

News & Practice Pointers from OACTA

Summer 2019

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PRESIDENT'S MESSAGE

**By: James N. Kline
2019 OACTA President**



Hopefully, by now the rains have ceased long enough so that you can stop building an ark and get down to the business of enjoying a nice summer with friends and family. No doubt, though, the weather has made it somewhat of a challenge. Nevertheless, get out and enjoy a baseball game, a round of golf, or a nice and relaxing vacation with the family.

However, at OACTA, "where the sun never sets," so to speak, we are continually looking for ways to meet our members' needs. We have just completed our Litigation and Trial Skills workshop which garnered some super reviews including the following: "Program was great and I appreciated the interactive manner that was encouraged. I learned as much from the audience as I did the presenters." The quality of the presentation was A-1 and we hope to improve participation in the future for a continuing series, building on these kinds of reviews. The program was part of our effort towards combining certain of our committees to better meet the changing demands of our profession. This includes combining Trial Tactics with Alternative Dispute Resolution, recognizing the "hand in glove" relationship they have with respect to each of our litigation practices.

We also are already preparing for the end of Summer, day after Labor Day, Annual OACTA Golf Outing (like I said, "the sun never sets on the OACTA empire") which will again take place at the spectacular Pinnacle Golf facility in Grove City, Ohio on September 3, 2019. Now is the time to get your foursomes together to help support this marvelous charitable event sponsored by the OACTA Foundation. The funds go to two great causes: 1) the National Foundation for Judicial Excellence which helps train state court appellate judges (an issue near and dear to all of our hearts), and 2) the Inclusion and Equity Scholarship program for deserving law students.

Speaking of the Inclusion and Equity Scholarship, I want to congratulate this year's two recipients who demonstrated truly outstanding qualifications: Francesca Gottardi and Alexander G. Haddad. We look forward to seeing them at our Annual Meeting in November in Cleveland, and hopefully membership in OACTA down

[Foundation!](#)

[OACTA Social Media](#)

[Opportunity](#)

[Member News](#)

[OACTA Board of Trustees](#)

SUBMIT Articles to include in The Update to:

[Tony Brown](#)

or

[Ian Mitchell](#)

Upcoming Events

Mark your Calendars!

August 15th

OACTA Summer Networking Event
Topgolf West Chester
West Chester Township, OH
[Details & RSVP](#)

August 29th

OACTA Summer Networking Event
Topgolf Columbus
Columbus, OH
[Details & RSVP](#)

September 3rd

OACTA Foundation Annual Golf Outing
Pinnacle Golf Club
Grove City, OH
[Details & Registration](#)

November 21-22nd

OACTA Annual Meeting
Hilton Cleveland
Downtown Cleveland, OH
[Details](#)

Ohio Association of Civil Trial Attorneys

17 S. High St.
Suite 200
Columbus, OH 43215
P. 614.228.4727

the road.

And this would be a great time to talk about the Annual Meeting. It is all set for Thursday, November 21, 2019 and Friday November 22, 2019 at the Downtown Cleveland Hilton. I am thrilled to reveal some of the highlights of what will surely be an amazing meeting:

- A panel of four (count 'em - four) current Ohio Supreme Court Justices: Justice R. Patrick DeWine, Justice Michael P. Donnelly, Justice Patrick F. Fischer and Justice Melody J. Stewart. If we had any more justices, we would have to hold oral argument. This will be a great chance to hear from these newer members of the Court on what makes the court tick, what makes them tick (and maybe what ticks them off, as well). You don't want to miss it.
- Another of the unique and outstanding presentations will be by Attorney James Cooney, one of the attorneys defending some of the team members in the Duke Lacrosse case. His presentation will address the tools used to investigate and deconstruct a false claim, with the use of technology, science and analytics of social media. These are issues which many of us face in our practices on a daily basis. His insights on approaching this challenging assignment, particularly in the face of an energized and angry populace and overwhelming media attention, while respecting the plight of legitimate claimants, should truly be interesting and useful.
- Recognizing that many of us often run into "buzz saw" claims like these, even before they have gone to suit, the Annual Meeting will also include a panel on dealing with unfolding disasters which present unique challenges involving public relations, insurance coverage and effective investigation all done under the spotlight of intense media scrutiny. The panel should be a truly useful primer on how to deal with those kinds of increasingly prevalent disaster scenarios faced by our clients where decisions need to be made on the fly.
- We will continue our series regarding ethics in claims handling to keep our clients (and ourselves) on the right side of the ethical line at all times.
- We also look forward to a top-flight presentation by the President of the Kentucky Defense Counsel addressed to preserving our own mental well-being for our good and that of our clients and colleagues.
- Breakouts will include legislative and rule updates, developments in construction law, harnessing the power of amicus, and dealing with emerging immigration issues intersecting with our defense of clients.
- And for those who know me, the Annual Meeting will include some lighter moments, as well, including a great night of entertainment on Thursday, November 21st at Cleveland's premier comedy facility, Pickwick and Frolic, for hors d'oeuvres, liquid refreshments, and what will surely be a great comedy show.

