



OHIO ASSOCIATION OF CIVIL TRIAL ATTORNEYS  
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# THE UPDATE

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### President's Message

**By: Natalie M. E. Wais  
2021 OACTA President**



As you read this, I will be nearing the end of my term as president of OACTA. The phrase "The days are long, but the years are short" is a fairly accurate description of what has seemed like a very short past year. I am honored and proud to have served as the President of this organization. Thank you for your vote of confidence and support.

The Officers, Board Members, Chairs, Co-Chairs, and Members have all been working to make our organization thrive through organizing CLE opportunities, webinars, Coffee Chats, writing articles for The Update and The Quarterly Review, and organizing and participating in Happy Hours. We have achieved a lot this year, and it is due to the hard work and effort of all of you. So, thank you. Also, special thanks to Debbie Nunner and Laney Mollenkopf. They deal with a myriad of strong and different personalities and keep us on the right path. It has been a pleasure working for all of you.

In November, Ben Sassé will be named the new President of OACTA. Ben will continue to lead this organization through the pandemic with his confidence and experience. He has served as a great sounding board and advisor to me throughout this year. We are so fortunate to have Ben at the helm for 2021-2022. Ben will continue to work with Officers David Orlandini and Paul McCartney, along with OACTA's newly appointed Secretary, Elizabeth Smith, and our esteemed Board of Trustees.

Thank you to all who participated in our recent in-person events, including the Litigation Skills Workshop in August; the September Happy Hour; and the OACTA Foundation's Annual Golf Outing. The events gave us a taste of "normal" in an anything but normal year. We had a record-breaking year for both sponsorship and the number of golfers in the golf outing! The proceeds go toward OACTA Foundation donations to NFJE and Hilary S. Taylor Inclusion and Equity Scholarships to law students.

The Annual Meeting registration is OPEN! We are scheduled for an in-person Annual Meeting on November 11 and 12 at the Hilton Polaris in Columbus. As we are focused on "Moving Forward," you will hear from an

## **Mark Your Calendars!**

**November 4, 2021**  
OACTA Professional Liability  
Committee  
Lunch & Learn Webinar  
Professional Liability Update  
[Learn More and Register  
Today!](#)

**November 11-12, 2021**  
OACTA Annual Meeting  
Hilton Polaris  
Columbus, OH  
[Learn More and Register  
Today!](#)

**December 14, 2021**  
OACTA/The Ohio Reporting  
Company  
Lunch & Learn Webinar  
How to Persuade a Jury  
[Learn More & Register  
Today!](#)

esteemed panel of Supreme Court Justices (Justice Fischer and Justice Stewart) and Appellate Judges (Judge Baldwin and Judge Dorrian); a panel of insurance professionals on updates in the insurance industry in light of the pandemic; the impact on trials in light of Black Lives Matter; legislative and civil rule updates; mediation tips; marketing during the pandemic; techniques to deal with stress to maintain a positive mental health; and breakout sessions on construction law and personal injury cases. Up to 8.75 CLE credits are available, including 2.5 hours of APC credits. In addition to the swearing in of new leadership and honoring award recipients (Nicholas E. Subashi, James L. Mann, Robert J. Wagoner, Director Judith French, Adelia Mohan, Joseph T. Mordino, and Michelle L. Burden), we will be honoring this year's two Hilary S. Taylor Inclusion and Equity Scholarship recipients: Rebecca Alexander and Neema Ashou. Join us Thursday night for a "Casino Night."

I encourage all members to get involved if they already are not doing so. The more you put into an organization, the more you get out of an organization. OACTA has benefitted me in so many ways both personally and professionally. I would love for it to do the same for you.

Until next time... which I hope is at the Annual Meeting. Take care.

## **Registration Now Available for the 2021 OACTA Annual Meeting!**

Join us for an outstanding two-day program featuring outstanding speakers and interesting topics with something for everyone!

What can we expect from Ohio Courts moving forward? An esteemed panel of Supreme Court Justices (Justice Fischer and Justice Stewart) and Appellate Judges (Judge Baldwin and Judge Dorrian) will give you their insights. Other presentations include the impact on trials in light of BLM (black lives matter), legislative and civil rules updates and mediation tips. A panel of insurance professionals will update us on the status of the insurance industry in light of the pandemic. Breakout sessions will address construction law and personal injury cases. Improve your practice with marketing tips and learn techniques to deal with stress to maintain positive mental health. Up to 8.75 CLE credits are available, including 2.5hr. of APC credits.

