



OADA NEWS

JUNE 2011

a publication of the Ohio Automobile Dealers Association

The State (& Fate) of Spot Delivery Agreements in Ohio

Recent Federal Court Decision Raises More Questions Regarding "Spot Delivery"

As dealers know, Ohio law allows dealers to deliver motor vehicles contingent upon financing approval as long as there is a written document outlining the parties' obligations if financing is not obtained. This practice, commonly known as the "Spot Delivery", provides consumers an opportunity to take delivery of vehicles during periods

when banks and financial institutions may not be open for business and approve the financing. Ohio is one of twenty states that provides for these types of deliveries.

While the practice is beneficial for consumers and dealers, many consumer advocates refer to these transactions as "yo-yo" deals. They believe that the whole premise of the "Spot Delivery" is unfair and deceptive. The allegation raised by spot delivery opponents is that consumers are lured into a purchase by promises of favorable lending terms only to be called back to the dealership to find that the terms have become significantly less favorable to the consumer. These types of cases have been popular with the trial bar for many years with mixed results.

While Ohio law recognizes the validity of spot delivery, the most recent, and successful, attacks on spot deliveries have been in federal court. These cases don't challenge spot delivery agreements as simply unfair and deceptive- they go farther by alleging violations of the Truth in Lending Act. In short, attorneys are arguing that a spot delivery agreement results in TILA disclosures in retail installment sales contracts (RISC) being inaccurate and meaningless, since those terms are subject to change. Plaintiffs have argued that a RISC that is modified by a Spot Delivery Agreement wholly contained in a separate document violates the Truth in Lending Act (TILA) because the two documents are inconsistent with each other.

The early decisions – OADA response

As we reported in our March 2007 OADA newsletter, a federal court in the Southern District of Ohio found that the practice of spot delivering vehicles violated the Truth In Lending Act because the spot delivery made the TILA disclosures illu-

sory. In *Patton v. Jeff Wyler Eastgate Inc.* the Court articulated that the decision was based on three factors: (1) The retail installment contract included a statement that the contract, "contain[] the entire agreement between you and us..." and did not reference or incorporate the spot delivery agreement; (2) The terms of the contract and the terms of the spot delivery agreement were "materially inconsistent" and could not be read as a coherent single contract; and (3) TILA was intended to promote informed use of credit via meaningful disclosures and therefore, the statute must be liberally construed in favor of the consumer.

Interestingly in a previous decision, also decided in the Southern District of Ohio (*Gill v. Byers*), the Court found that a Spot Delivery Agreement not contained within the body of a RISC did not affect the validity of TILA disclosures. Even though we now had one decision that was a "win" for dealers and one case that was a "loser" for dealers. OADA believed it was prudent to address the Patton Court's objections to Spot Delivery Agreements.

OADA worked with Reynolds and Reynolds and Reynolds' legal counsel, to address this Court's opinion. As a result, the Reynolds and Reynolds retail installment contract (Law 553-OH) was changed to incorporate traditional "spot delivery" language and provide a notice to the customer that there exists a "limited right to cancel" the contract if it cannot be assigned within the time frame specified by the dealership. The change to the retail installment contract did not provide consumers with more rights than they had in the past. It simply provided disclosures in an easy to read format ex-

contents

- Gaining Better Control Over Your Parts and Accessory Inventory2
- Auto Dealers United for Kids Donates Over \$100,0002
- Impressions from the FTC's Detroit Roundtable3
- Ad Review Corner4
- Evict Your Tire Mosquitoes4
- Next Gen Dealer Day at the Statehouse4
- Automatic Lift Review5
- OADA Educational Seminar Series Employee Hiring and Retention 5
- A Better Mousetrap?6
- NADA News.....7
- Dealer Network Continues to Shrink9
- Credit Scores Must Be Included in Adverse Action Notices9
- 2011 Convention Wrap Up 11
- Employee Hiring and Retention Seminar Registration12
- OADA Convention Sponsors13
- OADA Services13

Publisher: Tim Doran
Editor: Nikki Bragg
All Rights Reserved

The information provided in this newsletter is intended for general knowledge purposes only and is not intended to be the furnishing of legal or other professional advice. If legal advice or other expert assistance is required, the services of appropriate advisors should be sought.

Spot Delivery Agreements

continued on Page 10

Gaining Better Control Over Your Parts and Accessory Inventory

By Schneider Downs

Best practices within the automotive industry dictate that you count your parts and accessories a minimum of once a year. The beginning or the end of the tax year may be the optimal time to do it. Often times, dealerships conduct a parts inventory more frequently – perhaps on a quarterly or semi-annual basis. At the same time you perform the inventory, you probably adjust your perpetual records to the actual count.

However, one important procedure is often skipped. In some dealerships, the count isn't always reconciled to the general ledger, thereby leading to problems.

The trick is to account for parts inventory cut-off at the date of the count. Most dealerships prepare a list of "parts in process" on open repair orders, however, they fail to properly record returns to the manufacturer or the actual date that parts shipments were received from the factory. Accordingly, if the accounting department isn't notified about outstanding parts activity, the adjustments reflecting the inventory for a specified period will be misstated on the books.

Similarly, if the parts department does not indicate on packing slips the date

that parts have been received for a reasonable period before and after the parts count, it can be difficult to prepare an accurate parts reconciliation.

Example: The parts and accessories count for a dealership is conducted on June 30. A large stock order with an invoice dated July 3 was received by the dealership on June 27. A parts reconciliation for the dealership that bases the reconciliation on the invoice date, and not the date the parts were actually received in-house, would understate income by the amount of the stock order.

As demonstrated above, it's easy for mistakes to creep in when reconciling the perpetual count to the books.

Fortunately, you can avoid potential problems by coordinating the parts inventory. For example:

- Parts should not be returned to the factory around the time of the inventory count.
- An effort should be made to complete as many repair orders as possible before the parts count is conducted.
- The accounting department should be alerted to outstanding factory parts returns.

- All packing slips should be marked to indicate that parts arrived "before or after inventory". This procedure should be used for a reasonable period before and after the actual parts inventory count.

Following these steps can make it easier to identify any differences between the parts inventory and the perpetual parts inventory balance.

Upon completion of the parts reconciliation, don't forget to make the appropriate entry in the general ledger to record the parts adjustment. It isn't enough to adjust the perpetual records to the actual period-ending count.

Best practices go a long way towards providing efficient and effective inventory accounting solutions. To ensure the highest possible profit level on your parts inventory, it should be managed from the time items are ordered until the time they are sold.

If you have questions regarding this article or other accounting issues within the dealership, contact Kathy Petrucci at (614) 621-4060 or www.schneiderdowns.com. ■

Auto Dealers United for Kids Donates Over \$100,000 to Greater Toledo Area Children's Charities



The Auto Dealers United for Kids gave away another \$100,000 this year to local children's charities in the Greater Toledo Area... actually, \$111,000 to be exact. The proceeds from the "Cars are the Stars VIII" Preview Gala at the Toledo Auto Show were presented to the charity partners on Wednesday, May 4 at The

Toledo Club during a special luncheon.

