

THE SUMMIT



The official newsletter of AppalReD Legal Aid



WWW.ARDFKY.ORG

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50 Years This Fall

Dear friends,

Happy Fall! As we enter November, I want to thank everyone for their amazing generosity during our 50th anniversary year. You all have given so much and made this year so special.

Thank you to everyone who attended our Gather for Justice virtual celebration on September 18th. It was an evening of music, fun, and inspiration. The highlight was Tom Martin's interview of our founder and director emeritus, John Rosenberg. If you missed it, you can find it on our website at www.ardfky.org. John just celebrated his 90th birthday, and he was recently awarded the prestigious Griffin Bell Award for Courageous Advocacy by the American College of Trial Lawyers. He is a constant inspiration to us.

October is Domestic Violence Awareness Month. Every year our attorneys assist hundreds of victims with protective orders, divorces, and other civil cases. Our work helps these folks transition from victims to survivors and move forward with their lives. I am so proud of our work for victims, and your support makes that work possible.

With gratitude,

Robert Johns

Executive Director
RobertJ@ardfky.org

Evictions Spike

By Sarah Curry

Over the past year, AppalReD Legal Aid has fought 50% more eviction cases. To understand this phenomenon and the challenges clients face I spoke with two Staff Attorneys, James Fahringer (Somerset office) and Margaret Sites (Richmond), who have been responsible for helping many keep roofs over their head.

What have you learned from working on so many evictions or housing related cases the past year or so?

JF: Tenants effectively don't have the rights they are supposed to have unless they have an attorney. I've seen so many situations with tenants where everyone just ignores their rights—even basic things like asking for a jury trial—until the tenant is represented by counsel.

MS: Even though eviction court is a short summary proceeding, there are still arguments that can be made and procedural tactics that can be deployed that can significantly improve outcomes for tenants who are represented.

What kind of barriers do clients have to accessing justice and maintaining a roof over their heads?

JF: Knowing their rights is a huge barrier. A lot of tenants get a notice to vacate and they figure they can't do anything about it.

MS: Barriers that clients face: unavailability of affordable housing in a tight market, low wages and incomes, poor credit and past evictions, debt, unconscionable fees that landlords charge which cause people to get behind on payments, and discriminatory attitudes among landlords and the court system towards poor people, families with young children, and marginalized groups.



Photo by Katie Myers. Two AppalReD clients separated from their children and stranded at a roadside motel after eviction.

What kind of housing conditions are tenants living in—either after they are evicted or as they face eviction?

MS: People have lots of issues with mold, plumbing, electric, appliances that don't work, and structural issues such as collapsed ceilings and caving in floors. There's no warranty of habitability in counties and cities that haven't adopted URLTA, which is most jurisdictions in Kentucky.

JF: Many tenants are in poor housing conditions while facing evictions. Unfortunately, I have to tell them that their landlords' failure to maintain the premises is typically not a good defense to eviction, because the eviction trial will focus on whether the tenant has done anything wrong (or failed to do something) so as to entitle the landlord to terminate the lease. In fact, when I see pro se tenants bring up issues of bad living conditions, some judges will ask why the tenant wants to stay there anyway, if it is so bad.

Do clients receive threats from landlords?

JF: All kinds . . . including threats of violence and threats of illegal self-help.

MS: I have dealt with many landlords who intentionally try to render properties uninhabitable by refusing repairs, shutting off utilities, sabotaging properties by removing windows and doors, harassing people, stalking them at their home and their jobs, insulting them, even threatening them with physical violence.

It is often very scary for tenants to be in a dispute with an angry landlord.

Is there anything you wish potential clients knew when it comes to eviction?

MS: People who are being evicted should always contact legal aid as early in the process as possible to get advice about their situation. People's rights will vary depending on the jurisdiction they are in and the terms of their lease agreement, so it's best to talk to an attorney.

JF: You can't just withhold the rent because your landlord is doing something wrong. In URLTA jurisdictions, there is a process of giving landlords a 14-day notice to fix a problem, and then paying to fix the problem yourself, and deducting it from the next month's rent check, but the notice has to contain specific information and the tenant has to strictly follow the process in order to do this. In non-URLTA jurisdictions, there is no such process. Some tenants will say – If my landlord won't do "x" then I won't pay rent. It just doesn't work that way. Even in URLTA jurisdictions, the process of withholding part of the rent is significantly more complicated than just refusing to pay it.

