

NO. 22-00022-CV

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

**Prepared by:**

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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,

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/s/ William ATS Ford

By: \_\_\_\_\_  
William ATS Ford  
Lone Star State Bar No. 358741346814

LONNIE MENNINGER, INDIVIDUALLY  
AND AS INDEPENDENT EXECUTOR OF  
THE ESTATE OF LAURA MENNINGER

*Plaintiff,*

v.

OUCHI MOTOR COMPANY, INC.

*Defendant.*

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IN THE 445<sup>th</sup> DISTRICT COURT

IN AND FOR

BEXAR COUNTY

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  
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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 1<sup>st</sup> 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**

1 Q: Please state your name?

2 A: My name is Evan McCarthy.

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

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

5 Q: How long have you held that position?

6 A: Eighteen years.

7 Q: What did you do before that?

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

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

10 A: I was raised in Mexia.

11 Q: Is that in Lone Star?

12 A: Of course.

13 Q: Did you graduate from high school there?

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

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

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

19 Q: How long did you serve in the Army?

20 A: Until my massive student debts were paid off.

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

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

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

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

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

6 Q: Can you identify Exhibit 1?

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

9 Q: And can you identify Exhibit 2?

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

11 Q: Was there damage to the automobile?

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

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

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

17 Q: Who was the driver of the automobile?

18 A: A person named Taylor Townsend.

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

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

TESTIMONY OF MCCARTHY- 2

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

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

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

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

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

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

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

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

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

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

1 Q: Did Townsend call 911?

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

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

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

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

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

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

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

17 Q: Did Mosseau tell you why that concerned him?

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

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



**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

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

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

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

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

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

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

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

17 Q: Can you identify Exhibit 13?

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

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

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

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

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

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

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

1 A: Word for word.

2 Q: What else did you do?

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

6 Q: Can you identify Exhibit 4?

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

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

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

11 Q: Can you identify Exhibit 18?

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

14 Q: Can you identify Exhibit 17?

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

16 Q: Anything significant about that tox report?

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

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

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

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

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

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

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

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

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

9 A: Yes, that's very basic.

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

11 A: Of course.

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

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

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

18 A: Well, we all do that.

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

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

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

**TESTIMONY OF EVAN MCCARTHY**  
**JUNE 16, 2022**

- |   |    |   |
|---|----|---|
| 1 | A: | Investigate, no. But I've been around an accident involving one of these self-driving |
| 2 |    | cars. One of them self-drove over my sister. It killed her.                           |
| 3 | Q: | Have we covered all your investigation and observations concerning this accident?     |
| 4 | A: | Yes, we have.   |

**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

1 Q: State your name please?

2 A: My name is Kerry Eblen.

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

4 A: I live in Macon.

5 Q: Georgia?

6 A: No, Lone Star.

7 Q: What is your occupation or profession?

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

9 Q: What qualifications do you have as a consultant?

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

13 Q: Tell us about your educational background.

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

17 Q: What did you do after college?

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

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

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

**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

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

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

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

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

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

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

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

18 A: Sure. The first column is time to the accident. The car records all of the time from when  
19 you start it up until you either stop it or it encounters an issue. This column starts at 4.0  
20 seconds before the accident because that's all we harvested from the computer. It ends at  
21 0.00, which is the point of impact.

22 Q: What's the second column?

**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

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

3 Q: What's the third column?

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

5 Q: And column 4?

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

8 Q: And what is the last column?

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

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

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

19 Q: What do you mean by that?

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

**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

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

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

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

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

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

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



**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

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

5 Q: What can manufacturers do about that?

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

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

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

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

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

**TESTIMONY OF KERRY EBLEN  
NOVEMBER 17, 2022**

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

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

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

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

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

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

22 Q: Can you identify Exhibit 14?

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

**TESTIMONY OF KERRY EBLEN**  
**NOVEMBER 17, 2022**

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

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

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

5 A: Yes. Every word.

6 Q: Can you identify Exhibit 10?

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

9 Q: Like what specifically?

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

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

15 A: Yes, we have.

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

1 Q: Please state your name for the record.

2 A: My name is Taylor Townsend.

3 Q: Where do you reside?

4 A: I reside in Armadillo.

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

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

7 Q: How long have you held that job?

8 A: About three years.

9 Q: What is your educational background?

10 A: I was raised in Plano and graduated from high school there. After that, I went to the

11 University of Colorado at Boulder, where I majored in business administration and

12 skiing. After I graduated from there, I came back to Armadillo and started working at the

13 power plant.

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

15 A: Yes, I was.

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

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

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

19 driving system?

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

21 Q: Tell us why you bought that particular automobile?

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

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

4 Q: How would that work?

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

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

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

9 Q: Can you identify Exhibit 16?

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

16 Q: What’s the second level?

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

19 Q: What’s a level 4 car?

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

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

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

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

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

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

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

14 Q: Can you identify Exhibit 8?

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

18 Q: Did you ever see Exhibit 11?

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

23 Q: And what about Exhibit 12?

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

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

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

4 A: Absolutely.

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

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

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

12 A: About two months.

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

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

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

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

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

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

1 A: Absolutely not.

2 Q: Can you identify Exhibit 4?

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

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

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

10 Q: When did you first observe the bicycle?

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

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

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

18 Q: Did the collision cause the airbag to deploy?

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

20 Q: Can you identify Exhibit 2?

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

22 Q: What happened next?



**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

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

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

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

7 Q: Did you call 911?

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

9 Q: Can you identify Exhibit 6?

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

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

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

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

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

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

18 A: No.

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

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

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

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

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

**TESTIMONY OF TAYLOR TOWNSEND**  
**AUGUST 18, 2022**

- |   |    |   |
|---|----|---|
| 1 | A: | Yes, I got a ticketed for failing to control the vehicle.           |
| 2 | Q: | What's the disposition of that ticket?                              |
| 3 | A: | I'm not going to tell you that.                                     |
| 4 | Q: | Well, have you told us everything else you know about the accident? |
| 5 | A: | Yes, I have.  |