Representatives from seven organizations attended the luncheon to receive their donation from the 2011 event. The recipients included: Adopt America Network has made it their mission to find good families for the children who wait in foster care; Imagination Station inspires in children the wonder of science and technology, preparing them for lives and careers in our knowledge-based economy; American Red Cross Youth Services funds health related education and training for 8-18 year olds; Mom's House gives honor and glory to God by treating each person, born and pre-born, as a unique and priceless gift of a loving Creator; Make-A-Wish Foundation® grants the wishes of children with life-threatening medical conditions to enrich the human experience with hope, strength and joy; and the Auto

Dealers United for Kids Scholarship Program is awarding \$1,000 automotive scholarships to applicants planning to register in an automotive program at Owens Community College or Northwood University.

2011 ADUK Chairman, Pat Stark of Yark Chevrolet said "ADUK is proud to help the children charities this year by giving back to the community to help children in our area. By giving back it will enhance the lives of many children and enrich their self esteem now and for future generations. We look forward to another successful year of helping other children charities in 2012."

Over the years The Cars are the Stars event has grown to become one of the largest benefits in the Greater Toledo area and has raised close to \$1 million dollars for local children's charities. ■

Impressions from the FTC's Detroit Roundtable

By Thomas B. Hudson

The FTC's first "Roundtable" was held on April 12 at Wayne State University Law School in Detroit. The FTC billed it as a "listening tour."

The event was well attended, as these things go. I'd guess that the crowd numbered perhaps 100, and it included dealers, finance company representatives, class action lawyers, consumer advocates, academics, state and federal regulators, and lawyers, like me, who represent the industry.

In order to "listen," the FTC divided the day into discussions by six panels, each addressing a different subject. The panels were as follows:

Panel 1: Understanding the Motor Vehicle Sale and Credit Transaction, From Both Prime and Subprime Perspectives

Panel 2: Interest Rates, Dealer Reserves, and Markups

Panel 3: Payment and Locator Devices and Consumer Policy

Panel 4: Spot Delivery

Panel 5: Contract Add-Ons

Panel 6: Vehicle Title Problems and Dealer Bankruptcies

I stayed throughout the day and tried to follow the discussions carefully. Here are my "30,000-foot" impressions.

Overall, I'd say that the FTC representatives who served as moderators seemed to be neutral on the issues that the panels discussed. That was a welcome development since the questions that the FTC had published in the Federal Register in advance of the event had seemed, at least in some instances, to be hostile toward industry. The state regulators were also neutral, for the most part. Easily the most effective presenter of the day was NADA's Andy Koblenz, who made a very cogent argument in support of the current system of dealer participation.

The FTC's Joel Winston set the tone

for the day by stating that the FTC wasn't very interested in anecdotes, but was instead looking for data – real live facts. That statement set a high bar for the consumer advocates, who seem to have no end of stories about dealers and finance companies abusing widows and orphans and drowning kittens, but, when asked about how frequently such abuses occur in the marketplace, always seem to come up empty-handed.

The consumer advocates didn't show particularly well. Notwithstanding Joel Winston's admonition that he was looking for facts, they kept trotting out their anecdotes, many of them years and sometimes even decades old. The industry participants kept pointing out that anecdotes weren't favored.

One National Consumer Law Center representative tried to point to a recently issued "survey" by the NCLC (the release of the survey was conveniently timed just before the first FTC Roundtable) that purported to show that dealer abuses were rampant in all states. Since the "survey" was nothing but a compilation of the answers to a short questionnaire by 48 lawyers who handle auto cases for consumers, no one seemed to pay it much mind. It certainly wasn't exactly anything that would be seen as either impartial research or scholarship, if you catch my drift.

The consumer advocates staked out the most radical consumer protection positions, arguing for an end to, or serious limits on, common dealer practices such as dealer participation and spot delivery. In support of their positions, the consumer advocates kept coming back to their stories about dealer misdeeds, only to be countered in nearly every instance by the industry representatives who stated that the dealer's actions were already illegal under either state or federal law, and there was no need for further regulation. At one point, I turned to the person next to me in the audience and whispered that if discussions about practices already banned by

federal and state laws had been prohibited, the entire Roundtable would have taken about 15 minutes.

The conflicting agendas of the consumer advocates and the industry representatives produced sparks on the topics of dealer participation, spot deliveries, the sale of ancillary products, and credit discrimination. Other panels were much more sedate, with the surprise of the day being the panel that discussed GPS and starter interrupt devices. The panel participants seemed to be in general agreement that the use of the devices was OK but that perhaps there were some privacy issues regarding the safekeeping of location data.

Industry did better than the consumer advocates. In fairness, the industry participants were not very long on data themselves, but the tone of the day seemed to be that the burden of proof was on those asserting bad acts, and not on the industry to show that it behaved well.

If you missed watching the Roundtable (it was streaming live), the video and a transcript are available on the FTC's website (www.ftc.gov). OK, Law & Order it's not, but if you are in the car sale, finance, or lease business, you need to see it.

Tom Hudson (tbhudson@hudco.com) has written several books, which are available at www.counselorlibrary.com. He also publishes Spot Delivery®, a legal newsletter for auto dealers, and is Editor in Chief of CARLAW®, a monthly report of legal developments in all states for the auto finance and leasing industry. He is a partner in the Maryland office of Hudson Cook, LLP. Spot Delivery, CARLAW and the books are produced by CounselorLibrary.com LLC. For information, call 410-865-5411 or visit www.counselorlibrary.com. Copyright CounselorLibrary.com 2010, all rights reserved. Based on an article from Spot Delivery. Single publication rights only, to OADA (4/11). ■



AD REVIEW CORNER

Action Integrated Marketing Pays \$150,000 in Multistate Agreement with States' Attorneys General

Ads proclaiming, "Government Vehicle Disposal," and "The Repo Joe Sale," were the subject of a multistate lawsuit filed by the Attorneys General in Ohio, Tennessee, Georgia, Idaho, Illinois, Kentucky, North Carolina, Oregon, Washington, and Pennsylvania. The complaint filed by the states alleged the ads were designed to steer buyers to used car sales events under the pretense they were getting a special deal. But such promotions, if untrue, violate states' consumer protection laws.

The Norcross, Ga., marketing firm, Action Integrated Marketing and Its CEO, Jay D. Murphree, settled accusations of deceptive advertising practices. They were accused of designing promotions that included misrepresentations about the origin of the vehicles offered for sale, created a false sense of urgency, and failed to adequately disclose prices and terms. They were also accused of using unlicensed salespeople or independent contractors not employed by the dealership.

Under a multistate settlement

Ad Review Corner

continued on Page 11

Evict your Tire Mosquitoes

By Glorianna Cooley, KPA Environmental Health and Safety Engineer, Ohio

You probably already heard that the EPA and Ohio Department of Health are on a mission against disease-carrying mosquitoes. As part of this effort, they are targeting mosquito breeding grounds, including tire storage areas at dealerships, retailers, and any waste tire generation site. For tire storage of any tires not attached to a vehicle, there are some guidelines. Based on an Ohio Health Department document, this is what they are looking for, and how to effectively address mosquito pools inside the tires.

Sheltered Storage: Drain tires of water and store them under a roof or well maintained waterproof enclosure to prevent water accumulation.

