



OHIO ASSOCIATION OF CIVIL TRIAL ATTORNEYS
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THE UPDATE

NEWS & PRACTICE POINTERS FROM OACTA

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President's Message

By: Natalie M. E. Wais
2021 OACTA President



Spring is here! With spring comes something that some of us have not felt in almost a year . . . hope. Now, it is open season for vaccinations.

Governments are lifting restrictions.

Toilet paper and cleaning supplies are not quite the rare commodities that they were a year ago. We have hope for seeing people face-to-face. We have hope that we will again be seeing the inside of courtrooms. We have hope to see the faces of our colleagues and friends in real life versus via Zoom.

Even though hope is in the air and we are getting closer to attaining the in-person dream, we are not quite ready to resume in-person activities. As throughout the pandemic, OACTA continues to provide webinars, Zoom Coffee Chats, and virtual happy hours. In addition, OACTA is maintaining its reputation for providing top-notch educational opportunities like the upcoming Virtual Insurance Coverage Seminar, scheduled for April 16, 2021. Mike Neltner, Chair of the Insurance Coverage Committee, and Charlie Wendland, Chair of the Claims Industry Committee, have been hard at work with their committees, organizing another premier Insurance Coverage Seminar. This is a "cannot miss" seminar for those of us who represent the insurance industry or are part of the insurance industry itself.

Also, do not forget that OACTA has an on-demand library of CLE webinars. Webinars have been and will continue to be offered throughout the year. If you have an idea for a webinar, let us know.

Please join the Inclusion and Equity Committee for some interactive fun for a Virtual Happy Hour on April 15, 2021 at 5:00 p.m. The committee has organized some Zoom games so bring your competitive spirit and be prepared to have a good time. Please note that happy hours are open to members and non-members, so please extend the invitation to colleagues who you think may like to join in the games.

Mark your calendars for May 7, 2021 at 8:30 a.m. when OACTA holds another Coffee Chat. Details will be forthcoming.

While I hope to see you at our upcoming virtual events, I really hope to see your faces in -person at our Annual Meeting that is scheduled for November 11 and 12, 2021 at the Hilton Polaris in Columbus. We plan to have a "Casino Night" for our Thursday

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night social.

As President, I also want to encourage you to contact me with any suggestions or comments that you may have for ways that OACTA can better serve its membership and the defense of civil litigation. If you are not on an OACTA Committee or want to get more involved in the organization, let us know. We will help you find your place in the organization. I truly believe that the more you put into OACTA, the more you get out of it. OACTA is here for you.

Mark Your Calendar!

April 15, 2021

OACTA Inclusion & Equity Committee Virtual
Happy Hour
[Sign Up Today!](#)

April 16, 2021

Insurance Coverage Virtual Seminar
[Learn More and Register Today!](#)

April 21, 2021

Lunch & Learn Webinar
Political Polarization and Protected Speech at
Work
[Learn More and Register Today!](#)

April 28, 2021

OACTA/ESi Lunch & Learn Webinar
Automotive Sensors for Advanced Driving
Assistance Systems (ADAS)
[Learn More and Register Today!](#)

September 7, 2021

OACTA Foundation Golf Outing
Pinnacle Golf Club
Grove City, OH
[Become a Golf Outing Sponsor!](#)

November 11-12, 2021

OACTA Annual Meeting
Hilton Polaris
Columbus, OH

Welcome New OACTA Members Since December!