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

1 Q: State your name for the record please?

2 A: My name is Gerry Gleeson.

3 Q: Where do you reside?

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

5 Q: Is that in Lone Star?

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

7 Q: What is your occupation or profession?

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

10 Q: What is your educational background for that?

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

14 Q: Was that the full extent of your education?

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

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

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

20 Q: What specifically did you do for General Motors?

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

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

1 Q: What, like PENGUIN?

2 A: Exactly.

3 Q: What did you do after that?

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

6 Q: Have you testified in other cases?

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

8 Q: Did those cases all involve accidents?

9 A: Well, yes.

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

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

14 Q: Federal judge?

15 A: Why, yes. Yes it was.

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

17 A: Yes.

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

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

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

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

1 A: Yes, it is.

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

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

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

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

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

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

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

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

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

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

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

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

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

14 A: No.

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

17 A: Yes, I did.

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

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

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

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

1 A: Yeah, it's hard to explain.

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

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

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

8 A: I suppose.

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

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

15 Q: Can you tell us what Exhibit 17 is?

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

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

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

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

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

**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

1 Q: Can you tell us what Exhibit 10 is?

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

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

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

7 Q: Can you identify Exhibit 14?

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

9 Q: Did you read this NTSB report?

10 A: Yes. Every word.

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

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

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

16 A: Yes, for ten years.

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

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

21 Q: But your car would have stopped?

22 A: Yes.

23 Q: What is Exhibit 16?



**TESTIMONY OF GERRY GLEESON  
OCTOBER 3, 2022**

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

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

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

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

9 A: Yes, I have.



EXHIBIT 1



EXHIBIT 2

LONNIE MENNINGER	§	IN THE 445 <sup>th</sup> DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	IN AND FOR
v.	§	
	§	
OUCHI MOTOR COMPANY, INC.	§	BEXAR COUNTY
	§	
<i>Defendant.</i>	§	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 16<sup>th</sup> 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

PENALTY 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

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

OR INDICATE OTHER LANDMARK \_\_\_\_\_

SPEED LIMIT

40

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 Taylor ADDRESS (STREET, CITY, STATE, ZIP) \_\_\_\_\_

LAST                      FIRST                      MIDDLE

DRIVER'S LICENSE Lone Star CDL10929100 DOB 8/18/91 SEX Male

STATE                      NUMBER                      MO    DAY    YEAR                      YES/NO

OWNER OR LESSEE Taylor Townsend 8235487 Technology Center Road Armadillo LS

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

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS)  ALCOHOL/DRUG ANALYSIS RESULT Negative

1- BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED

UNIT NO. 1 - MOTOR VEHICLE VEHICLE IDENT. NO. \_\_\_\_\_

YEAR MODEL \_\_\_\_\_ COLOR & MAKE Red Schwinn MODEL NAME \_\_\_\_\_ LICENSE PLATE \_\_\_\_\_

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

LAST                      FIRST                      MIDDLE

DRIVER'S LICENSE n/a DOB 10/3/2001 SEX Female

STATE                      NUMBER                      MO    DAY    YEAR                      YES/NO

OWNER OR LESSEE \_\_\_\_\_ ADDRESS (STREET, CITY, STATE, ZIP) \_\_\_\_\_

NAME (AS SHOWN ON TITLE OR LEASE DOCUMENTS)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS)  ALCOHOL/DRUG ANALYSIS RESULT 0.04 BAC

1- BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED

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 Ferguson ID NO. 217294578 DEPARTMENT ADS Investigations

**O**uchi Motor Company USA

**2020 Model T**

# Owner's Manual





# Infotainment System

## Introduction

Introduction .....	110
Overview .....	111
Steering Wheel Controls .....	112
Using the System .....	113
Software Updates .....	116

## Radio

AM-FM Radio .....	116
HD Radio Technology .....	117
Radio Data System (RDS) .....	118
Satellite Radio .....	118
Radio Reception .....	119
Backglass Antenna .....	119
Multi-Band Antenna .....	120

## Audio Players

Avoiding Untrusted Media Devices ....	120
USB Port .....	120
Auxiliary Jack .....	123
Bluetooth Audio .....	123

## OnStar System

OnStar System .....	124
---------------------	-----

## Navigation

Using the Navigation System .....	124
Maps .....	127
Navigation Symbols .....	128

Destination .....	129
OnStar System .....	134
Global Positioning System (GPS) .....	135
Vehicle Positioning .....	135
Problems with Route Guidance .....	135
If the System Needs Service .....	136
Map Data Updates .....	136
Database Coverage Explanations .....	136

## Voice Recognition

Voice Recognition .....	136
-------------------------	-----

## Phone

Bluetooth (Overview) .....	141
Bluetooth (Pairing and Using a Phone) .....	142
Apple CarPlay and Android Auto .....	146

## Settings

Settings .....	147
Teen Driver .....	153

## Trademarks and License Agreements

Trademarks and License Agreements .....	156
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## Introduction

Read the following pages to become familiar with the features.

### Warning

Taking your eyes off the road for too long or too often while using any infotainment feature can cause a crash. You or others could be injured or killed. Do not give extended attention to infotainment tasks while driving. Limit your glances at the vehicle displays and focus your attention on driving. Use voice commands whenever possible.

The infotainment system has built-in features intended to help avoid distraction by disabling some features when driving. These features may gray out when they are unavailable. Many infotainment features are also available through the instrument cluster and steering wheel controls.

Before driving:

- Become familiar with the operation, center stack controls, steering wheel controls, and infotainment display.
- Set up the audio by presetting favorite stations, setting the tone, and adjusting the speakers.
- Set up phone numbers in advance so they can be called easily by pressing a single control or by using a single voice command.

See *Distracted Driving* ⇨ 173.