What's the most effective tool in your arsenal?

JF: Agreed move outs. Many cases have good procedural defenses, because the landlord did not follow part of the eviction process, but these defenses are only temporary. The landlord can start the process over, and if they do things right, they'll probably get an eviction. When a client is in position to agree to a move out date, they can get the time that they need and they can avoid an eviction judgment, which can affect future eligibility for housing benefits.

MS: The extremely supportive community of legal aid and former legal aid attorneys in Kentucky.

Any anecdotal profile of client population in general? What are the patterns you're seeing?

MS: Most of my clients are working people or formerly working people who have become disabled. Right now, I am representing a working family with kids. They were laid off during the Delta Variant wave. When legal proceedings were exhausted and rent assistance was processed too slowly they were evicted. They scrambled to pack belongings. Like too many families, their family was separated. Their children were sent to live with relatives and they are homeless, living under charity in a roadside hotel. Because of their eviction, they cannot find other housing.

Often, a health crisis leads to an inability to work, an accumulation of medical debt, and a spiral into poverty. There are people being evicted who are sick, elderly, families with children. I had one client who was on hospice and being evicted.

JF: I have a client who has a chronic illness, cancer I believe, who missed their hearing because they were unwell that morning. Now we're fighting in the Court of Appeals.

If I had a magic wand that could grant any wish, what would you wish for?

JF: Statewide URLTA. There are so many clients in non-URLTA jurisdictions that I represent that I have to advise that they don't have rights that most people assume that tenants would have, like a warranty of habitability, because their county has not adopted URLTA.

MS: For more tenants to organize and build robust tenant's unions and organizations to collectively bargain with their landlords and lobby state and local governments for better laws.

Good Luck Retirees!



(L-R) Lana Gresham and Jo Ann Harvey

We wish Lana Gresham and Jo Ann Harvey well as they enter into retirement. They provided incredible service to their clients and mentored many. They will be deeply missed. Lana worked for AppalReD Legal Aid for 23 years, while Jo Ann worked for 11 years in two different stints.

Lana served as Directing Attorney for the Pikeville office. She joined AppalReD Legal Aid directly after law school. She said, "It has been a privilege to serve with so many talented and dedicated people over the years. I could not have performed my job without the assistance of everyone here. Our support and administrative staff are exceptional."



Prestonsburg staff gather to wish retirees well.



Jo Ann also worked at AppalReD Legal Aid directly out of law school and considers it a privilege to have spent six years in the office next to John Rosenberg. She returned to AppalReD Legal Aid at the end of her career after serving in the Floyd County child support office. Jo Ann was the Legal Assistance for Victims Attorney in the Prestonsburg office where she helped countless clients obtain protective orders. Clients sometimes called Jo Ann the "tooth fairy" because she connected them with AppalReD's Survivors' Smiles program where they were able to receive free dentures after facial trauma. She represented many survivors of sexual assault and domestic violence.



Survivors' Smiles has provided 75 domestic violence survivors with full or partial dentures. The transformative impact of getting your smile back cannot be underestimated. We've seen increases in self-confidence and even employment gained!

18th Annual Domestic Violence & Elder Abuse Awareness Conference

By Caleb Pittman, Staff Attorney

Last month, AppalReD Legal Aid held its 18th Annual Domestic Violence and Elder Abuse Awareness Conference. Though we had hoped to return to an in-person venue this year, due to concerns for the safety of the speakers and audience amid the ongoing Covid-19 pandemic, we returned once again to a virtual format. One positive benefit of this is that we once again had a larger turnout than normal, with over 300 people viewing the proceedings, with audience members from diverse backgrounds such as nursing home administrators, social workers and psychologists, and attorneys connecting to learn from our presenters.

This year's conference covered the topics of domestic violence and elder abuse from a variety of perspectives. AppalReD's own Jo Ann Harvey and Kathryn Burke spoke about obtaining protective orders for survivors of dating violence, domestic violence, and sexual assault. Their presentation elucidated the legal requirements for obtaining protective orders, the procedure that is followed at the hearing, and the effect of obtaining a protective order. This information is helpful for anyone who works with survivors, not just attorneys.

