

THE BARBARA MCDOWELL  
AND GERALD S. HARTMAN  
FOUNDATION

SOCIAL JUSTICE THROUGH LEGAL ACTION

2020 and 2021 Annual Report

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# Letter from the President

**Dear Friends of the Foundation,**

The turmoil over civil rights that has embroiled our country over the last two years demonstrates, more than ever, the need for commitment to repair the damaged fabric of the guarantee of equality for all that formed the basis for our country's founding. To accomplish that task, incumbent on all of us, the Foundation has responded in various strategic ways to foment change:

**First**, the Foundation expanded our grantmaking through an increase in distributed funds. In 2020, the Foundation distributed \$200,000 to four grantees. In 2021, the Foundation increased our total grant award distribution by 25% by awarding a total of \$250,000 to five grantees. With this increase, we were able to support an additional social justice case. To date, the Foundation has distributed more than **\$1,400,000** in grant funds to **49** social justice organizations in support of **65** litigation cases.

**Additionally**, the Foundation facilitated the creation of three new partnerships between social justice organizations and law firms for cases related to immigrant rights, prisoners' rights, and access to benefits in its High Impact Litigation Project. The growth of the High Impact Litigation Project has allowed the Foundation to dynamically support more litigation cases across the country beyond the scope of our grantmaking.

**Finally**, the Foundation revised its organizational structure by amending its by-laws to better allow the Foundation to achieve its mission. The new structure established multiple Board committees, which provide the strategic direction needed to ensure the Foundation's impact and sustainability.

**Expansion:** To directly address this need for change, the Foundation's Board established on December 15, 2021, the Barbara McDowell Public Interest Law Center, which will conduct social justice litigation nationwide and will be launched in 2022.

We are committed to achieving social justice through legal action and look forward to continuing to partner with you to improve the economic well-being, social conditions, and civil liberties of disadvantaged persons and groups in the United States.

Sincerely,

Jerry Hartman  
President  
Barbara McDowell Foundation

# Our mission is to achieve social justice

Established in 2009 to honor and continue the work of social justice advocate, Barbara McDowell, the Foundation aims to improve the economic well-being, social conditions, and civil liberties of disadvantaged persons and groups in the United States.

We fulfill our mission by making grants to organizations that undertake systemic, social justice litigation and by coordinating litigation through our Pro Bono High Impact Litigation Project.

## What We Support

The Foundation makes grants and coordinates litigation through its High Impact Litigation Project that address the following issue areas:

**Access to Benefits**      **Domestic Violence**  
**Children's Rights**    **Environmental Justice**  
**Civil Rights and Due Process**    **Healthcare**  
**Disability Rights**      **Homelessness**  
**Discrimination**      **Housing**

**Native American Rights**  
**Prisoners' Rights**  
**Refugee and Immigration Rights**  
**Voting Rights**  
**Veterans' Rights**



## The Legacy of Barbara McDowell

Barbara McDowell was an exceptional activist for social justice reforms. Following her untimely death from brain cancer in January 2009 at the age of 56, Barbara's husband, Jerry Hartman, established the Foundation in her name to honor and continue her extraordinary work. Barbara was the founding director of the Appellate Advocacy Project of the Legal Aid Society of the District of Columbia, a national leader in public interest advocacy, and inspired a generation of public advocacy lawyers. Prior to joining Legal Aid, Barbara attended Yale Law School, clerked for Justice White in the Supreme Court, worked as partner at the Jones Day law firm, and argued 18 cases in the Supreme Court as an Assistant to the Solicitor General.



# Leadership & Staff

In 2021, the Foundation revised its organizational structure by amending its by-laws to better allow the Foundation to achieve its mission of social justice through legal action. The new structure created several Board committees that provide the strategic direction needed to ensure the Foundation's impact and sustainability. The new committees include the Executive, Finance, Grant, and Advisory Committees.

## **Board of Directors**

### **Chair & President**

Jerry Hartman

Retired Partner, Faegre Drinker Biddle & Reath LLP

### **Vice Chair & Vice President**

Margaret Zwisler

Retired Partner, Latham & Watkins

### **Treasurer**

Bill O'Reilly

Retired Partner, Jones Day Law Firm

### **Secretary**

Brett Rogers

General Counsel, Brown Advisory

Jennifer Giordano

Partner, Latham & Watkins

Joshua Hauser

Consultant, JKD Consultants, Inc.