Exposed Storage of Waste Tires: Cut, slice,

poke holes, or otherwise do what it takes to guarantee efficient drainage routes in each tire to prevent water accumulation inside the tires.

Pesticide Alternatives: If you can't store the tires in a way to prevent water accumulation, then treat the tires with an appropriate pesticide according to manufacturer's directions. Repeat as necessary.

Reminder: tires must be stored individually or stacked so each tire is accessible for spraying.

Maintain a written record of tire treatments that includes:

- Name of the business
- Date of spraying
- Type of spray used
- Person doing the spraying ■

Do You Know a Next Gen Dealer?

OADA is reaching out to find the Next Gen Dealers across the state and involve them in your association and its workings. Our grassroots is vitally important to our ability to represent your business interests and we want to continue to strengthen those roots with the Next Generation of dealers.

What is a Next Gen Dealer?

A Next Gen dealer is anyone who is currently working (in any capacity) or will be working in the future at the dealership with the intent of eventually being the dealer principal. Some Next Gen dealers are already making the key management decisions for the dealership, while others are in college or just starting their careers with the company. Either way, the goal is to identify them, and to get them informed and aware of how we can assist their businesses.

What has taken place already with Next Gen Dealers?

We had our first Next Gen meeting last November in Columbus. It was attended by 43 Next Gen dealers from across the state. We introduced these folks to our staff and what OADA does for dealers, but more importantly, provided a great networking

forum so they can meet one another. It was clear at this meeting there was real value in these dealers getting to know one another and getting to know us as your association and resource. We anticipate that this segment of our association is only going to grow, so please help us get more Next Gen dealers involved now!

Save the Date!

We have another Next Gen dealer meeting scheduled for June 22, 2011 at the Statehouse. Next Gen dealers will receive updates on what is taking place in both the legislative and regulatory arenas, hear from key public policymakers who impact our industry, and have an opportunity to interact with your state legislators at the Statehouse. Grassroots legislation is our most effective way of representing your interests and involving our Next Gen dealers in this process is critical to our success on your behalf.

I know a Next Gen Dealer. What do I do?

If you know a Next Gen dealer, please send us their name and contact information (if you have it) or have them contact Zach Doran at zdoran@oada.com or 614-923-2234. ■

Automatic Lift Review: Five Common Hazards That Bring Big OSHA Fines

Unapproved hoist accessories

Recently, I was on a site visit where clever technicians in the service bay used license plate holders to weight down the lift lever, freeing the employee to leave while the lift was moving (this type of thing happens with bungee cords, magnets, hoses, wires, you name it). I have also heard stories of unused lifts being repurposed as coat racks. Make sure your technicians don't override life-saving lift safety devices with hoist rigging or treat them like storage units.

Missing or damaged contact pads

Service bays with more than one kind of lift often overlook contact pads because they are not standard across all makes or models. Also, winter can be hard on the rubbery surfaces of some contact pads. This is a good time to check them for signs of wear and replace damaged pads.

Vertical catch on above-ground hoists

Listen to the hydraulic shaft as the aboveground hoist operates. After the vehicle is raised, there should be a loud clicking sound as the lift goes up. This sound indicates that the vertical catch is working properly. It is a critical performance indicator of

the lift's safety system. If you don't hear the click, it means that your technician's life could be at risk. And don't forget to lower the lift on to these guards before starting work.

Lack of training documentation

Each technician must have a record of training on the proper operation of the lift they are using. This includes general awareness safety training and training specific to the type of lift they operate. The American Lift Institute has created a training that serves as the current industry standard.

Keep the owner's manual on hand in a safe place.

Standard procedure during an OSHA inspection involves documentation review. The inspector will ask to see the owner's manual along with lifting point information, lift manuals, and ANSI standards. Time yourself because during the inspection, these documents will need to be produced in less than ten minutes.

For more information regarding safety in and around the dealership, contact Nick Hardesty at KPA, 816-679-4006 or Glorianna Cooley, 614-432-5044. ■



OADA's Educational Seminar Series Presents: Employee Hiring and Retention – Learn How to Hire So You're Not Forced To Fire!

Toledo – June 7, 2011

Akron/Canton – June 8, 2011

Cincinnati/Dayton – June 14, 2011

Columbus – June 15, 2011

After several consecutive months of increased sales, many Ohio dealers are considering increasing staff, instead of reducing it. Hiring is challenging even in a normal business climate but in 2011, there are additional challenges: a recession is ending; many dealers reduced staff within the last two years; unemployment is high; employment lawsuits and administrative charges are sky rocketing, and the UAW announced a national organizing campaign. These additional factors make hiring a daunting, but necessary task.

We'll discuss issues frequently raised by members through the OADA legal hotline, and recent legal decisions that will impact the way you operate. If you are contemplating hiring now or in the near future, this seminar is designed for you.

Here are just a few of the topics that will be discussed:

- Must you rehire employees "laid off" or "terminated" in the last 6-12 months?
- If you rehire a former employee, do they receive their old benefit levels or are they "new hires"?
- What questions can you ask an applicant, and which questions are off limits?
- How can you ensure you are hiring assets instead of liabilities?
- What recent changes in law affect the hiring process, from employment applications to post-hire questionnaires?
- Practically, how do you create documentation that will withstand legal challenge?
- What are the "warning signs when hiring," how can your manager or HR staff identify, interview, and select the best candidate while avoiding legal liability? Ways to protect your dealership from EEO violations and discriminatory prac-

tices.

- What are the pros and cons of implementing background checks, aptitude tests, drug testing and/or physical exams?
- Can you document your hiring one person over another, or promoting a less senior employee over a more senior employee?
- What documentation stays in an employee's file, and what information should be restricted or kept apart from the main file?
- What are the pros and cons of non-compete/no solicitation agreements?

OADA is pleased to announce that the law firm of Millisor + Nobil has joined Fisher and Phillips, LLC, a national law firm representing employers in labor and employment matters. As our members know, the attorneys and staff of Millisor + Nobil have

Hiring Seminar

continued on Page 11

A Better Mousetrap?

By John Donovan, Esq., Melanie Webber, Esq., Fisher & Phillips (formerly Millisor & Nobil)

One area where many dealership managers continue to struggle is in effectively counseling poorly performing employees – and documenting that effort. Those managers who actually document their counseling generally tend to “write up” the employee, describing the events as the manager sees it, followed by a warning that discipline “up to and including termination” may follow. Then the manager presents the memo to the offending employee who is expected to sign it. The signed document is placed in the employee’s personnel file. And life goes on.

While this approach is certainly better than doing nothing, experience shows that it is unlikely to change the employee’s behavior in the long run. Typically, employees improve their behavior for the next few weeks and then gradually drift back to their old ways. The cycle then repeats itself.

We think that we may have found a better way. We are talking about an “interactive counseling” approach which we believe is more likely to bring about an actual change in an employee’s behavior and, at the same time, more effectively documents the problem. It works like this:

STEP 1: Identify the specific problem or deficiency in a way that the employee will clearly understand and giving specific examples. Managers need to avoid generic comments like, “You’re not getting the job done” and “You are not taking us to the next level.” The more objective and tangible the explanation of the employee’s deficiency, the better.

