



OHIO ASSOCIATION OF CIVIL TRIAL ATTORNEYS
The Source for Defense Success

THE UPDATE

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President's Message

**By: Jamey T. Pregon
2020 OACTA President**



What a difference a year makes. One year ago, we were all emerging from another winter, and starting to enjoy another spring. We were looking forward to spring break and summer vacations, and getting outside with warmer weather arriving. We were on the run with our kids and families, going to events and graduation parties. We were getting out with our family and friends, going out to dinner, movies, ballgames, and shopping. We were gathering together in places of worship. We were working. We were in trials, depositions, mediations, and meeting with clients. We all had plenty of toilet paper. That was 2019.

Today, most of us are sitting at home. We have been for weeks. We will still be sitting at home for weeks to come. Our lives are on hold and uncertain. Businesses not deemed "essential" are closed to the public. Shelves are empty at grocery stores, as our delivery trucks cannot match the overwhelming demand for things like meat, milk, and toilet paper. Stadiums are empty. Churches and places of worship are empty. Much of our social interaction now comes from those who are quarantined with us in our homes, and through Zoom and Skype. We worry about the spread of a virus. We worry about our livelihoods. Courthouses are quiet now. There are no trials. The only mediations or depositions occurring now are through video. Things that we always took for granted are not there for us right now, or in the foreseeable future. This is 2020.

When I was sworn in as President of OACTA last November, everything looked different. OACTA looked different. Everything has now changed during the first quarter of 2020, and will continue changing as 2020 continues to unfold. We are all changing, both personally and professionally. OACTA is changing too.

At its core, OACTA has always been about supporting Ohio's defense community. That will never change. What is changing is how we do that, and what that means in the face of such a challenging year. Our defense community has always faced challenges and uncertainties, such as changing and emerging laws and decisions such as *Scott-*

Upcoming Events

April 23, 2020

"Business Interruption
Coverage & the
Coronavirus"
Lunch & Learn - Live
Webinar

[Details & Registration](#)

May 1, 2020

"The ADA, EEOC and
OSHA considerations for
employers during the
COVID-19 pandemic" /
"COVID-19 and Public
Sector Employers"
Lunch & Learn - Live
Webinar

Registration Coming Soon!

May 5, 2020

"Navigating the Families
First Coronavirus Response
Act, the CARES Act and
Unemployment During
COVID-19"
Lunch & Learn - Live
Webinar

Registration Coming Soon!

May 13, 2020

"Recent Developments &
Recurring Issues in Ohio
Bad Faith Law"
Lunch & Learn - Live
Webinar

[Details & Registration](#)

Insurance Coverage
Seminar - Postponed Date
and Location TBD

Personal Injury Seminar -
More Details Coming Soon!

September 8, 2020

Pontzer and Robinson v. Bates. But we have never faced challenges and uncertainties that involve *everything*, like we are seeing now. This is a time for the defense community to step up and help each other out, and to face the challenges and uncertainties together. OACTA exists for this very reason.

As you know, we have had to postpone our popular insurance coverage seminar, which was to be held in April, and the June personal injury defense seminar will likely suffer the same fate. We are hopeful that OACTA will still be able to yet hold the seminars in person at later dates, and we remain hopeful that events such as our annual golf outing and annual meeting still go forward. But as things continue to unfold, OACTA is adapting. On April 14, we held our first Virtual Town Hall meeting via Zoom Pro, which was well attended and discussed key issues relating to Ohio's emergency COVID-19 legislation. We have more webinars on the way, including the April 23 webinar which will discuss Business Interruption Coverage issues relating to COVID-19. Seminars that may not go forward in person will be converted to webinars, offering CLE credit remotely at a time when few live CLE seminars will be occurring. OACTA continually sends email blasts to members of significant developments, and OACTA members are able to use email blasts to membership to request information and guidance from members. OACTA's website posts court orders, as well as articles and other resources regarding COVID-19.

In 2019, OACTA began its initiative to provide its members CLE seminars on demand. 2020 has pushed this initiative into focus. More webinars and on demand CLE's are in production, and will be coming soon. OACTA's sponsors will be offering webinars in the coming months as well. In a new era where social distancing is going to live on even after businesses start to reopen, webinars and on demand materials will be vital to us all, and OACTA will be here to serve those needs.

Times like these help us all to see what is really important to us. Rather than dwelling on the things we cannot have right now, focus on the things that we do have. We have families. We have friends. We have each other. Things are going to get back to normal again, whatever "normal" will look like when all of this is in our rear view mirrors. We need to be here for each other. I encourage everyone to get involved in our defense community. We need each other more than ever, and this is our moment to rise up together. I thank you all for being a part of our community, and I wish the best for you and your loved ones. Please stay safe and healthy during these times, and know that OACTA will be here for you.

OACTA Foundation Annual
Golf Outing
Pinnacle Golf Club,
Grove City, OH

November 12-13, 2020

OACTA 2020 Annual
Meeting
Hilton Columbus Polaris
Columbus, OH

OACTA & COVID-19

To 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.

To help you 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.

To help you 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!