Christopher Caryl, Tucker Ellis LLP

Ashley Davis, Grange Insurance Company

Dustin Dow, Baker Hostetler

Katie Epperson, Bonezzi Switzer Polito & Hupp Co., L.P.A

Elisabeth Gentile, Mazanec, Raskin & Ryder Co., L.P.A

David Herman, The Progressive Group of Insurance Companies

Genevieve Hoffman, Freund, Freeze & Arnold

Zachary Hoover, Poling Law

John Jackson, The Law Office of John L. Antel - House Counsel Grange Insurance

Katherine Keefer, Lorain County Prosecutor

Andrew Lehmkuhl, Porter Rennie Woodard Kendall, LLP

Anthony Osterlund, Vorys, Sater, Seymour, and Pease LLP

Cornelius O'Sullivan, Weston Hurd

Gregory Peltz, Lorain County Prosecutor

Chris Pyanowski, Lorain County Prosecutor

Douglas Rennie Porter Rennie Woodard Kendall, LLP

Shawn Schlesinger, The Progressive Group of Insurance Companies

Amanda Wager, Reminger Co., L.P.A

Lindsey Woods, Porter, Wright, Morris & Arthur

2021 Hilary S. Taylor Law Student Inclusion & Equity Scholarship Announcement



The Ohio Association of Civil Trial Attorneys (OACTA) Law Student Inclusion & Equity, Scholarship program is 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, Bisexual, Gay, 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.

Up to two (2) scholarships in the amount of \$2,500 each will be awarded to successful applicants. Applicants are required to submit an application, law school transcript and a cover letter addressing the following: academic, personal and professional accomplishments, and why they should be selected as a recipient of the scholarship. Applicants must also submit at least one letter of recommendation but may submit a total of three. Applications must be submitted online with a cover letter. Transcripts and letter of recommendation may be mailed to the OACTA office.

The completed application and all other requested material must be received by **May 14, 2021**. Late or incomplete applications will not be considered. Scholarship recipients will be announced in June and recognized at the OACTA Annual Meeting in November. Funding is provided by the OACTA Foundation.

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.

For more information or to complete an application, visit www.oacta.org.

[Apply Online Today!](#)

[View Additional Scholarship Information](#)



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- Dr. Edmond Locard

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OACTA Happy Hour

The OACTA Young Lawyers committee hosted its first-ever virtual networking happy hour and trivia on February 4th. OACTA would like to thank everyone who participated in the Zoom Meeting. The

winners of the trivia game were Adam Carr, 1st Place; Erin Moore, 2nd Place; and Eric Grinnell, 3rd Place.

The next networking happy hour will be hosted by the Inclusion & Equity committee chairs, **Christopher Mars** and **Adelia Mohan**. The happy hour will be held on **Thursday, April 15 at 5:00 PM**.

Sign up for a casual Zoom Meeting format that will provide members an opportunity for informal discussions with their colleagues. Sign up today to receive your Zoom link and add it to your calendar.



[Sign Up Here!](#)

OACTA Insurance Coverage Virtual Seminar | Friday, April 16, 2021

OACTA is pleased to announce registration is now available for the OACTA Insurance Coverage Virtual Seminar. As always, we have a fantastic line-up of speakers and hot topics with the opportunity for live Q&A with the speakers. New this year, will be an informal discussion forum with other attendees, during the lunch break. Our featured sponsors will share information about their products and services and there will be raffle prize drawings!

This one-day seminar includes five, one-hour presentations for a total of 5.0 CLE credits. We only have spots for 100 attendees, so register today! This virtual seminar is open to Attorneys and Non-attorney Insurance Claims Professionals alike.

Continuing Legal Education

This course is approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 5.0 total CLE general credit hours for live, interactive webinar credit. It is approved for 5.0 Specialty CLE hours toward OSBA Insurance Coverage Law Certification. It is also approved by the Kentucky Bar Association for 5.0 total CLE general credit hours.

Seminar Registration Fees

Member - \$250.00

In-House Counsel Member - \$50.00

Claims Executive Member - \$50.00

Non-Member - \$400.00

Claims Executive, Non-Member, Non-Attorney - \$100.00

[View the Program](#)

[Register Today!](#)

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Upcoming OACTA Lunch & Learn Webinars

Political Polarization and Protected Speech at Work

Wednesday, April 21, 2021 | 12:00 - 1:00 PM

This webinar is sponsored by Eastman & Smith, Ltd. & Mazanec, Raskin & Ryder Co., L.P.A. and FREE to OACTA members.



