

*News & Practice Pointers from OACTA*

Winter 2017

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PRESIDENT'S MESSAGE

**By: Brian D. Kerns**  
**2017 OACTA President**



We are now fully swept up in the hustle and bustle of the Holiday season and year end doings and already planning for a new and better year ahead. I wish each of you the joy and peace of the spirit embodied in the many holiday traditions. On behalf of OACTA, I wish you and your family most Happy Holidays and all the best a new year can bring. I hope 2017 was an excellent year for you and 2018 is even better!

And so it is with OACTA-2017 was a wonderful year and I am confident an even better one is ahead under the leadership of new President Jill Mercer. At this time of year, many reflect back and think, "where did the time go?" I'm certainly feeling that, as my year as President came and went in the blink of an eye. In 2017, OACTA conducted many great seminars, social gatherings, and just last month held a terrific Annual Meeting. We conducted a successful Golf outing raising money for our Diversity Scholarships and the yearly \$5,000 contribution we make to the National Foundation for Judicial Excellence. We continued to build on the momentum created under previous President John Garvey, to begin to grow our OACTA Foundation, the non-profit, charitable entity that will carry OACTA forward into the next 50 years and beyond. We revamped our website, enhanced our social media presence, and of course, our tremendous Amicus Curiae program did us very proud again.

Certainly, one of the things I'm most proud of this year is the establishment of a Claims Industry Committee, whose recommendations allowed us to make structural changes to OACTA that will promote even deeper involvement in OACTA by members of the insurance industry, in-house lawyers and non-lawyer claim professionals alike. At our Annual Meeting we established a new dues category for industry professionals and corporate lawyer at an amazingly affordable \$50.00. Please encourage your clients, industry friends and in-house/corporate lawyers to take full advantage of this

**SUBMIT Articles to  
include in The Update to:**

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

### Upcoming Events

#### Mark your Calendars!

#### April

Insurance Coverage  
Seminar

#### June

Women in the Law

#### July/August

OACTA Happy Hour  
Series

#### September 4th

OACTA Foundation  
Annual Golf Outing  
Pinnacle Golf Club,  
Grove City

#### November

OACTA Annual  
Meeting

#### Ohio Association of Civil Trial Attorneys

17 S. High St.  
Suite 200

Columbus, OH 43215

P. 614.228.4727

F. 614.221.1989

[oacta@assnoffices.com](mailto:oacta@assnoffices.com)

[www.oacta.org](http://www.oacta.org)

**The Update Spring  
Issue deadline is  
April 1, 2018**

#### 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](#)

remarkable offer in 2018 and to join and become active in OACTA in 2018!

In this my final message as President, I don't have the words to express my gratitude to the leaders and members of this organization for not only making my role easy, but making it the most enjoyable year of my professional life. We could not have had the kind of year we had in 2017 without our dedicated officer team, our outstanding Board of Trustees, our Committee Chairs and Vice-Chairs, our Executive Director, Debbie Nunner, and Executive Assistant Laney Mollenkopf. And most certainly, we could not have had such a rich, full year without the involvement and support of you, our members, who continue to make OACTA a rich, rewarding professional experience.

God bless and keep each of you and your families this holiday season and throughout the coming year, and stay tuned for a great year ahead at OACTA under the leadership of our new President, Jill Mercer. The ghost of Christmas Future paid me a visit and showed me that it's going to be the best year yet!

#### Renew Your OACTA Dues!

If you have not already renewed your OACTA membership for 2018, renew today [here!](#)

#### 2017 OACTA Annual Meeting

#### Thank you to all the Exhibitors and Sponsors of the 2017 OACTA Annual Meeting:

BalaCare Solutions

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Cefaratti Group

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Envista Forensics

ESI

Exponent

Johnson, Cambra & Sherwood, Inc.

Leading Technologies, LLC

Minnesota Mutual Lawyers

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PRI Court Reporting, LLC

Rimkus Consulting Group, Inc.

Robson Forensics

Rudick Forensic

S-E-A, Ltd.

