



**30<sup>TH</sup> ANNIVERSARY**

**2022 • ANNUAL REPORT**

 **IMPACT FUND**

Strategic Litigation for Social Justice



# **IMPACT FUND**

## Strategic Litigation for Social Justice

**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 a more equitable world where everyone can achieve justice.

### **ANTI-RACISM STATEMENT**

**W**e oppose police brutality and structural racism in our streets, our prisons, our schools, our workplaces, and our justice system: Black Lives Matter. We are committed to addressing these issues through our own work and by supporting strategic litigation that will force systemic change now.



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# WELCOME FROM THE EXECUTIVE DIRECTOR

**LADDERS ARE A SYMBOL** — of growth, mobility, progress, and sometimes struggle.

As we cautiously welcome the waning of the pandemic, we at the Impact Fund have been inspired once again to reach for our vision of a more equitable world where everyone can achieve justice.

In doing so, we recognize that it can be difficult for many to make that metaphoric climb when weighed down by hunger, racial oppression, or pandemic-related grief and dislocation. It is hard to look ahead when the Supreme Court has knocked us all down, forcing us to reengage the decades-old battles for reproductive justice and voting rights. It can feel as if all we can do is hang on.

We look instead for reasons to hope. The President's initiatives to forgive student loan debt and pardon low-level drug convictions are consciously designed to lift some of the burdens that prevent individuals and communities from moving ahead. We are buoyed by the courage of judges and juries, who are holding accountable those who committed crimes against our democracy and thereby slowly restoring the rule of law.

At the Impact Fund, we are again feeling that upward momentum. We returned to in-person learning at our Berkeley and Los Angeles Class Action Training Institutes this fall, collaborating with aspiring impact litigators as they master the skills needed to achieve social justice for their clients. Our legal team is fighting to protect Section 8 tenants from paying unauthorized service charges that can throw them into default. I encourage you to read and be inspired by the story of one of our grantees — an organization of young people in Montana who are taking action in the courts to protect the planet and their futures from climate change.

We are proud of what we have accomplished this year and are grateful to have you as a part of our community. We could not do our work without your support.



Jocelyn D. Larkin  
*Executive Director, Impact Fund*





## NEW GRANTS MADE

- Access Living of Metropolitan Chicago
- California Coastkeeper Alliance
- Centro de Análisis y Defensa de Derechos, AC
- Channel Law Group, LLP
- Children’s Rights
- Civil Liberties Defense Center
- Criminal Justice and Civil Rights Litigation Clinics of the UC Irvine School of Law
- Gitxaala Nation
- Grassy Narrows First Nation
- Initiative for a Just Society, Columbia Law School
- Innovation Law Lab
- Law Office of Dennis M. Grzezinski
- Leadership Counsel for Justice and Accountability
- Mid-Minnesota Legal Aid
- National Health Law Program, Inc.
- National Homelessness Law Center
- Our Children’s Trust
- Upper Seven Law
- Wai Ola Alliance
- WaterLegacy
- Woodward and Company Lawyers, LLP

# GRANTS FOR IMPACT LITIGATION

**WE’RE GRATEFUL** to stand on our 30-year history as a funder of high impact, community-driven lawsuits that provide an effective tool for communities fighting for their human rights, livelihood, and future. In the next few pages, you will find statistics about new litigation that we have supported this past year, as well as outcome data about the cases that have concluded. In between, we share just a few of the stories from our amazing grantees, taken from our blog series, about communities working together to stand up to powerful forces. We are filled with gratitude for the many collaborators who make this work possible, including the nonprofits and attorneys, our donors and supporters, the public interest litigators on our Grant Advisory Committee, and of course the communities themselves.

OUR

## REPLENISHING FUND

Replenished by grant repayments and our generous supporters

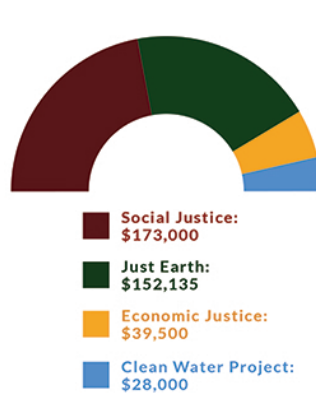
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**\$2.2M**  
CURRENTLY SUPPORTING

**137**  
IMPACT CASES

ADVANCING THROUGH THE COURTS TO PROTECT COMMUNITIES

## FY22 GRANTMAKING



# YEAR IN REVIEW

## OUR PROCESS IN ACTION

### APPLICATIONS

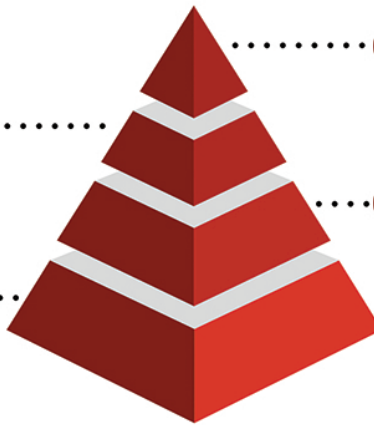
We evaluated 29 applications. Our Grant Advisory Committee conducted an in-depth review of each case.

29

### INQUIRIES

We received approximately 486 inquiries: 186 completed our eligibility questionnaire, 40 registered with our online portal, and approximately 260 contacted us via phone or email.

486



### GRANTS

In the 2022 fiscal year, the Impact Fund awarded 21 recoverable grants for impact litigation expenses.