Ready for a night out with your colleagues? Join us for a Social & Networking Event on Thursday evening, 5:30-8:30pm. This fun-filled Casino Night will be at the Hilton Polaris and includes food, drink tickets and a DJ.

### **Continuing Legal Education**

This course is approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 8.75 total CLE hours, with 2.25 of attorney professional conduct instruction. The course is also approved by the Kentucky Bar Association.

### **Seminar Registration Fees**

- OACTA Member - \$325.00
- Non-member - \$525.00
- New Attorney (Member) - \$275.00
- New Attorney (Non-member) - \$375.00
- Claims Executives - \$150.00
- In-House or Corporate Counsel - \$150.00
- Office Administrator - \$100.00
- Law Student Member - \$0.00

[View the Program](#)

[Learn More & Register Today!](#)

*Thank you to our Sponsors!*



**Welcome New OACTA Members Since July!**

- David Ahlstrom**, Faulkner & Tepe LLP
  - Brian DeSoto**, Great American Ins. Co.
  - Krystina Garabis**, Roetzel and Andress
  - Matthew Hauer**, Pickrel, Schaeffer & Ebeling Co., LPA
  - Todd McKenna**, American Family Mutual Ins. Co.
  - Monica Waller**, Ohio Bar Liability Insurance Company
  - Maurice Wells**, Vorys, Sater, Seymour and Pease LLP
-

“Every contact leaves a trace”

- Dr. Edmond Locard

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## OACTA Needs Your Input on Proposed Changes to Ohio Rules

The Supreme Court of Ohio is proposing multiple [changes to the Ohio Rules of Civil Procedure and the Ohio Rules of Evidence](#). The proposed changes are attached. The Supreme Court is seeking public comment and comments are due by November 4. OACTA is preparing a response on behalf of the organization and wants your input.

The proposed changes to the ORCP include:

- Modifying Rule 5 to provide other means of service.
- Modifying Rule 26(B)(3) to include listing email addresses of witnesses in initial disclosures.
- Changing Rule 30(B)(5) to address depositions of governmental entities and limited liability entities and meeting and conferring regarding proposed topics.
- Adding a provision to Rule 39 to allow for remote trials.

The proposed changes to the ORE, in general, reflect a shift toward aligning Ohio's rules more closely with the federal rules. The proposed changes include:

- Changes to Rule 404 regarding prior bad acts.
- There are a number of changes proposed to Rule 502 and attorney-client privilege, including waiver of privilege and inadvertent disclosure.
- Changes to Rule 606 addressing post-verdict testimony by jurors.
- Changes to certain hearsay provisions in Rules 801 and 803.

OACTA welcomes and encourages your input. In order to meet the Supreme Court's deadline, please provide your comments by close of business on **October 22**. Please send your comments to [OACTA@AssnOffices.com](mailto:OACTA@AssnOffices.com).

[View the Proposed Changes to Ohio Rules](#)

## Congratulations to the OACTA Award Recipients!

During the OACTA Annual Business Meeting & Legal Excellence Award Luncheon on Thursday, November 11, Noon-1:00 p.m., the following awards will be presented. This presentation will take place during the OACTA 2021 Annual Meeting. For more information on these awards and the recipients, and to register for the Annual Meeting, visit [www.OACTA.org](http://www.OACTA.org).

### **Excellence in Advocacy Award:**

Nicholas E. Subashi, Esq., Subashi, Wildermuth & Justice

### **Distinguished Contributions to the Profession Award:**

James L. Mann, Esq., Attorney James L. Mann

**Respected Advocate Award:**

Robert J. Wagoner, Esq., Robert J. Wagoner Co., L.L.C.

