricultural workers are injured, become sick, or die from work-related accidents, pesticide exposure, dehydration, or other incidents at work.

Until recently, New Mexico's impoverished farm, ranch, and dairy workers were left without any resources to help them recover from illnesses or injuries sustained while working. This is because agriculture was the only industry excluded from the protections of the New Mexico Workers' Compensation Act.

On June 30th this year, the New Mexico Supreme Court found that the exclusion of farm and ranch laborers from the Workers' Compensation Act "is nothing more than arbitrary discrimination and, as such, it is forbidden by our Constitution." This is a major victory for the 15,000 farm and ranch laborers who will now benefit from the protections of workers' compensation while on the job in New Mexico.



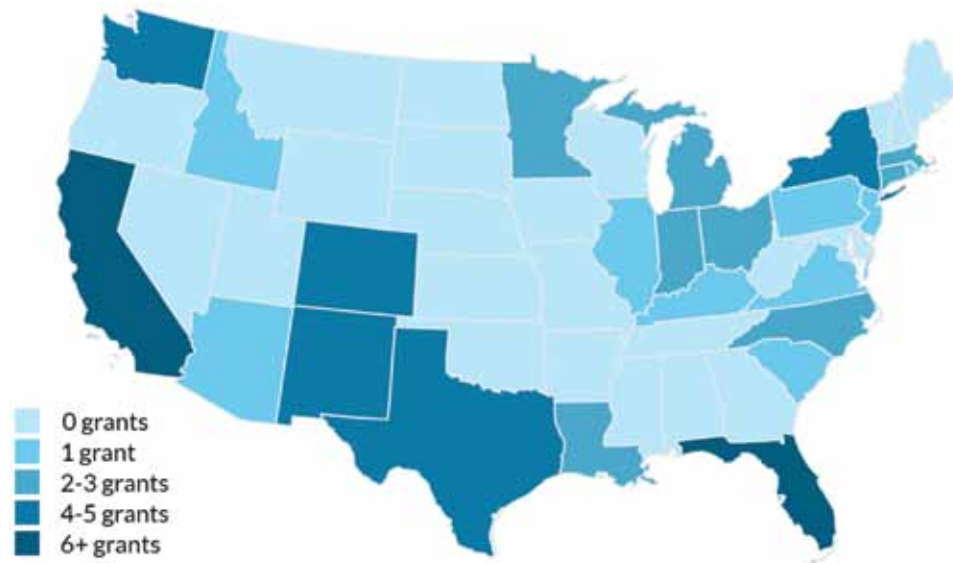
Twenty percent of all agricultural workers sustain work-related accidents.

Read the extraordinary stories of ordinary people on the frontlines of social justice at our blog: <http://www.impactfund.org/social-justice-blog/>

# Grant History

**FIGHTING FOR JUSTICE ACROSS THE U.S.**

Active Grants by Location



**24 YEARS FIGHTING FOR JUSTICE**

“Too often, wealth and privilege are all that determine power. We’re grateful to support those communities who stand up to that power and demand justice.”