For example, rather than saying, “You have a poor attitude,” you may want to say, “I am receiving complaints from customers and coworkers about your dealings with them” or “Your CSI scores are the lowest in the dealership,” or “You have been tardy four times in the last two weeks,” etc.

STEP 2: Prepare a written memo to the employee that explains the problem or deficiency – describing what the employee is doing or not doing – and why that is affecting the company. Then the manager leaves a space for the employee to write his or her response to the following questions: “Do you agree with my assessment? If yes, please explain why you think this is happening. If you do not agree, please explain why you disagree with my assessment.” This will help to ensure

that the employee understands the manager’s exact concerns and will provide an opportunity for the employee to indicate if there has been some kind of misunderstanding or if the manager’s perceptions are incorrect. If there are multiple problems, each should be addressed separately.

Below the space for the employee’s response, leave room for the employee to respond to the following statement: “Please list three things that you will do, starting tomorrow, to address my concerns.” Again, each problem or deficiency should require its own business plan.

STEP 3: Meet one-on-one with the employee to explain the performance problems as you see them, and present the memo. Tell the employee to take the memo home overnight, give it some thought, complete it and return it the following day. Requiring employees to come up with their own plan will force them to think through what it will take on their part to meet the manager’s expectations. Note that this meeting should be treated as a coaching or counseling session, not a disciplinary session.

It’s critical that employees complete the form and explain things from their perspective. In doing so, employees will be documenting their acknowledgment of the manager’s concerns, or documenting their resistance to the manager’s counseling efforts. Therefore, do not allow an employee to get away with not completing the form.

Even if they agree with the manager’s concerns and promise to address the problems immediately, employees should still complete the form. A written commitment from the employee is more likely to bring about positive changes. If an employee drags his feet and delays returning the completed form, he should be warned that he will be suspended without pay until he complies with your instructions.

STEP 4: When the employee returns the completed form, accept the completed form, tell the employee that you will review it and will meet again shortly. Then take some time to study the employee’s comments before meeting again. Does the employee acknowledge the problems that were identified? Or does the employee refuse to accept the criticism? What kind of explanation does the employee offer? Are there extenuating factors that you

had not taken into account, e.g., lack of training or lack of specific instructions, personal or family problems? Has the employee listed three specific things to correct the problem and improve performance? Are those steps likely to result in improved performance? A commitment that “I will try to be here on time” is not an acceptable plan. If you believe that the employee’s plan will not address all of your concerns, you should have the employee add the additional steps to his plan.

STEP 5: Meet with the employee a second time to go over the responses and plan. Discuss any additional steps you think are necessary to address all of the concerns. You should have the employee sign the plan, confirming the commitments. Finally, give the employee a copy of the signed documents so that he or she will have ready access to the commitments that were made.

STEP 6: Closely monitor the employee’s performance over the next few weeks. If it improves, acknowledge it and thank the employee for his or her efforts and cooperation. Positive reinforcement goes a long way toward changing behavior. If the behavior does not improve, meet with the employee, ask for an explanation and remind him or her of the commitments. If the employee does not offer a satisfactory explanation, consider imposing significant discipline such as unpaid suspension or even termination.

Why It Works

We believe that this “interactive” counseling approach is better than the standard “write up” approach for a number of reasons:

1. It is not as confrontational as a typical “written warning.” It gives employees the opportunity to tell you if there has been a misunderstanding. Obviously, you would not want to write someone up if their tardiness was due to a temporary family emergency or if they failed to come to work because they were being subjected to racial slurs. Similarly, if employees fail to offer an explanation in their response, it is difficult to later claim that there was justification for the conduct.

2. When employees are sent home

A Better Mousetrap?

continued on Page 10

NADA News

A Message from Ohio NADA Director, Chuck Eddy

Foundation Expands Support for Canine Companions to Include Wounded Veterans Initiative

Support a wounded veteran in your community by making a contribution to NADA's Frank E. McCarthy Memorial Fund

The National Automobile Dealers Charitable Foundation has expanded its support for a nationwide program that provides skilled companion dogs at no cost to physically disabled children and adults—and for the first time—includes U.S. war veterans injured in Afghanistan and Iraq.

Last month, Retired Army Sgt. Sam Cila of Riverhead, N.Y., and his service dog, Gillian, were the beneficiaries of the foundation's first \$10,000 grant to the Wounded Veterans Initiative of Canine Companions for Independence.

"Gillian has rounded out my new team. She acts as my left hand. But more importantly, she's my teammate," said Cila, who lost most of his left arm from an IED (improvised explosive device) during an ambush in Baghdad on July 4, 2005. "Gillian has made me stronger as an individual because I can live a more active lifestyle with her at my side."

Since May 2002, the foundation—through its Frank E. McCarthy Memorial Fund—has contributed \$130,000 to the program, placing 13 skilled companion dogs. McCarthy served as NADA president for more than 30 years. The fund was established to honor McCarthy after his death in 2001.

"We've expanded the Canine partnership to include the Wounded Veterans Initiative because of the growing need to match wounded soldiers with assistance dogs," said Pat McCarthy, who chose the organization as the beneficiary in memory of her late husband.

Debra Dougherty, executive director for the Northeast Region of Canine Companions, noted the Wounded Veterans Initiative receives no government funding and depends solely on financial contributions from private donors.

"Many veterans returning from Afghanistan and Iraq with combat injuries are unaware that the program even exists," Dougherty said. "Additional funding from the business community, like the foundation, puts us in a better financial position to match more wounded veterans across the country with highly skilled service dogs."

Editor's note: If you're interested in providing a service dog for a wounded veteran in your community, contact the NADA Foundation at (703) 821-7102 or Foundation@nada.org.

NADA-IHS Automotive Forum Brings Together Leaders from Across Industry

The 2011 NADA-IHS Automotive Forum drew nearly 500 people to the New York Hilton on April 19. Hosted by the New York International Auto Show, the annual event brings together thought leaders from OEMs, suppliers, dealers and the media to discuss major industry events and focus on how the economic recovery will affect automotive stakeholders. Key speakers at this year's event included Dan Akerson, GM Chairman & CEO; Nariman Behraves, HIS chief economist; and Stephen Wade, NADA chairman, along with panelists from Subaru, Nissan, Toyota, Hyundai, Facebook, Dealer.com and

Penske Auto Group. The forum was covered by a host of media outlets including newspapers, Internet publications, radio and television, with CNBC providing exclusive live coverage. To access interviews with CNBC Automotive Reporter Phil LeBeau and to receive alerts about the 2012 forum, visit www.autoforumny.com.



Chuck Eddy,
Ohio NADA Director

Now Playing on NADA-TV ...

- **Dealers Help Wounded Vets:** The National Automobile Dealers Charitable Foundation gives a \$10,000 grant to Canine Companions for Independence.
- **Treadway Hosts Utah Senators:** Kyle Treadway welcomed Sens. Orrin Hatch and Mike Lee to his dealership and he explained how regulations in Washington impact his business.
- **Social Networking:** NADA University to launch three social networking communities for ATD members, 20 Group members and Dealer Academy graduates.
- **"AutoFocus with David Hyatt"**— a new television interview program

Here's a list of recent interviews:

1. General Motors Sales Chief Don Johnson says the company's "new attitude" is helping executives make better decisions.
2. NADA chairman Stephen Wade discusses the importance of donating to the NADA Japan Relief Fund and the impact of the disaster on the auto industry.
3. Chris Visser of NADA Commercial Truck Guide discusses the used-truck market and the impact of production slow-downs.
4. Executive Automotive Analyst Jonathan Banks discusses how the crisis in Japan will affect the used-car market.

