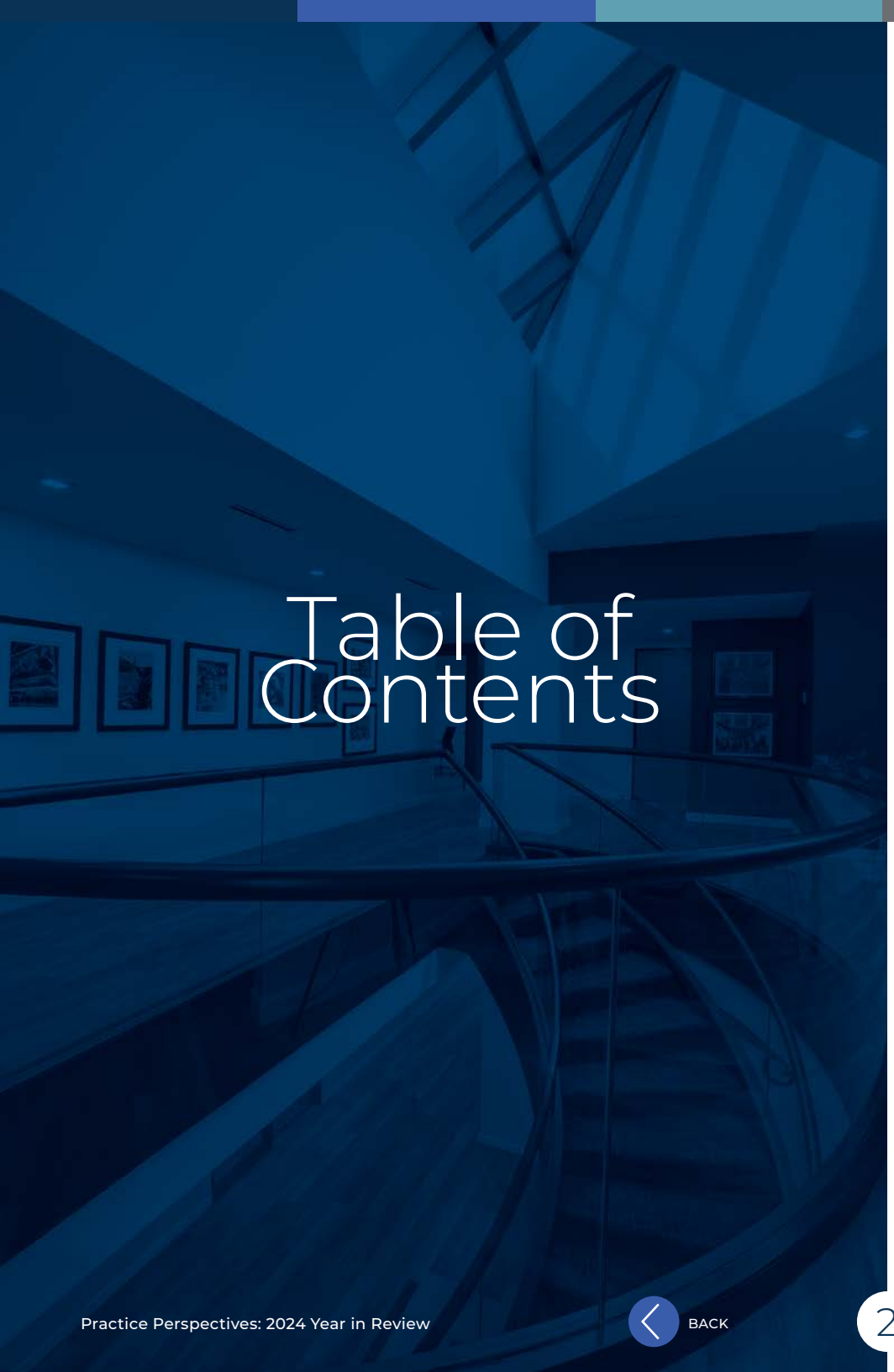
2024 Year in Review

LET'S GET STARTED



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As we closed out 2024, I'm proud to share that Gallagher Sharp has grown significantly, welcoming nine new attorneys and bringing our total to over 50 legal professionals. We've enhanced our capabilities through investments in advanced technology and e-discovery tools, allowing us to handle complex cases more efficiently.