— Michael Caesar, Grant Advisory Committee Chair, Impact Fund

**OVER \$6 MILLION COMMITTED SINCE 1993**

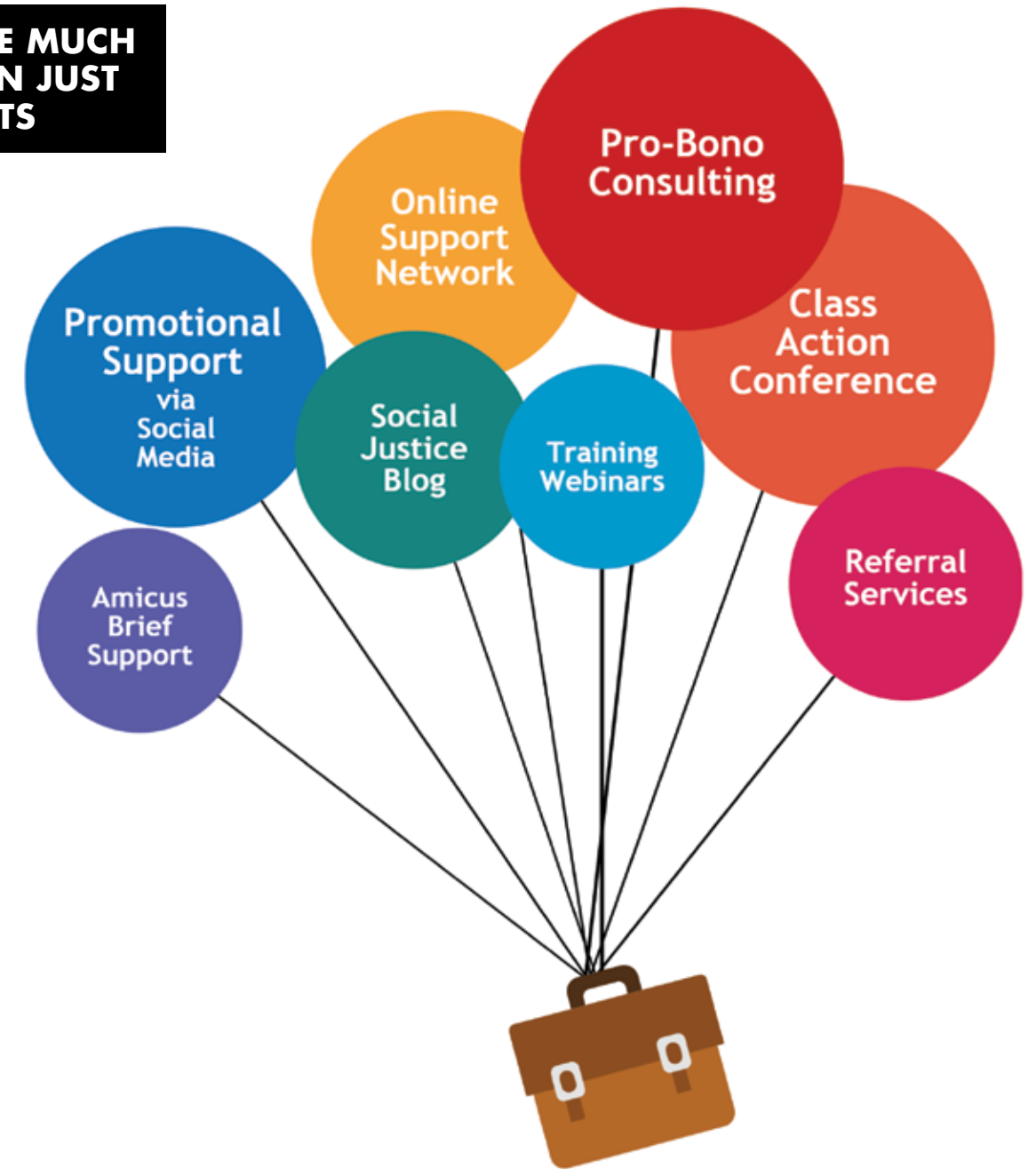


## What We Fund

The Impact Fund makes grants to lawyers, law firms, and nonprofit organizations involved in impact litigation. Most of our grants are for one particular case, but occasionally we fund a series of cases bound by a common strategy. We fund civil rights, human rights, anti-poverty, and environmental justice cases that will affect a marginalized group. Most of our grants are for class actions, but we also fund multi-plaintiff and environmental justice cases that aim to significantly affect a larger system. Impact Fund grants may be used for out-of-pocket litigation expenses such as expert fees and discovery costs, but not for attorney's fees, staff costs, or other overhead.

# Grantee Services

**WE PROVIDE MUCH MORE THAN JUST GRANTS**





# Equal Justice Litigation

## PHIPPS v. WAL-MART STORES, INC.

**The Women of Wal-Mart Continue to Fight for Gender Equity**

Female Wal-Mart employees continue to press their pay and promotion discrimination claims around the country. The *Phipps v. Wal-Mart* case is one of several regional class actions filed after the Supreme Court ruled that the plaintiffs in *Dukes v. Wal-Mart* could not proceed with a nationwide lawsuit. The plaintiffs in *Phipps* filed their case in Tennessee, seeking to enforce federal anti-discrimination laws on behalf of female Wal-Mart workers in Tennessee, Alabama, Arkansas, and Mississippi.



It all began with Betty Dukes.

The women scored a major victory in July 2015. Wal-Mart originally argued that the district court in Tennessee should dismiss the case because it was too late to resolve the claims at issue. However, in a significant ruling for the workers, the Sixth Circuit Court of Appeals reversed, holding that the case was not time-barred and allowing the women to move forward with their class action claims. The case has returned to the district court for further proceedings.

