Presented:
The Car Crash Seminar

August 1-2, 2019
Austin, Texas

AUTONOMOUS VEHICLES

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I.INTRODUCTION

The automation of our vehicles has been occurring for longer than most of us realize. As far back as 1958, brochures for Chrysler Imperials trumpeted "Auto-Pilot," described as "an amazing new device that helps you maintain constant speed and warns you of excessive speed." *See* "Products Liability and Driverless Cars: Issues and Guiding Principles for Legislation," Brookings Institution, fn 6 April 24, 2014. That same year, an article in *Popular Science* opined that Auto-Pilot "certainly promotes safety by reducing fatigue," and observed that, "Like it or not, the robots are slowly taking over a driver's chores." *Id*. at fn 7. Anti-lock brakes (ABS) have been available since the 1970s, and Electronic Stability Control (ESC) has been available since the mid-1990s. ESC uses data from multiple sources to selectively apply the brakes on specific wheels of a vehicle to increase control on turns and slippery roadways. More recently, "driver assists" systems have provided ever more autonomous control of our vehicles. Volvo's "City Safety System" automatically applies the vehicle's brakes to avoid a collision if the vehicle's system determines that there is an imminent risk of collision with a vehicle detected by the vehicle's windshield mounted sensor. Mercedes Benz's Distronic System works in a similar manner. Audi, BMW, Ford, Land Rover, Mercedes-Benz, Nissan, Toyota, and other vehicle manufacturers now sell vehicles with automated parallel parking – a system that essentially takes over the control of a vehicle as it is maneuvered into a parking space.

Automated vehicles (AVs) and drones are no longer the stuff of science fiction. Uber, Tesla, and every major auto manufacturer are developing autonomous and semi-autonomous motor vehicles. Businesses, the military, and our children all now use drones for a variety of purposes – serious, and not.so serious.

We are in a transition period, when it comes to AVs and drones. The technology is still in its infancy, and AV and drone crashes and mishaps are occurring with some frequency as the technology is developed and perfected. As manufacturers and developers race to be at the head of the AV line, they are taking short-cuts and not paying sufficient attention to safety concerns, in the eyes of many.

The consensus is that autonomous vehicles (AVs) will reduce crashes and save lives, but there are numerous unanswered questions about legal liability, insurance coverage for crashes, and governmental regulation. AVs and drones have already failed, and they will continue to fail. When AVs and drones fail, who will get sued, and what causes of action will be alleged?

II.NHTSA's VEHICLE AUTOMATION LEVELS

In 2013, the National Highway Traffic Safety Administration (NHTSA) defined levels of vehicle automation as follows, in NHTSA's "Preliminary Statement of Policy Concerning Automated Vehicles":

Level 0: No automation

Level 1: Function Specific Automation - Automation at this level involves one or more specific control functions; if multiple functions are automated, they operate independently from each other. The driver has overall control, and is solely responsible for safe operation, but can choose to cede limited

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First appeared as part of the conference materials for the
2019 Car Crash Seminar session
"Autonomous Vehicles"