OACTA Annual Sponsors Are Here For You

The OACTA Annual Sponsors want you to know they are here for you. Our Annual Sponsors have provided a response to OACTA members regarding the coronavirus pandemic. They have also provided several continuing education opportunities for OACTA members.

[View the Message from our Sponsors](#)

[View the Upcoming CE Opportunities](#)



"Every contact leaves a trace"
- Dr. Edmond Locard

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OACTA Virtual Town Hall

On Tuesday, April 14th, OACTA held a virtual town hall meeting to discuss concerns and issues with

the tolling provisions in Ohio's recent emergency legislation and administrative orders from the Supreme Court. OACTA had a wonderful turnout of OACTA members participating in the meeting. A special thank you to the panelists, Susan Audey, Kevin Connell, Dan Richards and to the Moderator, OACTA President, Jamey Pregon for sharing their insight on these issues. If you were unable to attend the town hall, you can view the recording of the presentation at the link below. You will need to log into your OACTA member profile to view the recorded webinar.

[View the OACTA Town Hall Meeting](#)

Upcoming Live Webinar: Business Interruption Coverage & the Coronavirus Thursday, April 23, 2020 | 12:00-1:00 p.m.

Join [John Farnan](#) and [Dan Richards](#), partners at Weston Hurd, as they address insurance coverage for Business Interruption Claims arising from the Coronavirus pandemic. John and Dan will discuss how this new crisis would fit or not fit within the confines of existing insurance policies and existing case law and how the law might evolve to handle this new situation.

CLE Credit:

This on-demand webinar is approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 1.0 general hour of live, interactive webinar credit. CLE credit will be submitted to the Supreme Court of Ohio by the OACTA office.

Due to the Coronavirus pandemic, the Ohio Supreme Court Commission on Continuing Legal Education is allowing live, interactive webinar credit to be used to fulfill up to 24 hours of the CLE requirements.

To fulfill CLE requirements for a live, interactive webinar program, you must register for the program, join the meeting; and complete the evaluation with the verification code at the end of the program.

Registration Pricing:

OACTA Members - Free

Non-Members - \$25.00 (if requesting CLE credit)

[Register Today!](#)



Welcome New OACTA Members Since December!

Richard Brooks, The Ohio National Life Insurance Company

Allison Burke, Tucker Ellis LLP

Dee Dane, Ward, Anderson, Porritt, Bryant, PLC

Peter Georgiton, Dinsmore & Shohl LLP

Ahmed Hassouna, Dyki, Latra, Brauckmuller & Ross

Edwin Hollern, Hollern & Associates

Rema Ina, Gallagher Sharp LLC

Christopher Jones, Dinsmore & Shohl LLP

Shana Marks, Kegler Brown Hill + Ritter
Daniel Matusicky, Arnold & Clifford LLP
Sandra McIntosh, Freund, Freeze & Arnold, LPA
Stephen Merriam, Collins Roche Utley & Garner, LLC
Carol Metz, Travelers Ohio Staff Counsel
Evan Palik, Collins Roche Utley & Garner, LLC
Harjinder Sokhi, State Auto Mutual Insurance Company
Tiffany Sovik, Progressive Group of Insurance Companies
Sara Valentine, David A. Goldstein Co. L.P.A.

Have you renewed your OACTA Membership for 2020?

[Renew Your Membership Here!](#)

COVID-19 Articles Provided by OACTA Members

Thank you to our OACTA members who have continuously updated the OACTA website with news and educational articles 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.

- [NYDFS Extends Part 500 Cybersecurity Regulation Certificate of Compliance Filing Deadline](#) by David J. Oberly and Jennifer J. Daniels
- [Beware of Telemarketing Call Limitations during the COVID-19 Public Health Crisis](#) by David J. Oberly, Jeffrey N. Rosenthal, and Ana Tagvoryan (posted 04/06/2020)
- [Overview: Employment Considerations, Ohio Emergency Legislation and COVID-19](#) by Kathleen Minahan, Esq. Doug Holthus, Esq. (posted 04/02/2020)
- [New Paycheck Protection Program Offers Forgivable Loans To Small Businesses](#) by Attorney Rema Ina (posted 03/31/2020)
- [Balancing COVID-19 Concerns and the ADA in the Workplace](#) by Rafael McLaughlin, Esq. and Leslie Kizziar, Esq. (posted 03/24/2020)
- [How to Prepare for Coronavirus-Themed Phishing Attacks](#) by David J. Oberly, Jeffrey N. Rosenthal, and Jennifer J. Daniels (posted 03/23/2020)
- [Coronavirus Alert: Ensuring Privacy in a Time of Crisis](#) by David J. Oberly, Brooke T. Iley, and Jennifer J. Daniels - (posted 03/23/2020)
- [Coronavirus Update: Practical Considerations for Remote Working Arrangements](#) by David J. Oberly and Jennifer J. Daniels - (posted 03/23/2020)
- [Protecting Student Privacy: DOE Issues Guidance for Educators on Permissible COVID-19 Disclosures Under FERPA](#) by David J. Oberly and Jennifer J. Daniels - (posted 03/23/2020)
- [What Employers Need to Know about the New Families First Coronavirus Response Act](#) by Attorney Rema Ina - (posted 03/23/2020)
- [Employer Concerns When Responding to the Coronavirus](#) by Attorney Rema Ina - (posted 03/23/2020)

OACTA is providing these resources to members as a courtesy, but OACTA does not endorse the content or any entity or individual who authors the material. Views and opinions expressed by the authors are their own and are not statements by or on behalf of OACTA.