## PARRA v. BASHAS', INC

**Settlement Funds of \$6.5M Distributed in Class Action Seeking Equal Pay for Hispanic Workers**

The lawsuit, filed in 2002, alleged national origin discrimination on behalf of thousands of Hispanic grocery store workers in Arizona. While jobs within Basha's three store formats were identical, the employer used a lower pay scale for workers in its Hispanic-format stores, which were staffed by predominantly Hispanic workers.



Hispanic workers share in \$6.5M settlement.

In late May 2013, after over a decade of litigation, the district court granted our motion for class certification, permitting over 12,000 workers to move forward as a group.

In April 2015, the United States District Court for the District of Arizona granted final approval of a \$6.5 million settlement on behalf of Hispanic grocery store workers. Settlement funds have now been distributed to the class, and a cy près award of over \$450,000 in undistributed funds has been shared between the University of Arizona Law School Immigrant Workers' Clinic, the Arizona State University Alumni Law Group, and Community Legal Services of Arizona.

## ELLIS v. COSTCO WHOLESALE CORP.

**Gender Discrimination Settlement Claims Process Continues. Courageous Women Step Forward to Tell Their Stories.**

The *Ellis v. Costco* class action was filed in 2004, challenging Costco's practices with respect to the promotion of women into management. Our clients claimed that Costco operated a "glass ceiling" that stopped women from being promoted to assistant manager and general manager positions in the popular retail warehouses.



Shirley "Rae" Ellis, named Plaintiff.

In September 2012, after years of litigation and appeals, the court certified the case as a nationwide class action, finding that the women had shown "significant proof of companywide policies and companywide gender disparities" and "discrete policies, practices, and culture which disfavored women."

The court-approved settlement agreement established an \$8 million fund to be distributed through a claims process. Impact Fund continues to represent individual class members through settlement claims, asserting that they were denied promotions because of their gender. We are about one year into the arbitration of individual settlement claims and have been humbled by the courage of the women who have stepped forward to tell their stories and bring to light the inequities of Costco's promotion system. Costco also continues to evaluate and prepare to implement internal changes to its promotions process.

**READ ABOUT THE LATEST IN PUBLIC INTEREST LITIGATION**

**IMPACT FUND** Practitioner Blog  
[www.impactfund.org/legal-practitioner-blog](http://www.impactfund.org/legal-practitioner-blog)



# Amicus Victories

## *Tyson Foods Inc. v. Bouaphakeo* (U.S. Supreme Court)



Workers awarded \$3M for time spent donning and doffing protective gear.

The United States Supreme Court accepted the case to review the extent to which statistical methods can be used to prove liability and damages in a class action, and whether a class action can be certified even though some class members might not have suffered damages.

The case involved a wage and hour class action on behalf of employees of a meat-processing facility in Iowa. Tyson Foods paid employees for the time while the production line was running and, during some years, four extra minutes for putting on and removing (“donning and doffing”) their protective gear. The evidence demonstrated that most employees spent much more time than that on these tasks. Because the employer kept no records of the actual time spent, the workers employed an expert, who developed a statistical model of the lost time, based on his observation of a sample of the employees. A jury awarded nearly \$3 million in damages, a significant win for the workers.

In late September 2015, we filed an amicus brief explaining that the law does not require each class member to have been injured before a class can be certified, and that making this a requirement would improperly prevent many important class actions from going forward.

In March 2016, the Supreme Court concluded that the question of uninjured class members had not yet been fairly presented. It went on to hold that the district court did not err in certifying the class of employees based in part on the employees’ use of “representative evidence” to determine the number of hours spent donning and doffing their protective gear.

## *Laffitte v. Robert Half Intl.* (California Supreme Court)

### San Francisco Chronicle



Representing the movement: Jocelyn’s OpEd.

The case presented the question of how trial courts may calculate a reasonable attorneys’ fees award in a class action. An objector brought an appeal of a successful settlement of a large wage and hour class action. The appeal argued that trial courts may not use a common fund (percentage of the benefit) to award attorneys’ fees, but are limited to the use of the lodestar method (hours times hourly rates subject to adjustment).

In December 2015, we filed an amicus brief to underscore the importance of statutory attorneys’ fees to the vindication of the rights of legal services clients. In May 2016, the California Supreme Court granted amici time at oral argument, and Michael Rubin of Altshuler Berzon LLP capably argued on behalf of amici before the Court. The Supreme Court agreed with the position taken by Impact Fund and its fellow amici and preserved the percentage of the common fund method of calculating attorneys’ fees.

## *The Civil Rights Education & Enforcement Center v. Hospitality Properties Trust* (Court of Appeals for the Ninth Circuit)



Hotel shuttles routinely fall short of the ADA.