21

### LETTERS OF INQUIRY

We received and reviewed 40 letters of inquiry. Each LOI went through our due diligence review process and was evaluated by our Executive Director.

40

17-year-old Cedric Lofton died from injuries he received at the hands of staff at a juvenile detention center after being removed from the foster home where he was living.

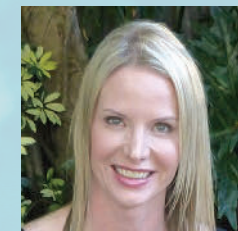


## CLASS ACTION BRINGS JUSTICE AND HEALING TO FOSTER CHILDREN IN KANSAS

**IN JANUARY OF 2021**, the class action lawsuit *M.B. v. Howard* was filed to end the dangerous practice of moving children from one foster care placement to the next — some children had been moved more than 100 times. A second goal was to ensure that children who have experienced deep trauma have access to mental health services, as opposed to diverting youth in crisis into the juvenile justice system.

Later that year, the case settled. The settlement calls for many significant improvements, including stabilization of foster care placements and the creation of a community advisory board to improve the system. Tragically, just months after our settlement was approved, 17-year-old Cedric Lofton died from injuries he received by staff at a juvenile detention center, after being removed from a foster home. His death was ruled a homicide.

The reforms to the Kansas child welfare system that the settlement achieved are coming too late for Cedric. However, a well-functioning, just system that preserves families, protects children, and helps them heal, is the greatest tribute to his memory.



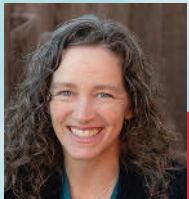
Leecia Welch, Deputy Litigation Director, Children's Rights

The Impact Fund made a grant of \$20,000 to support *M.B. v. Howard*.





The first children's climate trial in U.S. history will begin on Monday, June 12, 2023, at the First Judicial District Court in Helena, Montana.



Julia Olson, *Executive Director & Chief Legal Counsel* at Our Children's Trust

The Impact Fund made a grant of \$10,000 to support *Held v. Montana*.



Demonstrators hold signs that read "Stop the Tickets" and "Housing not Handcuffs!"



Tristia Bauman, *Senior Attorney*, National Homelessness Law Center

The Impact Fund made a grant of \$22,000 to support *Bloom v. San Diego*.

# GRANTEE STORIES

## YOUTH PLAINTIFFS' SUIT FOR CLIMATE JUSTICE HEADS TO HISTORIC TRIAL IN MONTANA

**ON JUNE 12, 2023**, *Held v. State of Montana* will become the first constitutional climate trial - and first ever children's climate trial - in U.S. history. During trial, attorneys for the youth plaintiffs, sixteen young Montanans, will present evidence in open court proving that, by supporting a fossil fuel-driven energy system, the state of Montana causes and contributes to dangerous levels of greenhouse gas emissions and therefore is responsible for the climate-related injuries the youth suffer in violation of their rights under the Montana Constitution. Those rights include a clean and healthful environment; the ability to seek safety, health, and happiness; and individual dignity and equal protection of the law.

Grace, one of the *Held v. State of Montana* youth plaintiffs, noted, "Going to trial means a chance for me and my fellow plaintiffs to have our climate injuries recognized and a solution realized. It means our voices are actually being heard by the courts, the government, the people who serve to protect us as citizens and Montana's youth. Knowing that we have the dates for the first youth constitutional climate case ever, I feel hopeful that finally our government may begin to serve our best interests."

## CLASS ACTION CHALLENGES SAN DIEGO'S CRIMINALIZATION OF HOMELESSNESS

**SAN DIEGO'S** policies are challenged in *Bloom v. City of San Diego*, a federal class action lawsuit brought on behalf of hundreds of people living in vehicles - many with disabilities - who are subject to arrest, expensive ticketing, and seizure of their vehicle shelters under two local ordinances that prohibit vehicle habitation and overnight parking of large vehicles.

Michael Bloom, the late lead plaintiff in the case, explained that he filed the lawsuit to stop the "terror of having so many tickets hanging on me." To pay those citations and avoid losing his vehicle and only shelter, Michael, a senior with disabilities, made painful sacrifices, including skimping on food and medicine to pay for tickets. He passed away in his vehicle in 2021.

These laws are enforced against unhoused residents even when they have no other option for shelter and the result of enforcement is to render people unsheltered and sleeping on the streets. When sheltering is treated as a punishable offense, the rights and freedoms of all human beings are threatened.

# GRANT UPDATES

## FY22 Closed Grants



The Clean Water Project served low-income, unincorporated communities in California's San Joaquin Valley.



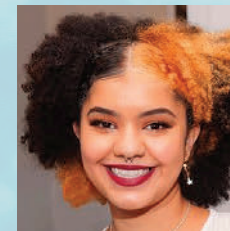
## GRANT SUCCESS STORY

### Pursuit of Water Protection

**OUR CLEAN WATER PROJECT**, funded by a grant from the State Bar of California, focused on bringing communities together to advocate for and gain access to potable water, and on funding impact cases that address clean water issues faced by residents of unincorporated communities in the San Joaquin Valley in California.

One of our grantees, the nonprofit Clean Water Fund, challenged two oil and gas management companies for discharging nearly 5 million gallons of oil and gas wastewater daily into unlined pits, threatening groundwater and air quality. The case concluded with defendants ordered to pay upwards of \$650,000 in penalties and an agreement to cease discharging chemicals.

