NO. 22-000022-CV

LONNIE MENNINGER, INDIVIDUALLY AND AS INDEPENDENT EXECUTOR OF THE ESTATE OF LAURA MENNINGER	**§**	**IN THE 445th DISTRICT COURT**
	§	**IN AND FOR**
Plaintiff,	**§**	
v.	**§**	
	§	**BEXAR COUNTY**
OUCHI MOTOR COMPANY, INC.	**§**	
Defendant.	**§**	**STATE OF LONE STAR**

Prepared by:

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This case file was commissioned by the Texas Young Lawyers Association and was prepared by Marvin W. Jones for the 2023 National Trial Competition

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PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Plaintiff Lonnie Menninger, Individually and as Independent Executor of the Estate of Laura Menninger, and files this Original Complaint against Ouchi Motor Company, Inc., and for cause of action shows the Court as follows:

I.
PARTIES

1. Plaintiff is Lonnie Menninger, a resident of Bexar County, Lone Star.

2. Ouchi Motor Company, Inc. ("Ouchi") is a corporation with its principal place of business in Austin, Travis County, Lone Star. Its agent for service of process is George Shipley, its president, who may be served with process in this matter at 100234 Tech Center Drive, Austin, Lone Star.

II.
JURISDICTION AND VENUE

3. Venue is proper in this Court because Plaintiff is a resident of Bexar County, Lone Star and the accident occurred in this county.

4. Jurisdiction is proper in this Court because this is an action for damages in excess

of the jurisdictional minimum of this Court.

III.
BACKGROUND FACTS

5. Menninger brings this wrongful death and survivorship action to recover damages arising from the death of his wife, Laura Menninger, caused when the autonomous driving system feature of a 2020 Ouchi Model T (the "Model T") being driven by Taylor Townsend ("Townsend") failed to detect the presence of a bicycle being ridden by Laura, causing the Model T to crash into the bicycle and Laura.

6. Through a pervasive national marketing campaign and a purposefully manipulative sales pitch, Ouchi has duped consumers, including Townsend, into believing that the autonomous driving system it offers with Ouchi vehicles at additional cost can safely transport passengers with minimal input and oversight from those passengers.

7. In reality, Ouchi's autonomous driving system does not and cannot function as Ouchi claims and is dangerous to operate in motor vehicles that are intended to be driven on our states's highways. Specifically, despite Ouchi's claim that its autonomous driving system is designed for use at all speeds, the autonomous driving system is unable to reliably detect objects such as bicycles or other foreseeable roadway hazards, posing an inordinately high risk of collisions, severe injury, and death both to Ouchi's passengers and to the general public.

8. Despite knowing that its autonomous driving system upgrade cannot do what Ouchi claims, Ouchi continues to promote and sell the system to consumers at a substantial additional cost per vehicle.

9. Menninger relied on Ouchi's numerous claims and representations about its autonomous driving system and, in doing so, relied on the autonomous driving system in his

Model T to detect obstacles such as the bicycle operated by Laura Menninger.

10. On July 6, 2020, Townsend was operating the Model T automobile southbound on Market Street in the City of Armadillo, Lone Star and was approaching the intersection of Market and Church Streets. The autonomous driving system was engaged and had been operating correctly for over 19 minutes. At the same approximate time, Laura Menninger was riding a bicycle in an eastbound direction in the driveway of a fast food restaurant just north of the intersection in question.

11. Instead of detecting the bicycle operated by Laura Menninger, the Model T continued forward without braking and struck the bicycle at a speed of approximately 20 miles per hour, causing injuries that subsequently caused her death.

IV.
CAUSE OF ACTION: STRICT LIABILITY

12. Ouchi designed, manufactured, produced, distributed, and sold the Model T and the autonomous driving system that was installed on the Model T.

13. Ouchi placed the Model T and the Model T's autonomous driving system into the stream of commerce.

14. The Model T and the Model T's autonomous driving system are defective in their design, manufacture, and marketing.

15. The Model T's and Model T's autonomous driving system's defective condition rendered the Model T and the Model T's autonomous driving system unreasonably dangerous for their intended or reasonably foreseeable uses.

16. The risk of danger associated with designing, manufacturing, producing, distributing, and selling the Model T and the Model T's autonomous driving system in their

defective conditions outweigh any real or perceived benefits.

17. At the time the Model T and the Model T's autonomous driving system were designed, manufactured, and sold, alternative designs existed that would have result in a safer and more useful product.

18. Ouchi owed a duty to design, manufacture, produce, distribute, and sell the Model T and the Model T's autonomous driving system in a condition that was not defective and unreasonably dangerous.

19. Ouchi owed a duty to provide adequate warnings and instructions with the Model T and the Model T's autonomous driving system.

20. The Model T's and the Model T's autonomous driving system was defective and unreasonably dangerous, and actually and proximately caused the death of Laura Menninger.

V.
DAMAGES

21. Plaintiff's damages include grief, mental anguish, loss of society and companionship, and loss of the income earned and to be earned by his deceased spouse from which he would have benefited because Lone Star is a community property state, all in amounts in excess of the jurisdictional limits of this fine Court. Additionally, Plaintiff sues for the conscious pain and suffering experienced by his wife as a result of the horrible accident in question.

VI.
JURY DEMAND

22. Plaintiff hereby requests trial by jury.

VII.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that Ouchi Motor Company, Inc. be cited to answer and appear, and that upon final hearing the Plaintiff have judgment for damages, pre-judgment and post-judgment interest as allowed by law, costs of suit and such other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully Submitted,

Law Offices of William Audi "The Stingray" Ford
4 Ford Fjord
Armadillo, Lone Star 76377-1950
(210) 726-5675 (Telephone)
(210) 251-3500 (Facsimile)
Ford@Ford.com

/s/ William ATS Ford
By: _____
William ATS Ford
Lone Star State Bar No. 358741346814

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OUCHI MOTOR COMPANY, INC.	§	
	§	
Defendant.	§	**STATE OF LONE STAR**

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE COURT:

COMES NOW, Defendant Ouchi Motor Company, Inc. and files this its Original Answer in response to the Original Complaint filed by Plaintiff.

I.
ANSWER TO PLAINTIFF'S ALLEGATIONS

1. Defendant admits the allegations contained in Paragraph 1 of Plaintiff's Original Complaint.

2. Defendant admits the allegations contained in Paragraphs 2, 3 and 4 of Plaintiff's Original Complaint.

3. Defendant denies that the automobile accident at issue was caused by any failure of the autonomous driving feature of Defendant's car and denies the remaining allegations of Paragraph 5 of Plaintiff's Original Complaint.

4. Defendant denies the allegations contained in Paragraph 6 of Plaintiff's Original Complaint.

5. Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Original Complaint.

6. Defendant denies the allegations contained in Paragraph 8 of Plaintiff's Original Complaint.

7. Defendant is without knowledge sufficient to either admit or deny the allegations contained in Paragraphs 9, 10 and 11 of Plaintiff's Original Complaint and therefore denies them.

8. Defendant admits the allegations contained in Paragraph 12 of Plaintiff's Original Complaint.

9. Defendant admits the allegations contained in Paragraph 13 of Plaintiff's Original Complaint.

10. Defendant denies the allegations contained in Paragraph 14 of Plaintiff's Original Complaint.

11. Defendant denies the allegations contained in Paragraph 15 of Plaintiff's Original Complaint.

12. Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Original Complaint.

