



Navigating an Uncertain Legal and Regulatory Path for AV's and CV's

May 18, 2018

ASU Law GETS Conference

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WHAT ARE OUR CHALLENGES?

- **Safe Integration** – What is safe enough?
- **Interoperability and Harmonization**
 - **Crossing state lines**
 - What about transit?
 - Regional collaboration
 - V2X
- **Innovating Procurement**
- **Equity**
- Public Trust / Adoption
 - **Can we make the “CASE”?**
- **Paying for Infrastructure**



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PROMOTING INNOVATION WHILE MANAGING RISK / WAITING FOR THE LAW TO CATCH UP


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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Oscar Willhelm Nilsson,	Case No.:
Plaintiff,	COMPLAINT FOR DAMAGES
vs.	1. NEGLIGENCE
General Motors LLC,	JURY TRIAL DEMANDED
Defendant.	

This is a personal injury complaint by a motorcyclist injured by a self-driving vehicle. The Plaintiff, Oscar Willhelm Nilsson, by undersigned counsel, states as follows:

COMPLAINT FOR DAMAGES





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WHO IS LIABLE???



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HOW DO WE REGULATE THE UNKNOWN?



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WHERE IS USDOT/NHTSA?



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ONGOING POLICY DISCUSSION

- NHTSA Docket: 2018-0009
- Comments Filed:
 - Lack of minimum safety standards
 - Infrastructure – Needs and \$\$\$
 - Data sharing
 - Federally funded pilot programs (AV Proving Grounds and Connected Vehicle Pilot Program)
 - Coordination with Existing USDOT Programs
- Department of Innovation?



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WHAT DOES CONGRESS THINK?

- Congress getting involved – Good thing???
- Preemption – Safety vs. Performance?
- H.R. 3388 – “SELF DRIVE Act”
 - What is an “unreasonable restriction”????
 - Liability on cities?
- S. 1885 – “AV START Act”
 - Preemption connected to safety evaluation report areas: system safety, data recording, cybersecurity, human-machine interface, crashworthiness, capabilities, post-crash behavior, accounting for applicable laws, automation function
 - Sen. Duckworth Amendment: HAV study, including transit



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CART BEFORE THE HORSE?



Photo Credit: Detroit News



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STATE AND LOCAL LAWS?

- Where to start?
 - Review and Update vs. Start Over
 - Some “simple” issues:
 - Definition of “driver”
 - Definition of “tailgating”
 - “Design immunity” protections
 - More complicated:
 - Insurance
 - Impact Fees
 - Consumer Rights



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DATA!!! KNOW WHAT YOU ARE ASKING FOR AND WHY

- Event Data
- Health information
- Geolocation data
- Travel patterns
- Driver behavior
- Driver communications
- Biometric data
- Shopping habits – “Alexa”



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INFORMED CONSENT TO INFORMED RISK?



Important updates

Twitter is updating its Terms of Service and Privacy Policy to provide you with even more transparency into the data Twitter collects about you, how it's used, and the controls you have over your personal data. These updates will take effect on May 25, 2018. [Learn more](#)