This should be one heck of an Annual Meeting - you will not want to miss a moment of it. Details and arrangements for signing up should be available shortly. We look forward to seeing you there and at all OACTA events.

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oacta@assnoffices.com
www.oacta.org

**The Update Fall
Issue deadline is
October 1, 2019**

**SUBMIT YOUR
MEMBER NEWS**

OACTA is always looking for announcements for the "Member News" section of the Update. Please submit your news via email to:

[Tony Brown](#)
or
[Ian Mitchell](#)

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Follow us on [twitter](#)

 Like us on Facebook

I, again, want to wish you all a great summer. Please don't hesitate to contact me with any thoughts, suggestions, or comments. And "Go Tribe!"

Welcome New OACTA Members Since April!

Kevin	Kita	Sutter O'Connell
Robert	Lynch	Gallagher Sharp LLP
Mark	Maddox	Frost & Maddox Co. L.P.A.
Giuseppe	Pappalardo	Tucker Ellis, LLP
Tara	Workman	Porter Wright Morris & Arthur

2019 Annual Meeting Information

Hotel Information

Make your reservation today at the Hilton Cleveland Downtown through the OACTA room block and receive the group rate: \$169 single/double; \$194 triple; \$219 quad occupancy. To make your reservation [click here](#) to reserve online or call the Hilton at 216-413-5000, press option 1 and reference the 3-digit group code CTA. All guest rooms reserved in the block include complimentary internet and a 10% discount on self-parking. Room rates are available two days before and after the OACTA Annual Meeting. **Reservations must be made by Monday, October 28th to receive the group rate!**



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Awards Committee Update

There are many, many OACTA members deserving of recognition for the contributions they've made to the organization and the profession recently and in years past. The Awards Committee will meet over the summer to consider nominations and make recommendations to the board as to who it should formally recognize at the Awards Luncheon held during the Annual Meeting.

Please share with the committee the names of those members that you think should be on our list when we convene in July. In particular, we are looking for nominations for the following awards:

Excellence in Advocacy
Distinguished Contributions to the Profession
Respected Advocate
Young Lawyer
Public Service
Outstanding Advocate

The criteria for each of the above awards, and a list of past recipients, is posted on the OACTA website. You can submit nominations on the nomination form (see link below) to the committee at gobrien@cavitch.com or to Debbie Nunner at debbie@assnoffices.com. Nominations are due by August 1st.

Thank you,

Greg O'Brien, Awards Committee Chair

[Download the Awards Nominations Form](#)

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

Ohio and Kentucky Online CLE Credit Now Available!

Did you miss OACTA's 2019 Insurance Coverage Seminar? No problem! OACTA now has an online CLE catalog available. Earn CLE from the comfort of your home or office by viewing these recorded sessions from the OACTA Insurance Coverage Seminar.

Available Insurance Coverage On-Demand Webinars:

- "#MeToo! Coverage for Workplace Claims" presented by John G. Farnan, Esq.
- "A Primer on Cyber Liability" presented by Rema A. Ina, Esq. and Steven D. Strang, Esq.
- "All's Well That Ends Well: Coverage Litigation from Start to Finish" presented by Richard M. Garner, Esq. and Lucas P. Baker, Esq.
- "Ethics and Insurance Coverage Litigation: How to Play Tug-of-War in a Minefield" presented by Kurt D. Anderson, Esq.

[View the OACTA Online CLE Catalog](#)

OACTA Announces the 2019 Law Student Inclusion & Equity Scholarship Recipients

Two (2) OACTA Law Student Inclusion & Equity Scholarships, each in the amount of \$2,500, have been awarded to:

Francesca Gottardi, a student at the University of Cincinnati College of Law and **Alexander G. Haddad**, a student at Case Western Reserve University School of Law. These two students will be recognized at the OACTA Annual Meeting on November 21, 2019 at the Hilton Cleveland Downtown.