Our commitment to developing talent remains strong through our enhanced Mentorship Program, while we've also taken time to honor our heritage through events like the revived Founder's Day celebration. This balance of innovation and tradition continues to define our firm's culture.

As we enter 2025, we're energized by our recent achievements—from landmark case victories to professional recognitions—and we remain committed to providing the exceptional legal representation you expect from Gallagher Sharp.

We wish you and yours a prosperous year ahead.

Monica A. Sansalone

Monica Sansalone

Managing Partner

PROFESSIONAL LIABILITY

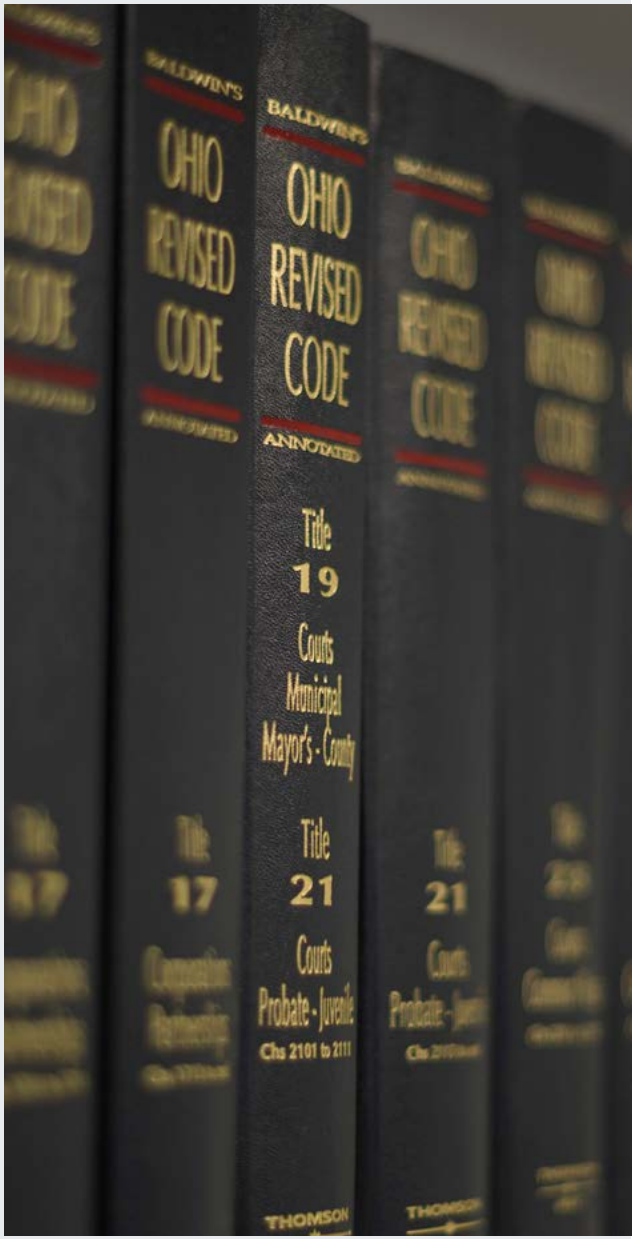
Legal Malpractice

Professional liability claims, especially against lawyers, continue to rise

By **Monica Sansalone**

Twenty years ago, such claims were nearly non-existent but today it is a thriving area for plaintiff's lawyers. Claims are not only being asserted directly by unhappy clients, but there has been a significant increase over the past few years in third-party claims against lawyers. Opposing parties and other "strangers" to the attorney-client relationship are now routinely attempting to hold attorneys liable through nontraditional legal theories, including what is known as the "malice exception" to the attorney-client relationships despite Ohio's strict privity requirements. Lawyers practicing in the areas of estate, trust and probate are experiencing an ever-increasing number of claims as baby boomers are leaving significant wealth resulting in adversarial proceedings between siblings and second families, with lawyers caught in the cross-fire. Firms of all sizes are developing new practice groups to pursue such claims, which are nearly always contentious. Malpractice claims continue to be brought under more traditional circumstances, especially against lawyers who practice in real estate, family law, and personal injury.

On the disciplinary front, the trend



over the last twelve months has been a significant increase in cases against judicial officers. The Office of Disciplinary Counsel of the Supreme Court of Ohio has filed numerous certified disciplinary complaints against judges throughout the state, resulting in some of the most severe sanctions such as lengthy suspensions. Criminal lawyers continue to be the subject of grievances. **There is a particular uptick in grievances against criminal lawyers who review cases for a flat fee at the post-conviction relief stage where the grievant is seeking the return of such fee.** Disciplinary cases for trust account violations are somewhat on the decline as disciplinary authorities have pushed education as opposed to punishment when there is no harm to a client.

