

News & Practice Pointers from OACTA

Winter 2019

In This Issue

[President's Message](#)

[Welcome New OACTA
Members](#)

[2019 OACTA Annual
Meeting Information](#)

[Ohio and Kentucky Online
CLE Now Available](#)

[Congratulations OACTA
Award Recipients!](#)

[Ohio and Kentucky Online
CLE Now Available](#)

[Ohio and Kentucky Online
CLE Now Available](#)

[Ohio and Kentucky Online
CLE Now Available](#)

[OACTA's Expert Witness
Database](#)

[OACTA's Expert Witness
Database](#)

[Legal Education Tracker
Now Available](#)

[Ohio Supreme Court and
Insurance Allocation: Pro
Rata or All Sums?](#)

[Job Postings](#)

[Case Victories Needed](#)

[Smart Defenses For Smart
Devices: Strategies for
Defending Product Liability
Claims Arising From
Internet of Things](#)

PRESIDENT'S MESSAGE

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



This will be my last message as the President of OACTA. It's hard to believe that this year has come and gone so quickly. When assuming the position of President, it was with great hope and optimism at what I had hoped to accomplish. As my term concludes, regardless of what was achieved, it never seems to be enough. Part of this is due to the great accomplishments of my predecessors and role models. Each set such a high bar, no matter what is accomplished, it never seems to measure up to their notable achievements and my hat's off to them.

As for the past year, I want to thank all of the officers, trustees and committee chairs and vice chairs who really deserve the thanks for what was achieved in 2019. This included a great insurance coverage CLE, the initiation of the Litigation Tactics Training CLE. Our OACTA Foundation Annual Golf Outing garnered the most golfers ever. The golf outing is a critical fundraiser for our two laudable charitable endeavors. The first is our annual donation to the National Foundation for Judicial Excellence which trains state court appellate judges on issues critical to the defense. The second, and one that I believe is one of our greatest missions, is the OACTA Inclusion and Equity Scholarship for deserving law students. This year, the trustees chose to rename it in honor of one of our most beloved and dedicated members so that it will be known hereinafter as the Hilary S. Taylor Inclusion and Equity Scholarship.

[Read more](#)

Welcome New OACTA Members Since October!

Robert	Dezort	Fisher Phillips
John	Fogle	Young & Alexander Co., L.P.A.
Peter	Georgiton	Dinsmore & Shohl LLP
Shana	Marks	Kegler Brown Hill + Ritter
Adelia	Mohan	Gallagher, Gams, Tallan, Barnes & Littrell, LLP
John	Polito	Bonezzi Switzer Polito & Hupp
Christy	Rafferty	American Family Insurance

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SUBMIT Articles to include in The Update to:

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

Upcoming Events

April 3, 2020
Insurance Coverage Seminar
National Interstate Insurance
Richfield, OH

June 2020
Personal Injury Seminar
Location, TBD

September 8, 2020
OACTA Foundation Annual Golf Outing
Pinnacle Golf Club
Grove City, OH

November 12-13, 2020
OACTA 2020 Annual Meeting
Hilton Columbus Polaris
Columbus, OH

Ohio Association of Civil Trial Attorneys
17 S. High St.
Suite 200
Columbus, OH 43215

Effective Jan. 1, 2020, the OACTA office location will be:
400 W. Wilson Bridge Road, Ste. 120,
Worthington, OH 43085.

We're Moving!

Effective Jan. 1, 2020, the OACTA office location will be:
400 W. Wilson Bridge Road, Ste. 120, Worthington, OH 43085.

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2019 OACTA Annual Meeting

Thank you to all the Exhibitors and Sponsors of the 2019 OACTA Annual Meeting:

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The 2019 OACTA Inclusion & Equity Scholarship recipients were recognized at the attended the Annual Meeting. The recipients of the scholarship were **Francesca Gottardi, University of Cincinnati - College of Law** and **Alexander Haddad, Case Western Reserve University School of Law**. Alexander was able to accept his certificate at the Annual Meeting Legal Excellence Awards Luncheon.