OACTA Law Student Inclusion & Equity Scholarships are open to the following incoming second and third year law students who are enrolled in an Ohio law school or are a permanent Ohio resident: Minority law students; LGBTQ (Lesbian, Gay, Bisexual, Transgender, Questioning) law students, regardless of race or ethnicity; Female law students, regardless of race or ethnicity; or, Law students from economically impoverished families/backgrounds, regardless of race or ethnicity. The criteria include academic achievements; service to the community and to the cause of inclusion and equity; and experience or interest in a civil defense practice.

Funding for these scholarships is provided by The OACTA Foundation. The OACTA Foundation, established in 2016, is organized exclusively for charitable and educational purposes, funding projects consistent

with the mission of OACTA.

OACTA believes that a diverse membership makes a stronger organization. OACTA encourages inclusion and equity in all aspects of its activities and is committed to nurturing a culture that supports and promotes it. OACTA was nationally recognized as a recipient of the DRI State and Local Defense Organization Diversity Award.

Congratulations to this year's scholarship recipients! Thank you to OACTA's Inclusion & Equity Committee, Chaired by Christopher Mars, for their efforts on this worthwhile initiative!



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OACTA represented at DRI Regional Meeting

The OACTA Officers met with the DRI Atlantic, Central and Mid-Atlantic Regions at The Homestead in Hot Springs, VA, April 25-27. It was an opportunity for information sharing and for OACTA to learn from other state and local defense organizations around the country. OACTA was well-represented at this regional meeting!



Bottom Row: Anne Marie Sferra; OACTA DRI State Representative, Jim Kline; OACTA President, and Debbie Nunner; OACTA Executive Director

Top Row: Gary Gruber; DRI Central Region Director, Benjamin Sassé; OACTA Secretary, and Natalie Wais; OACTA Treasurer

9th Annual Update of Take-Home Asbestos Duty Decisions

By: Carter E. Strang, Karen E. Ross, and Giuseppe W. Pappalardo

This 9th Annual Update of Take-Home Asbestos Duty Decisions provides a state-by-state review of important rulings regarding the duty owed, if any, by premises owners, employers, product manufacturers and suppliers, and contractors to protect against take-home asbestos exposure.

2018 was notable for rulings in Delaware, Rhode Island, and Virginia that imposed a take-home duty and in Arizona, where an earlier no duty ruling was upheld by its highest court. ¹Those and other rulings from prior years are summarized in this 9th Annual Update.

Take-Home Claims - Generally Take-home claims are generally those asserted on behalf of claimants who have never set foot on the premises or used the product at issue, but who allege exposure to asbestos through others. This alleged exposure typically occurs through contaminated workplace clothing brought into the home by a spouse or other family member. These claims are also commonly referred to as "household," "bystander," "secondary," "second-hand," "non-occupational," or "para-occupation-al" exposure claims.² Such claims are brought against premises owners, employers, product manufacturers and suppliers, and contractors.

When a take-home claim is asserted under a negligence theory of liability, a central question is whether a duty is owed to the take-home plaintiff. Courts typically apply one of two tests in making that determination: the "relationship" test or the "foreseeability" test.

The relationship test focuses on the relationship between the defendant and the take-home plaintiff. Absent the existence of a "special relationship" between those parties -- such as "invitee" or "licensee" in premises liability cases -- courts using this test hold that no duty is owed to take-home plaintiffs, such as spouses and other family members.

The foreseeability test focuses on the foreseeability of harm to the take-home plaintiff. Some courts hold that take-home exposure cannot be foreseeable under any circumstances, while others hold that it may be foreseeable, depending on the time period of exposure, knowledge of asbestos hazards, relationship between the take-home plaintiff and the person who tracked it home (spouse, uncle, etc.), and the ability to warn about, and protect, against the hazard, among other factors.

In the context of take-home claims based on negligence against premises owners, employers, and contractors, what was an emerging no duty trend - - in states addressing the issue - appears to have stalled.

[Read more](#)

THE EXPERTS
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OACTA Foundation 11th Annual Golf Outing



Get your foursome together and plan to attend!

Date: September 3, 2019

Location: Pinnacle Golf Club, Grove City, Ohio

Check-In/Practice Range: 11:00 a.m.

Shot-gun Start: 12:00 p.m.

Post-Reception: 5-6:30 p.m.