Edward Krugman

Retired Partner, Cahill Gordon & Reindell LLP

Elizabeth McCallum

Partner, BakerHostetler LLP

Deborah Shefler

Retired Attorney, Civil Rights Division of the United States Justice Department

Laura Shores

Partner, Arnold & Porter

## **Advisory Committee**

The Advisory Committee includes former Foundation Board Members and other individuals who review the annual grant applications prior to a further review by the Foundation's Grant Committee.

Michael Cleveland

Retired Partner, Vedder Price P.C.

Doug Hallward-Driemeier

Partner, Ropes & Gray LLP

Jim Kilbourne

Section Chief of the Appellate Section, Environmental and National Resources Division of the United States Department of Justice

Hayley Maclean Coker

Obstetrician

Matthew Roberts

Retired Attorney, United States Solicitor General's Office

Rebecca Tarneja

Associate, Cooley LLP

Richard Ugelow

Retired Attorney, United States Justice Department, Civil Rights Division

## **Foundation Leadership & Staff**

### **President**

Jerry Hartman

### **Vice President**

Margaret Zwisler

### **Development Director**

Kristina Crawford

### **Operations Director**

Katie McDonald

### **Special Administrator**

Aaron Stiner

# 2021 Grantees

**In September 2020, the Foundation's Board of Directors selected the following four worthy organizations to receive grants of \$50,000 each for the Foundation's 2021-2022 fiscal year.**

## **Asian Americans Advancing Justice (AAJC)**

Rooted in the dreams of immigrants and inspired by the promise of opportunity, Asian Americans Advancing Justice advocates for an America in which all Americans can benefit equally from, and contribute to, the American dream. Our mission is to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. AAJC is the voice for the Asian American community – the fastest-growing population in the United States – fighting for our civil rights through education, litigation, and public policy advocacy.



### **The Case: LUPE et al. v. Ross**

On September 13, 2019, AAJC with co-counsel filed a lawsuit challenging the Trump administration's plan to collect and provide incomplete citizenship data to the states for purposes of redistricting as an unconstitutional and racially discriminatory scheme intended to deprive Latinos, Asians, and non-citizens of equal representation. On July 21, 2020, after the issuance of the Presidential Memorandum excluding undocumented individuals from the apportionment base, the court granted Plaintiffs' motion to amend the complaint. On August 4, 2020, the government announced their continued efforts to ensure minorities are undercounted and underrepresented by ending field collection of data for the decennial census one month early on September 30, 2020. Accordingly, Plaintiffs sought declaratory, injunctive, and mandamus relief to prevent the government from carrying out its unlawful and racially discriminatory plans.

## **Disability Rights New York**

Disability Rights New York (DRNY) provides free civil legal and advocacy services to advance and protect the rights of people with disabilities across New York State. DRNY is committed to enabling those we serve to exercise their own life choices and fully participate in community life by engaging in both individual and systemic advocacy, targeting areas such as health care, housing, employment, community integration, education, prisoner rights, voter rights, and income maintenance.



### **The Case: Jose Hernandez, et. al. v. New York State Board of Elections, et. al.**

DRNY led a coalition of disability rights groups and several New York voters with disabilities in filing a lawsuit against the New York State Board of Elections for excluding New Yorkers with disabilities from their Absentee Ballot program. New York's Absentee Voting program requires voters to fill out a paper ballot using a pen or marker and to return the ballot by mail. The plaintiffs have print disabilities (*i.e.*, blindness, low vision, physical disabilities, learning disabilities), and are unable to independently mark a paper ballot. The Absentee Voting program provides no alternatives to accommodate individuals with print disabilities who vote from home. DRNY and its co-counsel assert that the plaintiffs should be provided as the lawsuit seeks with a fully accessible absentee voting program, electronic ballot delivery, and secure electronic ballot return.

## Gender Justice

Gender Justice is a nonprofit legal and policy advocacy organization based in Saint Paul, Minnesota. Founded by accomplished plaintiffs' attorneys ten years ago, Gender Justice's mission is to advance gender equity through the law. Gender Justice's programs, strategic and impact litigation, policy advocacy, education, and movement building work to fight gender discrimination and add protections to our civil rights. Gender Justice advocates for new policies and laws that work to improve the ways the United States addresses gender injustice and acts as a resource for lawmakers hoping to gain a stronger understanding of gender rights and equality.