To view these videos, visit the NADA-TV channel on NADAFrontPage.com by clicking on the link in the upper right corner of the home page.

In other legislative and regulatory news ...

NADA Highlights Value of Dealer-Assisted Financing at FTC Roundtable

NADA representatives highlighted the importance of dealer-assisted financing at an all-day roundtable that the Federal Trade Commission (FTC) conducted April 12 in Detroit to examine consumer protection issues related to five areas of vehicle sales and leasing. NADA was represented on each of the panels by dealer, ATAE, and attorney representatives that specialize in each of the subject matter areas.

During the discussions, the NADA team – led by NADA Dealership Operations chairman and North Carolina dealer Dave Westcott – made a compelling case that the problems identified by consumer group representatives on the panels are not

NADA News

continued on Page 8

representative of the industry and therefore do not justify the imposition of a new rule and already may be addressed through an array of consumer remedies that exist under current federal and state law. Most importantly, the NADA representatives explained in detail the extraordinary benefits that optional dealer-assisted financing provides to millions of consumers, including how dealers' access to multiple finance sources and their efficient pricing allows dealers to routinely offer consumers very competitive rates and, in many cases, secure financing for "unbanked" consumers who otherwise would not have the means to obtain transportation they need for employment.

"Even when dealer-assisted financing is not selected by consumers, its mere presence helps to create an intensely competitive market that significantly disciplines the rates that other finance sources will offer to consumers," said Andy Koblenz, NADA vice president of Legal and Regulatory Affairs.

NADA Regulatory Affairs will continue to monitor and respond to additional FTC activity concerning this initiative.

Dealers' Grass-roots Activity Contributes to 1099 Repeal

Dealers' grass-roots activism last month played a significant role in the repeal of the burdensome 1099 tax reporting requirements included in 2010 health care reform. The requirements would have forced all businesses and tax-exempt organizations to issue a Form 1099 to vendors from whom they buy goods totaling \$600 or more annually, starting January 2012. President Obama signed the bill into law on April 14. "Dealers' grass-roots activity contributed significantly to the success of the 1099 repeal," said David Regan, NADA vice president of Legislative Affairs. "We thank all the dealers who called their Senators and worked effectively on the House side to push for passage of this important measure, which will provide relief for dealers by significantly reducing their paperwork burden."

NADA Supports Congressional Efforts to Reach Single, National Fuel Economy Standard

Last month NADA expressed support for two bills seeking to reach a single, national fuel economy standard by prohibiting the Environmental Protection Agency and state of

California from regulating tailpipe emissions. A bill sponsored by Rep. Fred Upton (R-Mich.) cleared the U.S. House on April 7. That bill seeks to overturn a 2007 Supreme Court decision giving EPA and California authority to regulate greenhouse gases under the Clean Air Act. A similar measure in the Senate, sponsored by Sens. James Inhofe and Mitch McConnell, failed to garner the necessary 60 votes to pass. NADA supported both efforts because they would return the nation to a single, national fuel economy standard, protecting consumer choice and ensuring vehicles continue to be available to the public. While the Senate bill did not pass, many legislators agreed with NADA's position that having three different agencies regulate fuel economy (EPA, California and the National Highway Traffic Safety Administration) does not make sense. The Senate is expected to reconsider this legislation in the future, and NADA will continue to advocate for a single, national fuel economy standard.

In other NADA news...

NADA Brings Two Public Service Messages to Times Square

For the first time pedestrians walking past the CBS "Super Screen" in Times Square have been seeing public service messages from NADA. A CBS representative approached NADA in early March with the unprecedented opportunity when space became available after the network canceled the TV sitcom "Two and a Half Men" starring Charlie Sheen. NADA's first message, "Let's Keep Them Safe at Every Age," reinforces NADA's position as a leader in promoting child passenger safety nationwide, highlighting the fact that America's new-car dealers have inspected more than 1 million child safety seats over the past five years. The second message highlights the National Automobile Dealers Charitable Foundation's commitment to the Wounded Veterans Initiative of Canine Companions for Independence. Both 15-second commercials appear once every hour, 18 hours a day, for 45 days on the 26- by 20-ft. screen located at 42nd St. between 7th and 8th avenues.

Truck Dealers Upbeat at Annual Convention in Phoenix

Truck dealers who attended the annual American Truck Dealers convention in Phoenix last month walked away with a wealth of ideas to rebuild their businesses after the downturn of 2009 and 2010. "The economic recovery appears to have kicked into gear, but we're mindful that it's a fragile

one," said ATD Chairman Kyle Treadway in his keynote address. "Threats of spiraling fuel prices, inflationary pressures and the federal budget crisis could derail this locomotive as it begins to build some steam." Keynote speakers during the four-day conference at the Phoenix Convention Center included Treadway; Bill Graves, president of the American Trucking Associations; and Donald Broughton, senior research analyst and managing director of Avondale Partners LLC. Political analyst Charlie Cook kicked off the first-ever general session covering legislative and regulatory affairs. And NADA University launched a new social networking site called the NextGen ATD Community focused on helping the next generation of commercial truck dealers make a smooth transition when it's their time to run the business.

Alert: Bogus Survey Misrepresents NADA

Dealers have reported receiving emails with "NADA Preferred Mail Company Info" in the Subject line. The email refers to a supposed NADA survey of direct mail companies. NADA has not undertaken such a survey, nor authorized any other party to perform a survey on behalf of NADA. The company involved has agreed to stop any references to the bogus survey. Information about the phony survey originated in emails from www.nadadealerservices.com, a website that also has no connection to NADA.

Hyatt's '10 Rules for Media Success' Now Available Online

Dealers and managers who attended the 2011 ATD Convention and Expo in Phoenix heard a compelling message: Get involved now to help shape the future of your industry and your business. In support of NADA and ATD and their quest to shape federal regulation affecting auto and truck retailing, NADA University is making a highly rated convention workshop available online for free to NADA and ATD members. "Executive Media Training: 10 Rules for Media Success," presented by David Hyatt, NADA Vice President of Public Affairs, delivers an entertaining and informative look at how to interact with the media, public officials and others in representing the interests of your business and other truck dealers. To get your free copy of the workshop, follow these steps:

1. Visit www.NADAuniversity.com
2. Sign in. If this is your first visit, your

Dealer Network Continues To Shrink

Now more than ever participation by every dealer is vital to ensure that your voice is heard!

Now more than ever we need “all hands on deck”. The success of our organization is directly related to the active participation by dealers around the state. Whether representing your interests at the State House, the court house, or our nation’s capital, our strength is our numbers. Unfortunately, those numbers continue to shrink.