Helpful COVID-19 Resources

OACTA members are also updating the OACTA website with helpful coronavirus related resources. Be sure to check out the [News & Information Regarding COVID-19](#) web page to get court & judicial updates, educational articles, and helpful resources.

- Supreme Court of Ohio - [Tolling Order Frequently Asked Questions](#)
- Bricker & Eckler COVID-19 Resource Center - <https://www.bricker.com/resource-center/COVID19>
- Supreme Court of Ohio - Coronavirus Resources: <http://www.sc.ohio.gov/coronavirus/>
- Supreme Court of Ohio - Commission on Continuing Legal Education Update: <http://www.supremecourt.ohio.gov/AttySvcs/CLE/attorneyNotice.pdf>
- OSBA COVID-19 Resource Directory - <https://www.ohioabar.org/covid19resources>
- OSBA Ohio Court Guidance - <https://www.ohioabar.org/member-tools-benefits/practice-resources/practice-library-search/practice-library/COVID-19-Ohio-Court-Guidance/>
- Ohio Department of Health Coronavirus Resources & Information: <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/>
- Centers for Disease Control & Prevention: <https://www.cdc.gov/coronavirus/2019-ncov/index.htm>



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Member Request Network

What is it? OACTA's Member Request Network allows you to send and/or request information regarding a court, your opposing counsel, an expert witness, or any substantive or procedural issue to your fellow members, via email, by submitting a Member Request through the OACTA website. Only OACTA members will receive the request.

How can you send a request? Members can send a Member Request by logging into the OACTA website using their username and password. Once logged in, on the right side of the web page is a list of "Quick Links" one quick link is titled "Submit a Member Request" select that link and complete the form. Your Member Request is then sent to the OACTA Office to be sent to the entire membership.

How can you search for prior requests? Members can search for past requests by downloading the OACTA Member Request Database. Again, make sure you are logged into the OACTA website with your username and password. On the "Member Home" page you will see a button titled "Download the Member Request Database". This database is updated monthly and goes back two years. Once selected, it will automatically download as an excel spreadsheet. Search the spreadsheet using key words to find an old request.

Be sure to take advantage of this great members-only benefit by making requests and by responding to the requests of your fellow members!

Save the Date for the 2020 OACTA Annual Meeting



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

More information coming soon!

Articles Needed for the Upcoming OACTA Quarterly Review

The OACTA 2020 Quarterly Review series will feature the following substantive law committees, **Construction Litigation**, and **Business & Commercial Litigation**. The committee chairs are seeking assistance with educational articles related to these practice areas. If you would like to contribute an article, please email the article to OACTA@assnoffices.com. OACTA will then pass it on to the appropriate committee chairs for review.

2020 Hilary S. Taylor Law Student Inclusion & Equity Scholarship Now Available

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, 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.



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.

[View Additional Scholarship Information](#)

[Apply Today!](#)



The image is a promotional graphic for ESi. It features a dark blue background with a white geometric logo on the left and the letters 'ESi' in white on the right. Below this, the text 'Engineering Consulting and Forensic Investigation' is written in blue. At the bottom, the phone number '734.794.8100' and the website 'www.engsys.com' are displayed in white on a blue background.

Case Victories Needed!

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

Spring 2020 Insurance Coverage Update

Message from the Committee Chair, Michael M. Neltner:

The following cases represent the more relevant insurance coverage cases decided by the Sixth Circuit, Ohio Federal District Courts, and Ohio state appellate courts applying Ohio law in late 2019/early 2020. Many thanks to Megan Faust of Roetzel & Andress, Peter J. Georgiton of Dinsmore & Shohl, LLP and Gerald Southard of The Cincinnati Insurance Company for assisting with these summaries.

FEDERAL

Sixth Circuit Cases

1. "Occurrence" Under Policy Could Reasonably Be Interpreted To Include An Insured's Negligent Supervision Of An Independent Dealer Of Vacuum Cleaners And His Subsequent Criminal Conduct

The Scott Fetzer Company v. Zurich American Insurance Company, 769 Fed.Appx. 322 (6th Cir. April 30, 2019)

In late 2013, three women filed a lawsuit against Fetzer, doing business as The Kirby Company, Crantz Development, and John Fields, an independent dealer of vacuum cleaners who worked for Crantz, alleging claims of assault, battery, intentional infliction of emotional distress, and false

imprisonment. The circumstances giving rise to the plaintiffs' claims resulted in felony and misdemeanor convictions. Despite the tenuous employment connection between Fetzer and Fields, Fetzer entered into settlement agreements with the three women.

[Read more](#)



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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](#)



THE EXPERTS
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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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