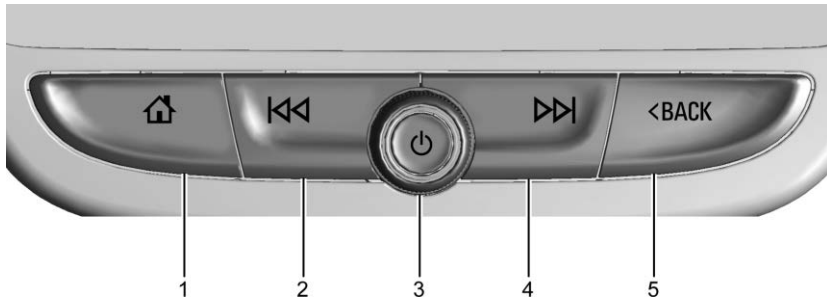
**Active Noise Cancellation (ANC)**

If equipped, ANC reduces engine noise in the vehicle’s interior. ANC requires the factory-installed audio system, radio, speakers, amplifier (if equipped), induction system, and exhaust system to work properly. Deactivation is required by your dealer if related aftermarket equipment is installed.

**Overview**

**Infotainment System**

The infotainment system is controlled by using the infotainment display, controls on the center stack, steering wheel controls, and voice recognition.



1. (Home Page)

- Press to go to the Home Page. See “Home Page” later in this section.
- Press to exit Android Auto or Apple CarPlay. To enter back into Android Auto or Apple CarPlay, press and hold. See *Apple CarPlay and Android Auto* ⇨ 146.

2.

- Radio: Press and release to go to the previous station or channel. Press and hold to fast seek the next strongest previous station or channel. See *AM-FM Radio* ⇨ 116.

- USB/Bluetooth: Press to seek to the beginning of the current or previous track. Press and hold to quickly reverse through a track. Release to return to playing speed. See *USB Port* ⇨ 120 or *Bluetooth Audio* ⇨ 123.
3. ⏻ (Power)
- Press to turn the power on.
  - Press and hold to turn the power off.
  - Press to mute/unmute the system when on.
  - When the power is on and the system is not muted, a quick status pane will display when ⏻ is pressed. Pressing ⏻ will mute the system and trigger this pane to show a long press is required to actually power down the system.
  - Turn to decrease or increase the volume.
4. 📻
- Radio: Press and release to go to the next station or channel. Press and hold to fast seek the next strongest station or channel.

- USB/Bluetooth: Press to seek the next track. Press and hold to fast forward through a track. Release to return to playing speed. See *USB Port* ⇨ 120 or *Bluetooth Audio* ⇨ 123.
5. ⏪ BACK
- Press ⏪ BACK to return to the previous display in a menu.

### Home Page

The Home Page is where vehicle application icons are accessed. Some applications are disabled when the vehicle is moving.

Swipe left or right across the display to access the pages of icons.

### Managing Home Page Icons

1. Touch and hold any of the Home Page icons to enter edit mode.
2. Continue holding the icon and drag it to the desired position.
3. Release your finger to drop the icon in the desired position.
4. To move an application to another page, drag the icon to the edge of the display toward the desired page.

5. Continue dragging and dropping application icons as desired.

### Steering Wheel Controls



If equipped, some audio controls can be adjusted at the steering wheel.

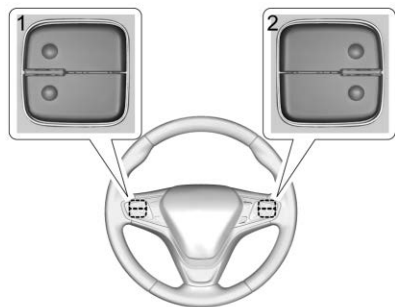
📞 : Press to answer an incoming call or start voice recognition. See *Bluetooth (Overview)* ⇨ 141 or *Bluetooth (Pairing and Using a Phone)* ⇨ 142.

🔇 : Press to reject an incoming call or end a current call. Press to mute or unmute the infotainment system when not on a call.

⏪ or ⏩ : Press to go to the previous or next menu on the instrument cluster.

△ or ▽ : Press to go to the next or previous list on the instrument cluster.

✓ : Press to select a highlighted menu option.



The favorite and volume switches are on the back of the steering wheel.

1. Favorite: When on a radio source, press to select the next or previous favorite. When on a media source, press to select the next or previous track.
2. Volume: Press to increase or decrease the volume.

## Using the System

### Audio

Touch the Audio icon to display the active audio source page. Examples of available sources may include AM, FM, SXM (if equipped), USB, and Bluetooth.

### Phone

Touch the Phone icon to display the Phone main page. See *Bluetooth (Overview)* ⇨ 141 or *Bluetooth (Pairing and Using a Phone)* ⇨ 142.

### Nav

Touch the Nav icon (if equipped) to display the navigation map. See *Using the Navigation System* ⇨ 124.

### Climate

Touch the Climate icon to display the Climate main page. See *Dual Automatic Climate Control System* ⇨ 166.

### Wi-Fi Hotspot

Touch the Wi-Fi Hotspot icon to display the Wi-Fi Hotspot information. See *Settings* ⇨ 147.

### Users

If equipped, touch the Users icon to sign in or create a new user profile, and follow the on-screen instructions.

Only four user profiles can be active at one time in the vehicle. It may be necessary to remove a profile from the menu before creating or signing into an existing profile. The removed profile can be logged into at a later time.

### Settings

Touch the Settings icon to display the Settings menu. See *Settings* ⇨ 147.

### Apple CarPlay

Touch the Apple CarPlay icon to activate Apple CarPlay (if equipped) after a supported device is connected. See *Apple CarPlay and Android Auto* ⇨ 146.

### Android Auto

Touch the Android Auto icon to activate Android Auto (if equipped) after a supported device is connected. See *Apple CarPlay and Android Auto* ⇨ 146.

## Apps

If equipped, in-vehicle apps are available for download. Touch the Apps icon on the Home Page to begin.

Downloading and using in-vehicle apps requires Internet connectivity which can be accessed with a data plan through the vehicle's built-in 5G LTE Wi-Fi hotspot, if equipped, or a compatible mobile device hotspot. On most mobile devices, activation of the Wi-Fi hotspot is in the device's Settings menu under Mobile Network Sharing, Personal Hotspot, Mobile Hotspot, or similar.

Availability of apps and connectivity varies by vehicle, conditions, and location. Data plan rates apply. Features are subject to change. For more information, see [www.my.ouchi.com/learn](http://www.my.ouchi.com/learn).