Sherry Culp, the Kentucky Long-Term Care Ombudsmen, spoke about the particular issues that elderly LGBTQ+ individuals face regarding our long-term care facilities. Ms. Culp spoke about the healthcare challenges that LGBTQ+ individuals face as they advance in age and the importance of having quality long-term care available for them, given that they are twice as likely to live alone as other elderly individuals. However, as Ms. Culp also informed us, this population also faces unique risks of abuse in long-term care facilities and is less likely to report the abuse they experience. Ms. Culp finished by informing us of how to watch for signs of abuse among the elderly individuals we know.

Kate Anderson, an Assistant U.S. Attorney for the Eastern District of Kentucky, spoke to us about prosecuting fraud targeted at the elderly. She informed the conference

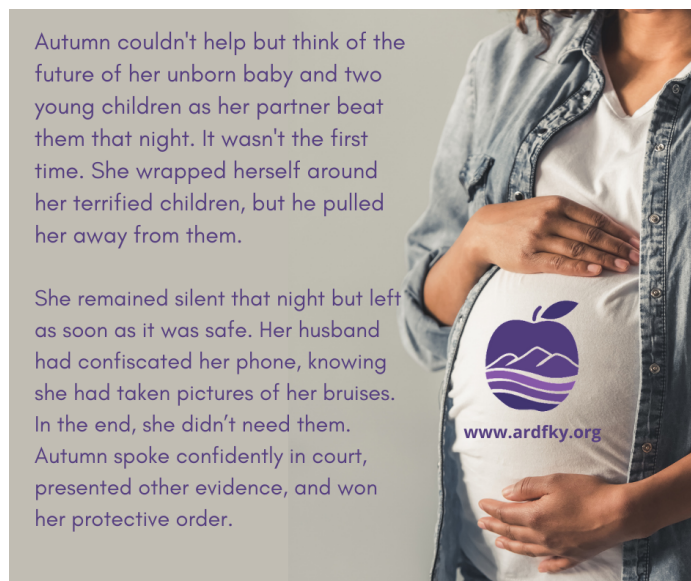
that more than 13% of older Americans are victims of financial fraud every year, but only 1 in 44 cases are reported. Ms. Anderson identified the most common types of scams perpetrated against the elderly and discussed how to spot signs of such fraud and how to appropriately report it.

Finally, Terrah D. Combs, a Licensed Professional Clinical Counselor and Director of The Rising Center, spoke about the principles of Trauma Informed Care. She discussed the effects that different kinds of trauma can have on the mental health and the behavior of survivors, and also informed the audience about the best practices in working with individuals impacted by trauma. Ms. Combs also discussed the importance of identifying and treating the compassion fatigue that commonly occurs among those who work with survivors of trauma.

Audience feedback showed that viewers were pleased with the valuable information presented and agreed that this conference should continue long into the future. Several members expressed a desire to see it return to an in-person format, while others stated that they would not have been able to attend if it were not offered virtually. With this in mind, AppalReD plans to host the 2022 conference in-person at Eastern Kentucky University and continue to offer a virtual option for viewing the conference.

Autumn couldn't help but think of the future of her unborn baby and two young children as her partner beat them that night. It wasn't the first time. She wrapped herself around her terrified children, but he pulled her away from them.

She remained silent that night but left as soon as it was safe. Her husband had confiscated her phone, knowing she had taken pictures of her bruises. In the end, she didn't need them. Autumn spoke confidently in court, presented other evidence, and won her protective order.



Alumni Spotlight: Christine Freeman

*The Road to Justice is Paved with. . .
Good Trouble*

Christine Freeman worked for AppalReD Legal Aid from August 1977 until the spring of 1982. She worked in Barbourville as a staff attorney then went to the Harlan when it opened and finally was the Directing Attorney of the then-new Columbia office.