13. Defendant denies the allegations contained in Paragraph 17 of Plaintiff's Original Complaint.

14. Defendant denies the allegations contained in Paragraph 18 of Plaintiff's Original Complaint.

15. Defendant admits the allegations contained in Paragraph 19 of Plaintiff's Original Complaint.

16. Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Original Complaint.

17. Paragraph 21 does not require a specific response, but to the extent that it may, Defendant denies the same.

18. Defendant denies the allegations contained in the "Prayer" of Plaintiff's Original Complaint.

II.
AFFIRMATIVE DEFENSES

19. Without waiver of the foregoing but in addition thereto, Defendant invokes the affirmative defense of comparative negligence. Plaintiff's decedent was negligent in failure to keep a proper lookout, failure to control the bicycle upon which she was riding, operating the bicycle under the influence of drugs, and exiting a private driveway without stopping or yielding to opposing traffic.

20. Without waiver of the foregoing but in addition thereto, Defendant alleges that the accident in question and decedent's death were caused in whole or in part by the acts of one or more third parties. Specifically, the owner and operator of the vehicle, Taylor Townsend, was negligent in his operation of the vehicle at the time and on the occasion in question.

    a. Townsend failed to keep his hands on the steering wheel;

    b. Townsend failed to keep a proper lookout; and

    c. Townsend employed the autonomous driving feature at a time and under circumstances not contemplated by the Defendant.

21. Pursuant to Lone Star Civil Remedies Code Section 69.082, Defendant designates Taylor Townsend as a responsible third party and requests the Court to submit to the jury the

issue of his fault and the percentage by which the fault of each party, separately or in combination, caused or contributed to cause the unfortunate and untimely death of the decedent.

III.
PRAYER

WHEREFORE, Defendant requests that upon final trial that Defendant have judgment that Plaintiff take nothing by her suit, that Defendant be discharged from any and all liability, that Defendant recover court costs and for such other and further relief, at law or in equity, general or special, to which Defendant may show itself justly entitled.

Respectfully submitted,

LAW OFFICES OF CELESTE S. HIGGINS
1528 Music Maker Way
P.O. Box 15008
Armadillo, Lone Star 76707
(512) 831-7364
(512) 832-2628 FAX
SingIt@HigginsLaw.com

By: /s/ [electronically signed and filed]
Celeste S. Higgins
State Bar No. 1588324

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Original Answer has been electronically filed and served to counsel for Plaintiff on this 1st day of April, 2021.

By: /s/ [electronically signed]
Celeste S. Higgins

NATIONAL TRIAL COMPETITION
LONNIE MENNINGER V. OUCHI MOTOR COMPANY, INC.

STATEMENT OF FACTS

This is a wrongful death action filed by Lonnie Menninger for the death of his wife, Laura Menninger. Ms. Menninger was killed on July 6, 2020 when an automobile being driven by Taylor Townsend struck her bicycle as she was exiting the driveway of a fast food restaurant in Armadillo, Lone Star. The vehicle being driven by Townsend was an Ouchi Model T equipped with an autonomous driving system. At the time of the accident, the ADS was engaged and was controlling the actions of the automobile. The ADS system initially identified the bicycle as an obstacle, then subsequently identified it as not being an obstacle. This cycle of identification as obstacle and non-obstacle continued until shortly before the collision.

WITNESSES

Plaintiff

1. Evan McCarthy (may be either male or female)
2. Kerry Eblen (may be either male or female)

Defendant

3. Taylor Townsend (may be either male or female)
4. Gerry Gleeson (may be either male or female)

EXHIBITS:

1. Photo of wrecked bicycle
2. Photo of front of defendant automobile
3. Witness statement from witness in nearby auto
4. AT&T list of text messages/times
5. Police report
6. Vehicle instruction manual
7. Advertisement (paper/internet) for ADS
8. Advertisement for ADSTown
9. Advertisement for ADS
10. Motor Trend article on ADS
11. Video ad for ADS
12. TV ad for ADS
13. Printout of 911 call
14. NTSB report this accident
15. Readout from car computer
16. Chart showing levels of ADS deployment
17. Toxicology report
18. Diagram of Accident Site

STIPULATIONS AS TO EVIDENTIARY MATTERS
Procedural Matters

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.

2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in depositions or prior testimony will, if asked, identify the same at trial.

3. Each witness who gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.

4. All depositions were signed under oath.

5. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on a deposition does not comport with signatures or initials located on an exhibit.

6. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.

7. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.

8. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to National Rules VII(4) NTC National 2014 Revised - Page 12 VIII(5). Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in Rule VIII(4).

9. The Plaintiff and the Defendant must call the two witnesses listed as that party's witnesses on the witness list.

10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

11. It is stipulated that no one shall attempt to contact the problem drafter about this problem before the conclusion of the 2023 National Trial Competition Final Round. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

12. 2023 is the year in which this case comes to trial.

13. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the Plaintiff shall have four minutes to present any pretrial motions; (2) the Defendant shall have four minutes to respond to the Plaintiff's motion(s); (3) the Defendant shall have four minutes to present any pretrial motions; and (4) the Plaintiff shall have four minutes to respond to the Defendant's motion(s).

14. This competition permits teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions or deletions are permitted to the provided jury instructions or to the jury verdict form.

Substantive Matters

1. Lone Star Civil Remedies Code Section 69.082 provides as follows:

> DESIGNATION OF RESPONSIBLE THIRD PARTY. (a) A defendant may seek to designate a person as a responsible third party by filing a motion for leave to designate that person as a responsible third party. The motion must be filed on or before the 60th day before the trial date unless the court finds good cause to allow the motion to be filed at a later date.
>
> (b) By granting a motion for leave to designate a person as a responsible third party, the person named in the motion is designated as a responsible third party for purposes of this chapter without further action by the court or any party.
>
> (c) The trier of fact, as to each cause of action asserted, shall determine the percentage of responsibility, stated in whole numbers, for the following persons with respect to each

person's causing or contributing to cause in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, by other conduct or activity that violates an applicable legal standard, or by any combination of these:

(1) each claimant;
(2) each defendant;
(3) each responsible third party who has been designated under this Section.

2. Lone Star Civil Remedies Code Section 33.947 provides as follows:

DETERMINATION OF PERCENTAGE OF RESPONSIBILITY. (a) The trier of fact, as to each cause of action asserted, shall determine the percentage of responsibility, stated in whole numbers, for the following persons with respect to each person's causing or contributing to cause in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, by other conduct or activity that violates an applicable legal standard, or by any combination of these:

(1) each claimant;
(2) each defendant;
(3) each settling person; and
(4) each responsible third party who has been designated under Section 69.082.

3. The Court granted Defendant's motion to designate Taylor Townsend as a responsible third party. Therefore, Taylor Townsend was properly designated as a responsible third party pursuant to Lone Star Civil Remedies Code Section 69.082. The court shall reduce the amount of damages to be recovered by the plaintiff by a percentage equal to Taylor Townsend's percentage of responsibility, if any.

4. Under Lone Star law, a claimant may not recover damages if his/her percentage of responsibility is greater than 50 percent. If a claimant's recovery is not barred because greater than 50 percent, then the court shall reduce the amount of damages to be recovered by the claimant by a percentage equal to the claimant's percentage of responsibility. The jury shall not be instructed by the court, nor informed by the parties or their counsel, as to the effect of their determination of percentages of responsibility. The plaintiff's decedent, Laura Menninger, is deemed to be a "claimant" for purposes of applying the Lone Star comparative negligence rules.