A group of hotel guests who used wheelchairs alleged a number of hotels owned by a property trust were violating the hotel transportation requirements of the Americans with Disabilities Act (ADA). The district court denied class certification in part on the basis that the ADA does not require hotel owners to have a uniform policy of compliance with the ADA; therefore, failure to have such a policy could not provide the basis for commonality.

After class certification was denied, the plaintiffs asked the Ninth Circuit to review the district court’s order. In May 2016, we filed an amicus brief in support of the request for review. After the Ninth Circuit agreed to review the denial of class certification, we filed a second amicus brief in November 2016. On behalf of twelve amici organizations, we argued that class certification is available for people challenging both action and *inaction* that violate the law, and described the importance of this principle to civil rights class actions.



# New Amicus Cases

## *Hart v. Colvin* (Court of Appeals for the Fourth Circuit)

**Economic Justice:  
Resisting “Zombie Claims”  
By SSA**

In 2011, the Social Security Administration amended its regulations to eliminate a ten-year statute of limitation for collecting benefit overpayments.

Between 2012 and 2014, the agency referred more than 250,000 individuals with alleged benefit overpayments that were ten years old or older to the Treasury Department for withholding of federal tax refunds. The average value of the overpayments was approximately \$2,100.

A group of past recipients of benefits from the Social Security Administration filed a lawsuit challenging a series of failures in its notification and review process, including lack of adequate notice of overpayments, a practice of collecting overpayments from other than the actual recipients of the benefit payments, and failure to provide explanation or evidence supporting the alleged overpayments.

During the early stages of litigation, the agency took steps to moot the plaintiffs’ case, including returning withheld tax refunds and forgiving the alleged overpayments. The district court ultimately denied class certification and

dismissed the case because the plaintiffs’ claims had been mooted.

On appeal, Ms. Hart and her co-plaintiffs argued that the agency should not be permitted to moot representative plaintiffs’ individual or class claims by unilateral action, and avoid judicial inquiry into ongoing policies and practices and eliminating the possibility of court-awarded injunctive or declaratory relief.

In June 2015, Impact Fund, Justice in Aging, and the Civil Rights Education and Enforcement Center filed an amicus brief to emphasize the economic vulnerability of those affected by the Social Security Administration’s ongoing policies and practices, and the importance of preserving access to class actions as a way to address these issues in a systemic fashion.



**IMPACT FUND**  
<http://www.impactfund.org/legal-practitioner-blog/>  
"Oiling the squeaky wheel should never erase the responsibility of our government to treat all of us fairly. This is at the heart of why we're grateful to stand with our allies in shining a light on this practice that hurts those least able to fight back."  
Lindsay Nako  
Director of Litigation & Training

## *Carcaño v. McCrory* (Court of Appeals for the Fourth Circuit)

**Fighting North Carolina’s  
Anti-Transgender Bill**

Earlier this year, the North Carolina legislature passed a sweeping anti-LGBT bill, H.B. 2, which requires public schools and agencies to discriminate against transgender people by prohibiting them from using sex-segregated restrooms according to their gender identity. Plaintiffs Joaquín Carcaño, the ACLU of North Carolina, and others filed a lawsuit challenging H.B. 2 as unlawful discrimination against transgender individuals under the Equal Protection and Due Process Clauses and Title IX of the Education Amendments of 1972.



Joaquín Carcaño at the press conference announcing the filing of the lawsuit challenging H.B. 2

In October 2016, Impact Fund authored an amicus brief on behalf of itself, Bay Area Lawyers for Individual Freedom (BALIF), and a coalition of 35 additional legal non-profits and bar associations from across the country. We argued that H.B. 2 is a classic example of unlawful sex stereotyping that exposes transgender people to physical and psychological harassment and harm, based on the significant body of law that has evolved to prohibit sex stereotyping of transgender individuals as unlawful sex discrimination. We urged the Fourth Circuit to grant a broader preliminary injunction than that granted by the district court so that transgender

people who live in or visit North Carolina can be safe from the physical and psychological harms imposed by H.B. 2.

## *Guerrero v. California Department of Corrections and Rehabilitation* (Court of Appeals for the Ninth Circuit)

**Racial Justice:  
Disparate Impact on  
Latinos Challenged**

Victor Guerrero applied twice for employment as a Corrections Officer with the California Department of Corrections and Rehabilitation, and twice was excluded based on one question in the background investigation questionnaire: “Have you ever had or used a social security number other than the one you used on this questionnaire?” This question exclusively eliminated Latino applicants – including Mr. Guerrero – from the review process. Mr. Guerrero (represented by Legal Aid Society - Employment Law Center) alleged this question had a disparate impact on Latino applicants. The trial court agreed and ruled in Mr. Guerrero’s favor. The Department of Corrections appealed.