She's currently the executive director of the Middle District of Alabama Federal Defender Program in Montgomery, Alabama. Her organization is the public defender for the federal court in this district, handling trials and appeals. They also have a capital habeas unit that operates in all three Alabama federal districts, and a small separate non-profit, the Alabama Post Conviction Relief Project (www.alapcrp.org), that recruits and supports volunteer lawyers to represent Death Row clients in state post-conviction, before the capital habeas unit represents them in federal court.

It seems fighting “good battles and getting into good trouble” runs in the family. Christy's son is in law school, while her foster daughter and her wife work for legal aid programs in New York City.

How did your time at AppalReD contribute to who you are or what you do today?

In every way. I saw the issues that still are present throughout our country – but up close. Living in small towns in Kentucky, it was easy to see the extreme gap between wealth and poverty; the limitations of our education system (it just had not occurred to me that a person could graduate from high school and still not know how to read); the continuing racial injustice (the Barbourville library had been closed to African-Americans until just a few years before I began work in Barbourville); the whole “outsider” issue, in all its complexity.



The time in Kentucky chipped away at my own naivety.

Really in some ways I am in Montgomery because of John and Jean – I knew this was one of their first work sites, while they worked with the DOJ Civil Rights Division—and the results of their work, and the battles still to be fought, are visible every day here in Montgomery. I visit Selma and think about Jean having to physically protect electoral ballots from the sheriff who wanted to steal them. I go into the federal court house—into Frank Johnson's own courtroom—where John represented civil rights workers—and I practice in front of Alabama's first African American judge. I feel privileged every day to be able to do my present job and I am very grateful for the training, support, opportunities, and experience in Kentucky.

You are not from Kentucky. What were some of your first impressions?

I fell in love with Kentucky. . . the mountains were breath-taking. Just before I moved to Kentucky, I lived in Philadelphia, where we stood in anonymous lines and quickly transacted business – but when I went to get phone service for my house at the AT&T office in Barbourville, they wanted to chat! A completely foreign experience. During my first week in Barbourville, I left my house early one morning to take a quick jog – maybe run around Union College. And I looked up and there was a mountain – right there! I felt so lucky to be living in such a beautiful place.

What cases during your time at AppalReD are you proudest of because of its impact or because they touched you personally?

I just had terrific and interesting clients. And we fought good battles. I remember going to a community meeting with representatives from various social service agencies in Columbia, and feeling proud (silently, of course) of the fact that AppalReD had sued each of them. Soon after I passed the bar, I represented a client of the Barbourville office in a divorce action and custody battle for his six-year-old son . . . My client's father had been the only survivor of a mine cave-in decades earlier. . . my client and his son lived in a kind of home-made house, without running water. The road to their home was deeply rutted and often muddy. But the son was spotless and scrubbed each time I saw them.

I worked in Harlan a couple years after the documentary "Harlan County, USA" was released. During the time I was in Harlan, there was a strike against a mine and the women once again were primary organizers. The mine owners were driving "strike-breaking" workers to the mine in an old school bus - so families said they would not send their children to school in the county school buses, because the buses might be mistaken for the mine's and vulnerable to violence. This put pressure on the school system since their state funding depended on the daily attendance count. It was a creative and inspirational action.

What are some of your fondest memories of your time at AppalReD?

Sitting in the Harlan courthouse just felt wonderful! Gil Fuchs and I tried a case in Harlan, a year or two after the big floods. Our client, Red, had come into town as a home repair guy and was sued by the local hardware store for bill collection. The jurors were not happy with out-of-town repair people, and we lost the trial, but we won a reversal on appeal! This was just after Chuck DiSalvo tried two cases there and won - one on behalf

of a school teacher who had been transferred to a school 50 miles from his home, in retaliation for supporting the losing candidate for school superintendent, and the second on behalf of a disabled coal miner who had been hoodwinked by some "friends" who had forged checks on his account and stolen his disability payments. This client had a murder charge pending at the time, but Chuck won the case, with terrific testimony from a handwriting expert and big blow-up exhibits of the checks, showing that the signatures had been traced.

One of my favorite cases was representing Harold Fee and union housekeeping workers at the Appalachian Regional Hospital near Harlan - they had been fired when they walked off the job in protest over announced staff cuts. They had a no-strike contract, but Harold Fee told me that my job was not to keep them from trouble, but to help them out after they'd gotten into trouble.