5. The testimony of Evan McCarthy concerning statements made to him during the course of his investigation (including Exhibit 3) shall be deemed admissible under Fed. R. Evid. 803 over any objection to hearsay. Objections to specific statements on grounds other than hearsay may be entertained in the discretion of the presiding judge.

6. Exhibits 7, 8 and 9 are ads for vehicles made by the Ouchi Motor Company. Exhibits 11 and 12 are competitor's ads.

7. Exhibit 16 was issued by SAE International in June 2018, and is the table referred to in Exhibit 14 at page 3.

8. Exhibit 18 is a part of the official investigation of Evan McCarthy, and is properly authenticated and admissible under Fed. R. Evid. 803.

9. Both Kerry Eblen and Gerry Gleeson have reviewed and relied upon all depositions and all exhibits in this case.

10. Prior to trial, the defense filed a motion for permission to treat Taylor Townsend as a hostile witness. The Court ruled that defense counsel may not treat Townsend as a hostile witness under Fed. R. Evid. 611(c)(2), but defense counsel may impeach the witness where appropriate under Fed. R. Evid. 607.

TESTIMONY OF EVAN MCCARTHY
JUNE 16, 2022

Q: Please state your name?

A: My name is Evan McCarthy.

Q: For the record, what is your occupation or profession?

A: I am an investigator employed by the Armadillo Police Department.

Q: How long have you held that position?

A: Eighteen years.

Q: What did you do before that?

A: I served in the Army as a military policeman, also investigating accidents.

Q: Let's back up a minute. Where were you raised?

A: I was raised in Mexia.

Q: Is that in Lone Star?

A: Of course.

Q: Did you graduate from high school there?

A: Of course, then I went to Lone Star State University, where I majored in criminology and physics.

Q: Did you go into the Army immediately after college?

A: Yes, the Army recruiter said that I would make a great military police person and offered to pay off all of my massive student debts.

Q: How long did you serve in the Army?

A: Until my massive student debts were paid off.

Q: Let's talk about the accident you investigated on July 6, 2020. How were you notified of the accident?

A: I received a report over my cell phone that there had been an accident at Market and Church streets shortly after 9:00 a.m. I immediately proceeded to that scene.

Q: When you got to the scene of the accident, what did you observe?

A: I observed a mashed-up bicycle in the middle of the street which apparently been struck by a 2020 Ouchi automobile.

Q: Can you identify Exhibit 1?

A: Yes, that's a photograph that I took of the bicycle before it was moved from its location at the scene of the accident.

Q: And can you identify Exhibit 2?

A: Yes, that's the photograph of the front of the Ouchi automobile in question.

Q: Was there damage to the automobile?

A: Yes, there was some very slight damage to the front bumper of the automobile, but it was certainly drivable.

Q: What did you do in the course of your investigation other than take these photographs?

A: Well, I made some measurements, took the photographs, interviewed the driver of the automobile in question and I interviewed a couple of witnesses to the accident.

Q: Who was the driver of the automobile?

A: A person named Taylor Townsend.

Q: In the course of your investigation, what did Taylor Townsend tell you?

A: Townsend told me that at the time of the accident, the automobile was being used as a ride share vehicle. It had been purchased specifically for that purpose. Townsend said that the idea was that the automobile could basically drive itself and would therefore be a much safer vehicle to do ride share activities in.

Q: Did Townsend indicate whether the autonomous driving feature of the automobile was engaged at the time of the accident?

A: Yes, the autonomous driving feature of the automobile was engaged at the time of the accident. Townsend said that this feature had been used extensively in the two months that the automobile had been owned, and that there had never been any problem with it. According to Townsend, the automobile would maintain lane integrity very well, it would maintain distance from other vehicles, it would brake automatically when braking was needed and could even detect stop signs and begin deceleration as stop signs were being approached. In fact, Townsend said that the automobile performed exactly like an advertisement on television. Townsend also indicated that a lot of research had been done concerning this specific autonomous driving feature of this specific car before it was purchased for the purpose of a ride share vehicle.

Q: Did you question Townsend about what was going on at the time of the accident?

A: Townsend denied any kind of inattention. Denied use of any smart phone or other device that might have distracted from the driving task. Denied failing to keep hands on the steering wheel, and just generally denied anything that would have been distracting from the driving task.

Q: Did Townsend describe why he/she did not stop to avoid hitting the bicycle?

A: Townsend said the bicycle came out of a convenience store or fast food restaurant driveway at a high rate of speed and the collision was just unavoidable.

Q: Did Townsend indicate what actions were taken immediately following the impact?

A: Yes, Townsend immediately got out of the vehicle, observed the condition of the bicycle rider, and immediately perceived that rendering aid would be a useless act.

Q: Did Townsend call 911?

A: No, Townsend said that the vehicle had already automatically made a 911 call having detected a front-impact following heavy braking.

Q: You said you interviewed two other witnesses. Who were they?

A: One of the witnesses was the passenger in the Ouchi at the time of the accident, a person named Peter Mosseau.

Q: What did Mr. Mosseau tell you about the accident?

A: Well, Mr. Mosseau said that he was on his way to a meeting and had engaged the ride share in order to get from a hotel to the meeting. Mosseau said he was reading a file in the back seat of the automobile at the time of the accident, and was not actively looking through the windshield.

Q: Did Mosseau tell you about any observations concerning the driver's activities before the accident?

A: Yes, Mosseau indicated that he was concerned by the fact that the car had autonomous driving features and that Townsend seemed to be relying on those features while going down the city street.

Q: Did Mosseau tell you why that concerned him?

A: Yes, Mosseau said that Townsend frequently turned loose of the steering wheel during the course of the ride, which Maseau thought was inappropriate even in an autonomous driving vehicle.

Q: Did Mr. Mosseau indicate whether Townsend was using any type of device like a smart phone that would have tended to be a distraction to the driving task?

A: I asked that question, but Mr. Mosseau told me that he was busy reading a file and did not actually observe Townsend in the minute or two before the accident.

Q: How about before that, at some other time during the ride?

A: Again, I asked that question, but Mosseau said he was concentrating on the file he was reading for his meeting because he had not had a chance to look at it. Seems he was out clubbing the night before, which is hard to do in Armadillo.

Q: At the time of the accident, what kind of street was the Ouchi on?

A: Well the Ouchi was on a six-lane divided parkway, three lanes going each way.

Q: Did Mr. Mosseau tell you anything else about the accident?

A: Yes, Mosseau said that just prior to the impact, he heard Townsend shout, "Oh mercy me." I had the suspicion that Mosseau cleaned that up just a little. Mosseau then heard a thud and the vehicle came to a stop. Mosseau got out of the vehicle and observed the crushed bicycle and the bicycle rider laying in the street in an obviously dead condition. Mosseau then said he grabbed his cell phone out of the car and called 911. The 911 operator told Mosseau that the accident had already been reported, apparently by a very robotic voice.

Q: Can you identify Exhibit 13?

A: Yes, that's a printout or transcript of the 911 call received from the automobile.

Q: Did you do anything else in connection with your investigation?

A: Yes, I obtained a witness statement from a witness in a nearby automobile.

Q: I'm showing you Exhibit 3. Can you identify what this is?

A: Yes, that's a statement from Luke Dauchot, the witness in the nearby automobile.

Q: Does this statement fairly and accurately reflect what Dauchot told you?

A: Word for word.

Q: What else did you do?