Although we have distributed all the Clean Water Project funds, we remain committed to funding environmental justice cases that protect people's right to clean water through our Just Earth program.



Shayla Chandler, *Grant Program Associate*, Impact Fund

The Impact Fund made grants totaling \$134,098 to support disenfranchised communities in their fight to access clean water.





Terry Plaintiffs and Class Representatives Roy Huskey III and Tamera Livingston.



Class Counsel Anne Bellows of Goldstein, Borgen, Dardarian & Ho (L) and Lindsay Nako of the Impact Fund (R) with Plaintiff Tamera Livingston (Center) after oral argument on cross-motions for summary judgment in the Eastern District of California.

# CURRENT LITIGATION

## *U.S. ex rel. Terry v. Wasatch Advantage Group, LLC* (Eastern District of California)

**THE IMPACT FUND** has been appointed class counsel for a certified class of California tenants. The tenants all have Section 8 Housing Choice Vouchers and have been forced to pay out-of-pocket for washers and dryers, parking, renter’s insurance, and other additional services under threat of eviction. We join Centro Legal de la Raza, the Law Offices of Andrew Wolff, and Goldstein, Borgen, Dardarian & Ho to challenge these charges as unlawful excess rent, breach of the voucher contract, and fraud under the False Claims Act.

The Housing Choice Voucher Program, commonly known as “Section 8,” is a federal program designed to help low-income families find safe, clean, and affordable housing. Qualifying tenants pay about 30% of their monthly income toward housing costs, and federal funds cover the rest. To participate in the program, landlords must commit not to charge rent beyond what has been approved in the voucher contract.

Here, the tenants allege that their landlords demanded additional payments beyond what local housing authorities approved as reasonable rent for their apartments. Though the monthly charges were relatively low, they steadily accumulated over time. Class representatives Denika Terry, Roy Huskey III, and Tamara Livingston have paid thousands of dollars in additional charges during their tenancies.

The parties filed cross-motions for summary judgment in April and await the district court’s ruling. The Impact Fund is prepared to take the case to trial to defend the rights of Section 8 tenants to be free from unlawful excess fees.



# IMPACT FUND IN THE CALIFORNIA COURT OF APPEAL

## *Wade v. Starbucks Corp.* (California Court of Appeal, Fifth Appellate District)

**LAST YEAR**, a panel of the California Court of Appeal heard our appeal on behalf of Maddie Wade, a former Starbucks employee who faced misgendering and hostility after telling her store manager that she was starting a gender-affirming transition. Lindsay Nako, Impact Fund’s Director of Litigation and Training, represented Maddie at oral argument, telling the court, “A social transition is incredibly important to the mental health and well-being of transgender people, [including] being properly acknowledged in the workplace by an appropriate name and pronouns...” Though the panel affirmed the trial court’s denial of summary judgment earlier this year, it issued an unpublished decision clearly limited to the specific facts of the case, creating no new hurdles for future cases. The Impact Fund and co-counsel Arnold Peter of Peter Law Group applaud Maddie’s bravery in pursuing her case and echo her sentiment: “Hopefully, with the combined efforts of us all, we can make a difference for those who come after us.”

## *Western Growers Association v. California Occupational Safety & Health Standards Board* (California Court of Appeal, First Appellate District)

**LAST YEAR**, the Impact Fund followed Western Growers Association to the Court of Appeal, filing a second amicus brief defending California’s use of emergency procedures in late 2020 to create COVID-specific workplace protections. On appeal, the employer group continued to seek a preliminary injunction barring implementation of the emergency standards, arguing that there was no need for emergency workplace regulation. The Impact Fund, California Rural Legal Assistance, Inc., and eighteen fellow California legal services organizations took them to task, describing the detailed record before CalOSHA’s Standards Board and the need for emergency action to prevent further COVID outbreaks in workplaces across the state – particularly as to the agricultural employers represented by the Association. In December, the panel upheld the trial court’s denial of the requested injunction, recognizing that “the unique circumstances presented by the COVID-19 pandemic” rightfully required emergency action.



*“Hopefully, with the combined efforts of us all, we can make a difference for those who come after us.” – Maddie Wade*



With 10,458,792 Californians infected by COVID-19 and 95,604 deaths in the state to date (10/13/22) the need to keep workers safe cannot be overstated.



Our brief argues that the panel decision reversing class certification contains multiple errors.



In a real turkey of a decision, the trial court applied an incorrect legal standard.

# AMICUS BRIEFS

## ***Bowerman v. Field Asset Services, Inc.*** **(Ninth Circuit Court of Appeals)**

**IN AUGUST**, the Impact Fund authored an amicus brief in the Ninth Circuit in *Bowerman v. Field Asset Services, Inc.*, defending the certified class of maintenance and janitorial workers seeking overtime and expense reimbursements required by law. The certified class had survived two motions for decertification, successfully proved employer wrongdoing at summary judgment, and received significant damages in a jury bellwether trial before seeing their efforts undone by the Ninth Circuit panel. Our brief argues that the panel's decision to reverse certification of the class contains multiple legal errors. First, the panel blatantly ignored the district judge's repeated conclusion that the case was best managed as a class action and interfered with the district court judge's authority to manage trials. And second, the panel applied the wrong legal standard for certifying a class, increasing the burden on plaintiffs seeking to bring their claims as a group. Our brief urges the Ninth Circuit to rehear the matter en banc and correct these errors, preserving the rights of workers to bring class action lawsuits and the discretion of district courts to certify class cases.