Got it

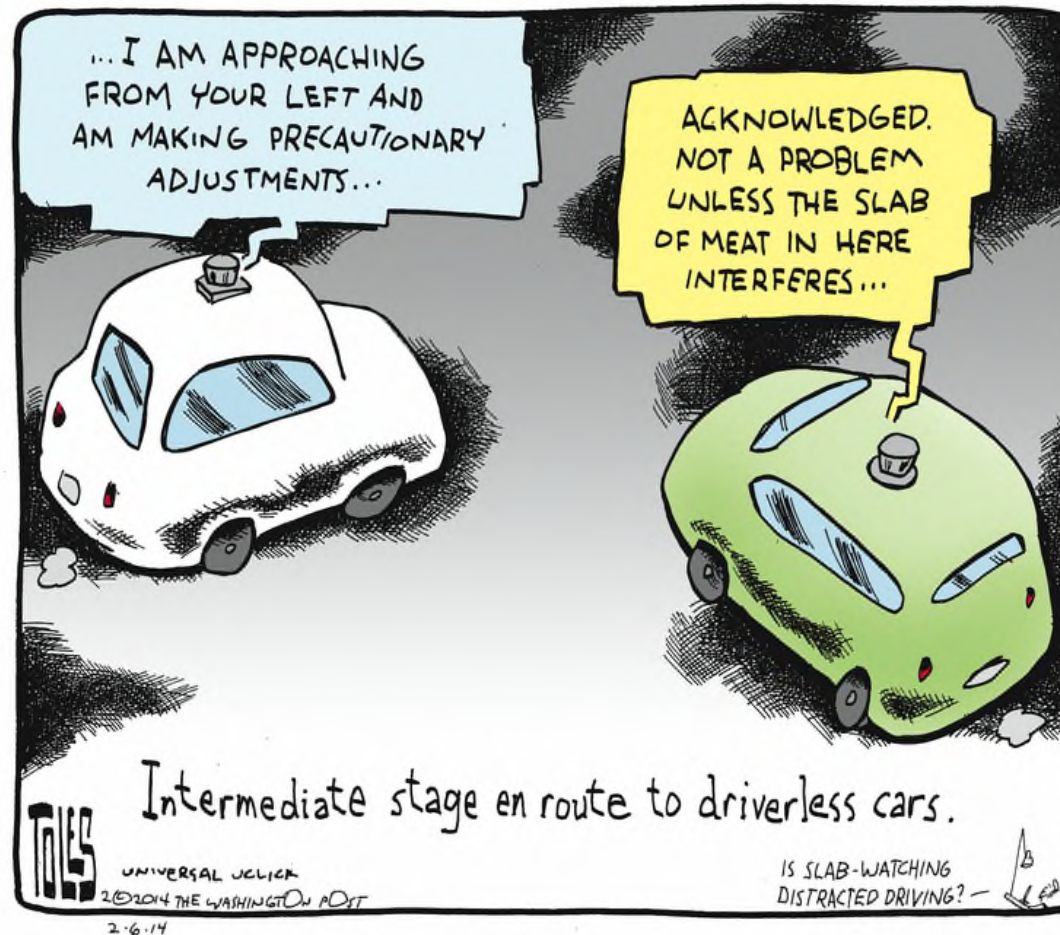


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Are WE the problem?



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CV SAFETY / OPERATIONAL CONSIDERATIONS

- Infrastructure?
 - DSRC vs. LTE-V
- Connectivity?
 - V2V/V2I/V2X
 - **Will cars connect into municipal system?**
- **Potential liability?**
 - Design immunity?
 - Mitigate Cyber Risks
- Net neutrality?



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CONNECTED VEHICLES – DSRC vs. LTE-V

- December 2016: USDOT released Notice of Proposed Rulemaking on V2V communications
 - Focus on Dedicated Short Range Communications (“DSRC”)
 - Status?
- September 2017: FCC Notice of Inquiry concerning 900 MHz band
 - Related to spectrum allotment for Intelligent Transportation Systems
- Ongoing USDOT Connected Vehicle Pilot Deployment Program
- Recent Announcement: Toyota and Lexus to deploy DSRC in all vehicles by 2021



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A Potential Message

- Safety
- Transparency
- Obligate
Funding
- Partnerships
and Pilots



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EXAMPLES

- City of Portland: Smart Autonomous Vehicles Initiative (SAVI)
- City of Seattle: Mobility Playbook and Privacy Program
- Rhode Island Department of Transportation: Rhode Island Transportation Innovation Partnership (TRIP)
- City of Atlanta: Atlanta Smart City Strategic Infrastructure Initiative and Smart Corridor projects
- SANDAG: AV Proving Ground Coordination



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COLLABORATION NEEDED BY ALL

- 3 trends where testing is occurring:
 - Partnership with local university
 - Forward thinking elected officials
 - Private companies looking to partner for testing



A MOBILITY EXPERIMENT – WHAT HAVE WE LEARNED?



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FORGET THE ROADS?



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