### **The Case: Andrea Anderson vs. Grand St. Paul CVS, LLC**

Gender Justice is representing a rural Minnesota woman who was forced to contact three pharmacies and travel over 100 miles in blizzard conditions to fill her emergency contraception prescription. In 2019, Gender Justice filed a complaint on behalf of this individual who was denied service by pharmacists when she sought to fill a prescription for emergency contraception in January 2019. The complaint filed in Minnesota's Ninth Judicial District states that her experience constitutes illegal discrimination based on sex and that denial of contraceptive service based on her pregnancy-related health care needs violates the Minnesota Human Rights Act.

## National Center for Youth Law

For almost 50 years, the National Center for Youth Law (NCYL) has fought to advance justice by defending the rights of children and improving the systems impacting their lives. NCYL focuses on complex challenges that disproportionately affect children and communities of color and on solutions that require multiple public systems to change their policies, practices, and culture by filing litigation in the areas of immigration, juvenile justice, education, health, child welfare, and child trafficking.



### **The Case: LUCAS R. v. AZAR**

*Lucas R. v. Azar* is a federal class action lawsuit filed in 2018 on behalf of unaccompanied migrant children and youth by NCYL and co-counsel: the Immigration Law Clinic at University of California Davis, the Center for Human Rights and Constitutional Law, and the law firm, Cooley LLP. Plaintiffs allege that the Office for Refugee Resettlement (ORR), a program operated by the Administration of Children and Families (ACF), violates the legally protected rights of children in ORR custody. *Lucas R.* seeks to enforce constitutional protections for unaccompanied children in federal custody. At its core, this case seeks to protect the civil liberties of some of our most vulnerable children and youth. Thousands of class members in ORR custody will be directly impacted by the outcome of this lawsuit. By this litigation, NCYL with its expertise at the intersection of children's rights, immigrant rights, and disability rights seeks to improve the health, safety, and well-being of all children and youth in ORR custody.

# 2022 Grantees

In September 2021, the Foundation's Board of Directors selected the following five worthy organizations to receive grants of \$50,000 each for the Foundation's 2022-2023 fiscal year, distributing a record-setting \$250,000 in grants.

## Asylum Seeker Advocacy Project

The Asylum Seeker Advocacy Project (ASAP) is a non-profit organization dedicated to fighting for a future where the United States welcomes individuals fleeing violence. With over 175,000 members from over 175 countries, ASAP is now the largest organization of asylum seekers in the United States. ASAP members share a common goal: to work toward building a humane, welcoming, and accessible asylum system in the United States. ASAP members engage together in efforts to make change, including through high-impact social justice litigation and policy advocacy.



### The Case: CASA v. Mayorkas

In 2020, ASAP members challenged new rules proposed by the Trump administration that would severely limit asylum seekers' ability to obtain work authorization. On September 11, 2020, the district court ruled in ASAP's favor in *CASA v. Mayorkas* and issued a limited preliminary injunction that protected asylum seekers' ability to work – but only if they were members of ASAP or another organization, CASA. Since the preliminary injunction, ASAP has helped over 100,000 asylum seekers successfully receive work permits. ASAP is currently working to expand the court's protections in the *CASA* litigation for all asylum seekers.

## Children's Legal Center

Children's Legal Center (CLC) works to provide trauma-informed support to victimized children and families through direct legal and non-legal services. Created in June 2018, CLC's founding attorneys recognized the growing need for free immigration legal services, especially for children and victims of violence. CLC provides immigration relief screenings for eligibility and direct legal services to undocumented children and families who have experienced victimization. CLC's services include representation before the Immigration Court for asylum seekers and unaccompanied minors, as well as undocumented victims.



Children's Legal Center

### The Case: [Class Representative] v. Immigration and Customs Enforcement (ICE)

Children's Legal Center represents 68 individuals who came into the United States to seek asylum, encountered ICE, and whose personal documents were confiscated by ICE (and not returned). Children's Legal Center is in the process of filing a class action lawsuit against ICE for the seizure of personal documents of identification, such as passports and birth certificates contending that these actions violate due process and the 4<sup>th</sup> Amendment by preventing these individuals from applying for work authorization and harming their chances of winning asylum because they cannot provide corroborating evidence of biographical information.