## ***Direct Action Everywhere SF Bay Area v. Diestel Turkey Ranch*** **(California Court of Appeal)**

**IN OCTOBER**, the Impact Fund authored an amicus brief in the California Court of Appeal in *Direct Action Everywhere SF Bay Area v. Diestel Turkey Ranch*, defending the right to "catalyst fees" in public interest cases. In California, many statutes allow successful plaintiffs to have their attorneys' fees paid by the losing party. When the opponent voluntarily changes its behavior during the lawsuit, however, statutes do not always provide attorneys' fees. To fill this gap, California awards "catalyst fees" to plaintiffs who can show that the defendant changed its behavior because of the lawsuit, benefiting the public. In *Direct Action Everywhere*, the plaintiff in a false advertising case was denied catalyst fees, even though the company voluntarily removed the allegedly false statements from its advertising during trial. Our brief argues that the trial court applied the wrong legal standard when it prioritized the plaintiff's motivation for bringing the action over the merits of the action. Catalyst fees are critical to incentivizing the enforcement of public rights, and our brief urges the court of appeal to apply the correct legal standard for awarding these fees.



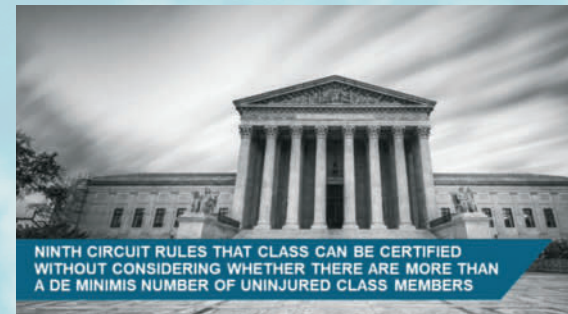
# AMICUS UPDATES

## *Olean Wholesale Grocery Coop., Inc., v. Bumble Bee Foods, LLC* (Ninth Circuit Court of Appeals)

**LAST YEAR**, the Impact Fund and fellow amici challenged a damaging Ninth Circuit panel decision that dramatically raised the standard for plaintiffs seeking to certify class actions. In *Olean Wholesale Grocery Coop., Inc., v. Bumble Bee Foods, LLC*, the plaintiffs filed an antitrust action alleging a price fixing conspiracy among the three largest domestic producers of packaged tuna. In reviewing class certification, a panel of Ninth Circuit judges required plaintiffs to show that only a “de minimis” number of class members avoided harm. Our amicus brief argued that the panel decision upended the class certification process. It would force district courts to decide core issues in the case, namely who was harmed, before deciding whether a case met the requirements for class certification. In a win for plaintiffs, the Ninth Circuit vacated the panel decision and reheard the case en banc. The en banc ruling issued in April eliminated the panel’s “de minimis” requirement as inconsistent with the federal rules. It also ensured that plaintiffs can continue to pursue class claims without facing the daunting hurdle of identifying the harm suffered or avoided by individual class members early in litigation.

## *Johnson v. NPAS Solutions* (Eleventh Circuit Court of Appeals)

**LAST YEAR**, the Eleventh Circuit stunned the class action civil rights community. In *Johnson v. NPAS Solutions*, an Eleventh Circuit panel prohibited all service awards for class representatives, the individual class members who act on behalf of the class and represent the others in court. Service awards compensate class representatives for the time spent on their cases and are routinely awarded in all federal courts. The Impact Fund filed an amicus brief urging the Eleventh Circuit to rehear the case, arguing that service awards are critical to encourage individuals to actively participate in civil rights and public interest class actions. In August, the Eleventh Circuit refused to review the panel decision, but a group of judges joined a vigorous dissent. The dissent, authored by Judge Jill Pryor, cited our amicus brief, recognizing “that a class representative’s responsibilities are often time-consuming and burdensome” and may risk “reputational... and even financial, emotional, and physical harm.” Eliminating service awards discourages class members from undertaking these burdens and risks, particularly where their individual damages are low or nothing at all. As Judge Pryor put it, “the stakes are high,” and the Impact Fund is prepared to continue advocating for key procedural tools to support public interest impact litigation.



NINTH CIRCUIT RULES THAT CLASS CAN BE CERTIFIED WITHOUT CONSIDERING WHETHER THERE ARE MORE THAN A DE MINIMIS NUMBER OF UNINJURED CLASS MEMBERS



Dissenting, Panel Judge Beverly Martin warned that the majority’s decision would make potential plaintiffs less amenable to serve as class representatives in future litigation.

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# 30TH ANNIVERSARY GALA

May 10, 2022 | Westin St. Francis, San Francisco

**WE RECONNECTED** at our first in person gathering in three years. Our special guest and keynote speaker was Zachary Norris, Soros Equality Fellow and author of *Defund Fear*.

## HONOREES

**Zachary Norris** is the co-founder of Restore Oakland, a community advocacy and training center empowering Bay Area community members to transform local economic and justice systems. He was also a co-founder of Justice for Families, a national alliance of family-driven organizations working to end youth incarceration. He helped build California's first statewide network for families of incarcerated youth. It led to the closing of five youth prisons in the state, legislation being passed enabling families to stay in contact with their loved ones, and the defeat of Prop 6 — an ineffective criminal justice ballot measure.

We honored him for his commitment to fostering compassion, inclusion, and justice through community action and advocacy.