In April 2016, we filed an amicus brief in support of Mr. Guerrero to argue that the trial court properly considered the statistics submitted by each side, and that its finding that the background question about use of other Social Security numbers had a disparate impact on Latinos was consistent with at least twenty years of Supreme Court precedent.



# Class Action Conference

In 2016, the Fourteenth Annual Class Action Conference convened in San Francisco's Japantown. The larger meeting space accommodated our ever-growing community of attendees. Approximately 200 practitioners from across the country and around the world gathered to discuss current issues in class action litigation, from international perspectives on class and impact litigation to the latest on class actions in the "sharing economy."



Attendees were inspired by a panel presentation from the Chair of the Impact Fund's Grant Committee, **Michael Caesar**, and three of our grantees – **Annie Lai** of the UC Irvine School of Law who is working with Puente Arizona to stop Sheriff Joe's workplace raids, **Kim Brooks Tandy** of Children's Law Center, Inc., whose litigation has led to the wholesale reform of juvenile justice in Ohio, and **Jonathan Lowy** of the Brady Center to Prevent Gun Violence, who is spearheading litigation to hold bad-apple gun dealers accountable. Our grantees' stories of

fighting against daunting odds to pursue justice for our society's most vulnerable members brought the audience to its feet in a standing ovation.

Other highlights included an informative panel covering proposed amendments to Rule 23 of the Federal Rules of Civil Procedure, featuring **Elizabeth J. Cabraser** of Lieff Cabraser Heimann & Bernstein, **Leslie Brueckner** of Public Justice, and **Jocelyn D. Larkin**, Impact Fund's Executive Director. Conference attendees also peered into the crystal ball alongside **F. Paul Bland** of Public Justice, **Deepak Gupta** of Gupta Wessler PLLC, **Adam Hansen** of Nichols Kaster, LLP, and **Scott Nelson** of Public Citizen, as the panel discussed a series of hotly anticipated class action rulings from the U.S. Supreme Court.

There was no shortage of practical tips from experienced practitioners on topics such as crafting and monitoring programmatic relief, negotiating class action settlements, and succeeding in arbitration. It was a full and inspiring two days of education, thoughtful discussion, and community-building among the nation's leading plaintiff-side public interest class action practitioners, academics, and students.



We would like to thank all of the conference sponsors, panelists, and attendees for their support and commitment to using the legal system to fight for justice for those most in need.

## SPONSORS:

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# Training Institutes



## THE IMPACT FUND TRAINING INSTITUTE HEADS TO TINSELTOWN!

named plaintiffs and co-counsel, formulating a discovery plan, preparing for class certification, and negotiating a class-wide settlement.

### OAKLAND

For the third consecutive year, our local Training Institute was held at the East Bay Community Foundation in Oakland. Faculty included **Dara Schur**, Litigation Counsel at Disability Rights California; **Robert Schug**, Of Counsel at Nichols Kaster, PLLP; **Lindsay Nako**, the Impact Fund's Director of Litigation and Training; and **Jocelyn D. Larkin**, our Executive Director.

Impact Fund's Director of Development & Communications Teddy Basham-Witherington paired up with Ms. Schur to provide a crash course in working with the media. Centro Legal de la Raza's Director of Litigation, **Jesse Newmark**, shared his experience in representing undocumented workers. This year we were again thrilled that **Frankie Ross**, who served as a named plaintiff in a race discrimination class action case against Merrill Lynch, was able to stop in to share his experiences in the long and complex litigation process. JAMS Mediator **Judge Richard Kramer** (Ret.) guided the attendees through a mock mediation session. We were pleased to have **Magistrate Judge Donna Ryu** of the United States District Court for the Northern District of California, and **Judge Brad Seligman**, Impact Fund founder and Alameda Superior Court Judge join us for dinner at Hopscotch.

### LOS ANGELES

The Los Angeles Training Institute was made possible in large part due to a tremendous amount of time and effort donated by SoCal allies **Anne Richardson** of Public Counsel and Impact Fund board member **Cornelia Dai** of Hadsell Stormer & Renick, LLP.