A: As is routine in accident these days, I determined that Townsend's cell phone provider was AT&T, so I subpoenaed records from AT&T showing activity on Townsend's cell phone for the date in question.

Q: Can you identify Exhibit 4?

A: Yes, that is AT&T's list of text messages and phone calls and the times that those occurred all from Townsend's phone on the day of the accident.

Q: Was an accident report prepared in connection with this accident?

A: Yes, that was prepared by another officer and is marked as Exhibit 5.

Q: Can you identify Exhibit 18?

A: Yes, that's a diagram of the accident site that I put together. As it says at the top, it is not to scale, but it kind of generally places everything where I observed things to be.

Q: Can you identify Exhibit 17?

A: Yes, that's a toxicology report done on the decedent, Ms. Menninger.

Q: Anything significant about that tox report?

A: Not really. The blood alcohol level was 0.04, which is not legally intoxicated in this state or any other state that I'm aware of. So the BAC was not concerning to me in terms of causation of the accident.

Q: A BAC of 0.04 at 9:12 a.m. did not concern you?

A: I say each to his or her own. She wasn't driving.

Q: Did you issue any tickets in connection with this accident?

A: I'm an investigator, so no, I don't actually issue citations, but a patrolman who was assisting in the investigation did issue a ticket to Townsend for failure to control the vehicle.

Q: Did you agree with that assessment by the patrolman?

A: Not really. The car was equipped to both see and avoid accidents. Of course, you can't give a ticket to the car, so I guess the driver was the remaining choice.

Q: Do you agree that a driver of an automobile on a public street should keep a lookout for potential situations that could cause an accident?

A: Yes, that's very basic.

Q: Do you agree that a driver should control the speed of his vehicle?

A: Of course.

Q: Do you agree that this accident would not have happened if Townsend had been in full control of the car?

A: That would be speculation on my part. Maybe he would have been looking the other way at the time.

Q: Do you agree that a driver should not be using a smart device to send or read text messages while driving?

A: Well, we all do that.

Q: That's doesn't make it a safe practice, does it?

A: No. But the car is supposed to make it safer to look away, isn't it?

Q: Have you ever investigated an accident involving an autonomous driving system before this one?

A: Investigate, no. But I've been around an accident involving one of these self-driving cars. One of them self-drove over my sister. It killed her.

Q: Have we covered all your investigation and observations concerning this accident?

A: Yes, we have.

Q: State your name please?

A: My name is Kerry Eblen.

Q: Tell us something about yourself. Where do you live?

A: I live in Macon.

Q: Georgia?

A: No, Lone Star.

Q: What is your occupation or profession?

A: Currently, I serve as a consultant in the area of vehicular autonomous driving systems.

Q: What qualifications do you have as a consultant?

A: I have a PhD in biomechanical engineering, and I have worked for automobile manufacturers for the past 20 years designing and attempting to implement autonomous driving features in various vehicles.

Q: Tell us about your educational background.

A: After high school, I attended the Massachusetts Institute of Technology, where I received a degree in engineering. I then attended Lone Star A&M University where I got a master's degree in biomechanical engineering and a PhD in biomechanical engineering.

Q: What did you do after college?

A: Well as I said earlier, I started working for automobile manufacturers here in the states, focusing on designing and implementing autonomous driving features in American cars.

Q: Are you familiar with the autonomous driving features of the automobile involved in the accident in this case?

A: Yes, it's very similar to systems that I helped design and implement. I have studied the system itself and I have studied the manufacturer's data concerning that system.

Q: Have you formed any opinions in connection with this case?

A: Yes, I have formed the opinion that the autonomous driving system in this car was defective and unreasonably dangerous at the time it left the hands of the manufacturer.

Q: In general, what do you find to be defective or unreasonably dangerous about this system?

A: Well in my opinion, there are four specific areas of defect. First, the software in the vehicle should have been able to detect the bicycle even though it was coming from a side street. Second, the software disabled the emergency braking system for collision mitigation, and instead relied on the operator's intervention with respect to this kind of obstacle. Third, the system did not have a driver engagement system, which is simply a system designed to detect when the driver has become inattentive. Finally, I think the ad campaigns run by the manufacturer of this car misled drivers into thinking they did not have to pay attention.

Q: Let's go back to your first opinion. What is the basis for that opinion?

A: If you look at Exhibit 15, which is a readout from the car's computer.

Q: Before you get into what that exhibit tells us, could you explain what the information is and means?

A: Sure. The first column is time to the accident. The car records all of the time from when you start it up until you either stop it or it encounters an issue. This column starts at 4.0 seconds before the accident because that's all we harvested from the computer. It ends at 0.00, which is the point of impact.

Q: What's the second column?

A: That basically shows us whether the computer was applying the brakes. "On" means the brakes were applied and so forth.

Q: What's the third column?

A: Just a readout of the position of the accelerator at each point in time.

Q: And column 4?

A: This shows which sensors on the car are picking up signals. "RF" means "right front" and "RB" means right bumper. "FC" means the sensor at the front center of the car.

Q: And what is the last column?

A: That shows the speed of the automobile expressed in miles per hour at each point on the readout. It ends at 22.00, the speed at which the car hit the bicycle.

Q: So now explain what you see happening in Exhibit 15?

A: You see how the autonomous driving software was reacting to the conditions at the time of the accident. The owner says that the system worked correctly for two months that it was owned by the driver, and it had generally correctly identified large hazards in the road. But with respect to the bicycle, the system detected the bicycle approximately 2.6 seconds before the impact and it continued to see the bicycle with infrared sensors right up until the point of impact. The computer printout tells me that the system couldn't make up its mind what it was looking at.

Q: What do you mean by that?

A: Well, the system initially thought that there was a hazard and started to brake, then decided the object it was detecting was not a hazard and released the brakes. This went on for several cycles, each of about a tenth of a second. And so, the driver would have felt a kind of stuttering in the system like you get when you slam on the brakes on an icy

road and the braking system catches and releases and catches and releases repeatedly over a very short period of time. Ultimately, about 5/10th of a second before the accident, the system correctly identified the obstacle as something that it needed to avoid and it attempted to stop the car. By that point, it was too late to stop the car and the collision with the bicycle ensued.

Q: Is there a widely available reasonable alternative to this kind of software?

A: With both software and hardware you can put more sensors on one of these vehicles to better detect things coming from the side, and you can tell the software that any object that is detected coming from a side position should immediately trigger the brakes. In my opinion, that kind of reasonably available combination would have prevented this accident.

Q: Your second opinion is that the software had disabled the emergency braking system for collision mitigation. What do you mean by that?

A: Well, many modern cars have a forward-looking impact detection system. When these systems detect an obstacle, they first sound a loud beeping noise to the driver and then, if the driver doesn't immediately take action, the system will take over and hit the brakes as it were. This system had overridden the forward impact mitigation logic in the car in order to detect and avoid objects to the front of the car by itself. That was a mistake in terms of the design of the software. If that mistake had not been made, the automobile's normal forward impact mitigation system would have taken over and stopped the car.

Q: Your third opinion has to do with the absence of a driver engagement system. What do you mean by that?

A: Look, if you're going to have a car that is touted as driving itself, you have to know that the driver is going to be inattentive. They get used to not having their eyes on the road and their hands on the wheel. They start doing other things inside the automobile and quit paying attention to their driving.

Q: What can manufacturers do about that?