We were thrilled to also recognize two of our grantees for their recent successes in court.

The first to be honored was **Center for Food Safety** for its work in *Kupale Ookala v. Big Island Dairy*, a clean water and environmental justice case challenging the unlawful discharge of animal waste from an industrial dairy farm in Hawaii. The litigation resulted in a victorious settlement and Court approval of a Consent Decree that closed the facility. Big Island Dairy agreed to cease all dairy operations at the facility, wind down its affairs, and dissolve itself as an entity.

The second of the honorees was **Lawyers for Civil Rights** for its work in *Huot v. City of Lowell*, a voting rights case against the City of Lowell, Massachusetts, which successfully challenged the at-large electoral system for electing members to the City Council & School Committee for impermissibly diluting the vote of Asian-American and Latino residents. Implementation of a consent decree is now actively underway to change the city's electoral system to a more fair and equitable one.



FROM LEFT TO RIGHT: 2022 Honorees Zachary Norris, Meredith Stevenson (Center For Food Safety), and Eric Havian (on behalf of Lawyers for Civil Rights).





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Disability Rights Advocates  
Disability Rights California  
National Employment Lawyers Association  
Public Justice

We look forward to seeing you  
next year on May 9, 2023.



**THANKS TO ALL** of our attendees for their energy, engagement, and kind words:

*“This was an excellent experience – makes me jazzed up to go back to work.”*

*“This is one of my favorite training programs I’ve ever participated in!”*

*“I absolutely loved how interactive the sessions were. It was truly just so much fun.”*

*“Aside from the substantive benefits, the Institute got me fired up!”*

Our 2022 teaching faculty included **Jocelyn Larkin**, Executive Director, Impact Fund; **Lindsay Nako**, Director of Litigation & Training, Impact Fund; **Dara Schur**, Senior Counsel, Disability Rights California; **Robert Schug**, Partner, Nichols Kaster, PLLP; **Laboni Hoq**, Principal, Hoq Law; **Jason Marsili**, Partner, Rosen Marsili Rapp LLP; **Todd Jackson**, Partner, Feinberg Jackson Worthman & Wasow LLP; and **Judge Carla Woehrle** (Ret.), Mediator. We were also grateful to be joined by Impact Fund Hall of Famers **Amy Cohen** and **Jennifer Hsu Todd**, named plaintiffs in the groundbreaking Title IX class action, *Cohen v. Brown University*.

# WELCOME BACK, CLASS ACTION TRAINING INSTITUTE!



Congratulations to the Class Action Training Institute (Berkeley) Class of 2022.

**IT WAS THRILLING** to see our Class Action Training Institute faculty and attendees back in person in Berkeley and Los Angeles this September. After two years of heartwarming online gatherings, we carefully gathered again to explore, question, and laugh our way through class action procedure and strategy.

From selecting named plaintiffs and identifying class claims, to asking “just what IS a common question?” and preparing for class certification, all the way through to settlement, the Institute takes a small group of students through every stage of a mock class action case. Building our hypothetical case gives students the technical skills and strategic knowledge needed to litigate class actions for social justice.

Both sessions were filled with attorneys of varied legal specializations, years of practice, and geographic locations, who created their own community – one that we hope will last beyond our closing ceremony.



# SUSTAINING AND ENDURING

## THE 20TH ANNUAL CLASS ACTION CONFERENCE

**FOR TWENTY YEARS**, the Class Action Conference has been the nation's only legal conference dedicated to bringing together plaintiff-side class action attorneys to learn, strategize, and build community. This year, we brought together over 400 advocates from around the country in a virtual format.

After kicking off with Executive Director Jocelyn Larkin's annual "lighting round" of the year's highs and lows in the world of class actions, three panels of experienced advocates entertained and educated attendees on the challenges, opportunities, and recent developments in our work.

Many thanks to our incredible speakers: **Joshua P. Davis**, UC Hastings College of Law & Berger Montague PC; **Ellen Eardley**, Mehri & Skalet PLLC; **Karla Gilbride**, Public Justice; **Brandon Jackson**, ArchCity Defenders; **Jamila Johnson**, The Promise of Justice Initiative; **Miriam R. Nemeth**, Advancement Project; **Seema N. Patel**, East Bay Community Law Center and UC Berkeley School of Law; **Anna P. Prakash**, Nichols Kaster, PLLP; **Sabita J. Soneji**, Tycko & Zavareei LLP; **Rebecca Williford**, Disability Rights Advocates; and **Chauniqua D. Young**, Outten & Golden LLP.

At the end of the day, we were buoyed by the Good News Happy Hour – a speed round of professional highlights from the previous year, celebrating the extraordinary members of our community.

Thank you to all of this year's sponsors, speakers, and attendees for your dedication to holding corporate and government power accountable and to creating positive change in our communities.



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## IMPACT FUND Class Action Hall of Fame

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 Elaine & Walter Barry  
 Guillermo Benitez  
 Vicki Butler  
 Kerrie Campbell  
 Lynne Coates  
 Amy Cohen  
 Jessy Cruz  
 Patrice Daniels  
 Mike Dragovich  
 D'Angelo Foster  
 Megan Hull  
 Dustin Jones  
 Lisa Stern Kaplowitz  
 Artie Lashbrook  
 Veronica Ollier Lewandowski  
 Sylvester McClain  
 Shannon O'Conner  
 Julie Reiskin  
 Eileen Rocchio  
 Christian Rodriguez  
 Lance Slaughter  
 Kim Stoddard  
 Jennifer Hsu Todd  
 Amanda Underwood  
 Sara Wellens

# IMPACT FUND CLASS ACTION HALL OF FAME

**THE IMPACT FUND** created the Class Action Hall of Fame in 2016 to honor the courage and sacrifice of lead plaintiffs whose commitment and determination has led to significant advances in economic, environmental, racial, and social justice. On February 24, 2022, at our Class Action Conference, we inducted **Amy Cohen, Megan Hull, Lisa Stern Kaplowitz, Eileen Rocchio, and Jennifer Hsu Todd**, named plaintiffs in the case *Cohen v. Brown University*.