Cost: \$145/golfer (after August 20, 2019 \$155/golfer); \$50/non-golfer reception only

[Register Today!](#)

[Become a Golf Outing Sponsor!](#)

OACTA's Expert Witness Database

Share Your Experts with OACTA

OACTA's Expert Witness Database is a comprehensive listing of plaintiff and defense expert witnesses supplied by your fellow OACTA members and OACTA sponsors. OACTA's Expert Witness Database has the expert witness information you need!

We need your help to maintain this MEMBERS-ONLY resource! OACTA members are encouraged to submit new experts and to notify OACTA of updated information about experts in the database.

[Submit an Expert](#)

[Search the Database](#)



“Every contact leaves a trace”
- Dr. Edmond Locard

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Legal Education Tracker Now Available for OACTA Members

Your OACTA member profile on the OACTA website now tracks the CLE you obtained from OACTA. When logging in, click on the tab "OACTA Continuing Legal Education Tracker" and you will see the number and type of CLE hours that OACTA has submitted to the Ohio Supreme Court on your behalf from OACTA seminars and through the OACTA online library. CLE received from OACTA since January 2019 has been added to your profile and all CLE going forward will be included. If you have any questions please contact the OACTA office at (614) 228-4727.

ABA Issues Formal Opinion Detailing Lawyer Obligations Relating to Cyber Attack Incidents

By: David J. Oberly

Law firms-more so than other business entities-are prime targets, and victims, of computer-network penetration and data theft. Law firms

have access to their clients' personal information, including sensitive, heavily regulated health, financial, and proprietary business information. In addition, attorneys and firms rely heavily on computers, networks, and the storage of electronic data for their day-to-day operations. Importantly, however—even still today—the operation of law firms is generally not managed as closely or efficiently as other businesses. For the malicious hacker, then, a law firm's computer network may be much easier to penetrate than that of its clients. In addition to hackers, law firms also face significant data breach threats originating from inside the firm as well.

Cognizant of these significant risks and vulnerabilities, the American Bar Association Standing Committee on Ethics and Professional Responsibility recently released Formal Opinion 483, "Lawyers' Obligations After an Electronic Data Breach or Cyberattack," which provides detailed guidance regarding the ethical obligations that lawyers must adhere to both before and after a cyberattack occurs. Formal Opinion 483 sets a high bar in terms of lawyers' ethical obligations associated with data breaches, and as such should prompt law firms and lawyers to closely review their data breach incident preparation and response policies and procedures to ensure that they conform with their legal ethical duties.

[Read more](#)



OACTA Summer Networking Events Are Back!

Cleveland

TBD

Southern Tier Brewing
Co.

811 Prospect Ave E.,
Cleveland, OH 44115

Cincinnati

**Thursday, August
15**

Topgolf West Chester
5:00 - 8:00 p.m.

9568 Water Front Dr.
West Chester
Township, OH 45069

[RSVP Today!](#)

Columbus

**Thursday, August
29**

Topgolf Columbus
5:00 - 8:00 p.m.
2000 Ikea Way
Columbus, OH 43240

[RSVP Today!](#)



**These events are complimentary.
Your RSVP does not obligate you to attend.**

Thank you to [S-E-A](#) for sponsoring this networking event!

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](#)

Case Victories Needed!

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



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Consider a Donation to the OACTA Foundation!

The OACTA Foundation (a 501(c)(3) organization) is organized exclusively for charitable and educational purpose. The Foundation funds projects consistent with the mission of OACTA, such as the annual OACTA Diversity Scholarship Program and supporting the

National Foundation for Judicial Excellence (NFJE). Contributions made to The OACTA Foundation are tax deductible to the extent allowed by law. [DONATE TO THE OACTA FOUNDATION TODAY.](#)

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:

- 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 and we will follow up to request the information needed.

View our profile on [LinkedIn](#)

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Member News

NEW FIRM NAME: The law firm of Gallagher, Gams, Pryor, Tallan & Littrell, L.L.P. now has a new name! With the recent departure of one of our longtime partners, a name change was required. The firm is pleased to announce that partner, Belinda Barnes' name has been added to the firm name. The firm is now known as Gallagher, Gams, Tallan, Barnes & Littrell, L.L.P.. The firm website is now www.ggtbl.com. The firm's address, phone and fax numbers remain the same.



On June 26, 2019, OACTA member Anthony E. Brown was sworn in as the 102nd President of the 800 member Stark County Bar Association. Tony is a member of the law firm, Milligan Pusateri Co., LPA, in Canton, Ohio. Tony is honored to serve the Stark County community and the members of its Bar Association.

OACTA requests that authors who republish articles that were originally published in an OACTA publication, reflect that the article first appeared in the OACTA publication.

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