A: They can do several things. Many of the autonomous driving systems can detect when the driver has his or her hands on the steering wheel. If the driver removes his or her hands from the steering wheel for too long a period of time, the system begins to beep and insists that the driver take over the task again.

Q: Are there other ways to ensure you have driver engagement with the driving task?

A: Yes, one of the more recent but again widely adopted and inexpensive solutions is to have a camera in the dashboard that is pointed at the driver. That camera can detect when the driver's eyes are not on the road, and can again begin beeping and insisting that the driver pay attention. If the car had either one of those systems, it is my opinion that this driver's attention would have been brought back to the driving task and he/she would have seen the bicycle and would have avoided the collision.

Q: Is there any way that you can testify with certainty that this driver was not being attentive to the driving task at the time of the accident?

A: Not with absolute certainty, but Exhibit 4 is a printout of the activity on Townsend's cell phone that morning. You'll see that Townsend was either sending or receiving text messages on a fairly constant basis. From that I infer that Townsend may not have been paying attention to the driving task at the time of the accident. Of course, there's also the inference we may draw from the fact that the accident happened.

Q: Your final opinion is that Ouchi's ad campaigns misled drivers into thinking they did not have to be alert to hazards. What do you mean by that?

A: Well, if you'll look at Exhibit 7 or Exhibit 8 or Exhibit 9 or Exhibit 11 or Exhibit 12, you'll see that various manufacturers constantly advertise these vehicles as not requiring driver attention. For example, in Exhibit 11, you see an ad that runs on television that shows a driver setting up the car and then removing his hands from the wheel. Even with the best autonomous driving systems, the manufacturer should never, ever encourage or permit a driver to remove his hands from the wheel.

Q: What evidence is there that the driver had either removed his/her hands from the wheel or eyes from the road in connection with this accident?

A: There's no direct evidence of that, I'll admit. However, because no evasive action was taken by the driver before the impact, one must assume that the driver was not paying attention to the task. And this driver has testified that the automobile advertisements were a great inducement to buying this specific vehicle. I think it's clear that the advertising amounted to a marketing defect and contributed to cause this accident.

Q: In your opinion, did Ouchi provide sufficient warnings to its drivers to counter the impact of this advertising?

A: No. If you'll look at Exhibit 6, the owner's manual for this very car, you'll see that the company spent a lot more ink talking about the entertainment system in the car than it did on the Autopilot. I think that disparity is a real problem. There should have been a lot more warnings.

Q: Can you identify Exhibit 14?

A: Yes, this is the NTSB report regarding this accident.

Q: Why would the National Transportation Safety Board have any interest in this accident?

A: Because it involved a car with autonomous driving features. The NTSB has taken quite the interest in those systems because they're used on US highways.

Q: Did you review this report in connection with your work in this case?

A: Yes. Every word.

Q: Can you identify Exhibit 10?

A: Yes, that's a copy of an article I helped write for Motor Trend, the car magazine. I would note that some things have changed since then.

Q: Like what specifically?

A: Well, I'd have to read it to know what's in it. But generally there's a lot more experience with these systems since I wrote that. A lot more crashes have happened. Lives have been lost. I'm opposed to these systems today.

Q: Have we covered all of the opinions and conclusions that you have reached in connection with this matter?

A: Yes, we have.

Q: Please state your name for the record.

A: My name is Taylor Townsend.

Q: Where do you reside?

A: I reside in Armadillo.

Q: What do you do as an occupation or a profession?

A: I am the assistant to the Deputy Administrator of Operations at a local power plant.

Q: How long have you held that job?

A: About three years.

Q: What is your educational background?

A: I was raised in Plano and graduated from high school there. After that, I went to the University of Colorado at Boulder, where I majored in business administration and skiing. After I graduated from there, I came back to Armadillo and started working at the power plant.

Q: You were the driver involved in an accident on July 6, 2020, is that correct?

A: Yes, I was.

Q: You were operating an automobile as a ride share driver, is that right?

A: Yes, I was moonlighting some to make some extra money.

Q: At the time of the accident, you were driving a Ouchi Model T sedan with an autonomous driving system?

A: Yes, I was operating that vehicle in a careful and prudent manner.

Q: Tell us why you bought that particular automobile?

A: Well, I wanted an automobile that had the autonomous driving feature. I figured it would make life easier for me in terms of long drives that you have out here in Lonestar, and I thought it would make the ride share experience more rewarding for everyone.

Q: How would that work?

A: I could look back at the passenger and say "Look, no hands!"

Q: Did you do any research before you bought this specific vehicle?

A: Yes, I did research for about six months. I knew, for example, that there were several levels of autonomy in self-driving cars, and I was looking for one that was a level 4 car.

Q: Can you identify Exhibit 16?

A: Yes, that's a chart showing different levels of autonomous driving system implementations. You'll see that there are a bunch of levels. The first level has been around a long time, it includes things like cruise controls that most people are familiar with. Those elements of autonomous driving were deployed way back in the 60's. If you've ever driven a car without cruise control, you'd know what a great innovation that was.

Q: What's the second level?

A: It gets a little more sophisticated. That includes cars that have not only cruise control but also a forward collision avoidance system.

Q: What's a level 4 car?

A: This level is what I was looking for. It is a system that includes all of the other features I've talked about plus it will actually drive the automobile instead of just keeping it inside of two lanes. It will not just detect the stripes on the road and cars ahead of you, but also cars next to you and so forth. It has a very refined lane departure kind of system. On the

better systems, you'll see such things as automatic detection of speed limits so that the car will set itself to a speed limit and then change speeds as it addresses different speed limits. This is really handy when you are out on Lonestar roads that have a 75-mph speed limit and then you run into some small town that drops it to 15. Estelline comes to mind. The car sees that and slows down. Saves a lot of tickets.

Q: This chart says that the system expects that the user will become the driver if there is a system failure; were you aware of that?

A: No, I never saw anything that said I had to be the fallback to the system.

Q: What research did you do specifically before you bought this car?

A: Well, other than learning about autonomous driving systems, I looked at articles such as the one in Motor Trend, which you see marked as Exhibit 10. I also looked at a lot of literature from car manufacturers. For example, I looked at Exhibit 7, which is a picture from an advertisement for a car with a level 4 system.

Q: Can you identify Exhibit 8?

A: Yes, that's also a specific advertisement for the Ouchi automobile. It claims that the car could pretty much take care of itself. The same thing is true of Exhibit 9, another Ouchi ad.

Q: Did you ever see Exhibit 11?

A: Yes, that's a different brand of car, but you can see that the car manufacturers were actually touting these systems in such a way that it led you to think you can take your hands off the wheel. You'll see in this advertisement that the driver takes her hands completely off the steering wheel. That's what I wanted.

Q: And what about Exhibit 12?

A: That's another advertisement that shows how you can let these cars take over and drive themselves.

Q: In purchasing this specific car, did you rely on the advertisements that you had seen?

A: Absolutely.

Q: Once you purchased the car, what was your experience prior to the accident?

A: You know, at first, I was very leery of allowing the car to just drive itself. But after a while, I got comfortable with turning loose of the wheel and letting the car do its thing. I learned that the car was very adept at driving itself both on the highway and on the larger city streets. Of course, I would never let it drive itself in an alley or a narrow residential street.

Q: On the day of the accident, how long had you been using this system?

A: About two months.

Q: In those two months, had you had any trouble with the system?

A: Not a single bit of problem. The car was perfectly capable of staying within the lane, driving the speed limit, identifying other vehicles. It could even identify other vehicles cutting into my lane suddenly and would adjust to that. The car could even self-park, which is not all that important in terms of driving but I never could do the parallel parking thing.