## National Center for Lesbian Rights

Founded in 1977, the National Center for Lesbian Rights (NCLR) is one of the nation's leading legal advocacy organizations for LGBTQ people, with an active national litigation docket and a strong track record of winning precedent-setting cases. Beginning with custody cases on behalf of lesbian mothers, NCLR has built a history of successful litigation and innovative legal theory and practice in LGBT family law. NCLR has won key marriage equality cases. It was the first national LGBTQ legal organization to have introduced a Youth Project and has successfully defended against legal challenges to laws banning licensed therapists from practicing conversion therapy on minors. NCLR has a strong, recent record of winning cases on behalf of transgender youth, employees, and prisoners.



### **The Case: Tingley v. Ferguson**

NCLR successfully moved to intervene on behalf of Equal Rights Washington to defend the state's law prohibiting licensed therapists from performing therapy that seeks to change a minor's sexual orientation or gender identity. NCLR, with local co-counsel Raegen Rasnic of Skellenger Bender, P.S., has been defending the case alongside Washington state officials represented by the state attorney general. The law is being challenged by Brian Tingley, a therapist represented by the Alliance Defending Freedom (ADF), the country's largest anti-LGBTQ legal organization. In August 2021, the United States District Court for the Western District of Washington dismissed the challenge, holding that the law regulates a dangerous treatment, not speech, and therefore does not violate the First Amendment right to free speech. The court also rejected Tingley's religious liberty claim. Tingley has appealed the case to the U.S. Court of Appeals for the Ninth Circuit, which is expected to hear the case in 2022.

## National Center for Youth Law

For almost 50 years, the National Center for Youth Law (NCYL) has fought to advance justice by defending the rights of children and improving the systems impacting their lives. NCYL focuses on complex challenges that disproportionately affect children and communities of color and on solutions that require multiple public systems to change their policies, practices, and culture. NCYL's focus areas include immigration, juvenile justice, education, health, child welfare, and child trafficking.



### **The Case: D.S. v. Washington State Department of Children, Youth, and Families (DCYF)**

The case was filed on behalf of three youth plaintiffs who represent a class of children subjected to placement instability, as well as an organizational plaintiff, Disability Rights Washington, to protect thousands of children with disabilities in foster care. Across Washington State, children with disabilities in foster care are separated from their families because DCYF fails to provide them with the supports to remain or reunify with their families. Many children are subjected to extreme placement instability, cycling between temporary shelters, group homes, out-of-state facilities, one-night foster care stays, and hotels. The lawsuit's goals include requiring DCYF to (1) Provide appropriate family preservation- and reunification-focused supports; (2) End the placement of children in hotels, offices, and other short-term stays; (3) Develop an adequate array of placements so children with disabilities receive foster care services in the most integrated setting appropriate to their needs; and (4) Institute a process of providing individualized needs assessments to children with disabilities in foster care.