In the past ten years the number of franchised dealers has decreased by 25%. In just the past two years the industry has seen record contraction. In a recent NADA Headlines, NADA reported that the number of U.S. dealerships fell 4.4 percent last year to 17,659 according to Detroit based Urban Sciences. In 2009 the rate of closures was 8 percent, a record rate for dealership closures in one year. This equates to a loss of 1,600 dealerships across the country. A “normal” attrition rate is 1 percent. We can certainly explain the shrinking dealer network as a result of challenges that have affected all dealers: manufacturer bankruptcies, a recession that led to double digit unemployment, and the credit crisis.

Explanations aside, we cannot allow a shrinking membership to mean shrinking influence. Active membership in OADA is a win-win for dealers. When dealers join OADA, contact their legislators and contribute to the Dealer Investment Group (DIG) and the Legal Defense Fund (LDF), they make an investment in their dealership’s future.

With these efforts what has been accomplished in just the past year?

Legislative Arena – Franchise Law Update

This past year OADA and its members supported the passage of a comprehensive update to Ohio’s Motor Vehicle Franchise Law ensuring that Ohio’s law remains one of the strongest in the country. This was accomplished in spite of vehement opposition by a number of parties. Motor Vehicle Dealers are unique in that they have a dedicated body of law that helps to protect their investment and helps to level the playing field with their franchisor. In contrast, other franchisees such as McDonald’s operators and John Deere dealers do not have these protections.

Legal Arena - Defending Your Right to Charge a Doc Fee!

Another critical tool OADA has at its disposal to protect dealer rights is the OADA Legal Defense Fund (LDF). The Fund was established to provide legal assistance to dealers, dealer groups, or OADA when the outcome of a single legal proceeding will have a significant impact on all dealers.

In LDF’s biggest victory to date, OADA successfully defended the right for dealers to charge a doc fee. OADA was sued as the named defendant in Cuyahoga County Common Pleas Court. The complaint sought to bring every dealer in the state into the suit who had charged a doc fee since 2003. The plaintiff alleged numerous violations of Ohio law focusing on an alleged misrepresentation of the documentary fee by OADA and motor vehicle dealers, improperly charging sales tax on the doc fee, and unjust enrichment by collecting the doc fee. In granting OADA’s motion to dismiss the Court’s findings include:

- The plaintiff provided no factual basis for its conclusion that OADA conspired with dealers
- “Documentary service fees” and “documentary service charge” are used interchangeably. ORC 1317.07 and 4517.261 permit the imposition of a documentary service charge so long as it does not exceed \$250 or 10% of the purchase price when the price of the motor vehicle is less than \$2,500.

Regulatory Arena - PUCO Rescinds Rule

Last July PUCO adopted new rules to regulate in-state use of vehicles with a GVWR of 10,001-26,000 lbs. Enforcement was to begin January 1, 2011. OADA and other interested parties communicated with PUCO regarding the cost and compliance burdens imposed by these rules.

OADA also testified at PUCO’s public listening sessions. This past March PUCO rescinded these rules for intrastate travel.

Adverse decisions in the legislative, judicial or regulatory arenas can have catastrophic results for your business. Your support through membership and contributions to DIG and LDF is now more important than ever if dealers are to continue to “have a seat at the table” when industry-specific public policy is debated. ■

www.oada.com

Credit Scores Must Be Included in Adverse Action Notices Effective 7/21/2011

On March 15, 2011, the Federal Reserve Board proposed changing the format of model adverse action notices to include a disclosure of the consumer’s credit score. The disclosure would be similar to the credit score disclosure provided in Risk Based Pricing Exception Notices, which dealers already provide to consumers when a credit report is used in conjunction with loan approval.

The requirement to include credit scores in adverse action notices is effective July 21, 2011. Dealers should be contacting their provider of adverse action notices now to incorporate this information into their existing notices. ■

NADA NEWS

continued from Page 8

username and password are your ATD or NADA company membership ID. Call 800-557-6232 if you have questions.

3. Select “Learning Hub,” then “Legal/Regulatory,” then “Convention Workshops,” and “Executive Media Training: 10 Rules for Media Success.”

Dealer Executive Education at Babson College August 2011 Class Forming Now

Dealer Executive Education at Babson College is an integral part of the dealer development program through NADA University. Babson’s MBA program is ranked No. 1 in the country for entrepreneurship, a distinction it has earned for 17 consecutive years. Its focus on innovation and what Babson faculty call “opportunity obsession” are key. Visit www.DealerExecEd.org to download a brochure and learn more. Don’t wait—apply today. ■

june 2011

9

A Better Mousetrap?

continued from Page 6

to complete the form and come up with a formal written improvement plan, they will know that the manager is very serious and that their job is in jeopardy. Therefore, they are more likely to seriously think about what changes need to be made and are more likely to actually make those changes.

3. When employees acknowledge the problem in their own handwriting, it is difficult for them to later claim that there was no problem.

4. When employees write out their own business plan, they cannot later claim that the manager set expectations that were too high or unrealistic.

5. Finally, if employees do not improve, you are in an excellent position to prove with a single document that you did

your job as a manager by bringing the problem to the employees' attention in a professional manner and asking the employees to address those concerns.

Our experience using this "interactive" approach has run the gamut. Some employees simply refuse to complete the form and quit. Others start to complete the form but then decide that they are not willing to do what it takes to address the problem and they, too, quit. Quitting when faced with a criticism of one's performance does not constitute a "constructive discharge" and it will normally disqualify the employee from receiving unemployment compensation benefits.

Other employees complete the form and come up with a plan, assuming that all they need to do is to agree with the manager, straighten up for a short time and then go back to business as usual. Therefore, it's critical

not to allow this to happen by monitoring the employee's performance and holding him or her to the commitments in the plan.

Finally, a few employees realize that they are close to being terminated and that if they want to keep their job, they must actually change their behavior – and they do. We know of one case where the employee did improve and later thanked the manager for giving her the "wake up call."

Every manager now has access to a word processor on their computer, so it's a relatively simple matter for any manager to quickly prepare the document and tailor it to the employee's circumstances.

If you would assistance with a counseling form, please contact Melanie Webber, Maribeth Wuertz or any other Fisher & Phillips attorney. Please note that this article is information purposes only and is not to be construed as legal advice. ■

Spot Delivery Agreements

continued from Cover

plaining the "spot delivery" practice. More importantly, it incorporates the language in the body of the retail installment contract thereby countering the court's criticism of failing to integrate these two documents.

The latest decision - Salvagne v Fairfield Ford, Inc.

OADA has been following Salvagne v. Fairfield Ford, Inc., another 6th Circuit case, which involves the same issue as was litigated in Gill and Patton: Does a spot delivery agreement not incorporated into the body of a RISC violate TILA?

Motions for summary judgment were filed by both the plaintiff and the dealer on all claims. The Court found in the dealer's favor on all counts except the TILA claim. The Court found that the dealer's TILA disclosures were meaningless, illusory, and contradictory due to the fact that a Spot Delivery Agreement was signed in conjunction with the retail installment contract. Since the terms could conceivably change or credit could be denied, the Court was persuaded by the plaintiff's allegations that TILA, which requires accurate credit disclosures be provided prior to consummation of a transaction, has been violated.