Q: During the time that you owned the car, did you ever allow the car to drive while you were doing something else like reading or looking at a phone or things like that?

A: Never. I always kept one hand on the wheel and I always kept my eyes on the road.

Q: At the time of the accident, where you looking at a smart phone or any other kind of attention distracting device?

A: Absolutely not.

Q: Can you identify Exhibit 4?

A: Yes, that's a log of my cell phone use on the morning of the accident. I had to consent before AT&T would release it. Why would I consent if it would show something bad?

Q: So, tell us about the morning of the accident.

A: It was a normal morning. I picked up a ride at a hotel and was headed toward an office building with the passenger. I was going down Market Street at the speed limit because the car knew what the speed limit was. I was allowing the car to drive because of the three-lane street and there was plenty of room.

Q: When did you first observe the bicycle?

A: I caught a glimpse of it out of the corner of my eye. I thought it would stop because it was in a fast food driveway. I also thought that the car would detect it and take any evasive action or stop if it needed to.

Q: What did the car do as it approached the bicycle?

A: Well, it made a funny shuddering sort of motion, like you might find when you're on snow or ice and the brakes are trying to pump. In a split second before the accident, I felt the car brake fully and I was thrown forward into my shoulder belt.

Q: Did the collision cause the airbag to deploy?

A: No, it wasn't that big of collision from the standpoint of the car.

Q: Can you identify Exhibit 2?

A: Yes, that shows the damage to the bumper of my car.

Q: What happened next?

A: Well, the car didn't stop itself and I couldn't stop it. I couldn't react quick enough to get my foot on the brake. I grabbed the steering wheel, but it was too late to swerve to miss that bicyclist, Laura Menninger. I saw the bicycle right in front of the car and then I felt an impact. The car came to a full stop and I jumped out to see what had happened.

Q: What did you see when you jumped out of the car?

A: Well, the bicycle rider was down in the street bleeding and pretty obviously dead.

Q: Did you call 911?

A: I started to, but then I realized that the car was making that call all by itself.

Q: Can you identify Exhibit 6?

A: Yes, that's excerpts from the owner's manual that came with the car.

Q: Did you read this manual when you got the car?

A: No, I didn't read any part of the manual except the part that has to do with the infotainment system. That's the system that provides satellite radio and other types of entertainment. Exhibit 6 contains the only pages that I read.

Q: Does Exhibit 6 also contain information about the self-driving system?

A: Yes, there's a few pages there.

Q: Before this accident, had you read those portions of the manual?

A: No.

Q: Were you able to drive the car away from the scene of the accident?

A: Yes, the car wasn't hurt that badly.

Q: Did you speak with any officers at the scene?

A: Yes, and I answered their questions as truthfully as I could.

Q: Did you get a ticket as a result of this accident?

A: Yes, I got a ticketed for failing to control the vehicle.

Q: What's the disposition of that ticket?

A: I'm not going to tell you that.

Q: Well, have you told us everything else you know about the accident?

A: Yes, I have.

Q: State your name for the record please?

A: My name is Gerry Gleeson.

Q: Where do you reside?

A: I reside in Truth or Consequences, where I was actually raised.

Q: Is that in Lone Star?

A: No, it's in New Mexico. There is no Truth or Consequences in Lone Star.

Q: What is your occupation or profession?

A: I'm a consultant at an engineering firm whose primary purpose is to provide expert testimony in cases involving engineering issues.

Q: What is your educational background for that?

A: Well, although I was born and grew up in New Mexico, I reformed and immediately moved over to Lone Star and went to college at West Lone Star A&M where I obtained a degree in computer science.

Q: Was that the full extent of your education?

A: No, I then attended the University of Lone Star in San Antonio where I obtained a master's degree in biomechanical engineering and a PhD in the same subject.

Q: After you got your PhD, what did you do?

A: I went to work for General Motors, specifically working in the department that was devoted to the design of autonomous driving vehicle systems.

Q: What specifically did you do for General Motors?

A: I assisted in the design of software systems for autonomous driving vehicles. I spent ten years working on those systems. I also assisted in the development of software we called Precision Engineered Navigation Guidance Unassisted Intelligent Node.

Q: What, like PENGUIN?

A: Exactly.

Q: What did you do after that?

A: That's when I joined a large engineering firm whose primary purpose is providing expert testimony in cases like this.

Q: Have you testified in other cases?

A: Yes, I've testified in ten different cases involving autonomous driving systems.

Q: Did those cases all involve accidents?

A: Well, yes.

Q: Have you ever been disqualified as an expert witness in a case in which you were testifying?

A: Never. Although there was that one time when the judge allowed the testimony but told the jury that the area of expertise was just too new and too narrow to be believed.

Q: Federal judge?

A: Why, yes. Yes it was.

Q: Have you been retained to render expert opinions in this particular case?

A: Yes.

Q: What have you reviewed in connection with the case?

A: I have looked at the accident report, I've looked at all of the photographs, I read the owner's manual for the car at issue, I also looked at output from the computer system for the minute before the accident.

Q: Is this the kind of evidence that engineers in your position would rely on in reaching opinions and conclusions?

A: Yes, it is.

Q: Have you reached opinions and conclusions in this case?

A: Yes, I have reached two opinions. First, it is my opinion that the autonomous driving system in this car was not defective in terms of its manufacture, its design or its implementation or its marketing. Second, I concluded the accident resulted from the fact that the bicycle failed to yield right-of-way to a vehicle, and that the driver was inattentive and failed to stop before striking the bicycle rider.

Q: Let's go back to your first opinion. Do you believe that the autonomous driving system in this car was defective in terms of its design its manufacturer or its marketing?

A: No, it was not. These cars are designed to drive without human input, but only under the circumstances that are outlined in the owner's manual. The driver has testified that the only part of the owner's manual, Exhibit 6, that he read was the part about the entertainment system, which ought to tell you something about the driver. And if the driver had read the entire manual, then it would have become obvious that the system should only be deployed in highway situations where there are no traffic control devices such as stop signs or stop lights to confuse the programming of the system. The manual specifically warns against driver inattention, and instructs that the driver must always be alert to all conditions around the vehicle and should never be distracted by anything else inside or outside the vehicle.

Q: In your opinion, was this driver distracted at the time of the accident?

A: In my opinion, the driver was distracted. If you'll look at Exhibit 15, you'll see that the system in the car was attempting to identify the obstacle it was encountering 2.6 seconds before the accident happened. That means that the computer identified an obstacle and

began to apply the brake, but then went into a process of trying to decide what the obstacle was. But the point is, that in 2.6 seconds, the driver should have been able also identify the obstacle and react to it. The car was trying to tell him it needed help, and he wasn't helping.

Q: When did the car identify the bicycle as an obstacle?

A: About 6/10 of a second before impact. At that point, it fully applied the brakes, which is what the driver should have done initially.

Q: Do you have any reason to believe that the driver was not looking forward at the time the bicycle started to cross the path of the car?

A: Yes, again the system first saw the bicycle at 2.6 seconds. I have to believe the driver could have seen the obstacle in the same amount of time or even sooner. Therefore, I conclude the driver was not looking forward at the time.

Q: But you don't know that for a fact?

A: No.

Q: As part of your work here, did you look at the advertising materials that are marked as Exhibits 7, 8, 9, 11 and 12?

A: Yes, I did.