Other types of frequent professional liability claims, include those against real estate and title agents as well against design professionals. Medical malpractice claims remain steady but are certainly significantly lower than there were a decade ago when tort reform was enacted and many plaintiff's lawyers switched from bringing medical claims to legal claims.

Contact Monica >

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Real Estate

Sweeping changes have impacted the real estate industry this year

By **Maia Jerin**

In early 2024, the National Association of REALTORS® (NAR) announced a $418 million settlement with groups of home sellers in a landmark class action lawsuit. In connection with that settlement, NAR, which represents more than 1 million REALTORS®, agreed to put into place new rules governing, among other things, commissions paid to buyer agents. The settlement has resulted in fundamental changes to the way real estate agents work with clients, negotiate deals, and market properties.

We have also seen an uptick in real estate litigation involving home inspector referrals. A recently enacted Ohio statute immunizes real estate salespersons who provide a purchaser with the names of multiple (at least three) licensed home inspectors. We are closely monitoring several pending Ohio court cases addressing this statute to see how Ohio courts will apply the new law. We are also watching industry trends on real estate wholesaling and residential auctions as real estate brokers and salespersons look to broaden the services offered to clients and customers.

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Board of Professional Conduct Warns Against Lawyers Using ‘Convertible’ Hourly-to-Contingent Fee Agreements

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Save the Date

Professional Liability Seminar: Legal Ethics/Professionalism & Risk Management for Lawyers

Friday, November 7th, 2025

Together with Professional Liability Services, Inc., this annual event offers engaging discussions on critical topics facing today’s legal professionals and great networking.

TRANSPORTATION

Transportation

Supreme Court's Chevron Reversal Reshapes Transportation Regulatory Landscape, Creating Both Opportunity and Uncertainty

The Supreme Court's June 2024 decision to overturn Chevron deference marked a fundamental shift in administrative law, replacing the decades-old practice of deferring to agency interpretations with direct judicial interpretation of statutes. This ruling has particularly significant implications for the transportation sector, where federal agencies like FMCSA, Coast Guard, and FRA have historically wielded substantial regulatory authority through their interpretations of ambiguous statutes.

The impact spans all major transportation sectors: trucking companies may see opportunities to challenge Hours of Service regulations and ELD requirements; maritime operators could contest Coast Guard policies on vessel security and marine casualty reporting; and railroads might challenge crew size requirements and track safety standards. However, while this shift opens new avenues for challenging regulations, it also introduces potential regulatory uncertainty as different courts may reach varying interpretations of the same statutes.

The post-Chevron landscape represents a double-edged sword for transportation companies - while offering enhanced opportunities to contest burdensome regulations through direct judicial review, it also creates the risk of inconsistent rulings across jurisdictions that could complicate interstate operations. Companies operating across multiple states will need to navigate this new complexity while potentially benefiting from increased ability to challenge agency interpretations that previously received automatic deference.

Trucking and Broker Liability

Legal Landscape Shifts

By **Rob Boroff**

2024 marked significant developments in both legal precedent and regulatory oversight within the transportation industry. In the legal arena, courts across multiple jurisdictions strengthened FAAAA preemption defenses for freight brokers, with the Seventh Circuit's Montgomery v. Caribe Transport II, LLC decision reinforcing that negligent hiring claims are preempted and not saved by the "safety exception." This trend extended to multiple district and state courts, creating a more unified approach to broker liability defense.

On the regulatory front, the FMCSA took two notable stances: maintaining safety standards by declining to extend the Safe Driver Apprenticeship Program to under-21 commercial learner permit holders, and proposing significant broker transparency regulations through updates to 49 CFR 371.3. The latter proposal would require electronic recordkeeping, 48-hour response windows for record

Want to stay up to date on all FAAAA activity?

Contact Rob Boroff to receive our FAAAA Preemption and the Safety Exception Case Law brochure.

CONTACT >

These parallel developments suggest a broader industry shift toward increased accountability and standardization, with courts generally supporting broker protections against state tort claims while regulators push for enhanced operational transparency.

requests, and prohibit contractual waivers for record review rights.