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**The Update Spring
Issue deadline is
April 1, 2020**


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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The new OACTA officers for 2020 were installed at the Annual Meeting.



Left to right: Jamey M. Pregon, OACTA President; Natalie M. E. Wais, Vice President; Benjamin C. Sassé, Treasurer; James N. Kline, Immediate Past President
Not pictured: David W. Orlandini, Secretary

[View all of the photos from the 2019 Annual Meeting](#)

OACTA Presents Awards to Outstanding Attorneys

The Ohio Association of Civil Trial Attorneys (OACTA) during its Legal Excellence Awards Luncheon and Annual Business Meeting on November 21st in Cleveland, presented awards to recognize attorneys for their service to OACTA, the profession and the community.

The **Excellence in Advocacy Award** was presented, to **James L. McCrystal, Jr., Esq.**, Sutter O'Connell Co., Cleveland, Ohio. The **Distinguished Contributions to the Profession Award** was presented to **Gretchen Koehler Mote, Esq.**, Ohio Bar Liability Insurance Co., Columbus, Ohio. **Robert P. Rutter, Esq.**, Rutter & Russin, Cleveland, Ohio, was the recipient of the **Respected Advocate Award**. **Benjamin C. Sassé, Esq.**, Tucker Ellis LLP, Cleveland, Ohio, received the **Outstanding Advocacy Award**. **Zachary B. Pyers, Esq.**, Reminger Co., L.P.A., Columbus, Ohio, received the **Outstanding Young Lawyer Award**. The **Committee Chair of the Year Award** was presented to **Christopher F. Mars, Esq.**, Bonezzi, Switzer, Polito & Hupp Co., L.P.A., Cleveland, Ohio. The **Frank Seth Hurd Member of the Year Award** was presented to **Gary L. Grubler, Esq.**, Grange Insurance Company, Columbus, Ohio. OACTA congratulates these award recipients for their outstanding contributions and their dedication to the profession!

The Ohio Association of Civil Trial Attorneys is an organization of attorneys, corporate executives and managers who devote a substantial portion of their time to the defense of civil lawsuits and the management of claims against individuals, corporations and governmental entities. The mission of OACTA is to promote 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.



James L. McCrystal, Jr., Esq. accepting the Excellence in Advocacy Award.



Gretchen Koehler Mote, Esq. accepting the Distinguished Contributions to the Profession Award.



Robert P. Rutter, Esq. accepting the Respected Advocate Award.



Benjamin C. Sassé, Esq. accepting the Outstanding Advocacy Award.

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OACTA Hilary S. Taylor Inclusion and Equity Scholarship



The Ohio Association of Civil Trial Attorneys (OACTA) is pleased to announce, the OACTA Inclusion and Equity Scholarship has been re-named the **OACTA Hilary S. Taylor Inclusion and Equity Scholarship**.

Mr. Hilary S. Taylor served as chair of OACTA's Diversity Committee from 2010-2017, was a member of the OACTA Board of Trustees in 2017 and was the recipient of the OACTA Frank Seth Hurd Member of the Year Award in 2014. Under Mr. Taylor's leadership, OACTA developed a Diversity Statement, initiated a Diversity Committee, was nationally recognized

in 2011 as the recipient of the DRI (Defense Research Institute) State and Local Defense Organization Diversity Award, developed the OACTA Foundation to provide a funding source for the scholarship, and provided financial support to twenty-two (22) law students, to date, all in an effort to support and promote inclusion and equity in our profession and in the community.

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. Since established in 2011, OACTA has distributed twenty-two (22) scholarships to students at six (6) different Ohio law schools, totaling \$32,500.

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. The scholarship was instrumental in the development of the OACTA Foundation.

Mr. Taylor and his family were present for the scholarship re-naming at the OACTA Legal Excellence Awards Luncheon on November 21, 2019.