We were again joined by an unparalleled group of guest speakers, including **Sandra C. Muñoz** of the Law Offices of Sandra C. Muñoz to discuss the finer points of representing undocumented workers; **Joshua Busch**, Communications Director at Public Counsel, who ran the students through "Media 101"; and **Robert Pallasch** of Setec Investigations who gave an insightful primer on e-discovery in class action litigation. **Judge Carla M. Woehrle** (Ret.) served as our mock mediator. We were pleased to have **Judge Fernando Olguin** of the United States District Court for the Central District of California and **Judge Virginia Keeny** of the Los Angeles Superior Court join us for dinner at Commissary at the Line Hotel.

We would like to give a special thanks to Public Counsel, which generously provided us with their community meeting room for the Los Angeles Training Institute.



# Summer Webinar Series



Each summer, the Impact Fund hosts its Summer Webinar Series, a three-part online training designed to provide top-notch legal seminars to busy legal services providers with limited budgets for travel and education. Once a month, usually around the lunch hour, public interest practitioners from across California and around the country log-on to learn about the latest issues in class action litigation.

In early July, Impact Fund Executive Director **Jocelyn D. Larkin** and guest trainer **Deepak Gupta** of Gupta Wessler, PLLC got the series off to a great start with “Supreme Court Class Action Review – Life After

Campbell-Ewald, Tyson Foods, and Spokeo.” They discussed the class action highlights of the 2015-16 Supreme Court term, including plaintiff pick-off attempts, the dreaded “trial by formula,” and Article III standing. They already have us looking forward to the next term!

In early August, guest trainers **Laura Ho** of Goldstein, Borgen, Dardarian & Ho and **Marc Bendick, Jr., Ph.D.**, of Bendick & Egan Economic Consultants provided helpful tips and best practices on “Working with Statistical Experts.” They shared their insights and practical experience on how to work with your statistical expert at different stages of your case to obtain a reliable and effective expert report, while managing costs.

Our last summer webinar, in late August, featured Impact Fund’s current Director of Litigation and Training, **Lindsay Nako**, and its former Director of Litigation and Training, **Robert Schug**, now Of Counsel at Nichols Kaster, PLLP. The duo explored “Latest Developments in Attorneys’ Fees,” including the recent California Supreme Court decision in *Laffitte v. Robert Half International*. The program covered practical tips for making a persuasive argument to the court on fees, starting from keeping time through your attorneys’ fees motion.

## Movement Building

“The training was one of the things in my professional life that I am most grateful for this past year”

— *Miriam Aukerman,*  
Staff Attorney, American Civil Liberties Union of Michigan

Impact Fund Executive Director, **Jocelyn D. Larkin**, together with our Director of Litigation and Training, **Lindsay Nako**, present seminars and trainings around the state of California and are frequent guest speakers on topics related to impact litigation and class actions.

The Impact Fund serves as the national class action clearinghouse for our community and, last year, we provided many hours of pro-bono consulting. We also continued to facilitate an online community — the Impact Fund Class Action Forum: a one-of-a-kind resource for over 500 plaintiff-side class action practitioners.

# Cy Près Awards

## Invest in a Future That is Fair for All

### WHY THE IMPACT FUND IS AN IDEAL CHOICE

Our **Mission:** As one of the nation’s few foundations providing broad support for complex public interest litigation, we are committed to the idea that ordinary people should be able to join together and use the courts to protect their jobs and communities. Our unique ability to use public interest litigation as a tool to secure economic, environmental, racial, and social justice makes us an effective charitable investment.

Our **Reach:** We provide training and technical assistance to over eighty legal services programs in California. We also present a national class action conference and host a listserve for a network of plaintiff-side class action practitioners. We present an annual three-day training institute for practitioners seeking practical and strategy skills for litigating public interest class actions. We also provide hundreds of hours of pro-bono consulting to those working in the field.

Our **Distinct Programs:** Through our Grants Program, we’ve provided over \$6 million to advocates to bring cases advancing economic, environmental, racial, and social justice. We also provide litigation and consulting services – counseling, advice, and assistance on complex litigation issues. We serve as counsel and regularly file multiple amicus briefs every year. We present a wide variety of training programs to support practitioners and our curriculum includes topics such as new case developments, legal writing, and appellate practice.

Our **Proven Track Record:** We have been approved as a cy près recipient in more than seventy cases in both state and federal courts. We ensure good stewardship of funds that we receive.

Our **Impact:** Because we support litigation in many substantive areas (e.g., employment, civil rights, disability access, consumer, poverty, environmental, and criminal justice), we have a nexus to many kinds of class actions. Cy près awards allow us to continue this vital work.