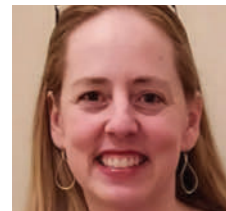
*Cohen v. Brown University*, decided in 1993, was the nation's first appeals courts case determining what Title IX of the Educational Amendments of 1972 required schools to do in order to provide women with equal opportunities to participate in intercollegiate athletics, whether that was constitutional, and how equal treatment for women and men was measured. The case made new law through five legal decisions, including two appellate decisions, applying Title IX to intercollegiate athletics, and resulted in a 1998 settlement agreement. It brought national attention to the need for gender equity in sports, inspired women to stand up for their rights, and prompted schools to comply with the law to avoid litigation.

The plaintiffs fought through sexism, ignorance, and abuse. When they originally sued Brown for violating Title IX, the Athletic Director told them he "thought he had gotten rid of us." Brown misrepresented the law. The school newspaper wrote scathing articles. The student body believed them. National press denounced the lawsuit, too. But they kept fighting. Amy Cohen used the case's success to advance gender equity nationwide. She testified before Congress, wrote op-eds in *The New York Times* and elsewhere, appeared in documentaries, led Title IX workshops, and spoke at Harvard, the NCAA, and numerous camps and schools.

These athletes had to face Brown University again when it violated the 1998 settlement agreement. Emails between the school's Chancellor and President called the settlement "this pestilential thing" and stressed the need not "to rile up the Cohens of the world." Because of the women's persistence, however, Brown had to reinstate two women's teams it tried to eliminate and confirmed the plaintiffs' lasting impact.



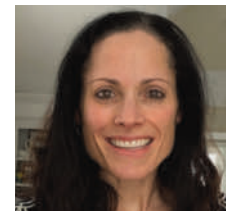
AMY COHEN



MEGAN HULL



LISA STERN KAPLOWITZ



EILEEN ROCCHIO



JENNIFER HSU TODD



# 1992 – THE YEAR IT ALL STARTED

## FROM THE LIVING ROOM TO THE SUPREME COURT

**HAVING RECEIVED** a substantial buyout from his firm, it occurred to **Brad Seligman** that making grants to prospective litigants to advance social justice would be a good idea and his friend Ralph Abascal gave him the idea that the grants be repaid and recycled if the cases were successful.

Energized, he pulled together nine talented friends (all expert lawyers committed to social justice) in his living room Saturday afternoon on December 12, 1992 and the idea became the Impact Fund and his living room group, the founding board.

The first aha moment was that folks wanted technical advice as much as funding. This led to the birth of the Impact Fund’s training program and the fledgling organization held its first training at Hastings Law School in 1994.

In 2000, **Jocelyn Larkin** was hired as “part-time” Litigation Counsel. The Impact Fund was flying. Hiring Jocelyn enabled the Impact Fund to expand its role in litigation, so that it could fulfill the role of lead or co-counsel in public interest class actions, author amicus briefs, and provide even more pro-bono consulting.

A string of successes followed in cases such as *Williams v. City of Antioch*, *Brown v. Sacramento Regional Transit District*, and *Glover v. Potter*. The Impact Fund also took on Walmart in what would have been the largest ever gender discrimination class action. Despite more than nine years of success in the class action, in 2011, the US Supreme Court ruled in favor of Walmart on a close 5-4 vote, and de-certified the class action. The Court’s decision only strengthened the resolve to fight for social justice. As Jocelyn said at the time, “I’d rather lose and be on our side than win and be on theirs.”

Brad passed the torch to Jocelyn in 2010. Happily, this all coincided with the next stage of Brad’s journey — being appointed a Superior Court Judge for Alameda County by Governor Jerry Brown in December 2012.

Today, the Impact Fund remains true to the founding vision, providing broad support for impact litigation that advances economic, environmental, racial, and social justice, making grants, training advocates, and challenging corporate greed and governmental neglect.

We’re grateful to be on this journey with you.



Brad Seligman in 1992.



FROM LEFT TO RIGHT: Brad Seligman, Joe Sellers, and Jocelyn Larkin in front of the Supreme Court.



President Biden signs the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act into law.

# MOVEMENT BUILDING & ISSUE ADVOCACY

**OUR TEAM MEMBERS** present seminars and trainings nationally and frequently speak on impact litigation, civil rights, and class actions.

We serve as a clearinghouse for our community, providing hundreds of hours of free consulting. We also host an online community – aka the Impact Fund Class Action Forum: a unique resource for 897 advocates. The group operates as a confidential chat-list for plaintiff-side class action practitioners to share successes, progress, setbacks, and challenges they encounter in their day-to-day practice.

We have helped to author and have signed on to many initiatives to preserve and advance civil and other rights. Whenever and wherever civil rights and justice are under attack, Impact Fund is there to protect.