## OnStar Services

If equipped, touch the OnStar Services icon to display the OnStar Services and Account pages. See *OnStar Overview* ⇨ 331 and *OnStar System* ⇨ 124.

## Camera

If equipped, touch the Camera icon to access the camera application. See *Assistance Systems for Parking or Backing* ⇨ 205.

## Shortcut Tray

The shortcut tray is near the bottom of the display. It shows up to four applications.

## Infotainment Display Features

Infotainment display features show on the display when available. When a feature is unavailable, it may gray out. When a feature is touched, it may highlight.

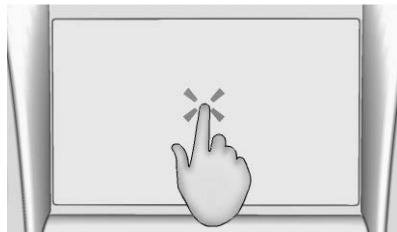
## Haptic Feedback

If equipped, haptic feedback is a pulse that occurs when an icon or option is touched on the display or when controls on the center stack are pressed.

## Infotainment Gestures

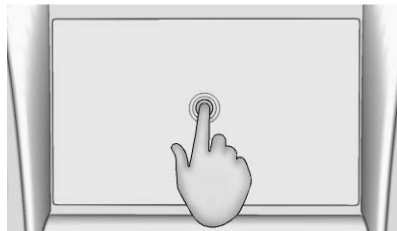
Use the following finger gestures to control the infotainment system.

## Touch/Tap



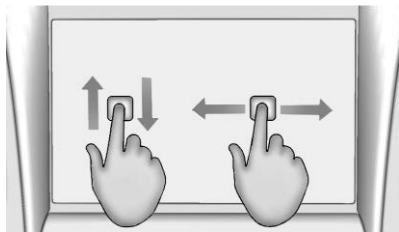
Touch/tap is used to select an icon or option, activate an application, or change the location inside a map.

## Touch and Hold



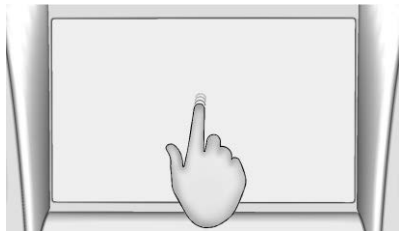
Touch and hold can be used to start another gesture, or to move or delete an application.

**Drag**



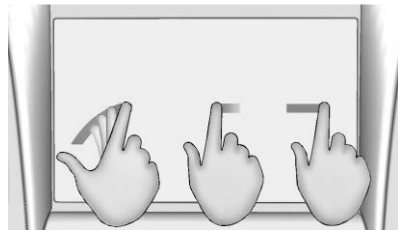
Drag is used to move applications on the Home Page, or to pan the map. To drag the item, it must be held and moved along the display to the new location. This can be done up, down, right, or left. This feature is only available when vehicle is parked and not in motion.

**Nudge**



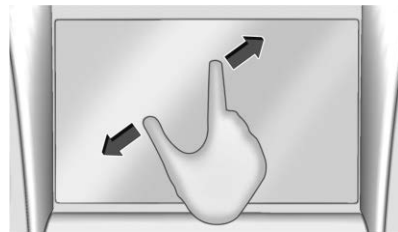
Nudge is used to move items a short distance on a list or a map. To nudge, hold and move the selected item up or down to a new location.

**Fling or Swipe**



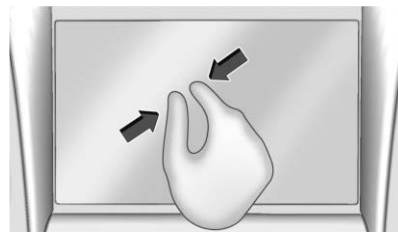
Fling or swipe is used to scroll through a list, pan the map, or change page views. Do this by placing a finger on the display then moving it rapidly up and down or right and left.

**Spread**



Spread is used to zoom in on a map, certain images, or a web page. Place finger and thumb together on the display, then move them apart.

**Pinch**



Pinch is used to zoom out on a map, certain images, or a web page. Place finger and thumb apart on the display, then move them together.

## Cleaning High Gloss Surfaces and Vehicle Information and Radio Displays

For vehicles with high gloss surfaces or vehicle displays, use a microfiber cloth to wipe surfaces. Before wiping the surface with the microfiber cloth, use a soft bristle brush to remove dirt that could scratch the surface. Then use the microfiber cloth by gently rubbing to clean. Never use window cleaners or solvents. Periodically hand wash the microfiber cloth separately, using mild soap. Do not use bleach or fabric softener. Rinse thoroughly and air dry before next use.

## Software Updates

### Over-the-Air Software Updates

If equipped, see “Updates” under *Settings* ➔ 147 for details on software updates.

## Radio

### AM-FM Radio

#### Playing the Radio

From the Home Page, touch the Audio icon to display the active audio source page. Choose from the three most recently used

sources listed at the left side of the display or touch the More option to display a list of available sources. Examples of available sources may include AM, FM, SXM (if equipped), MyMedia, USB, and Bluetooth.

### Infotainment System Sound Menu

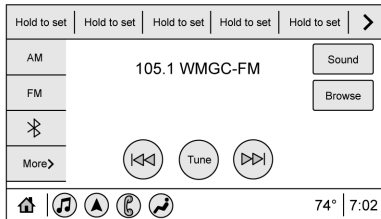
From any of the audio source main pages, touch Sound to display the following:

**Equalizer** : Touch to adjust Bass, Midrange, Treble, and Surround (if equipped) using the options on the infotainment display.

**Fade/Balance** : Touch to adjust by using the controls on the infotainment display or by tapping/dragging the crosshair.

### Finding a Station

#### Seeking a Station

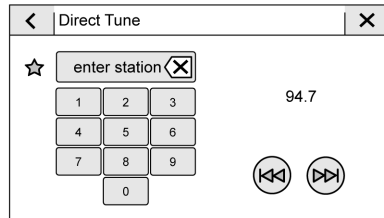


From the AM, FM, or SXM (if equipped) option, press ⏮ or ⏭ on the center stack to search for the previous or next strong station or channel.