In the context of our country's currently charged political climate, it should come as no surprise that employers face increasing management challenges. Employees do bring their political views to the workplace. When and how limitations on political speech can be imposed on employees needs to be understood by business owners and their attorneys.

For attorneys who may not have cracked a Constitutional Law book since their first year of law school, Doug Holthus will lead off the presentation with a refresher on the evolution of First Amendment rights to freedom of speech and expression through decisions by The Supreme Court of the United States, including *Brandenburg v. Ohio*, 395 U.S. 444, 89 S.Ct. 1827, 23 L.Ed.2d. 430 (1969). Doug and Brigid will also discuss:

- Distinctions between a public sector and private sector employee
- Union activities and free speech
- The interplay between political speech and anti-discrimination laws
- Off-duty conduct by employees, including social media activity
- Practical suggestions for managing political speech and employee tensions.

[Learn More & Register!](#)

Automotive Sensors for Advanced Driving Assistance Systems (ADAS)

Wednesday, April 28, 2021 | 12:00 - 1:00 PM

This webinar is sponsored by ESi and FREE to OACTA Members.



Join [Stuart Sherry, P.E.](#) as he provides a review of different sensors and technologies that enable ADAS. In this course, the participant will learn the definitions and differences of SAE J3016 Level 0 through 5 of driving automation and an overview of Lidar, Radar, Ultrasound and Camera sensor technologies used to help enable ADAS. Basic principles and comparisons of the different sensor technologies will be presented. Failure modes, liability concerns and cost trade-offs related to the different sensor technologies will be presented and discussed. Possible pitfalls that a manufacturer may fall into during the development phase and the potential litigation concerns will be reviewed. A case study of a Tesla autopilot crash will be discussed together with examples of various types of defects that could lead to recalls, injury or death.

[Learn More & Register!](#)

OACTA's 2021 Strategic Plan

The OACTA Board of Directors is committed to the mission of OACTA: *The Ohio Association of Civil Trial Attorneys promotes fairness, excellence, and integrity in the civil justice system by providing resources and education to attorneys and others dedicated to the defense of civil actions.* The OACTA Strategic Plan, developed by the OACTA Board of Directors, is reviewed annually and monitored on an ongoing basis, to ensure progress toward identified goals and objectives. The OACTA Board of Directors is committed to providing quality services and value to the membership. [CLICK HERE](#) to review the plan.



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Featured Member Resource: Expert Witness Database

The OACTA Expert Witness Database is an electronic, comprehensive listing of plaintiff and defense expert witnesses is supplied by fellow OACTA members to members only. OACTA's Expert Witness Database has the expert witness information you need! The user-friendly Expert Witness Database includes listings and is searchable by the expert's name, area of expertise, specialty, firm name, and city. The database provides detailed information about each expert, including name, address, firm, the referring OACTA member's contact information, whether a curriculum vitae or deposition transcript is available, and other relevant information.

The Expert Witness Database is a "work in progress" and requires on-going review and supplementation. OACTA members who locate a new expert, or discover more recent information on an expert already listed in the Expert Witness Database, are encouraged to submit the new or up-to-date expert information to the OACTA. To submit an expert witness to be entered into the Expert Witness Database, complete the online form at the link below. If determined appropriate to include, the expert will be added to the database.

[View the Expert Witness Database or Submit An Expert](#)

Articles Needed for the Upcoming OACTA *Quarterly Review*

The OACTA 2021 Quarterly Review series will feature articles from the **Personal Injury, Product Liability, and Environmental Law & Toxic Tort** committees. 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](#).

Advocating on Behalf of OACTA Members

OACTA submitted comments in support of the suggested amendment to Civil Rule 37 (E). View the comments [HERE](#).

THE OHIO REPORTING COMPANY

YOUR PATH THROUGH LITIGATION



HB 352: Changes to Ohio's Employment Discrimination Laws Effective on April 12, 2021

By: Genevieve M. Hoffman, Esq.