In Columbia, we filed a habeas action on behalf of a Russell County jail prisoner who was being denied medical care after he had been beaten by the police during his arrest for public intoxication. The case was instructive to me in many ways - the mom-and-pop operation of the jail, the indifference to prisoners, the seemingly casual brutality of the police. My client still had blood and marks on him when I met with him at the jail.

If you were speaking to a stranger, what would you tell them about why they should support AppalReD Legal Aid today?

AppalReD has done so much for the region, the community, the towns. No other program in the area offers such a comprehensive and broad range of legal support. No other program both provides individual assistance and brings about systemic change. There is still injustice and inequity, and it must be fought.

50th Anniversary



On September 18th, 150 of you joined us at Gather For Justice for a virtual 50th anniversary celebration. We shared music and memories and re-connected in the midst of the COVID pandemic. An interview by *Eastern Standard's* Tom Martin of John Rosenberg inspired (find it on our home page: www.ardfky.org), while folks saying "hi" in the chat and playing trivia made it almost feel like we were in the same room. It's a tremendous testament to the power of our community that we raised \$65,000 to provide free civil legal aid to low income and vulnerable people across eastern and south-central Kentucky. We entered the evening proud of our past and left excited for the future and thrilled by our collective power to provide equal access to justice.

Our two pandemics—the COVID pandemic and the poverty pandemic—continue to challenge us. But as Jordan Smith sang, "Only love, only love can save us now." Thanks to your generosity, we are more ready than ever to meet the needs of our communities with love and legal aid. We asked you to give the gift of justice and you answered with an outpouring of support.

We are thrilled to announce that **134** people donated to our 50th anniversary campaign and auction raising **\$65,000!**



Lorie Elam, Rob Johns, Sarah Curry, and Paul Woosley getting ready to host Gather For Justice live from Prestonsburg's conference room.

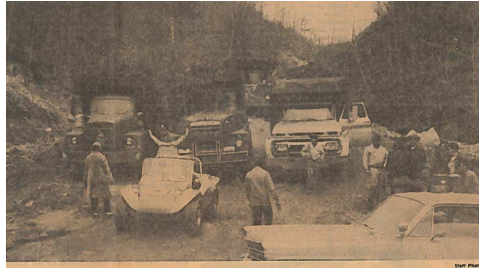


Alex Miller sang "Blue Moon of Kentucky."

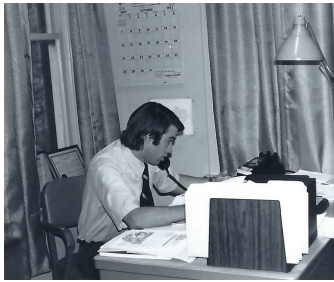


Jordan Smith sang "Only Love."

A BRIEF HISTORY OF APPALRED LEGAL AID



Took on a local police department well-known for engaging in "racial terror violence," on behalf of an African-American family. Also, represented several strip mining challenges, including the reversal of a permit to strip mine Pike County's Poor Bottom Hollow. AppalReD successfully argued that there would be substantial damage to life and property.



Represented several imprisoned people, including a man who was beaten, refused medical treatment, and placed in confinement. He was awarded damages.

AppalReD grows to eleven offices and a staff of over 100.

AppalReD paralegals and attorneys helped establish the first women's shelter in the area. The Battered Women's Support and Shelter, Inc. served an 8 county area.



1971

AppalReD has three operating offices in Prestonsburg, Barboursville, and the University of Kentucky in Lexington, with a staff of about 15, including 8 attorneys.

AppalReD helped organize a protest against strip mining and overweight coal trucks.

1973

AppalReD begins operating independently.

1975

Took on a local police department well-known for engaging in "racial terror violence," on behalf of an African-American family. Also, represented several strip mining challenges, including the reversal of a permit to strip mine Pike County's Poor Bottom Hollow. AppalReD successfully argued that there would be substantial damage to life and property.