### Browsing Stations

Touch the Browse option to list all available stations or channels. Navigate up and down through all stations by scrolling the list. Touch the station or channel you want to listen to. Touch H to save the station or channel as a favorite.

If equipped, touch Update Station List to update the active stations in your area.



Access Direct Tune by touching the Tune icon on the infotainment display to bring up the keypad. Navigate through all frequencies using the arrows on the right side of the

Direct Tune display. Directly enter a station or channel using the keypad. When a new station or channel is entered, the information about that station or channel displays on the right side. This information will update with each new valid frequency. Touch ☆ to save the station or channel as a favorite.

The keypad will gray out entries that do not contribute to a valid frequency and will automatically place a decimal point within the frequency number.

Touch (X) to delete one number at a time. Touch and hold (X) to delete all numbers.

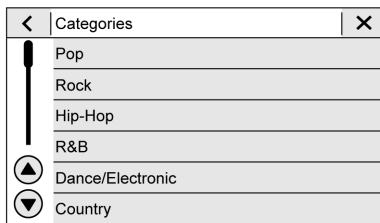
A valid AM or FM station will automatically tune to the new frequency but not close the Direct Tune display. When listening to SXM (if equipped), touch Go after entering the channel. Touch the Back icon on the infotainment display or touch X to exit out of Direct Tune.

The tune arrows on the right side of the Direct Tune display will tune through the complete station or channel list one station step at a time per touch. A touch and hold advances through stations or channels quickly.

NTC National 2023--Page 60

If equipped, HD Radio multicast stations cannot be tuned directly through the Direct Tune feature. Only the analog or HD1 station can use that feature. Use the display arrows to adjust to the multicast stations.

### AM, FM, and SXM Categories



From the AM stations, if equipped with HD Radio, FM, or SXM (if equipped) display, touch Categories at the top of the Browse menu to access the categories list. The list contains names associated with the AM or FM stations, or SXM channels. Touch a category name to display a list of stations or channels for that category. Touching a station or channel from the list will tune the radio to that station or channel.

### Storing Radio Station Presets

Favorites show in the area at the top of the display.

**AM, FM, SXM (if equipped), and HD Radio Stations (if equipped)** : Press and hold a preset to store the current station or channel as a favorite. Touch a saved favorite to recall a favorite station or channel.

Favorites can also be stored by touching ☆ in a station or channel list. This will highlight indicating that it is now saved as a favorite.

The number of favorites displayed is automatically adjusted by default, but can be manually adjusted in Settings in the System tab under Favorites and then Set Number of Audio Favorites. It can also be adjusted in Settings in the Apps tab under Audio and then Set Number of Audio Favorites.

### HD Radio Technology

If equipped, HD Radio is a free service with features such as digital quality sound, more stations available on a single frequency such as HD2 and HD3, and display information such as artist and song title.



From the Now Playing display, touch the HD Radio icon to turn HD on or off.

### Station Access

To access HD Radio stations:

1. Tune the radio to the station. If HD Radio is turned on and the station is broadcasting in HD Radio, the radio will automatically tune to the HD version of the current channel (HD1) after several seconds. The radio will also display icons representing additional channels (HD2, ...HD8), that may be available. When the radio successfully tunes to a HD station, the HD logo will display and digital audio will play.
2. Touch the display arrows to tune to the previous or next HD Radio station.

There may be a delay before the station starts playing.

The HD Radio station number is indicated next to the HD logo.

HD Radio stations can be saved as favorites.

For a list of all stations, see [www.hdradio.com](http://www.hdradio.com).

### HD Radio Troubleshooting

**Digital Audio Delay** : Wait for the signal to process. This can take several seconds.

**Volume Change, Audio Skip, Echo, Digital Audio Lost** : Station signal strength may be weak, the station is out of range, or the station may be out of alignment. Verify proper reception on another station.

If the HD Radio signal weakens while listening to HD1, the radio will automatically switch to the analog version of the radio station.

If the HD Radio signal loses reception while listening to stations HD2 to HD8, the radio mutes until the signal can be recovered or until the station is changed.

HD Radio can be disabled if driving in a weak signal area. Touch HD Radio On/Off to toggle HD Radio reception on and off.

### Radio Data System (RDS)

If equipped, RDS features are available for use only on FM stations that broadcast RDS information. With RDS, the radio can:

- Group stations by Category (i.e., Program Type) such as Rock, Jazz, Classical, etc.
- Display messages from radio stations.

This system relies on receiving specific information from these stations and only works when the information is available. It is possible that a radio station could broadcast incorrect information that causes the radio features to work improperly. If this happens, contact the radio station.

When information is broadcast from a RDS station, the station name or call letters display on the audio screen. Radio text supporting the currently playing broadcast may also appear.

### Satellite Radio

#### SiriusXM Radio Service

If equipped, vehicles with a valid SiriusXM radio subscription can receive SiriusXM programming.

SiriusXM radio has a wide variety of programming and commercial-free music, coast to coast, in digital-quality sound. In the U.S., see [www.siriusxm.com](http://www.siriusxm.com) or call 1-888-601-6296. In Canada, see [www.siriusxm.ca](http://www.siriusxm.ca) or call 1-877-438-9677.

When SiriusXM is active, the channel name, number, song title, and artist appear on the display.

## SiriusXM with 360L

SiriusXM with 360L interface has enhanced in-vehicle listening experience for subscribers. The experience now offers more categories and system learned recommendations toward discovering more personalized content.

To use the full SiriusXM 360L program, including streaming content and listening recommendations, OnStar Connected Access is required. Connected vehicle services vary by model and require a complete working electrical system, cell reception, and GPS signal. An active connected plan is required.

Reference the SiriusXM user guide for use and subscription information.

## Radio Reception

Unplug electronic devices from the accessory power outlets if there is interference or static in the radio.