The Court was persuaded that the spot delivery agreement and retail install-

ment contract could not be read as one document because the retail installment contract indicated it was the entire agreement between the parties and included no reference to the spot agreement. Interestingly, the spot delivery agreement included language stating that it was incorporated by reference to both the RISC and the Buyers Order. The Court found this to be insufficient. The Court stated that the only way to incorporate a Spot Agreement into a retail installment contract is to include spot language therein.

We believe both the Patton and Salvagne Courts reached an erroneous conclusion and that the Gill Court was correct in finding that a spot delivery agreement not contained within the body of a RISC does not affect the validity of TILA disclosures. In fact Reg. Z even states that information disclosed in accordance with the law that is subsequently rendered inaccurate as the result of any act, occurrence, or agreement subsequent to the required disclosure does not constitute a violation of the law.

This case is currently pending appeal. If an appeal is filed by the dealership, OADA, The Greater Cleveland Automobile Dealers association, and NADA have pledged to support the case with an amicus curie brief.

We are also aware that another case, Givens v. Van Devere, has been recently

filed in federal Court in the Northern District of Ohio. The allegations in the complaint of this case mirror those made in the cases discussed above.

Best Practices Today

The reality is that the trend in these cases has not been positive for dealers. While we won the first case, we have lost the last two at the District Court level. Until a case is appealed and the Court of Appeals renders a decision on this issue, dealers should consider the following when spot delivering vehicles:

- Use a RISC that incorporates spot delivery language in the body of the RISC. The Law 553-OH RISC accomplishes this objective;
- Allow the buyer to rescind if financing is not approved with the initial terms;
- Provide a reasonable, but short period of time, for assignment of a contract;
- Do not charge excessive fees or penalties in connection with unwinding a deal;
- Fill out forms correctly!

If you have questions regarding these cases or your Spot Delivery practices, contact Charlie Howard or Sara Bruce at OADA, 800-686-9100. Charlie may be reached at ext. 110, and Sara at ext. 108. ■

"2011 CONVENTION WRAP-UP"

Quotes from Attendees

Nemacolin Woodlands in Pennsylvania played host to the 78th Annual Convention, April 17-20, 2011. The best attended convention in years...with well over three hundred dealers and sponsors...joined their peers at the general business sessions, afternoon breakout sessions and evening events.

The Honorable William G. Batchelder, Speaker of the Ohio House of Representatives, kicked off the Monday General Business Session elaborating on the intricate structure of current and forthcoming challenges of Ohio's 129th General Assembly, citing comparisons between the 128th General Assembly vs. the workload, the active committee schedules and the greater number of sessions days the current General Assembly has experienced during the first 100 days of their administration. Dale Pollak of vAuto concluded the first day of meetings providing profound insight into the everyday challenges faced by today's dealer principals and managers.

Joining the convention attendees on Tuesday at the General Business Sessions were representatives of General Motors, John Montford, Senior Advisor of Government Relations, Jim Bunnell, General Manager of Dealer Network and Sales Support along with Chrysler Group's Peter Grady, Vice President of Network Development & Fleet, serving on a panel discussing "the manufacturer's imaging programs as well as legislative issues from a manufacturer's standpoint.

The afternoon breakout sessions were well attended, and the comments from attendees were favorable for inclusion of afternoon breakout sessions for future convention. The featured speakers for the breakout sessions were: Steve Nobil, Fisher & Phillips, LLP, "Employee Issues/Union Trends;" Charlie Howard, David Brown & Deanna Stockamp, "Damage Disclosure, Spot Delivery, and F & I Products;" Frank Wisheart and Jeff Acheson of Schneider Down, "Fraud in the Dealership: Estate Tax Exemption, 401K Fee Disclosure and Employee Stock Ownership Plans (ESOP)."

The speakers were viewed by those attending the sessions as timely, insightful, interesting, engaging, informative, educational, and entertaining.

If you attended the OADA Convention and had a good time, if you thought the convention general business sessions and afternoon breakout session were beneficial, please talk to your fellow dealers about the convention. You...the dealers...are the best salesmen/salespersons we have to promote future conventions.

We would like to share comments with you from convention attendees:

"Well organized and top shelf resort and location. Great content! Met some good suppliers and had a great time." *Bob Gillingham, Bob Gillingham Ford, Parma*

"Once again the OADA staff put on an excellent convention...entertaining, informative, rejuvenating, and three busy days no dealer should miss." *Pat Primm, Cascade Auto Group, Cuyahoga Falls*

"We had the best time at Nemacolin!! The meetings were informative and inspiring. The facilities were world class. The hospitality was second to none." *Tim Glockner, Glockner Toyota, Portsmouth*

"We always feel that the OADA Convention provides a wealth of information at a very inexpensive price. I heard more positive comments than ever before." *Pete Pannier, Northgate Chrysler Dodge Jeep, Cincinnati*

"The speakers were all relevant and fantastic." *Diane Sauer, Diane Sauer Chevrolet, Warren*

"We have a great bunch of sponsors." *Gene Stevens, Gene Stevens Honda, Findlay*

"This was my first time attending an OADA Convention. I thought it was well organized, informative, enjoyable. I would recommend the Convention to other dealers as being well worth their time." *Tim Towell, Dave Towell Cadillac Saab, Akron.*

In a continuing effort to recognize and thank the companies who continue to support the Ohio Automobile Dealers Association, we ask you show the same courtesy to their representatives when they call on you in your dealership as they displayed by their continued sponsorship of the convention events. ■

Ad Review Corner

continued from Page 4

filed March 24, 1011, Action Integrated Marketing and Murphree agreed to restrictions on their marketing practices. The defendants were required to pay \$150,000 to reimburse the participating states for attorneys' fees, plus a civil penalty of \$130,000 which was suspended provided the defendants comply with the agreement.

Dealers should always evaluate advertising and marketing materials with an eye toward compliance and should be concerned with any statement which could be deemed unfair or deceptive. If you have any questions regarding advertising compliance, please contact OADA. ■

Hiring Seminar

continued from Page 4

provided valuable guidance and education to OADA and our dealers for many years, and will continue to do so. As their announcement says, "In Cleveland and Columbus, the name has changed but the commitment remains the same."

Our presenter for this program will be Melanie Webber. Melanie is a partner and chair of the firm's Human Resources practice group and counsels employers on a wide array of employment law issues. Her practice areas include employment litigation, labor relations and human resources management. Melanie has been a frequent speaker at OADA seminars in the past and also lectures on a variety of employment law issues including the Family and Medical Leave Act, the ADA, Fair Labor Standards Act, sexual harassment and maintaining union-free status. Prior to joining the firm in 1997, Melanie worked in human resources management for seven years.

To register go to www.oada.com or contact DeAnna Zahniser at OADA, 800-686-9100, ext. 109 or 614-923-2231. In the meantime, if you need help with your hiring practices, contact Melanie Webber at Fisher and Phillips, LLC, 800-800-8806 or Charlie Howard or Sara Bruce at 800-686-9100, ext. 110 & 108. ■

Employee Hiring and Retention: Learn How to Hire So You're Not Forced to Fire!