**Help us continue to make a real impact!**

*For more information contact:*

**Teddy Basham-Witherington**

510.845.3473 ext. 302

[twitherington@impactfund.org](mailto:twitherington@impactfund.org)

cy près [si: ‘pray]

*n.* The legal doctrine that allows funds remaining after the distribution of a class action settlement to be given to a charitable organization (or more than one) whose mission dovetails with the original purpose of the case. Cy près is an important source of funding for non-profits and legal services.

*Thank you to the following firms for naming us as cy près beneficiaries in cases that have made distributions during the past year:*

Law Office of Joseph Antonelli

Burr Smith, LLP

Hoyer & Associates

Nichols Kaster, PLLP

Law Offices of

Timothy Rumberger

Sanford Heisler, LLP

Law Office of Sheila Thomas

Zelle, LLP



# Annual Impact Fund Gala

On May 10, 2016 we celebrated in one of San Francisco's most beautiful venues, the top floor of the Westin St. Francis on Union Square. We thank all those who attended and sponsored for being there and helping us raise much-needed support to advance our work.

We look forward to seeing you next year on May 9, 2017.

## HONOREES

**Joan Walsh** is National Affairs Correspondent at *The Nation* and an MSNBC political analyst. She is the author of *What's the Matter With White People? Finding Our Way in the Next America*. The very first news editor at *Salon*, Walsh served as editor-in-chief for six years. She is a regular on MSNBC's *Hardball* with Chris Matthews and *All In* with Chris Hayes and has appeared on many other national shows including *Real Time with Bill Maher* and *Now* on PBS. We honored Joan Walsh for her commitment to social justice and for being an advocate for marginalized communities.

**Children's Law Center, Inc.** first received a grant from the Impact Fund in 2004 to protect the rights of children who found themselves in Ohio's juvenile justice system. The litigation was ultimately consolidated in *S.H. v. Stickrath*. A team of experts found a culture of needless and excessive use of force was engrained within the system, six out of eight facilities were operating at 141% of capacity, for all intents and purposes no mental health system of care existed, and that juvenile correction officers were understaffed, overworked, and improperly trained. We honored Children's Law Center for their epic twelve-year struggle that resulted in the wholesale reform of juvenile justice in Ohio.

We also inaugurated our **Fund-The-Future** live auction with celebrity auctioneer **Michael Tate** and were able to fund three emergency grants as a result.



TOP LEFT (left to right): Christian Schreiber, Impact Fund Executive Director  
Jocelyn D. Larkin, Joan Walsh, Kim Tandy (Executive Director, Children's Law Center), Sheila Thomas

BOTTOM LEFT: Entertainers: Consensual Bop

RIGHT, ABOVE: Bill Lann Lee, Brad Seligman, David Borgen

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Thank you to our generous donors without whom our work in advancing economic, environmental, racial, and social justice would not be possible. Your support helps to build a fairer and more just society.

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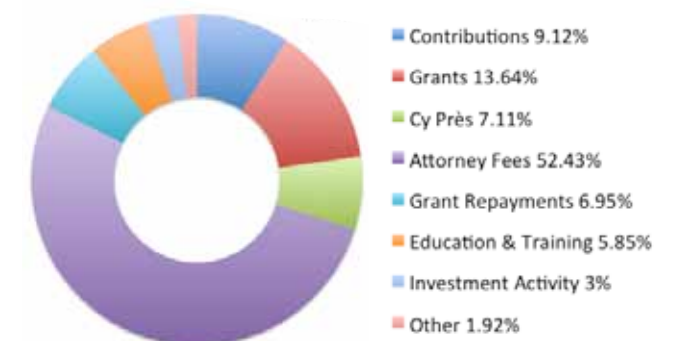
Contributions	\$158,950	9.12%
Grants	\$237,800	13.64%
Cy Près	\$124,002	7.11%
Attorney Fees	\$914,073	52.43%
Grant Repayments	\$121,107	6.95%
Education & Training	\$101,929	5.85%
Investment Activity	\$52,281	3.00%
Other	\$33,421	1.92%
<b>Total</b>	<b>\$1,743,563</b>	