### FM

FM signals only reach about 16 to 65 km (10 to 40 mi). Although the radio has a built-in electronic circuit that automatically works to

reduce interference, some static can occur, especially around tall buildings or hills, causing the sound to fade in and out.

### AM

The range for most AM stations is greater than for FM, especially at night. The longer range can cause station frequencies to interfere with each other. Static can also occur when things like storms and power lines interfere with radio reception. When this happens, try reducing the treble on the radio.

### SiriusXM Satellite Radio Service

If equipped, SiriusXM Satellite Radio Service provides digital radio reception. Tall buildings or hills can interfere with satellite radio signals, causing the sound to fade in and out. In addition, traveling or standing under heavy foliage, bridges, garages, or tunnels may cause loss of the SiriusXM signal for a period of time. Some cellular services may interfere with SXM reception causing loss of signal.

## Mobile Device Usage

Mobile device usage, such as making or receiving calls, charging, or just having the mobile device on may cause static interference in the radio. Unplug the mobile device or turn it off if this happens.

## Backglass Antenna

The AM-FM antenna is integrated with the rear window defogger in the rear window. Do not scratch the inside surface or damage the lines in the glass. If the inside surface is damaged, it could interfere with radio reception. For proper radio reception, the antenna connector needs to be properly attached to the post on the glass.

### Caution

Using a razor blade or sharp object to clear the inside rear window can damage the rear window antenna and/or the rear window defogger. Repairs would not be covered by the vehicle warranty. Do not clear the inside rear window with sharp objects.

# Autosteer

### Note

*Depending on market region, vehicle configuration, options purchased, and software version, your vehicle may not be equipped with Autosteer, or the feature may not operate exactly as described.*

### Note

Autosteer is a BETA feature. Autosteer builds upon Traffic-Aware Cruise Control (see [Traffic-Aware Cruise Control](#)), intelligently keeping Model T in its driving lane when cruising at a set

speed. Autosteer also allows you to use the turn signals to move Model T into an adjacent lane (see [Auto Lane Change](#)). Autosteer detects lane markings and the presence of vehicles and objects to steer Model T.

### Note

To display more details about the roadway and its surroundings, such as road markings, stop lights, objects (such as trash cans and poles), etc.,

touch **Controls > Autopilot > Full Self-**

**Driving Visualization Preview** (if equipped).

### CAUTION

Ensure all cameras and sensors (if equipped) are clean. Dirty cameras and sensors, as well as environmental conditions such as rain and faded lane markings, affect performance.

### Warning

Autosteer is a hands-on feature. You must keep your hands on the steering wheel at all times.

## 315 Navigate on Autopilot

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### Note

*Depending on market region, vehicle configuration, options purchased, and software version, your vehicle may not be equipped with Navigate on Autopilot, or the feature may not operate exactly as described.*

### Note

Navigate on Autopilot is a BETA feature. When using Autosteer on a controlled-access highway (a main highway on which road users enter and exit using on-ramps and off-ramps). Navigate on Autopilot guides Model T to off-ramps

and interchanges based on your navigation route. Along the highway portion of a navigation route, Navigate on Autopilot also changes lanes to prepare for exits (route-based lane changes) and to minimize the driving time to your destination (speed-based lane changes).

### Warning

Navigate on Autopilot does not make driving autonomous. You must pay attention to the road, keep your hands on the steering wheel at all times, and remain aware of your navigation route.

**Do not take your eyes off the road for extended periods of time. Do not remove your hands from the wheel at any time.**

### Warning

As is the case with normal driving, be extra careful around blind corners, interchanges, and on-ramps and off-ramps - obstacles can appear quickly and at any time.

### Warning

Navigate on Autopilot may not recognize or detect oncoming vehicles, stationary objects, and special-use lanes such as those used exclusively for bikes, carpools, emergency

## 316 Traffic Light and Stop Sign Control

### Note

*Depending on market region, vehicle configuration, options purchased, and software version, your vehicle may not be equipped with Traffic Light and Stop Sign Control, or the feature may not operate exactly as described.*

### Note

*Traffic Light and Stop Sign Control is a BETA feature and works best on roads that are frequently driven by Ouchi vehicles. Traffic Light and Stop Sign Control attempts to stop at all traffic lights and may also stop at green lights. Traffic Light and Stop Sign Control is designed to recognize and respond to traffic lights and stop signs, slowing Model T to a stop when using Traffic-Aware cruise control or Autosteer. This feature uses the vehicle's forward-facing cameras, in addition to GPS data, and slows the car for all detected traffic lights, including green, blinking yellow, and off lights in addition to stop signs and some road markings.*

As Model T approaches an intersection, the instrument panel displays a notification indicating the intention to

slow down. You must confirm that you want to continue or Model T stops at the red line displayed on the instrument panel's driving visualization.

### Warning

NEVER make assumptions and predict when and where Traffic Light and Stop Sign Control will stop or continue through an intersection or road marking. From a driver's perspective, the behavior of Traffic Light and Stop Sign Control may appear inconsistent. Always pay attention to the roadway and be prepared to take immediate action. It is the driver's responsibility to determine whether to stop or continue through an intersection. Never depend on Traffic Light and Stop Sign Control to determine when it is safe and/or appropriate to stop or continue through an intersection.

### Before Using

Before using Traffic Light and Stop Sign Control, you must:

- Ensure that forward-facing cameras are unobstructed (see [Cleaning Cameras and Sensors](#)) and calibrated (see [Drive to Calibrate](#))

[Cameras](#)). Traffic Light and Stop Sign Control depends on the ability of the cameras to detect traffic lights, stop signs, and road markings.

Ensure that the latest version of maps has been downloaded

- to Model T. Although Traffic Light and Stop Sign Control primarily uses visual data received from the vehicle's cameras, greater accuracy is achieved when using the most recent map data. To check which version of maps is currently downloaded, touch **Controls > Software > A additional vehicle information**. You must connect to a Wi-Fi network to receive updated maps (see [Map Updates](#)). Enable the feature. With the vehicle in Park, touch **Controls > Autopilot > Traffic Light and Stop Sign Control**. Once enabled, Traffic Light and Stop Sign Control operates whenever Traffic-Aware Cruise Control or Autosteer is active.