On January 12, 2021, Governor Mike DeWine signed House Bill 352, the Employment Law Uniformity Act. The bill serves to provide additional protections for employers in disputes with their employees under Ohio's anti-discrimination laws, Revised Code Chapter 4112.

The new law is effective on April 12, 2021 and will apply to state employment discrimination claims filed on or after that date.

Under the new law, an employee is required to begin a claim of employment discrimination with the Ohio Civil Rights Commission *before* filing a civil suit. Previously, proceeding with the OCRC was optional. The change in the law brings Ohio's employment discrimination process more in line with the federal process, requiring an employee exhaust their administrative remedies prior to filing suit. The two exceptions to this are if an employee is only seeking injunctive relief (i.e., no monetary damages), or if they have already received a right-to-sue letter from the EEOC.

[Read More](#)

OACTA Coffee Chat

OACTA hosted another successful coffee chat on March 5th! The participants discussed how the 2020 Civil Rules are being used and any issues that have been encountered.

The next networking event coffee chat will be **Friday, May 7th at 8:30 AM.**

Sign up for a casual Zoom Meeting format that will provide members an opportunity for informal discussions with their colleagues. Sign up today to receive your Zoom link and add it to your calendar.



[Sign Up Here!](#)



September 7, 2021
OACTA Foundation Annual Golf Outing
Pinnacle Golf Club
Grove City, OH
Golfer Registration Opening in June!

Net proceeds from the Golf Outing benefit the OACTA Foundation. The OACTA Foundation funds projects consistent with the mission of OACTA, such as the annual *Hilary S. Taylor Inclusion and Equity Scholarship Program* and the *National Foundation for Judicial Excellence (NFJE)*. Since established in 2011, OACTA and the OACTA Foundation have distributed twenty-four (24) scholarships to students at six (6) different Ohio law schools, totaling \$37,500. We need your help to continue to support these worthwhile initiatives!

We are asking law firms to please consider supporting the OACTA Foundation by sponsoring the Golf Outing. There are many [opportunities to offer your support](#). Prize donations are also appreciated! The OACTA Foundation is incorporated in Ohio as a 501(c)(3) nonprofit charitable organization under the Internal Revenue Service. Contributions made to The OACTA Foundation are tax-deductible to the extent allowed by law.

We hope your firm will consider becoming a sponsor, contributing prizes, and sending golfers! [CLICK HERE](#) to submit your sponsorship commitment or please forward this request to the appropriate person in your firm. Registration for golfers will be available in June. Please let us know if we can count on your firm to support the 2021 OACTA Golf Outing.

Thank You to Our Sponsors!

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Stay Informed on Major Ohio Civil Rules Changes with OACTA

By: James L. McCrystal, Jr., Esq.

It has been nearly a year since the Ohio Civil Rules were updated with important changes to the rules governing pre-trial case management and discovery, yet there have been no reported cases discussing these changes and many courts and lawyers appear to have failed to appreciate the impact of these changes. OACTA last August had a CLE program discussing these changes, a session during the Annual Meeting and the March Coffee Hour was devoted to the impact these changes are having on our practice. OACTA wants to be an important resource for its members dealing with how these rules can benefit our clients and improve the civil justice system.

In that vein, here are a few comments and tips for dealing with these changes.

DEVELOPING A DISCOVERY PLAN

Ohio Civil Rule 26(F)(1) mandates that counsel meet as soon as practicable not later than 21 days before a scheduling conference to attempt to develop a discovery plan. This requirement should be used by counsel to particularize the discovery phase of the case to the actual case. While Rule 26(F)(3) lists several considerations, give some thought to your case, do not treat that list as a complete list of topics to address.

For instance, if you expect new parties to be joined, spell out the deadlines for that and when the initial disclosures for those parties will be required. Do you want to suggest phased discovery, to allow the initial discovery to focus on an issue that may lead to an early disposition through settlement or a motion? The list does not include scheduling the summary judgment deadline, doing so avoids the need to later seek leave to file such a motion once case is set for pretrial or trial.