These parallel developments suggest a broader industry shift toward increased accountability and standardization, with courts generally supporting broker protections against state tort claims while regulators push for enhanced operational transparency. This dynamic creates new compliance considerations for brokers while potentially offering clearer parameters for liability defense strategies moving into 2025.

Notable Case Feature

Gallagher Sharp's legal team achieved a significant victory in Michigan Circuit Court, securing a defense verdict for a freight broker in a complex wrongful death action where plaintiffs sought up to $80 million in damages.

Gallagher Sharp Secures Defense Verdict for Freight Broker in Broker Liability Case READ >

In Case You Missed It

Supreme Court of the United States Again Declines to Address Whether Plaintiffs' State Law Tort Claims Against Freight Brokers are Preempted by the FAAAA

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This FMCSA Proposal Could Redefine Freight Broker Transparency Standards

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Maritime

Markus Apelis Designated as Proctor in Admiralty by Maritime Law Association of the United States

Markus Apelis achieved the Maritime Law Association's highest distinction as a Proctor in Admiralty, highlighting his exceptional expertise and contributions to maritime law. This prestigious designation from the MLA—a premier organization of maritime legal professionals—represents the pinnacle of admiralty practice and reflects Gallagher Sharp's continued leadership in specialized maritime matters.

Markus Apelis Designated as Proctor in Admiralty by Maritime Law Association of the United States

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In Case You Missed It

Navigating the Limitation of Liability Act Webinar
A Comprehensive Guide for Maritime Professionals

Our Admiralty/Maritime practice group presents an in-depth look at the Limitation of Liability Act, its implications for vessel owners, claims adjusters, and insurance professionals, and offer practical insights and strategies for effective handling of limitation cases and protecting clients' interests.

WATCH >

GENERAL LITIGATION

General Litigation

TBI Claims Surge Beyond High-Impact Crashes While Social Media Fuels Rise in Defamation Suits

By **Jim Tyminski**

Over the past few years, we have seen an increase in Traumatic Brain Injury (TBI) claims. Previously, we would see them only in heavy impact automobile, commercial vehicle and trucking collisions. We are now seeing them in slip and fall claims and light impact automobile claims. TBI claims do not often come with objective testing confirming the injury so the claims can be nebulous and based on subjective criteria such as a claimant's description of their injuries and impact on their day-to-day life. They've become so prevalent that we are now seeing them being claimed even without a medical expert though the list of plaintiff TBI experts has grown substantially. We expect these claims will run their cycle like many of the personal injury value drivers of the past. However, they are here for now and they are increasing in volume. We find using reputable experts to combat the questionable claims is the best approach but obviously, this does drive up the cost of defending such claims.

Additionally, we've seen more defamation claims being presented. With the advent and ever-increasing time spent on social media, people become less aware that the words they use in the electronic medium connect with real people and if those words are not chosen carefully, they leave themselves vulnerable to defamation claims. It's important to conduct thorough written and oral discovery to explore the potential for a dispositive motion. For example, words published may not be chosen well but they might be true, substantially true or perhaps they are subject to a qualified privilege. These cases are quite fact specific and they are also often emotional, similar to a neighbor dispute. We anticipate seeing a steady increase in defamation cases as social media continues to desensitize users from seeing a human on the other side of comments made into the ether.

Contact Jim >

Architects, Engineers and Construction

Industry Sees Rise in First-Time Litigation and Streamlined Ohio Consumer Protection Laws


By **Liz Phillips & Kohl Schneider**

This year we have seen a steady increase of assignments involving pre-claim assistance, subpoena compliance, and litigation defense with respect to a broad range of AEC issues. Proactive insurers are increasingly engaging us early on to assist with pre-litigation investigation and mitigation efforts. Our involvement at the claim stage has allowed us to engage with clients and opposing counsel prior to litigation with very positive results. Early retention has allowed us to effectively investigate, engage, and negotiate favorable resolutions, without the added burdens and costs necessarily incurred once litigation is commenced.

We have seen an escalation in the number of clients involved in litigation for the first time, despite having been in business for years or sometimes decades. We are also defending more cases filed by attorneys unfamiliar with the unique aspects of AEC litigation. Many attorneys filing lawsuits against design and construction professionals approach AEC litigation much the way they address routine torts. The result

We expect to see a reduction in AEC claims involving the Ohio Consumer Sales Practices Act (“CSPA”).

is often the filing of a complaint without any meaningful discussion in advance, and without regard to contractual notice, venue, or dispute resolution provisions. The fact is that AEC litigation very often involves issues not normally encountered in other cases. Identifying complex issues early on is key.

