Driving Forward: Autonomous Vehicles in Claims and Litigation

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SAE Classification Levels

SAE level	Name	Narrative Definition	Execution of Steering and Acceleration/ Deceleration	*Monitoring* of Driving Environment	Fallback Performance of *Dynamic Driving Task*	System Capability *(Driving Modes)*
***Human driver* monitors the driving environment**						
0	**No Automation**	the full-time performance by the *human driver* of all aspects of the *dynamic driving task*, even when enhanced by warning or intervention systems	Human driver	Human driver	Human driver	n/a
1	**Driver Assistance**	the *driving mode*-specific execution by a driver assistance system of either steering or acceleration/deceleration using information about the driving environment and with the expectation that the *human driver* perform all remaining aspects of the *dynamic driving task*	Human driver and system	Human driver	Human driver	Some driving modes
2	**Partial Automation**	the *driving mode*-specific execution by one or more driver assistance systems of both steering and acceleration/ deceleration using information about the driving environment and with the expectation that the *human driver* perform all remaining aspects of the *dynamic driving task*	**System**	Human driver	Human driver	Some driving modes
***Automated driving system* ("system") monitors the driving environment**						
3	**Conditional Automation**	the *driving mode*-specific performance by an *automated driving system* of all aspects of the dynamic driving task with the expectation that the *human driver* will respond appropriately to a *request to intervene*	System	**System**	Human driver	Some driving modes
4	**High Automation**	the *driving mode*-specific performance by an automated driving system of all aspects of the *dynamic driving task*, even if a *human driver* does not respond appropriately to a *request to intervene*	System	System	**System**	Some driving modes
5	**Full Automation**	the full-time performance by an *automated driving system* of all aspects of the *dynamic driving task* under all roadway and environmental conditions that can be managed by a *human driver*	System	System	System	**All driving modes**

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Testing

- Uber / Volvo: Suspended testing after Arizona crash resulted in fatality to pedestrian (Level 4)
- Toyota: Suspended testing on public roads after fatal Uber crash
- Waymo (Google) / Toyota Prius, Lexus, Chrysler Pacifica: Testing fully autonomous vehicles (Level 5)
- Lyft / Chevrolet Bolt: Testing fully autonomous vehicles (Level 5); Expected release of GM Cruise (Level 5) in 2019
- Audi: Expected 2018 release of Level 3 Traffic Jam Pilot; developing Level 4 Highway Pilot (expected 2020 release) and Level 5 concept cars now.
- Ford: Expected 2021 release of Level 5 vehicle
- Volkswagen / Aurora – Sedric Level 5 concept car to begin testing in 2018
- Apple, Lyft, Samsung, Bosch: Received permits from California DMV to begin testing autonomous vehicles

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Market Availability

- Tesla Level 2 AutoPilot
- Audi Level 2 Traffic Jam Assist
- Cadillac CT6 with Level 2 Super Cruise
- Mercedes Benz Level 2 Drive Pilot System
- Acura Level 2 Driver Assist
- Volvo Level 2 Pilot Assist

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Safety Implications and Ethical Considerations

- Accident / Fatality Statistics (Tesla)
- Driving in a Highway of Autonomous Vehicles
  - Average Age of Vehicles
  - Interactions Between Different Levels of Autonomous Vehicles
- The Human Factor
  - As the User
  - As the Third Party
- Ethical Considerations

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Autonomous Vehicle Claims

- What Happened?
  - System malfunction / defect
  - Component malfunction / defect

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Autonomous Vehicle Claims

- What Happened?
  - User Error
    - Operating system in wrong type of environment
    - Not being attentive to the roadway
    - Not responding to an emergency situation / triggering event

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Autonomous Vehicle Claims

- Evidence Preservation
  - Where is the data kept?
    - SD Cards / Computer
    - Cameras
    - Air bag Recorder
    - Transmitted directly to manufacturer
- Data Accessibility
  - How is the data interpreted?

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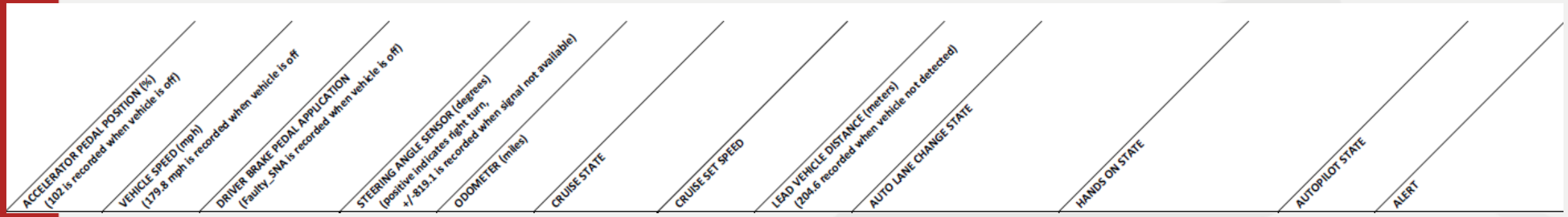
Diagnostic Logs



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Litigating Claims Involving Autonomous Vehicles

- Who is the Defendant?
  - Vehicle Manufacturer
  - Component Manufacturer
  - Other Driver
  - Third Party Vehicle Owner

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Litigating Claims Involving Autonomous Vehicles

- Costs of Litigation
  - Experts:
    - Software Engineer
    - Accident Reconstructionist
    - Human Factors
  - Discovery
    - Proprietary information
- Considering the Cost of Litigation and the Size of the Claim

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Claims and Claim Issues / Defenses

- Negligence and Product Liability Claims
  - Economic Loss Doctrine
- Breach of Contract and Breach of Warranty Claims
  - State Law Warranty Issues

- Comparative Negligence / Proportionate Responsibility
  - When a driver is rarely asked to respond, the driver will rarely respond when asked to respond

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