Q: Don't those advertising materials display drivers allowing the car to drive themselves without human input?

A: Yes, but a reasonably prudent person would view that as fluff, as marketing, as hyperbole. In other words, anyone with a shred of intelligence would not actually think they could take their hands off the wheel in one of these vehicles.

Q: And yet, that's what's shown in the advertising, isn't it?

A: Yeah, it's hard to explain.

Q: Do you have any other evidence that you've relied on that causes you to believe the driver was not paying attention?

A: Yes, if you look at Exhibit 4, you'll see that there was a string of text messages between this driver and somebody else as late as a minute before the accident. I have to believe that the driver was texting instead of keeping a proper lookout.

Q: Couldn't the driver have been using voice recognition characteristics of the smart phone?

A: I suppose.

Q: You've told us you think that the driver is at fault, but you've also said the bicycle rider was at fault. Why do you say that?

A: Well, according to the information I saw, which would be the statement of Luke Dauchot, the bicycle was in the driveway of a fast food joint and didn't stop as she was coming out. That means that the bicycle was propelled directly in front of the car because of bicycle rider inattention.

Q: Can you tell us what Exhibit 17 is?

A: Yes, Exhibit 17 is a toxicology report on the bicycle rider, Laura Menninger. It reflects even at 9:12 a.m., Ms. Menninger had a blood alcohol level of 0.04, which is just about as half-drunk as you're gonna be.

Q: Isn't it legal to drive in Lone Star with a 0.04 blood alcohol level?

A: Yes, but it certainly isn't prudent.

Q: Is there any legal limit for BAC when riding a bicycle?

A: Well, just the limit of the rider's ability to maintain good balance, I suppose. But I'm not aware of any statutory limitation.

Q: Can you tell us what Exhibit 10 is?

A: Yes, that's an article from the prestigious car magazine, Motor Trend.

Q: And did you pen one of the articles in that magazine?

A: Yes, but you know how it is when you're asked to do something like that. Sometimes you just kind of goof around. And a lot of time has passed since I goofed around on that article. Changes have been made, including in my opinions on the subject.

Q: Can you identify Exhibit 14?

A: Yes, this is the NTSB report regarding this accident.

Q: Did you read this NTSB report?

A: Yes. Every word.

Q: Doesn't this report seem to be pretty disparaging of the Ouchi Autopilot system?

A: I thought the report was just generally concerned about autonomous driving systems in general, without calling out any particular manufacturer.

Q: Returning to the autonomous driving system. You say you have worked on and implemented these kinds of systems yourself?

A: Yes, for ten years.

Q: Isn't it true that a type of system that you have developed would have brought the car to a stop when they spotted the bicycle coming from the side?

A: What I designed was a superior system. That doesn't mean this system was defectively designed. It certainly met the standards of other car manufacturers.

Q: But your car would have stopped?

A: Yes.

Q: What is Exhibit 16?

A: That's a chart that explains the variations in autonomous driving system types that are deployed today.

Q: Where does this Ouchi Model T system fall on the chart?

A: Well, the NTSB seemed to treat it as a Level 2, but I read this to indicate that the Ouchi system was a Level 4. I don't think the NTSB folks who wrote the report here were that well versed in this type of system.

Q: Have you told us all of the opinions and conclusions you have reached in connection with this case?

A: Yes, I have.

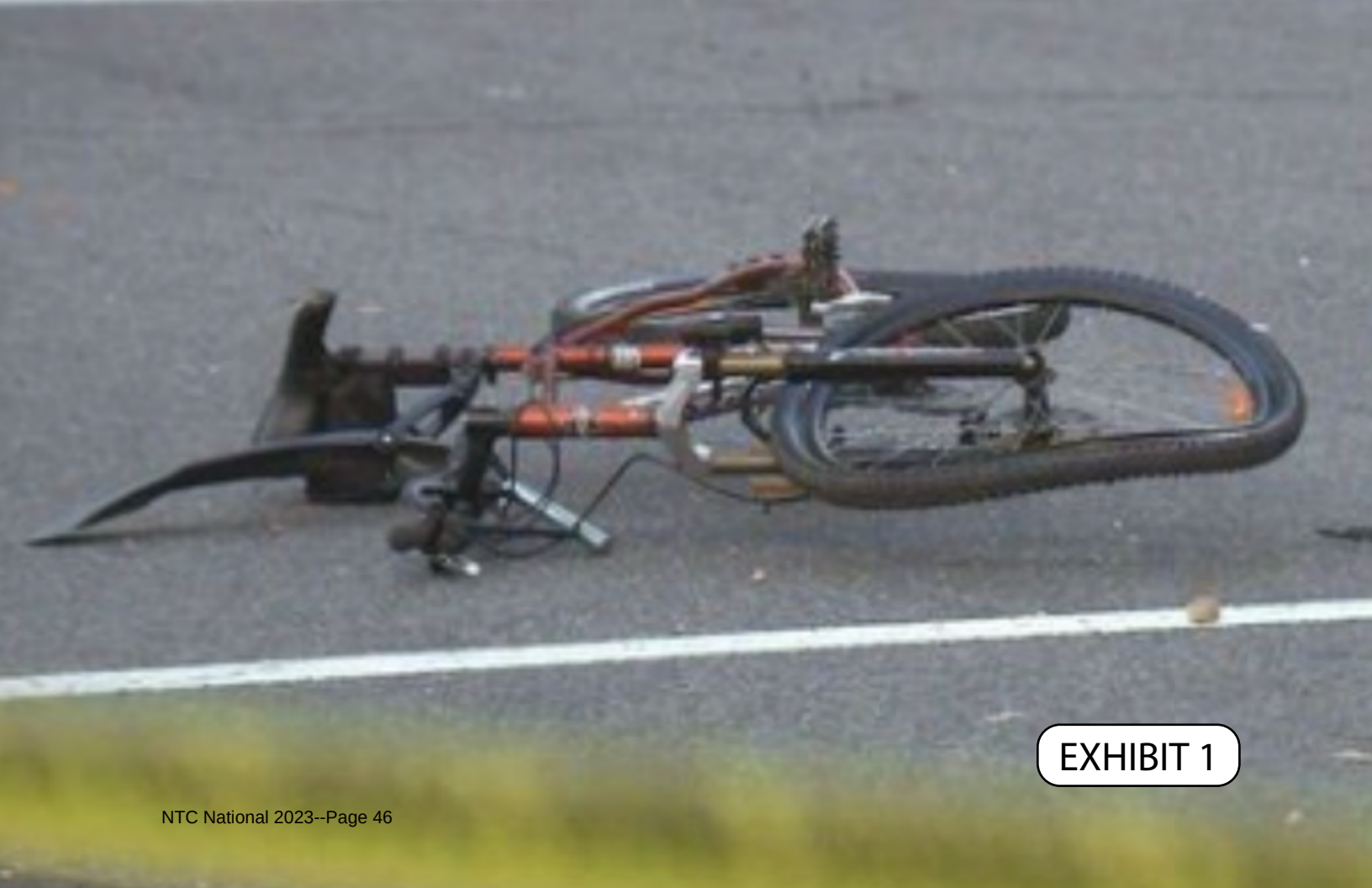
EXHIBIT 1

EXHIBIT 2

NO. 22-000022-CV

LONNIE MENNINGER	**§**	**IN THE 445th DISTRICT COURT**
	§	
Plaintiff,	**§**	**IN AND FOR**
v.	**§**	
	§	
OUCHI MOTOR COMPANY, INC.	**§**	**BEXAR COUNTY**
	§	
Defendant.	**§**	**STATE OF LONE STAR**

AFFIDAVIT OF LUKE DAUCHOT

My name is Luke Dauchot. I am over the age of 21 years, I am of sound mind, and I have personal knowledge of the facts in this statement, which are true and correct to my personal knowledge. I have never yet been convicted of a felony.