**Public Service Award:**

Director Judith French, Ohio Department of Insurance

**Outstanding Young Lawyer Award:**

Adelia A. Mohan, Esq., Gallagher, Gams, Tallan, Barnes & Littrell, LLP

**Frank Seth Hurd Member of the Year Award:**

Joseph T. Mordino, Esq., Faulkner & Tepe, LLP

**OACTA Committee Chair of the Year Award:**

Michelle L. Burden, Esq., Garvey Shearer Nordstrom, PSC

[View the Complete List of Awards & Past Recipients](#)



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*For more  
information:*

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## Upcoming OACTA Lunch & Learn Webinars

### **New Topics and Trends in Professional Liability**

**Thursday, November 4, 2021 | 12:00 - 1:00 PM**

***This webinar is sponsored by Reminger Co. LPA***



This 1-hour webinar will discuss new topics and trends in legal malpractice claims including Ohio's new statute of repose, risks involved in remote practice, and scams targeting attorneys and their IOLTA accounts. This information will be useful in both avoiding claims in your own practice and defending claims against others.

[Register Today!](#)

### **How to Persuade a Jury**

**Tuesday, December 14, 2021 | 12:00 - 1:00 PM**

***This webinar is sponsored by The Ohio Reporting Company***

Discovery in the 21st Century: how the use of technology and juror research has transformed the discovery process. We provide an overview



of psychological studies that analyze the importance of first impressions when attempting to win over judges and jurors. Studies demonstrate that video is the most effective means for establishing a winning first impression in opening. In addition to teaching attendees how to tailor discovery to produce evidence that is compelling to Millennials, we analyze the use of video at depositions, real-time court reporting, working video, synchronized transcripts, and even how the location of a deposition can change a witness' testimony.

[Register Today!](#)



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**Bill Lansdon**  
**630.442.4586**

**Thank you to our OACTA Foundation 12th Annual Golf Outing Sponsors!**



Thank you to all who participated in the OACTA Foundation's 12th Annual Golf Outing! OACTA was happy to bring back this wonderful, charitable tradition after a long year of virtual events. Whether you competed in the outing with a team or contributed to prizes or sponsorships, you are what makes the OACTA Foundation so successful. Because of your generosity, OACTA is able to contribute funds every year to NFJE and to the OACTA Law Student Inclusion and Equity Scholarship.

This year was especially successful because it was the highest attendance we have had yet for the outing! Congratulations to Mark McCarthy, the OACTA Golf Outing Chair, for putting it together. A special thank you to Brigid Heid for her work and ideas that contributed to the outing being a success!

***Thank you to our 2021 Golf Outing Sponsors!***

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## **On-Demand CLE Library - OH CLE Credit Available**

Did you miss any of the OACTA Lunch & Learn webinars? No problem! You can view OACTA Lunch & Learn webinars on-demand for self-study CLE credit! You can also view all of the webinars from the 2021 OACTA Insurance Coverage Virtual Seminar on-demand. You can purchase them individually or as a bundle for a discounted price!

### **Available Lunch & Learn Webinars On-Demand**

- "2020 Case Law and Legislative Developments, Impacting Insurance, from the COVID-19 Virus"
- "Automotive Sensors for Driving Assistance Systems (ADAS)"
- "Pain and Suffering Without Medical Bills? How to Deal with this Emerging Trial Tactic"
- "Sideswipe Collisions: Biomechanical Analysis"
- "Surveillance and Body Camera Analysis and Exhibits"
- "Targeted Hacking and Ransomware"
- "An Update on Traumatic Brain Injuries (TBIs) From Diagnosis, Treatment, To Prognosis"
- "Human Factors and Premises Liability"
- "Insurance Coverage for Claims Arising in the 'Gig' Economy"
- "Litigating Common Coverage Issues in Auto and Homeowners Claims"
- "Low-Speed Vehicle Collision Analysis"
- "Making Insurance Great Again - How the #Insurtech Revolution is Bringing Much Needed Innovation to an Archaic Industry"
- "Mitigating Risks of Subcontractor Default"
- "Preparing and Protecting Your Witness Against the Reptile Theory From Discovery Through Trial"
- "Procedural, Evidentiary and Practical Considerations For Defending Bas Faith Litigation"
- "The Care and Feeding of Trial Judges: Dos and Don'ts"
- "Everything a Lawyer Needs to Know About Supersedeas Bonds"

## 2021 Insurance Coverage Virtual Seminar On-Demand

"Insurance Coverage for Discrimination Claims"

"Recent Developments & Recurring Issues in Ohio Bad Faith Law"

Restatement of the Law, Liability Insurance (2019): How Will It Impact Ohio Law?"