1976

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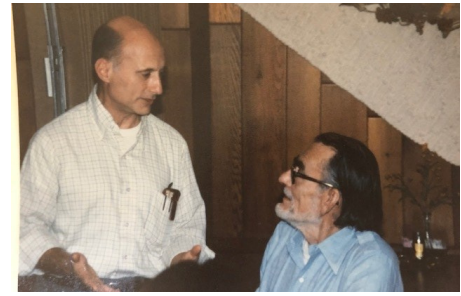
1980

AppalReD grows to eleven offices and a staff of over 100.

AppalReD paralegals and attorneys helped establish the first women's shelter in the area. The Battered Women's Support and Shelter, Inc. served an 8 county area.

1970

AppalReD began in 1970 as part of a two-state program operated out of Charleston, WV. John Rosenberg offered the position in November 1970.



Explosion in the Finley Coal Company Mine in December 1970 killed 38 coal miners. AppalReD represents the sole survivor and presents findings to a congressional committee. The committee agreed that the company used illegal explosives and that the responsible regulatory agency knew about previous dust violations. Company pled nolo contendere and was fined.

1972

Filed a petition against coal companies with repeat strip mining violations to prevent these companies from obtaining additional permits.

1974

Legal Services Act passes, providing funding for legal aid throughout the U.S.

On behalf of twenty welfare recipients, challenged the state for terminating public assistance without due process. They fought for hearings, notices, and for recipients to have the right to present evidence.

1975

Assisted by AppalReD, the Town of David community group purchased their town from the coal company who had let the town crumble into disrepair.



1977

AppalReD Legal Aid grows to 22 lawyers across 4 offices.





1980'S

Successfully challenged the state park system for refusing to hire minority workers for seasonal work. Represented women coal miners denied employment or who experienced sexual harassment.

1988

"Death Knell to Broad Form Deed:" AppalReD and KFTC joined forces to write and organize for the passage of a constitutional amendment that effectively required landowner consent before surface mining could take place. It passed with 92% support.

1993

Our case representing an elderly widow sued by mineral owners and a coal company to prevent her from interfering with their proposed surface mining operation is reviewed and the Broad Form Amendment is upheld and found to be constitutional by the court.

1994

In February 1994, we began our first organized effort to provide legal assistance to persons who are HIV positive, by entering into a contract with an AIDS Volunteer Organization in Lexington.



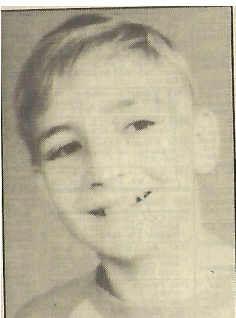
Started Kentucky Migrant Legal Services, based in AppalReD's Richmond office and in collaboration with Texas Rural Legal Aid to educate and assist migrants with labor disputes in Kentucky.

1996

The passage of the Violence Against Women Act makes it possible to begin employing attorneys who specialize in serving clients who experienced domestic violence and assisting them with obtaining Emergency Protective Orders.

1999

AppalReD represented the Maggard family for over a decade after their 13-year-old Eric Matthew Maggard drowned. The case charged negligence of the state in its inspections and permitting of a strip mine. A grossly undersized and unmaintained culvert caused creek flooding and led to Maggard's tragic accident. The family was awarded damages.



1986

Volunteer Lawyers for Appalachian Kentucky (VLAK) begins.

1991

Mine Safety Project launched, expanding AppalReD's work on coal mine safety and health.

1990'S



A 94 year old resident of a nursing home in eastern KY was evicted after he started showing AIDS symptoms. When his family arrived they found him against a wall in his wheelchair with his belongings in garbage bags. Nursing homes also avoided housing HIV/AIDS patients by delaying training. We filed civil rights complaints with the human rights commissions and the state created non-discrimination policy regarding AIDS patients.

1994

AppalReD pivots and VLAK grows when Congress bans legal aid providers from representation of prisoners, undocumented immigrants, and certain public housing residents. They also prohibit class actions and legislative advocacy.

1997

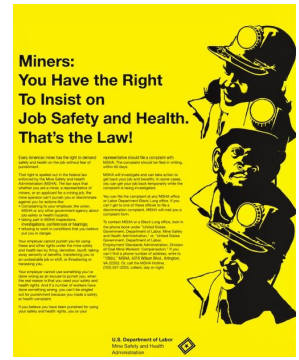
AppalReD takes a case that takes on check cashers charging exorbitant interest rates. We testify in the state legislature. A law is passed limiting interest rates and protecting consumers.