I was driving on Church Street in Armadillo on July 6, 2020. I was sitting at a red light and was observing traffic on the cross street going through the light. I saw a bicycle rider coming from the driveway of a fast food restaurant. The bicycle rider did not stop at the end of the driveway but continued on into Market Street. I observed a Ouchi automobile driving what appeared to be the speed limit and coming toward the bicycle rider. I did not observe the Ouchi begin to brake until immediately before it had hit the bicycle rider. I did observe the impact between the Ouchi and the bicycle rider. I immediately called 911, because it appeared that the bicycle rider was seriously injured.

I immediately turned into the driveway of a convenience store, parked my car and ran to see if I could be of assistance. I observed the driver of the Ouchi get out of the vehicle and come around the front fender to look at the bicycle rider laying in the street bleeding. I ran up to the driver and asked, “What happened?” The driver told me, “I didn’t see her. Where did she come from? The car didn’t stop. The car is supposed to stop.”

EXHIBIT 3

I told the driver that I had called 911 and that help is on the way. The driver then turned away from the bicycle rider and began examining the hood of the Ouchi, apparently looking to see if it was dented. It was not.

FURTHER AFFIANT SAYETH NOT:

/s/ Luke Dauchot

Luke Dauchot

STATE OF LONE STAR §

§

COUNTY OF BEXAR §

Before me, a Notary Public in and for The State of Lone Star, on this day personally appeared Luke Dauchot, Affiant, known to me to be the person whose name is subscribed to the above and foregoing Sworn Statement and acknowledged to me that the facts and information stated herein are true and correct.

Subscribed to and sworn to before me, the undersigned authority, on this the 16th day of November, 2022.

/s/ Hisham Masri

Notary Public for the State of Lone Star

AT&T CALL LOG

NO: 548-547-2211 MO/YR 07/20

DATE	TIME	INC/OUTG	TYPE	CALL DURATION
7/6	8:50 AM	OUT	Call	0:56
7/6	8:50 AM	INC	Text/IM	
7/6	8:50 AM	INC	Text/IM	
7/6	8:52 AM	OUT	Text/IM	
7/6	8:52 AM	OUT	Text/IM	
7/6	8:54 AM	INC	Text/IM	
7/6	8:57 AM	OUT	Text/IM	
7/6	8:58 AM	INC	Text/IM	
7/6	8:58 AM	INC	Text/IM	
7/6	8:59 AM	INC	Text/IM	
7/6	8:59 AM	OUT	Call	1:14
7/6	8:59 AM	OUT	Text/IM	
7/6	9:00 AM	INC	Text/IM	
7/6	9:01 AM	OUT	Text/IM	
7/6	9:02 AM	OUT	Text/IM	
7/6	9:02 AM	OUT	Text/IM	
7/6	9:02 AM	INC	Text/IM	
7/6	9:03 AM	INC	Text/IM	
7/6	9:04 AM	OUT	Text/IM	
7/6	9:05 AM	INC	Text/IM	
7/6	9:10 AM	OUT	Text/IM	
7/6	9:11 AM	INC	Text/IM	
7/6	9:16 AM	OUT	Call	2:35
7/6	9:19 AM	OUT	Text/IM	
7/6	9:19 AM	INC	Text/IM	
7/6	9:20 AM	OUT	Text/IM	
7/6	9:21 AM	INC	Text/IM	
7/6	9:22 AM	OUT	Text/IM	
7/6	9:24 AM	INC	Text/IM	
7/6	9:24 AM	OUT	Text/IM	

EXHIBIT 4

LONE STAR PEACE OFFICER'S OFFICIAL ACCIDENT REPORT

PENALY FOR NTC USE

PLACE WHERE ACCIDENT OCCURRED

COUNTY Bexar CITY OR TOWN Armadillo

ROAD ON WHICH ACCIDENT OCCURRED Market and Church Intersection
BLOCK NUMBER / STREET OR ROAD NAME / ROUTE NUMBER OR STREET CODE

SPEED LIMIT 40

IF ACCIDENT WAS OUTSIDE CITY LIMITS
INDICATE DISTANCE FROM NEAREST TOWN _____ MILES N S E W OF _____

OR INDICATE OTHER LANDMARK _____

DATE OF ACCIDENT 7/6/2020 DAY OF WEEK Monday HOUR 9:12 AM ☐ A.M. ☐ P.M.

UNIT NO. 1 - MOTOR VEHICLE VEHICLE IDENT. NO. TB0547895487

YEAR MODEL 20 COLOR & MAKE White Ouchi MODEL NAME Model T LICENSE PLATE KGB 3298

DRIVER'S NAME Townsend (LAST) Taylor (FIRST) (MIDDLE) ADDRESS (STREET, CITY, STATE, ZIP)

DRIVER'S LICENSE Lone Star (STATE) CDL10929100 (NUMBER) DOB 8/18/91 (MO DAY YEAR) SEX Male (YES/NO)

OWNER OR LESSEE Taylor Townsend (NAME AS SHOWN ON TITLE OR LEASE DOCUMENTS) 8235487 Technology Center Road Armadillo LS (ADDRESS STREET, CITY, STATE, ZIP)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS) 1- BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED [X] ALCOHOL/DRUG ANALYSIS RESULT Negative

UNIT NO. 1 - MOTOR VEHICLE VEHICLE IDENT. NO. _____

YEAR MODEL _____ COLOR & MAKE Red Schwinn MODEL NAME _____ LICENSE PLATE _____

DRIVER'S NAME Menninger (LAST) Laura (FIRST) (MIDDLE) 735 Hippy Hollow Armadillo LS (ADDRESS STREET, CITY, STATE, ZIP)

DRIVER'S LICENSE n/a (STATE) (NUMBER) DOB 10/3/2001 (MO DAY YEAR) SEX Female (YES/NO)

OWNER OR LESSEE _____ (NAME AS SHOWN ON TITLE OR LEASE DOCUMENTS) (ADDRESS STREET, CITY, STATE, ZIP)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS) 1- BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED [X] ALCOHOL/DRUG ANALYSIS RESULT 0.04 BAC

NARRATIVE Vehicle 1 was southbound on Market Street approaching the intersection with Church Street when Vehicle 2 appeared from the west or passenger side of Vehicle 1. Vehicle 1 was being driven under autonomous control at the time, and failed to identify Vehicle 2 as an obstacle. Application of braking was too late to prevent the fatal accident.

CHARGES FILED

NAME Taylor Townsend CHARGE Failure to control vehicle CITATION NO. 10025478954

NAME _____ CHARGE _____ CITATION NO. _____

TIME NOTIFIED OF ACCIDENT 9:14 AM HOW 911 Operator TIME ARRIVED AT SCENE OF ACCIDENT 9:19 AM

TYPED OR PRINTED NAME OF INVESTIGATOR Sally Ferguson DATE REPORT MADE 7/23/2020

EXHIBIT 5

SIGNATURE OF INVESTIGATOR /s/ S Ferg ID NO. 217294578 DEPARTMENT ADS Investigations