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OACTA Announces the 2020 Hilary S. Taylor Law Student Inclusion & Equity Scholarship



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 15, 2020**. 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](#)

Need CLE Before the End of the Year?

Did you miss OACTA's 2019 Insurance Coverage Seminar? No problem! OACTA now has an online CLE library available. Earn Ohio and Kentucky 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.* - 1.0 hr. CLE credit
- **"A Primer on Cyber Liability"** presented by *Rema A. Ina, Esq. and Steven D. Strang, Esq.* - 1.0 hr. CLE credit
- **"All's Well That Ends Well: Coverage Litigation from Start to Finish"** presented by *Richard M. Garner, Esq. and Lucas P. Baker, Esq.* - 1.0 hr. CLE credit
- **"Ethics and Insurance Coverage Litigation: How to Play Tug-of-War in a Minefield"** presented by *Kurt D. Anderson, Esq.* - 1.0 hr. APC/Ethics credit

[View the OACTA Online CLE Catalog](#)

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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](#)

#GoldenCoatDrive: The Need for Warmth

OACTA is encouraging all members and firms to collect coats and donate to organizations in your local community! Please let us know if you donate coats and if so, how many, as DRI is documenting the number of coats donated by each state organization. If your firm is doing something else for local charities for the holidays, please let us know that too! Please send the information to OACTA@AssnOffices.com.

Thank you for your charitable giving during the holidays!



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- 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.

Ohio Supreme Court and Insurance Allocation: Pro Rata or All Sums?

Recently, in *Lubrizol Advanced Materials, Inc. v. National Union Fire Ins. Co.*, Case No. : 1:17-cv-01782-DAP, the federal court certified the following question to the Ohio Supreme Court: "Whether an insured is permitted to seek full and complete indemnity, under a single policy coverage for 'those sums' that insured becomes legally obligated to pay because of property damage that takes place during the policy period, when the property damage occurred over multiple policy periods?" See Certification Order.

Certification and Allocation

When a federal court sits in diversity, it applies state law, see *Erie R.R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938), and consequently is the equivalent to "another court of the State." *Guar. Tr. Co. v. York*, 326 U.S. 99, 108 (1945). When required to do so, a federal court will predict state law, but this is not always practical. The certification procedure is "a valuable device for securing prompt and authoritative resolution of unsettled questions of state law, especially those that seem likely to recur and to have significance beyond the interests of the parties in a particular lawsuit." *Kidney v. Kolmar Laboratories*, 808 F.2d 955, 957 (2d Cir. 1987). In the *Lubrizol* Certification Order, Judge Polster explained that this issue presented "a novel question of state law [with no] guidance from state courts." See Certification Order.

[Read more](#)



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](#).

Smart Defenses For Smart Devices: Strategies for Defending Product Liability Claims Arising From Internet of Things Technology

Submitted by: David J. Oberly

Background

The "Internet of Things" (IoT) generally refers to the network of physical devices (or "things") that are connected to the Internet, collecting and sharing data. The IoT has digitalized the physical world and has transformed common, everyday objects into smart devices that connect everything from watches to refrigerators to the Internet. In the process, the IoT revolution has brought with it previously-unimaginable benefits in the form of efficiency, convenience, safety, and savings, just to name a few. Many have called the rise of the IoT the third major technological revolution, behind the Industrial Revolution and the creation of the Internet. Today, there are a wide range of applications and devices that we use in our daily lives that are impacted by the IoT. With that said, at the present time we are just in the early stages of the IoT movement. In fact, some experts estimate that by 2020, the IoT will be comprised of somewhere between 20 and 50 billion connected devices.

The range of different smart devices on the market today and their associated risks raise substantial issues regarding the application of traditional product liability law to these new technologies. Importantly, many of these issues may serve as significant roadblocks to plaintiffs who seek to establish actionable product liability claims as a result of malfunctions or hacking incidents related to IoT technology, all of which can be utilized by defense counsel to defend against and defeat IoT product liability litigation.

[Read more](#)



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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.

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