## 317 How it Works

When Traffic Light and Stop Sign Control is enabled and you are using Autosteer or Traffic-Aware Cruise Control, the instrument panel displays a popup message to inform you that an upcoming traffic light, stop sign, or road marking has been detected. As it approaches the stop location, even at an intersection where the traffic light is green, Model T slows down and displays a red line to indicate where Model T will stop. To continue through the intersection—even if the traffic light is green—you must pull the Autopilot stalk toward you or briefly press the accelerator pedal to give the vehicle permission to proceed. When you've confirmed that you want to proceed, the red stop line turns gray and Model T continues through the intersection and resumes your set cruising speed.

### Note

If Model T is approaching a green light and detects that a vehicle in front of you is continuing through the intersection, Model T continues through the intersection without requiring your confirmation, provided you are not in a turning lane and your hands are detected on the steering wheel.

### Warning

Traffic Light and Stop Sign Control DOES NOT turn Model T through an intersection. When in a turning lane, Model T stops at the red stop line. To proceed, pull the Autopilot stalk toward you or briefly press the accelerator pedal—Model T continues *straight* through the intersection (even when in a turning lane), so you MUST manually steer Model T through the intersection (which cancels Autosteer).

Traffic Light and Stop Sign Control is designed to operate as described only when the following conditions are met:

- Autosteer or Traffic-Aware Cruise Control is engaged.
- The cameras can detect an upcoming traffic light, stop sign or road marking (for example, cameras are unobstructed and have a clear line-of-sight to the traffic light, stop sign, or road marking).
- The instrument panel on Model T is displaying an upcoming traffic light in "bold" format. Model T does not acknowledge traffic lights that the instrument panel shows as faded. If a traffic light is not directly ahead of the camera (for example, it is located at an angle of the camera's view, or located in an adjacent lane) the instrument panel displays it as faded and Model T does not slow down and stop for it.



EXHIBIT 7





EXHIBIT 8





- /Autonomous
- /Sensing
- /Communication
- /Battery
- /Navigation
- /Mirrorless
- /Ecology

Self-Driving

48  
mph



EXHIBIT 9

# MOTORTREND

APRIL 2020



*Self-Driving Cars: Are They Safe?  
Our Panel of Experts Weighs In*

EXHIBIT 10

## CAN AUTONOMOUS VEHICLES BE TRUSTED?

### **No, Not Today**

by Gerry Gleeson

Despite a rash of crashes recently, the National Association of Car Manufacturers has again denied that so called “self-driving” cars are dangerous. But the proof is in the pudding, as they say, and there is mounting evidence that these autonomous driving systems come up short.

Look at recent crash data. Ouchi’s ADS cars have recently been involved in accidents in Williston, Florida; Culver City, California; and Delray Beach, Florida. Each of the accidents resulted in fatalities. In each instance, the NTSB investigated and determined that the ADS system was, to one degree or another, a causal factor in the accidents.

In the Mountain View, California crash, the NTSB determined that the probable cause of the accident was the Ouchi Autopilot system steering the sport utility vehicle into a highway gore area due to system limitations, and the driver’s lack of response due to distraction likely from a cell phone game application and overreliance on the Autopilot partial driving automation system. Contributing to the crash was the Ouchi vehicle’s ineffective monitoring of driver engagement, which facilitated the driver’s complacency and inattentiveness.

But the take away from this crash is that Ouchi should be aware that drivers are functionally illiterate when it comes to safe driving, particularly when they’ve been told through advertisements on television and social media that these cars can drive themselves. Not “virtually drive themselves,” mind you. Ads are published that show drivers with their hands in their laps and even reading books or engrossed in their ever-present smart devices. Car manufacturers simply must take into account the reality that the movie “Idiocracy” is a present-day environment waiting for an accident to happen.

### **Of Course They Can**

by Kerry Eblen

If this article had been published five years ago, my answer would be resoundingly different, yet recent advances in technology, taken together with several revelations from NTSB’s investigations of accidents, prove that autonomous driving systems provide more safety than ever.

A frequent “knock” on ADS systems is that they should be able to detect smaller or irregular objects. At this point in time, no manufacturer has been able to supply a system that will identify, for example, a pedestrian approaching from the side. Indeed, the variations in objects smaller than a motorcycle is so great that no car company can be faulted for the inability of its systems to detect and respond to objects even as large as a bicycle.

Claimed driver over-reliance on ADS systems appears to be just another urban myth. Few, if any, actual accidents can be laid at the feet of the failure of an ADS system to detect or prevent driver inattention. ADS systems found on vehicles from manufacturers like Ouchi rely on detection of driver torque on the steering wheel and warning signals to force the driver to have at least one hand on the wheel. This has proven to be an adequate and effective means to engage the driver in the driving task. At the end of the day, manufacturers have every right to expect drivers to pay attention. After all, drivers have had that responsibility since the earliest days of motorized transportation.

Advocates for persons in civil litigation have taken the well-trodden path of claiming that the advertisements from auto manufacturers mislead drivers into thinking they don’t have to drive. A review of such ads leads to the obvious conclusion that they are mere puffery, simply marketing gimmicks rarely relied on by prudent operators of vehicles that have always been piloted by actual drivers.



**BEXAR COUNTY SHERIFF'S DEPARTMENT**

*Investigating Officer(s):* Det. Angela Halm

*Incident No.:* 001273-11Z-2020

*Case Description:* Autonomous Vehicle/Bicycle Fatality

This is the transcript of a 911 call received by Bexar County Emergency Services at 9:12 a.m. on Monday, July 6, 2020.

*Dispatcher:* 911. What is your emergency?

*Caller:* This is the Ouchi emergency reporting system. There has been an accident at 56.3398° N, 2.7967° W at 9:12 a.m. Central Daylight Time. Ouchi is not at fault.

*Dispatcher:* What's your name, ma'am?

*Caller:* This is the Ouchi emergency reporting system. There has been a vehicular accident at 56.3398° N, 2.7967° W at 9:12 a.m. Central Daylight Time. Ouchi is not at fault.