## New Economy Project

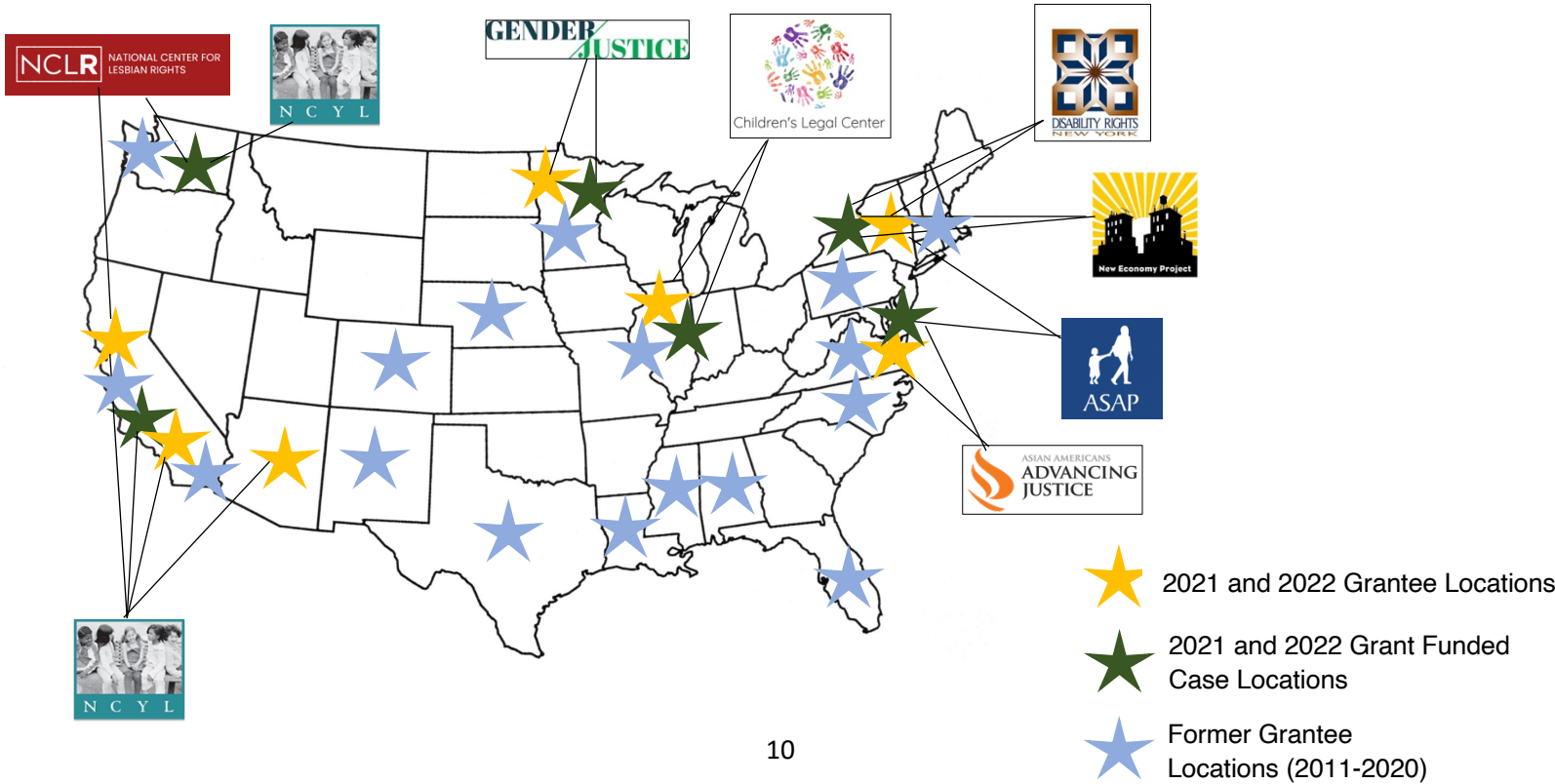
New Economy Project is at the forefront of financial justice advocacy in New York City. Founded in 1995, New Economy Project seeks to build a new economy that works for all, rooted in racial and social justice, cooperation, neighborhood equity, and ecological sustainability. New Economy Project undertakes systemic, social justice litigation and is known for effectively combining direct legal services with cutting-edge legal and policy advocacy, coalition-building, and applied research. New Economy Project challenges structural inequities that perpetuate poverty and racial wealth inequality and advocate for policies and practice changes that eliminate economic discrimination and other inequities that harm low-income New Yorkers and New York City neighborhoods.



### The Case: Esgro Capital Management, LLC v. Sharae Banks

In 2016, Sharae Banks, a single mother, learned that a debt buyer company had secured a default judgement against her – though she never even knew she had been sued. Ms. Banks sought information from the debt buyer’s attorneys, who offered her only an unaffordable payment plan. The debt buyer then began garnishing her wages in 2017, forcing her to work overtime to try to make up for the garnished wages. Only in 2020 did Ms. Banks learn that she could move to vacate the default judgement. Despite her proof that she was never served with a default judgment, the court denied her motion, finding that courts should not grant such “discretionary” relief where the individual “demonstrated a lack of good faith” or was “diligent” in asserting her rights. New Economy Project is appealing this state court decision, with co-counsel at The Legal Aid Society of New York City. New Economy Project seeks to reverse a disturbing line of cases granting New York State courts unwarranted discretion to refuse to vacate default judgements entered without personal jurisdiction and equating a sustained period of involuntary payments with waiver of one’s personal jurisdiction defense.