In California, we were part of a coalition advocating for the preservation of protections to prevent bias in the California Rules of Court.

At the federal level we endorsed the following legislative efforts:

- American Data Privacy and Protection Act
- Build Back Better Act
- Consumer Protection and Recovery Act
- Domestic Terrorism Prevention Act
- Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act
- Equality Act
- Every Child Deserves a Family Act
- Forced Arbitration Injustice Repeal Act (FAIR Act)
- Freedom to Vote Act
- George Floyd Justice in Policing Act
- For The People Act
- Jabara-Heyer NO HATE Act
- John Lewis Voting Rights Advancement Act
- National Origin-Based Antidiscrimination for Nonimmigrants Act (NO BAN Act)
- Nondebtor Release Prohibition Act
- Protecting the Right to Organize Act
- Public Service Freedom to Negotiate Act
- Supreme Court Ethics, Recusal, and Transparency Act
- Women's Health Protection Act



We also signed on to letters urging:

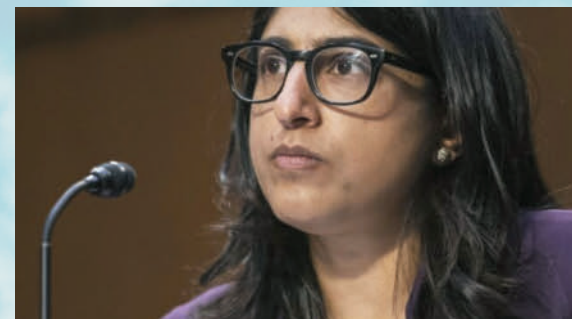
- CFPB to take action to limit forced arbitration in consumer financial services/products.
- The Biden Administration to oppose federal preemption of lawsuits brought by farmworkers and other cancer victims, with respect to Monsanto's Roundup.
- Department of Health and Human Services Office of Civil Rights to issue a proposed rule implementing Section 1557 of the Affordable Care Act, which protects against discrimination in health care based on race, color, national origin, sex, age, and disability.
- Ambassador Susan Rice, urging her to place a high priority on ensuring that data-driven technologies protect civil rights and prevent unlawful discrimination.
- President Biden to back up observance of Juneteenth with economic justice policies.
- President Biden urging administrative reforms to address widespread and longstanding civil and human rights abuses in our country's immigration detention system.
- Congressional leaders to carry out the policy priorities of Black leaders and civil rights organizations to address violence against Black communities.
- The Biden Administration to restore true religious freedom and end discrimination against workers in the name of religion.
- Congress to back asylum-seekers after the extremist attack in Buffalo.
- Full inclusion, protection, and celebration of transgender and non-binary youth, including access to extracurricular activities such as athletics and to school facilities, safe and inclusive school environments, accurate and inclusive curriculum, and gender-affirming school health services.
- HUD to reinstate the disparate impact rule.

We signed on to the Civil Rights Principles for Early Care and wrote to the Senate Committee on Health, Education, Labor & Pensions supporting the Nomination of Kalpana Kotagal to the U.S. Equal Employment Opportunity Commission.

We participate in:

- The Funders Committee for Civic Participation – Funders Census Initiative, to advocate for a fair and accurate census.
- The Clean Budget Coalition, opposing poison pill amendments and harmful legacy riders.

The Impact Fund is a grateful member of the Leadership Conference on Civil and Human Rights and a Steering Committee member of California Voices for Civil Justice.



Kalpana Kotagal awaits confirmation to the EEOC.



The Leadership  
Conference

The nation's premier  
civil & human rights coalition



**CALIFORNIA VOICES**  
FOR CIVIL JUSTICE

# THANK YOU TO OUR DONORS

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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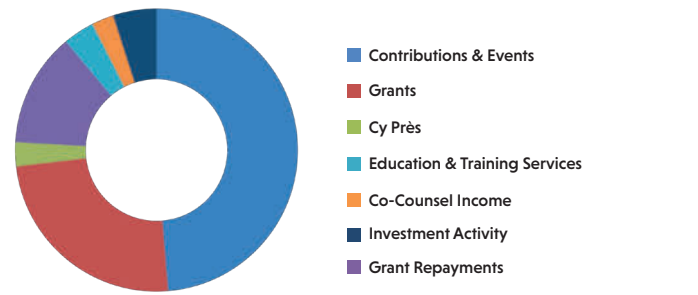
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List accurate as of 10.01.22

**INCOME**

|                        |                    |        |
|------------------------|--------------------|--------|
| Contributions & Events | \$1,352,567        | 51.23% |
| Grants                 | \$679,101          | 25.72% |
| Cy Près                | \$76,531           | 2.90%  |
| Attorneys' Fees        | \$0                | 0%     |
| Grant Repayments       | \$361,658          | 13.70% |
| Education and Training | \$100,102          | 3.79%  |
| Co-Counsel Income      | \$70,000           | 2.65%  |
| Investment Activity    | -\$137,817         | -5.22% |
| <b>Total</b>           | <b>\$2,502,142</b> |        |