In addition, we expect to see a reduction in AEC claims involving the Ohio Consumer Sales Practices Act (“CSPA”). CSPA claims were often pled in AEC suits, as courts were split on whether the CSPA or its related statutes, the Home Construction Service Suppliers Act (“HCSSA”) applied. While both statutes protect consumers from unfair business practices, only the CSPA allowed for recovery of triple damages, making it a more attractive claim for many consumers. Effective September 19, 2024, Governor DeWine approved an amendment to the HCSSA that placed the majority of AEC matters within its scope. With this amendment, the threat of triple damages in AEC claims has been minimized for AEC clients.

Contact Liz >
Contact Kohl >

Hospitality

Noteworthy Court Decisions Reshape TVPRA Litigation Landscape

By **Steven Keslar**

TVPRA claims brought under 18 U.S.C. § 1595 have continued to be filed in both the Southern District of Ohio and the Northern District of Ohio. The recent trend in such filings is for the Complaint to name only franchisors as the primary defendants, and some franchisors are joining the local hotel franchisees as third-party defendants. In the Northern District of Ohio, two significant summary judgment decisions have shaped the boundary of liability against franchisors, which may lead to more actions naming local hotel franchisees as primary defendants. The earliest filed of these cases in the Southern District of Ohio now have dispositive motions pending or are nearing dispositive motion phases. In 2025, we expect summary judgment decisions on some TVPRA claims in the Southern District of Ohio, which is likely to shape the future of such litigation in this district. A TVPRA claim has not yet reached the U.S. Court of Appeals for the Sixth Circuit.

Contact Steven >

Case Spotlight

No Bones About It: Supreme Court Redefines Food Injury Standards

By Jennifer Gardner

In a case that garnered national attention, the Ohio Supreme Court ruled that boneless chicken wings aren't necessarily boneless. But is that really what the ruling meant? The Court was ruling on what test should be used by courts in food-injury cases: the "reasonable expectation" test or the "foreign-natural" test and whether this decision can be made at the summary judgment stage of the case.

The "foreign-natural" test holds that sellers can be liable for injuries when foreign objects are found in food products, but not when substances natural to the food product are found (i.e., a bone in a piece of chicken.)

The "reasonable expectation" test asks a court to consider the circumstances such as how the food was prepared, consumed, and marketed by the seller and if the consumer could have reasonably guarded against injury.

The Court's opinion blends the two tests, as the majority writes that a food seller is not liable when a customer could reasonably expect and guard against a hazardous substance in food. A customer's "reasonable expectation" is formed in part by whether the "injurious substance in the food is foreign to or natural to the food."

This decision will open the door to more cases being decided at the summary judgment stage, as it makes the injury a question of law, rather than a question of fact.

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In Case You Missed It

The Supreme Court of Ohio Rules the "Discovery Rule" Applies to Libel Claims

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Home Construction Defects: Which Act Applies?

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Ohio Supreme Court Extends "Same-Juror Rule" to All Negligence Cases

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APPELLATE & INSURANCE

Appellate

Supreme Court Petitions Surge as Shifting Precedents and Lower Costs Drive Appeals Strategy

By **Rich Rezie**

Over the past two years we have seen a significant uptick in parties seeking review in both the Supreme Court of Ohio and the Supreme Court of the United States with the most significant upsurge being in the latter. Although the underlying reasons remain individualized to the parties seeking review, we suspect that a more activist Supreme Court of the United States coupled with decreased costs due to electronic filing and printing (which remain substantial) are significant factors. It may also be that parties and their counsel feel less certain about the areas of interest to the Justices of the Supreme Court of the United States, leading them to advise that formerly settled precedent is not beyond the possibility of being revisited.

In the short-term at least, we expect these trends to continue because we do not see the underlying factors which we suspect to be driving them to change in the near-term. Long-term, we suspect that a new balance will be found where counsel will be better able to advise as to what issues may be of interest to the Justices and, accordingly, the number of parties seeking review will decrease.