AKRON/CANTON
Wednesday, June 8, 2011
Hilton Akron Fairlawn
3180 W. Market Street
Akron

CINCINNATI
Tuesday, June 14, 2011
Kings Island Inn & Conference Center
5691 Kings Island Drive
Mason

COLUMBUS
Wednesday, June 15, 2011
Crowne Plaza Dublin
600 Metro Place North
Dublin

TOLEDO
Tuesday, June 7, 2011
Holiday Inn French Quarter
10630 Fremont Pike
Perrysburg

Registration at all locations will begin at 8:00am. The seminar will begin promptly at 8:30, and conclude at noon.

\$95 registration fee for OADA members.

After several consecutive months of increased sales, many Ohio dealers are considering *increasing* staff, instead of reducing it. Hiring is challenging even in a normal business climate. In 2011, there are additional challenges: a recession is ending; many dealers made staff reductions within the last two years; unemployment is high; employment lawsuits and administrative charges are sky rocketing, and the UAW has announced a national organizing campaign. These additional factors make hiring a daunting, but necessary task.

If you are contemplating hiring now or in the near future, this seminar is designed for you. OADA and Fisher & Phillips LLP (formerly Millisor + Nobil) will present a half-day seminar devoted to hiring and retention. Here are just a few of the topics that will be discussed:

- Whether employers must rehire employees “laid off” or “terminated” in the last 6-12 months.
- Lawful interview questions.
- Practical tips for hiring assets instead of liabilities.
- How recent changes in the law affect the hiring process, from employment applications to post-hire questionnaires.
- Creating documentation that will withstand legal challenge.

These seminars will be held at four convenient locations around the state, including Toledo, Akron, Cincinnati, and Columbus. To register, complete the form below, contact DeAnna at 614-923-2231, or visit our website at www.oada.com.

Registration Form
Employee Hiring and Retention

Please circle one:

Akron
Wed., June 8

Cincinnati
Tues., June 14

Columbus
Wed., June 15

Toledo
Tues., June 7

Registrant
Name (s) _____

Dealership Name _____

Address, City, State & Zip _____

Telephone () _____

Fax () _____

E-mail _____

non-members of OADA are \$225.00 per person. Members pay \$95

Payment: Check No. _____ Credit Card: Visa/MC # _____ exp. _____

Return to: OADA • 655 Metro Place South, Suite 270 • Dublin • Ohio • 43017 ***or fax to*** 614-766-9600
You can also ***register by logging onto the OADA web page*** at www.oada.com, or by calling 800-686-9100.

2011 OADA Convention Sponsors

Gold Level Sponsors

Scott Vaka
CareWorks Family of
Companies
614-760-3536
Scott.vaka@careworks.com
Ron.lucki@careworks.com

Frank Pagnata
CareWorks Consultants, Inc.
614-526-7103
Frank.Pagnata@ccipa.com

Rich Porrello
Huntington National Bank
614-480-2617
Rich.porrello@huntington.com
Greg.swain@huntington.com
Ross.vance@huntington.com

John Deck
Manheim Ohio
614-871-6891
John.deck@manheim.com
Gary.burkeen@manheim.com

Shawn Burger
Zurich
614-559-4100
Shawn.burger@zurichna.com
Seamus. Kearney@zurichna.com

Silver Level Sponsors

Bruce Lenhoff
AutoTrader.com
859-746-1145
Bruce.lenhoff@autotrader.com
Adam.Ernst@autotrader.com

Doug Knox
Protective Life
330-418-4334
Doug.knox@protective.com

Tom Brown
Reynolds & Reynolds
513-616-3047
Tom_brown@reyrey.com
Jay_miller@reyrey.com

Kathy Petrucci
Schneider Downs
614-586-7214
kpetrucci@sdcpa.com
jpatrick@sdcpa.com

Bronze Level Sponsors

Chris Campisi
Benefit Administrators
614-336-2700
cac@benefitadm.com

Denny Heller
Columbus Fair Auto Auction
614-497-2000
dheller@cfaa.com

Jason Wagner
TSYS Merchant Solutions
402-602-6409
jasonwagner@fnms.com
brettbehrens@fnms.com

Lou Vitale
Fifth Third Bank/TASA/NAC
614-395-0085
Lou.vitale@53.com
terryaverdick@tasaky.com

Becky Ross
KPA
303-228-8750
bross@kpaonline.com
rstansbury@kpaonline.com

Brian McDevitt
Key Auto Finance/Key Bank
216-813-6269
Brian_mcdevitt@keybank.com
Daniel_hewitt@keybank.com

David Brown/Deanna Stockamp
Stockamp & Brown, LLC
614-761-0400
dbrown@stockampbrown.com
dstockamp@stockampbrown.com

Buckeye Level Sponsors

Rick Rosemeier
American Fidelity
614-582-0683
Rick.rosemeier@af-group.com

Robert Redmond
Chase Auto Finance
614-248-8065
Robert.f.redmond@chase.com

Ed Reinhard
Crowe-Horwath LLP
614-365-2202
Ed.reinhard@crowehorwath.com

Ernest Lattimer
DealerTrack Systems
516-547-2242
Ernest.lattimer@dealertrack.com

Jim Smith/Tim Davis
Elford, Inc. Construction
Services
614-488-4000
jws@elford.com
tdavis@elford.com

Eric Smith
First Communications
888-550-6232
esmith@firstcomm.com

Brad Isaly
First Merit Bank
330-849-8742
Brad.Isaly@firstmerit.com

Steve Nobil
Fisher & Phillips, LLP
440-838-8800
snobil@laborlawyers.com

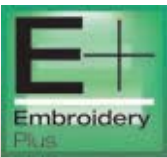
Bill Heifner
Renier Construction
614-866-4580
billheifner@renier.com

Mark Frenndt
Ricop Construction
614-444-1070
markfrenndt@ricop.com

Rick Prebles
SuperFleet – Speedway LLC
513-360-0999
rjprebles@superfleet.net

Wayne Hellman
Venture Lighting
440-836-7000
Wayne_hellman@adlt.com

Chuck McCloud
I.F.L. Marketing Group
740-450-0177
ifmktg@hotmail.com



FREE TAPE WITH
12 PIECE ORDER
UP TO 7,500
STITCHES AND
7 COLORS



BETHPAGE
E.V. RUN GOLF
EVERSOLE RUN®



To order, please
call 800-686-9100.



Lady Bethpage



EVR-DRI PLUS™

EVR-DRI "PLUS" technology high performance fabric provides moisture wicking management, allows breathability and evaporation, UV 30+ protection, antibacterial to prevent odor.

**\$17.10 with
embroidery**

asi/53040
ppai#199242
upic/EVERSOLE
sage#64204

new

BETHPAGE 980

Mens Horizontal Textured High Performance Polo
100% moisture wicking high performance polyester with UV 30+ sun protection and antimicrobial odor resistance polo shirt. Jacquard rib knit collar, three button placket, open hem sleeve and dyed to match buttons.

Colors Available: Electric Blue, White, Navy, Graphite, Black

Sizes: S-4XL

S-XL	\$13.80	\$17.10 with embroidery
XXL	\$15.45	\$18.75 with embroidery
XXXL	\$17.20	\$20.50 with embroidery
XXXXL	\$18.30	\$22.00 with embroidery

* prices are per shirt

**embroidery is 7,500 stitches