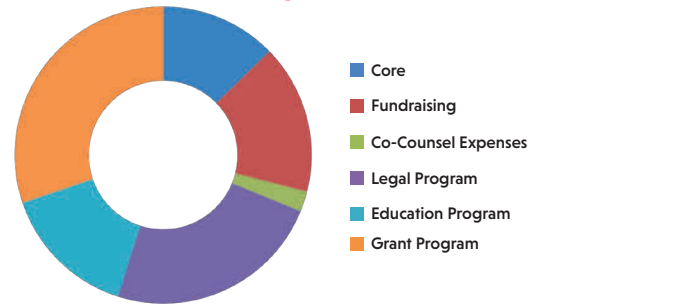
**FY2021-2022 Income**



**EXPENSES**

|                             |                    |        |
|-----------------------------|--------------------|--------|
| Core                        | \$300,888          | 12.70% |
| Fundraising                 | \$385,103          | 16.26% |
| Co-Counsel Expenses         | \$52,653           | 2.22%  |
| Legal Program               | \$562,576          | 23.75% |
| Education Program           | \$351,849          | 14.85% |
| Grant Program               | \$715,515          | 30.21% |
| <b>Total</b>                | <b>\$2,368,584</b> |        |
| <b>Change in Net Assets</b> | <b>\$133,558</b>   |        |

**FY2021-2022 Expenses**



Due to COVID-19 our audit takes place later this year. For more information and a full copy of our audited financial statements contact us at [impactfund@impactfund.org](mailto:impactfund@impactfund.org)

Please note that our financial model is multi-year. Every 5-8 years we tend to receive a substantial influx of attorneys fees. Those funds are invested and this reserve is drawn down on in years where we receive little or no attorney fee income. This year we received extraordinary one-time contributions.

Our financial year runs July 1 - June 30.

## STAFF ENTRANCES

### WELCOME...



**Meredith Dixon, Law Fellow:** In August, we welcomed Meredith as our 2023 Law Fellow. Meredith recently graduated from Berkeley Law in 2022, where she pursued a wide range of public interest work in healthcare, disability rights, and employment law.



**Eliza Gordon, Development and Executive Assistant:** We are thrilled to have Eliza join our team. She has a BA in Public Health from the University of California, Berkeley, and previously interned with the International Rescue Committee.



**Luna Khalil, Paralegal:** Luna joined our team in January. She is a graduate of the University of California, Berkeley's Comparative Literature program and has a passion for immigrant rights and LGBTQ advocacy.

## STAFF EXITS

### ... AND FAREWELLS



**Rianna Hidalgo, Law Fellow:** After a tremendous year with the Impact Fund, Rianna completed her fellowship in August and began a clerkship with the Northern District of California



**Kat Vidt, Paralegal:** Kat departed the Impact Fund in January to embark on a new adventure. We are grateful for all the contributions she made during her four years with the Impact Fund.

# TEAM IMPACT FUND

## STAFF



**THE STAFF TEAM AT THE 30TH ANNIVERSARY GALA IN MAY. Left to right, top to bottom:** Alex Lara, Jocelyn D. Larkin, Shayla Chandler, Eliza Gordon, Teddy Basham-Witherington, Luna Khalil, Ashley LaFranchi, Rianna Hidalgo, Lindsay Nako, Erin Nunn. **Inset:** Amy Daniewicz.

Teddy Basham-Witherington, *Deputy Director*  
 Shayla Chandler, *Grant Program Associate*  
 Amy Daniewicz, *Grant Program Director*  
 Meredith Dixon, *Law Fellow*  
 Eliza Gordon, *Development & Executive Assistant*

Luna Khalil, *Paralegal*  
 Ashley LaFranchi, *Development Manager*  
 Alex Lara, *Product Manager*  
 Jocelyn D. Larkin, *Executive Director*  
 Lindsay Nako, *Director of Litigation & Training*  
 Erin Nunn, *HR/Finance Manager*



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*\*Serves on Board of Directors  
 and Grant Advisory Committee*



**Left to right, standing:** David Lopez, Poppy Alexander, Marco Simons, Elissa Gershon, Gladys Limón, Jason Marsili, Poonam Juneja, Dena Sharp. **Sitting:** Robert Schug, Christian Schreiber, Catherine Fisk, Dara Schur, Mario Moya.

## GRANT ADVISORY COMMITTEE

The board members listed above  
 with an asterisk, together with:

Elissa Gershon

Kathleen Guneratne

Gladys Limón

Poonam Juneja

## BOARD/GAC FAREWELLS

We said a fond farewell to Eric Havian, Michael Caesar, Cornelia Dai, Caroline Farrell, Michael Harris, Alan Ramo, Tom Saenz, and Pat Shiu, and thank them for their awesome service to the cause.

## SUMMER INTERNS



**Trevor Byrne, Summer Law Clerk:** Trevor is a rising third-year law student at Stanford Law School with an interest in pursuing a career that utilizes litigation as a means of advancing racial and social justice causes.



**Kaden Evans-Shaw, Summer Grants Intern:** Kaden is a sophomore at Northwestern University in Evanston, IL, majoring in Social Policy and Business Institutions. Having lived in Oakland her whole life, she cares deeply about social justice and income inequality in the Bay Area.



**Soma Chu, Summer Grants Intern:** Soma is senior at University of California, Berkeley where she studies Sociology. She is interested in nonprofit work regarding social justice and previously interned at Asian Americans Advancing Justice.

We are grateful to the Cameron Schrier Foundation for underwriting our Summer Intern program.



# We Hope to See You in 2023!

## 21st Annual Class Action Conference

San Francisco

February 23-24, 2023

## 31st Anniversary Gala

Westin St. Francis, Union Square, San Francisco

May 9, 2023

## 16th Annual Class Action Training Institute

Berkeley: September 13-15, 2023

Los Angeles: September 27-29, 2023

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