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Veritext

Two of the 2017 OACTA Diversity Scholarship recipients attended the Annual Meeting and were recognized: **Larae Schraeder**, Capital

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University Law School and **Jeffery Carr**, Cleveland State University, Cleveland-Marshall College of Law.



The new OACTA officers for 2018 were installed at the Annual Meeting.



Left to right: Natalie Wais, Secretary; Jamey Pregon, Treasurer; Jim Kline, Vice President; Jill Mercer, President; Brian Kerns, Immediate Past President

[View all of the photos from the 2017 Annual Meeting](#)

## OACTA Announces 2018 Law Student Diversity Scholarships

The OACTA Law Student Diversity Scholarship is open to incoming second and third-year African American, Hispanic, Asian, Pan Asian and Native American students enrolled at Ohio law schools. Incoming second and third-year female law students enrolled at Ohio law schools are also eligible regardless of race or ethnicity. Other criteria for the scholarship include: Academic achievement in law school; Professional interest in civil defense practice; and Service to community and to the cause of diversity.



Up to two 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 may submit up to three letters of recommendation.

Applications will be available, beginning in January. The completed application and all other requested material must be received by April 20, 2018. Winners will be announced in June. Scholarship recipients will be recognized at the OACTA Annual Meeting in November.

OACTA members (and their firms or companies) are asked to consider making a contribution to the OACTA Foundation which funds this scholarship. The 2018 dues renewal forms and membership applications will include an option for a voluntary contribution. As a member of OACTA, we ask that you consider supporting this worthwhile initiative. Thank you, in advance, for your support.

OACTA believes that a diverse membership makes us a stronger organization. We encourage diversity in all aspects of our activities and are committed to nurturing a culture that supports and promotes diversity.

### Congratulations to the 2017 OACTA Award Recipients

The **Excellence in Advocacy Award** was presented, posthumously, to **Lawrence A. Sutter, III, Esq.**, Sutter O'Connell Co., Cleveland, Ohio. The **Distinguished Contributions to the Profession Award** was presented to **Terrance M. Miller, Esq.**, Porter, Wright, Morris & Arthur, Columbus, Ohio. **James (Jay) M. Kelley, III, Esq.**, Elk & Elk Co., Ltd., Mayfield Heights, Ohio, was the recipient of the **Respected Advocate Award**. **Timothy J. Fitzgerald, Esq.**, Koehler Fitzgerald LLC, Cleveland, Ohio, and **Michael M. Neltner, Esq.**, Staff Counsel for the Cincinnati Insurance Co., Cincinnati, Ohio, received the **Outstanding Advocacy Award**. **Melanie Irvin, Esq.**, Claims Attorney, National Interstate, Richfield, Ohio, received the **Outstanding Young Lawyer Award**. The **Public Service Award** was presented to **Judge Michael P. Donnelly**, Cuyahoga Common Pleas Court, Cleveland, Ohio. The **Committee Chair of the Year Award** was presented to **Michael M. Neltner, Esq.**, Staff Counsel for the Cincinnati Insurance Co., Cincinnati, Ohio. The **Frank Seth Hurd Member of the Year Award** was presented to **Anne Marie Sferra, Esq.**, Bricker & Eckler LLP, Columbus, Ohio. OACTA congratulates these award recipients for their outstanding contributions and their dedication to the profession!



Judge Paula Giulitto, wife of Larry Sutter, accepting the Excellence in Advocacy Award on his behalf.



Anne Marie Sferra accepting the Frank Seth Hurd Member of the Year Award.



Timothy J. Fitzgerald and Michael M. Neltner received the Outstanding Advocacy Award.



Judge Michael P. Donnelly accepting the Public Service Award.



Melanie Irvin accepting the Outstanding Young Lawyer Award.

