

For: LeClairRyan, San Francisco
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**LECLAIRRYAN ATTORNEY: DRIVERLESS VEHICLES COULD PUT
THE BRAKES ON ACCIDENT-RELATED LAWSUITS**

--Veteran transportation attorney outlines the cascading legal effects of autonomous vehicles in new column for legal news website Law360.

SAN FRANCISCO (5/24/17) – For companies with drivers on the payroll, the shift to fully autonomous vehicles could usher in massive reductions in potential liability, writes LeClairRyan attorney Peter Hart in a May 19 column for legal news website Law360.com.

“After all, driver error is the leading cause of accidents on U.S. roadways,” writes Hart, senior counsel in the national law firm’s San Francisco office and co-leader of its transportation industry team. “When perfected forms of autonomous driving technology replace error-prone human drivers, many are betting that businesses such as trucking firms, delivery services and shuttle operators will face dramatically fewer legal settlements and court battles triggered by vehicular accidents.”

In the column (“Driverless Vehicles May Put the Brakes on Accident Suits”), Hart notes that technological progress is already headed in this direction. He cites the increasing sophistication of the specialized Electronic Control Modules (ECMs) used in commercial trucking. “These devices are the trucking industry’s version of the ‘black box’ data-collectors that play such key roles in the reconstruction of aviation accidents,” Hart writes. “Thanks to the wealth of post-event information that is now available from ECMs, it is easier to scientifically reconstruct traffic accidents. The devices are getting more sophisticated all the time.”

By comparison, autonomous vehicles promise to make reconstructing accidents vastly easier and more accurate, as they are packed with advanced sensors such as beacon-based locational systems, stereo “vision,” lidar, GPS and inertia-measurement devices. This stands to eliminate some of the most contentious issues in today’s accident suits (and possibly put accident-reconstruction experts and proverbial ambulance-chaser lawyers out of work), Hart writes. “The absence of a driver (or drivers) takes issues such as perception-reaction time and driver fatigue out of the mix,” he explains in the column. “Those issues will be litigated with much less frequency.”

In the column, Hart points to the remarkable safety records of autonomous vehicles road-tested by the likes of Waymo and Uber. Most of the accidents thus far have been the result of humans crashing into driverless cars or otherwise causing accidents with them, not the other way around, he notes.

This is not to suggest, however, that all liability risk will vanish, he cautions.

Today, many lawsuits (including class actions) target manufacturers of conventional cars and trucks for mechanical failures such as faulty steering wheels, braking systems or accelerators. It is possible that autonomous vehicles, once introduced onto American roads in sufficient numbers, could cause accidents as manufacturers strive to discover and eliminate the remaining bugs in these systems.

Writes Hart in the column: “It is easy to imagine the kinds of lawsuits that could occur: ‘The manufacturer claimed the car would be safe in the snow,’ the plaintiff tells the jury, ‘but the car was totally confused in that blizzard and caused a horrific crash.’ ... Most cases would be litigated over which system failed and who is responsible for the failure.”

Thus, insurance and liability burdens could tilt away from companies that once employed human drivers and toward manufacturers of autonomous vehicles.

In the conclusion to the piece, Hart urges professionals to pay close attention to the development of autonomous vehicles and their potential for far-reaching legal, societal and economic effects. “It would be prudent for risk-managers, attorneys, C-suite executives and other professionals to start educating themselves on the various ways in which autonomous vehicles could affect what they do,” he writes. “In all likelihood, our society will need a new army of tech-savvy experts who are ready to dive into complex litigation and other matters involving autonomous vehicles. They will need to fully understand the limits and capabilities of the systems in use and the laws and regulations in play. We might even see true technologists — trained engineers who know how to code — filling legal or risk-management roles.”

In some cases, Hart adds, lawyers will need to be software engineers as much as lawyers. Now is the time for companies to consider how the shift to autonomous vehicles could create opportunities and challenges for their businesses and affect their overall liability and risk-management profiles, he asserts in the piece. “Those who ignore this trend risk letting their better-prepared competitors take the wheel — if you’ll forgive the soon-to-be-outdated reference,” he concludes.

The full column is available for subscribers at: <https://www.law360.com/articles/925923/driverless-vehicles-may-put-the-brakes-on-accident-suits>

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