## Our Grantmaking Impact



# High Impact Litigation Project

The **Barbara McDowell Foundation Pro Bono High Impact Litigation Project**, national in scope, brings together law firms and social justice organizations to undertake by joint effort significant litigation to protect the civil liberties and enhance the economic, health, and social conditions of disadvantaged groups and communities. The Project has been part of the Foundation's work since 2010. Below are the cases coordinated by the Foundation's High Impact Litigation Project in 2020 and 2021.

## Suit to Challenge the Inhumane Conditions at St. Louis City Jail: (*Cody, et. al. v. City of St. Louis*)

**ArchCity Defenders** located in St. Louis and the international law firm **DLA Piper**, at the initiation of the Foundation, have joined together to continue prosecuting the class action case on behalf of thousands of people who have been held in the Medium Security Institution in St. Louis (a jail more commonly called the "Workhouse") over the past eight years. The lawsuit seeks damages from St. Louis City for the alleged inhumane conditions experienced by the detainees as well as injunctive relief for the court to require that the jail either be brought up to constitutional standards or closed in order to prevent individuals from being subjected to its abusive conditions.

## Appeal Seeks Relief for Children Asylum-Seekers

The law firm **Eversheds Sutherland (US) LLP** and **Capital Area Immigrants' Rights Coalition**, through the coordination of the Foundation, have joined to seek relief for three children asylum-seekers who have received faulty removal orders under the Remain in Mexico/Migrant Protection Protocols (MPP) program. The appeal primarily involves due process challenges to the children's removal orders on the basis that the immigration judge who adjudicated their mother's asylum case did not give the children an adequate hearing on their own asylum claims.

## Suit to Challenge the Louisiana Workforce Commission's Failure to Determine Eligibility for Unemployment Benefits and Issue Unemployment Assistance During COVID-19 (*Plaisance v. DeJoie*)

*Plaisance v. DeJoie* was filed in February 2021, challenging the Louisiana Workforce Commission's failure to determine eligibility for unemployment benefits, hear appeals, and issue vital unemployment assistance during COVID-19. The State arbitrarily terminates benefits without adequate notice, leaving claimants with no financial support during an appeal process that can last well over a year. **The National Center for Law and Economic Justice (NCLEJ)** subsequently joined the litigation representing the plaintiffs. Through coordination of the Foundation, **Winston & Strawn** will serve as pro bono co-counsel for the case.

# Financial Summary

## 2020 Income Statement

January 1, 2020, Beginning Capital Balance \$1,225,044.04

### Revenue

Contributions	\$ 55,145.69
Investment Income	\$ 17,874.74
Capital Appreciation	\$ 89,658.36
<b>Total Revenue</b>	<b>\$ 162,678.79</b>

### Expenses

Grants	\$ 200,000.00
Operation Expenses (Contractor, Accounting, and Misc. Expenses)	\$ 39,994.73
Income Reinvested	\$ 2,114.54
Fees and Charges	\$ 6,664.45
<b>Total Expenses</b>	<b>\$ 248,773.72</b>

December 31, 2020, Ending Capital Balance \$1,138,949.11

## 2021 Income Statement

January 1, 2021, Beginning Capital Balance \$1,138,949.11

### Revenue

Contributions	\$ 158,146.02
Investment Income	\$ 33,712.80
Capital Appreciation	\$ 115,016.44
<b>Total Revenue</b>	<b>\$ 306,875.26</b>

### Expenses

Grants	\$ 250,000.00
Operation Expenses (Contractor, Accounting, and Misc. Expenses)	\$ 38,814.67
Income Reinvested	\$ 5,045.31
Fees and Charges	\$ 5,852.08
<b>Total Expenses</b>	<b>\$ 299,712.06</b>

December 31, 2021, Ending Capital Balance \$1,146,112.31

# Join Us in the Fight for Social Justice

In today's political, economic, and social climate, the Barbara McDowell Foundation needs your support more than ever.

Your contribution will directly support the Foundation's high impact grantmaking to social justice organizations pursuing litigation throughout the United States, and the Foundation's High Impact Litigation Project.

Join Us Today by Contributing to the  
Barbara McDowell Foundation

Donations are accepted in the following ways:

**By Check:**

Checks made payable and mailed to:  
The Barbara McDowell Foundation  
3607 Whispering Lane  
Falls Church, VA 22041

**Via PayPal**

**Visit Our Website**

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