"The Internet of [Insurance] Things"

"The Year of Living Dangerously--COVID-19 and First Party Property Claims"

[View the OACTA On-Demand CLE Library](#)



### Featured Member Resource: Amicus Curiae Program

Amicus curiae means "friend of the court." Our Committee is a "friend of OACTA members." We evaluate appeals with an eye towards participating in cases that further OACTA's mission of improving the administration of justice in Ohio. We encourage all OACTA members to notify us of appeals satisfying this criterion.

While OACTA's amicus program focuses primarily on Ohio Supreme Court appeals, we welcome requests for participation in cases pending before other courts that present important issues of Ohio law. OACTA has filed amicus briefs addressing an array of legal issues, including insurance coverage, premises liability, employment law, products liability, governmental immunity, workplace intentional torts, tort reform, punitive damages, class certification, and the scope of consumer protection laws.

[Learn More About the Amicus Curiae Program](#)



### Articles Needed for the Upcoming OACTA Quarterly Review

The OACTA 2021 Quarterly Review series will feature articles from the **Environmental Law & Toxic Tort** Committee. The committee chairs are seeking assistance with educational articles related to the practice area. If you would like to contribute an article, please email the article to the [OACTA](#).

### OACTA Amicus Win

*By: Jennifer Nordstrom, Esq., OACTA Amicus Curiae Program*

Congratulations to Rich Garner and James Kresge of Collins, Roche, Utley & Garner (counsel for

United Specialty Insurance Company) and Greg O'Brien of Cavitch, Familo & Durkin (OACTA Amicus counsel) for their success in the Ohio Supreme Court. The Ohio Supreme Court determined that the "water-backup exclusion bars coverage for damage caused directly or indirectly by water that backs up or overflows from a sewer." AKC Inc., dba Clean Tek vs. United Specialty Insurance Company, 2021-OH-3540.

In its decision the Court recognized the holding that the water-backup exclusion includes damage caused by sewage may seem harsh. The Court, however, found it noteworthy that property owners can purchase endorsements that remove the water-backup exclusion and provide a property owner with insurance coverage for damages caused by water-backup, including sewage.

[View the Case](#)



## DRI's Golden Coat Competition

OACTA is encouraging members to collect coats between now and December 31st and donate them to local shelters in your area for distribution to those in need. Let us know how many coats you or your firm has donated ([OACTA@AssnOffices.com](mailto:OACTA@AssnOffices.com)) and we will report the number to DRI and acknowledge you and your firm in our next e-news. Thank you for making a difference in your community!

## OACTA Can Help You...

### Stay informed...

OACTA has a webpage with links to many resources - [NEWS AND INFORMATION REGARDING COVID-19](#). If you have resources to share, please send them to [OACTA@AssnOffices.com](mailto:OACTA@AssnOffices.com).

### Stay connected...

Join OACTA on [Facebook](#), [Twitter](#), [LinkedIn](#) and [OACTA's LinkedIn Private Group](#) Page where you can share information and resources among your colleagues.

### Earn CLE credits...

OACTA's Online CLE Library allows OACTA members the opportunity to earn continuing legal education credit from the comfort and safety of your home. Visit the [Online CLE Library](#) today to view our on-demand programs and the [OACTA Website](#) for a listing of our Live Webinars!

## Case Victories Needed!

OACTA members - send summaries of your significant case victories to [David Oberly](#), OACTA Social Media & Website Chair, for inclusion on OACTA's new "Significant Case Victories" webpage and announcements on social media. Those received will be posted on our website.

## Check Out the Job Postings On the OACTA Website

If you are looking for a position within the civil defense practice, you've come to the right place! All listings appear for 90 days or until the position has been filled, whichever is lesser, and will

be listed in at least one issue of The Update. Be sure to notify the OACTA office if the position has been filled prior to the end of the 90 day period. Job postings cost is \$150 for members and \$250 for non-members.

[Submit a Job Posting](#)

## OACTA Social Media Opportunity

We would like to feature OACTA members in our social media! To be a featured member, send the following to [OACTA@AssnOffices.com](mailto:OACTA@AssnOffices.com):

- Your name
- Position
- Link to your online biography
- In 2 sentences or less, complete the following: How has OACTA membership benefited you?

Nominate an OACTA member to be featured! Send the member name and email address to [OACTA@AssnOffices.com](mailto:OACTA@AssnOffices.com) and we will follow up to request the information needed.



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