## Case Victories Needed!

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

Utilizing Ohio's Actual Constructive Notice Defense To

## Defeat Premises Liability Lawsuits

By: David J. Oberly

### **I. Why It Matters**

Property owners today are facing an ever-increasing amount of claims and lawsuits stemming from slips, falls, and other types of incidents taking place on the owner's premises. Fortunately, Ohio law is extremely favorable to premises owners as it relates to liability arising from injuries resulting from allegedly defective premises conditions. In particular, one of the primary lines of defense that can be utilized by premises owners and their legal counsel in defending against claims asserted by injured patrons is the actual constructive notice doctrine, which holds that the owner of a property cannot be held responsible for injuries or damages in the absence of actual or constructive knowledge of the danger or hazard that caused the plaintiff's injuries on the part of the property owner. Leveraged properly, this robust defense can be deployed to completely extinguish premises liability lawsuits in a variety of differing circumstances.

[Read more](#)



## Appellate Advocacy Committee Update

### **Some recent developments that impact appellate practice**

*By Appellate Practice Committee Vice-Chair, Susan Audey:*

I want to bring to your attention some recent developments that impact appellate practice—recent amendments to Evidence Rule 103(A) and Civil Rule 62(A), as well as a recent decision that brings some clarity to the filing of cross-appeals. Evidence Rule 103(A) amended to eliminate need to renew motion in limine—sometimes

[Read the Article Here](#)

[Visit the Appellate Advocacy Committee Web Page](#)

## Welcome to the following new OACTA Members since October!

Theresa	Bratton	National Interstate Insurance
Kiley	Clark	Nationwide Mutual Insurance Company
Carolyn	Cole	Thompson Hine
William	Falin	Moscarino & Treu, LLP
Patrick	Gump	McNeal Schick Archibald & Biro Co., LPA

Brigid	Heid	Eastman & Smith LTD
Robert	Kidd	Gallagher, Gams, Pryor, Tallan, & Littrell L.L.C.
Clare	Krumlauf	Nationwide Mutual Insurance Company
Niki	Mitusev	Garvin & Hickey, LLC
Michael	Paglia	Ritzler, Coughlin & Paglia, Ltd.
Frederick	Sewards	Poling Law
Gerald	Southard	Smith, Rolfes & Skavdahl Co., LPA
Jaren	Webster	Collins Roche Utley & Garner

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### Insurance Coverage Committee Update

#### Being Proactive In Mixed Damages Cases: Recent Cases and Trends

By Insurance Coverage Committee Chair, Michael M. Neltner:

The following is a Content Piece by OACTA's Insurance Coverage Committee and the first installment in a monthly series that OACTA will be publishing for the benefit of our members. All comments are welcome to the OACTA website, especially anything containing additional information from your experiences with this topic that can assist us in better representing our clients.

[Read the Article Here](#)

[Visit the Insurance Coverage Committee Web Page](#)

### We Are Updating Our Database!

To better serve our OACTA members we are updating the OACTA membership database. Please help us by updating your OACTA profile. You can do this by logging into your OACTA account or by completing this [online form](#).

*We listen to you.*



Angie Starbuck, Owner

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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](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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*For more information:*  
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**Cleveland:**  
800-343-4366



## OACTA Website Upgrade

In an effort to provide premier services to our members and serve you in the best way possible, the OACTA website has been upgraded. This website upgrade will allow us to offer some new features:

- The member directory, event calendar and forms are mobile-optimized.
- A mini Google Map automatically included in the event view.
- Search the member directory by address, zip code, city, state with

pinpoint accuracy.

- One-click renewal process via auto-generated invoice.
- More intuitive, user-friendly forms with an updated look and feel.
- Improved multi-person registration options.
- Membership and event history viewable from member profile.
- Committees have a shared message board and file storage.

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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.](#)

## Member News

### **Carter E. Strang Honored with 2017 Green Sustainability Award**

[Read more](#)

### **Anne Marie Sferra named "Lawyer of the Year" for Appellate Practice in Columbus - OH**

[Read more](#)

**Adam E. Carr** of Carr Law Office LLC in Hudson, Ohio, secured summary judgment for a homeowner, which was unanimously affirmed on appeal, in the defense of a claim by a social guest who suffered a broken leg when the porch swing came loose.

[Read more](#)

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