Insurance

New Policy Language Aims to Eliminate Coverage Overlap and Streamline Claims

By **Rich Rezie**

Over the past year we have seen an increase in the number of 'battling forms' between insurers seeking to define away coverage entirely where other insurance is available rather than the traditional 'other insurance' terms providing for pro rata/primary/excess coverage between two insurers providing coverage. Insurers in almost all sectors are increasing defining 'insured' as limited to one who does not have other coverage for the loss and as specifying that no coverage is provided if other insurance covering the same risk/loss is purchased. Whether these provisions are valid depends on the unique application of each state's decisional and statutory law. Nonetheless, there appears to be a general movement by insurers away from the old pro rata/primary/excess provisions of 'other insurance' clauses of the past and toward definitions that attempt to completely vitiate coverage under one policy where another policy provides coverage either through the definition of 'who is an insured' or through policy exclusions which end coverage when other insurance coverage is purchased for the insured property/operation/risk/location.

These clauses may save insurers money on defense/indemnity payments because they may eliminate coverage under one policy where other coverage is available rather than affording coverage under both polices pro rata or with one being primary and the other excess, especially in the case of larger losses.

Long-term, this trend may lead to fewer insurers sharing indemnity and/or defense obligations. This should lessen the complexity of priority of coverage determinations and streamline the defense/indemnification process. These clauses may save insurers money on defense/indemnity payments because they may eliminate coverage under one policy where other coverage is available rather than affording coverage under both polices pro rata or with one being primary and the other excess, especially in the case of larger losses. It may also present a cost savings in terms of reducing insurer vs. insurer coverage/priority of coverage disputes. Only time will tell whether state regulators and legislators will weigh in on the practice and, if so, in what ways.

Contact Rich >

In Case You Missed It

Ohio Supreme Court Rules Preventive Lead Abatement Payments Not Covered as 'Damages' Under Liability Insurance

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Taking Multiple Bites at the Apple? No Single Use Limit Applies to Ohio's Savings Statute, R.C. 2305.19

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Navigating Ohio Appellate Court Jurisdiction in Multi-Claim and Multi-Party Litigation

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Save the Date

Upcoming FREE Webinar

Stay Ahead of the Curve: Essential Ohio Unfair Claims Practices Update for Adjusters

Wednesday, March 5th from 12-1pm EST.

Don't miss this crucial update on Ohio's Unfair Claims Practices landscape! Join Partner Rich Rezie for an invaluable hour of insights critical for claims adjusters navigating today's complex regulatory environment. From recent judicial developments to practical compliance strategies, this webinar delivers the essential knowledge you'll need to stay compliant and effective in 2025.

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FIRM UPDATES

Technology

Enhancing Client Value and Security

By **Maia Jerin**

Over the past year, Gallagher Sharp has made significant investments to modernize the firm's technology and offer our clients more efficient, secure, and effective representation. Our focus has been twofold: enhancing data security and improving our ability to handle complex cases involving significant electronic discovery.

In addition to security upgrades, we've invested in cutting-edge electronic discovery (e-discovery) tools. This investment significantly enhances our ability to manage complex cases involving Electronically Stored Information (ESI):

- **Efficient Data Processing:** Our new e-discovery tools allow us to quickly sift through vast amounts of digital information, identifying relevant documents and data points with unprecedented speed and accuracy.
- **Cost Reduction:** By streamlining the discovery process, we can reduce the time and resources required, ultimately leading to cost savings.
- **Improved Case Strategy:** With faster access to critical information, our legal teams can develop more informed strategies earlier in the case lifecycle.

Founders Day

In 2024, we revitalized the tradition of celebrating Founders' Day, honoring our rich history dating back to November of 1912. The evening brought together both current and cherished alumni to reflect on our 112 years of legal excellence.

Watching the connections over shared memories and achievements, we were reminded of the spirit and unwavering dedication that has defined our firm for over a century.

Pictured above left to right: Tim Brick, Joe Pappalardo, Alan Petrov and Monica Sansalone

New Toledo Office

Our Toledo office has moved! We are now welcoming clients to our new location in the iconic One SeaGate, Toledo's second-tallest building, and just steps away from the scenic riverfront.

New Website

After months of careful planning, our newly designed site features our recently expanded brand identity, while also preserving our firm's rich 112-year-old history.

VISIT >

Explore Our History

READ >

PRACTICE GROUPS

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- APPELLATE
- TRANSPORTATION
- PRODUCT LIABILITY
- GENERAL LITIGATION
- BUSINESS & EMPLOYMENT
- INSURANCE

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