## EXPENSES

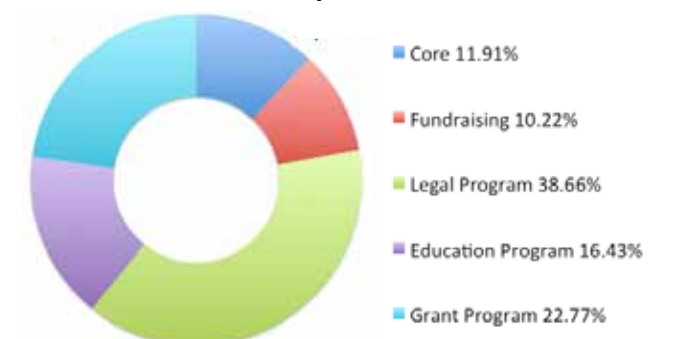
Core	\$234,128	11.91%
Fundraising	\$200,854	10.22%
Legal Program	\$759,810	38.66%
Education Program	\$322,893	16.43%
Grant Program	\$447,436	22.77%
<b>Total</b>	<b>\$1,965,121</b>	
<b>Net Loss</b>	<b>(\$221,558)</b>	

2014-2016 saw two years of extraordinary items. FY 2014/15 showed a surplus of \$1.4M, most notably, attorney fee income representing a decade of work on cases that settled. \$1M has now been transferred into an endowment fund. For more information and a full copy of our audited financial statements contact us at [impactfund@impactfund.org](mailto:impactfund@impactfund.org).

## FY 2015-2016 Income



## FY 2015-2016 Expenses





# Team Impact Fund

## STAFF ENTRANCES AND EXITS

We miss you...



**Natalie Newton:** Natalie recently arrived at Rukin Hyland Doria & Tindall. Glad to have her still in the plaintiff-side family!



**Adrienne Pon:** Adrienne returns to Stanford Law School to finish up after summer-interning with us and we wish her well with her studies!



**Robert Schug:** Robert and his family relocated to Minnesota in April and we miss him every day! We are glad he's with our friends at Nichols Kaster, PLLP.

...and welcome...



**Mae Nguyen:** Mae joined us as a Project Attorney in April of this year. She brings her exuberance and stellar brief-writing skills to our staff, along with great stories about her time in New Orleans and New York!

## STAFF



ROBERT BASHAM-WITHERINGTON PHOTOGRAPHY

FROM LEFT TO RIGHT: Jason Soto, Jocelyn D. Larkin, Amy Daniewicz, Adrienne Pon, Lynnette Miner, Lindsay Nako, Zachary McCoy, Sela Steiger, Teddy Basham-Witherington, Mae Nguyen

Jocelyn D. Larkin, *Executive Director*

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Amy Daniewicz, *Grant Program Administrator*

Zachary McCoy, *Paralegal*

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Mae Nguyen, *Project Attorney*

Jason Soto, *Accountant*

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\*Also serves on the Grant Advisory Committee



BACK ROW, FROM LEFT TO RIGHT: Maria Anguiano, Dara Schur, Cornelia Dai, Della Barnett, Abby Ginzberg, Helen Kang

FRONT ROW, FROM LEFT TO RIGHT: Christian Schreiber, Julia Campins, Jocelyn D. Larkin, Eric Havian, Sheila Thomas

We give a warm welcome to new board members Deepak Gupta and Dena Sharp, and new members of our Grant Advisory Committee, Michael Harris and Christine Sun.



**Deepak Gupta** is the founding principal of Gupta Wessler, PLLC and specializes in Supreme Court, appellate, and complex litigation on a wide range of issues, including constitutional law, class actions, and consumers' and workers' rights. He is frequently sought out by leading trial lawyers to defend their clients' most consequential victories or to resurrect worthy claims on appeal, often after years of hard-fought, high-stakes litigation.



**Dena Sharp** is a partner at Girard Gibbs, LLP. She has developed a particular expertise in large-scale electronic discovery and is an active member of the Sedona Conference on Electronic Document Retention and Production, the largest think tank on electronic discovery. She represents plaintiffs in complex litigation throughout the United States and specializes in managing all aspects of multifaceted, high profile cases.



**Michael Harris** is a Senior Attorney in Juvenile Justice at the National Center for Youth Law (NCYL), where he works to reduce racial disparities in statewide juvenile corrections systems, and on cases that challenge the "school-to-prison pipeline" in Texas and California. Michael also works on litigation to address implicit bias and is a frequent guest speaker on the role implicit bias plays in decision-making within the juvenile justice system.



**Christine Sun** is the Associate Director/Legal and Policy Director at the ACLU of Northern California. She represents plaintiffs in cases addressing racial and economic justice issues, and has litigated important civil rights cases brought on behalf of undocumented Arizona residents and members of the LGBT community. She speaks nationally and internationally on civil liberties and civil rights issues.

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