2000



AppalReD opens LINKS or Low Income Housing Coalition of Eastern Kentucky, providing home improvement to low-income homeowners and building affordable homes.



2001

Appalachian Citizens' Law Center was founded by John Rosenberg as a "sister organization" to take on advocacy and litigation work that AppalReD could no longer legally practice.



2007

AppalReD opened its Low Income Taxpayer Clinic (LITC) in the Richmond office. The clinic serves clients with federal tax problems in 86 Kentucky counties.

2015

AppalReD coordinates a response to the "humanitarian crisis" caused by Eric Conn who perpetuated the largest fraud scheme in the history of the Social Security Administration. SSA notified 1500 people that their cases are under review or suspended and they are liable for overpayments. At least three people committed suicide. Another 2000 disability recipients were pegged for "redetermination" hearings. AppalReD recruits hundreds of private attorneys.

JULY 2021

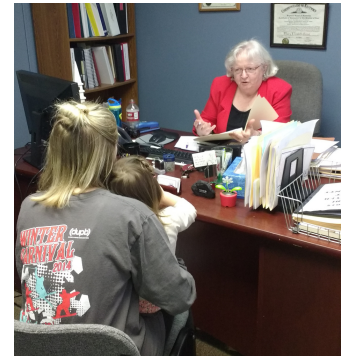
Begins medical-legal partnership which screens primary care, obstetric, and pediatric patients for civil legal needs (housing, food benefits, utility shut off, eviction, domestic violence, consumer issues, etc.) and connects patients with our attorneys. Begins screening individuals at recovery centers to support transition back into the workforce.

NOVEMBER 2021

AppalReD Legal Aid turns 50.

2003

AppalReD begins offering annual conference on domestic violence and elder abuse.



2009

Appalachian HOPE (Homeless Outreach Prevention Effort) provides domestic violence survivors financial assistance to transition to safe housing.

2019-2021

Victories for widows of disabled coal miners sets positive national precedent for black lung claimants and strengthens protections for all workers.

OCTOBER 2021

26 attorneys and 24 staff across six offices serve over 10,000 people annually.

Many thanks to Stephanie Lang and Jessie Wilkerson for wonderful articles in *The Register* that provided details of AppalReD Legal Aid's history and to John Rosenberg for many conversations as well as Tony Oppegard, Jo Ann Harvey, and Lorie Elam. Litigation summaries were also an excellent resource.—S.C.



Giving Tuesday and Good Giving Challenge

AppalReD Legal Aid will participate for the first time in the Bluegrass Foundation's Good Giving Challenge from December 1-6th. Most of the challenges run from 9 a.m. EST-9 p.m. EST, and giving early ensures the match pool is still plentiful.

What does this mean for you?

Because of this partnership, your dollars will go farther. Every day of the challenge there are different ways for your donation to be matched. Donations must be made on www.BGgives.org/appalred.

How can you help?

Pick a day and give! Join us on Facebook, Instagram, and through email and help spread the word!

Let's unlock dignity, opportunity and equity through the power of generosity!



Mark your calendar!

11/30: 50¢ per \$1 match on unique gifts up to \$250 (\$100,000 match pool)

12/1: \$1 for \$1 match on unique gifts up to \$50 (\$25,000 match pool)

12/2: Nonprofits with at least 50 unique donors of at least \$25 are entered into a drawing for a \$5000 endowment.

12/3: 11 a.m.-11 p.m. A \$10,000 match pool will match gifts up to \$100, 50¢ per \$1 (maximum match of \$50). The nonprofit with the most gifts of \$100 made between 11am and 11pm will receive a \$1,111 match prize!

12/4-5: First 10 organizations to raise \$5,000 get a \$2,500 prize. Next 25 to raise \$2,500 get a \$1,000 prize.

12/6: 50¢ per \$1 match on unique gifts up to \$500.

Late Night Challenge: Gifts up to \$100 will be matched \$1 for \$1 9 p.m. - 11:59 p.m.

AppalReD
Legal Aid

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Prestonsburg, KY 41653



*Thank!
you!*

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