Rule 26(B)(7) requires that the records of healthcare providers expected to testify must be provided to opposing counsel, but there is no mention of a deadline, so you might consider including a date to produce the records that already exist and a date nearer to trial for their supplementation if there is continuing treatment.

Also, while the rules call for the court to set a deadline for disclosure for expert reports and cv's, with the party bearing the burden of proof having to provide those reports first. Rule 26(B)(6)(e) permits the court "for good cause shown" to allow additional time after all reports are exchanged, to permit discovery depositions of experts to be taken. To avoid that issue, you should consider including time in the Discovery Plan for the taking of the discovery depositions of experts.

Rule 16(B)(3) suggests the scheduling order may "direct that before moving for an order relating to discovery, the movant must request a conference with the court." You may want to consider asking for this provision to be included in the order when you expect to confront difficult issues or a difficult counsel on the other side.

Another issue to consider when preparing the discovery plan is whether to include a provision for the exchange 30 days before trial of trial exhibits, witnesses, and deposition designations, followed by the objections to them being due 14 days later, as is the case in Federal court under Rule 26(a)(3).

INITIAL DISCLOSURES

Ohio Civil Rule 26 (B)(3) requires each party no later the first pre-trial or case management conference to provide certain information, unless a stipulation or court order supersedes this requirement. Unlike the FRCP 26(e)(1), the Ohio rule does not require these disclosures to be supplemented or corrected, and unlike the provision in FRCP 26(g), the Ohio rule does not require certify that the disclosures are complete and correct as of the time they are made, and, unlike the Federal rules, Ohio's rule 37 does not contain a sanction provision for violations of the initial disclosure provisions.

To avoid any possible misunderstanding concerning the required disclosures, language like the following might be included when serving the disclosures:

Defendant, pursuant to Rule 26(B)(3) of the Ohio Rules of Civil Procedure, makes the following initial disclosures in this action. These are not being made in response to a discovery request from another party, so supplementation of them is not required by Civil Rule 26(E).

Defendant reserves the right to object to the use of these disclosures at any time in this or any other action on the grounds of relevancy, competency, materiality, admissibility, hearsay, or otherwise.

These disclosures do not waive the attorney-client privilege or work-product product protection afforded by statute, rule or common law and are made are without prejudice to any other issue or argument.

Defendant is not, by making these disclosures representing that these identify every witness, document, data compilation, or tangible thing that may be used to support the available claims and defenses. Rather, these disclosures represent a good-faith effort to identify information presently available that falls within the scope of Rule 26(B)(3). As such, these disclosures do not include information that may be used solely for impeachment purposes.

REMINDER

Please share any information or questions you have about the new rules and let me know if you are interested in working on effort to keep the membership updated on how these new rules are being implemented at jmccrystal@sutter-law.com. Laney Mollenkopf will share such information on the OACTA website and using Alert e-mails.

Save the Date: OACTA 2021 Annual Meeting



November 11-12, 2021
OACTA 2021 Annual Meeting
Hilton Columbus Polaris
Columbus, OH
More information coming soon!

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.

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!

Personal Injury Committee Update

The OACTA Personal Injury Committee has published a repository for briefs and decisions in cases where Plaintiffs try, or attempt to try, their case without medical bills and seek pain and suffering damages only in order to keep our Members abreast of how the law is developing.

Please forward any decisions you have or become aware of to OACTA@assnoffices.com or MBURDEN@garveyshearer.com so we can continue to add to this database.

[View the Personal Injury Case Repository](#)



Thank you to our OACTA members who have continuously updated the OACTA website with Court & Judicial Updates, Articles and Additional Resources related to the coronavirus. If you would like to add an article to our [News & Information Regarding COVID-19](#) web page, please submit your article to OACTA@assnoffices.com.

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:

- 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.



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