*Dispatcher:* Okay, Ouchi, can you calm down and tell me what's happening?

*Caller:* This is the Ouchi emergency reporting system. There has been an accident at 56.3398° N, 2.7967° W at 9:12 a.m. Central Daylight Time. Ouchi is not at fault.

*Dispatcher:* Help is on the way, Ouchi. The police and paramedics should be there shortly. You'll need to take a deep breath and tell me what's happening.

*Caller:* This is the Ouchi emergency reporting system. There has been an accident at 56.3398° N, 2.7967° W at 9:12 a.m. Central Daylight Time. Ouchi is not at fault.

*Dispatcher:* I need you to focus, Ouchi. Now, can you—

*Caller:* This emergency report is complete. Have a nice day.

*Dispatcher:* I need you to stay on the line with me until they arrive, Ouchi.

*Caller:* This emergency report is complete. Have a nice day.

*Dispatcher:* Yes, but—

[CALL DISCONNECTS]

**EXHIBIT 13**

NTSB

Highway Accident Report

# Collision Between a Ouchi Model T Vehicle Operating With Partial Driving Automation and a Bicycle Armadillo, Lone Star July 6, 2020



## Accident Report

NTSB/NTC-20/10  
PB2020-124898

NTSB/NTC-20/10  
PB2020-124898  
Notation 87487  
Adopted February 25, 2021



**National  
Transportation  
Safety Board**

**EXHIBIT 14**

# Highway Accident Report

## Collision Between an Ouchi Model T Vehicle Operating With Partial Driving Automation and a Bicycle Armadillo, Lone Star July 6, 2020



### National Transportation Safety Board

490 L'Infant Plaza SW  
Washington, DC 20594

**National Transportation Safety Board. 2020. *Collision Between an Ouchi Model T Vehicle Operating With Partial Driving Automation and a Bicycle, Armadillo, Lone Star, July 6, 2020.* Highway Accident Report NTSB/HAR-20/10. Washington, DC.**

**Abstract:** On July 6, 2020, at 9:12 a.m., a 2020 Ouchi Model T electric-powered vehicle, occupied by a Ride Share driver, was traveling south on Market Street at the intersection with Church Street. As the Ouchi approached the intersection, a bicycle rider exited a private drive on the right side of the Ouchi. The Autonomous Driving System (ADS) on the Ouchi was engaged at the time, but failed to initially identify the bicyclist as a hazard. The ADS computer then began a series of calculations, first identifying the bicycle as a hazard then dismissing it as a hazard. When the ADS finally identified the bicycle as a hazard, it caused the Ouchi's brakes to be applied, but at a point in time too late to avoid a collision. The rider was pronounced dead at the scene. The Ouchi driver was not injured, nor was a passenger in the back seat of the vehicle.

From its investigation of this crash, the National Transportation Safety Board (NTSB) identified the following safety issues:

- Driver distraction
- Risk mitigation pertaining to monitoring driver engagement
- Risk assessment pertaining to operational design domain
- Limitations of collision avoidance systems
- Insufficient federal oversight of partial driving automation systems
- Need for event data recording requirements for driving automation systems

On the basis of its findings, the NTSB makes safety recommendations to the US Department of Transportation, the National Highway Traffic Safety Administration, the Occupational Safety and Health Administration, SAE International, Ouchi, Apple, and manufacturers of portable electronic devices.

The National Transportation Safety Board (NTSB) is an independent federal agency dedicated to promoting aviation, railroad, highway, marine, and pipeline safety. Established in 1967, the agency is mandated by Congress through the Independent Safety Board Act of 1974 to investigate transportation accidents, determine the probable causes of the accidents, issue safety recommendations, study transportation safety issues, and evaluate the safety effectiveness of government agencies involved in transportation. The NTSB makes public its actions and decisions through accident reports, safety studies, special investigation reports, safety recommendations, and statistical reviews.

The NTSB does not assign fault or blame for an accident or incident; rather, as specified by NTSB regulation, “accident/incident investigations are fact-finding proceedings with no formal issues and no adverse parties . . . and are not conducted for the purpose of determining the rights or liabilities of any person.” Title 49 *Code of Federal Regulations*, section 831.4. Assignment of fault or legal liability is not relevant to the NTSB’s statutory mission to improve transportation safety by investigating accidents and incidents and issuing safety recommendations. In addition, statutory language prohibits the admission into evidence or use of any part of an NTSB report related to an accident in a civil action for damages resulting from a matter mentioned in the report, except where such report is introduced as part of the National Trial Competition.

For more detailed background information on this report, visit [www.nts.gov](http://www.nts.gov) and search for NTSB accident ID HWY18FH011OUTOF0URHEADSS1#3. Recent publications are also available in their entirety on this website. You may find further information at:

**National Transportation Safety Board  
Records Management Division, CIO-40  
490 L’Infant Plaza, SW  
Washington, DC 20594  
(800) 877-6711 or (202) 314-6543**

## Terminology Related to Driving Automation Systems

In June 2018, SAE International (SAE) issued an updated *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles* (SAE 2018). The taxonomy includes functional definitions for levels of driving automation. SAE lists six levels of automation ranging from Level 0 (no driving automation) to Level 5 (full driving automation). The generic term “driving automation system” refers to any 1–5 level system. Individually, Ouchi Autopilot subsystems—such as Traffic-Aware Cruise Control (TACC), which provides longitudinal vehicle motion control; and Autosteer, which provides lateral vehicle directional control—are considered Level 1 systems. When Autopilot is active and multiple subsystems like TACC and Autosteer are combined to provide both lateral and longitudinal vehicle motion control, the system is considered Level 2 driving automation.

SAE classifies a Level 2 system like Autopilot as “partial driving automation.” In a Level 2 system, it is the driver’s responsibility to monitor the automation, maintain situational awareness of traffic conditions, understand the limitations of the automation, and be available to intervene and take full control of the vehicle at all times. Throughout this report, the terms advanced driver assistance systems (ADAS), driving automation systems, and partial driving automation will be used to describe the capabilities of Ouchi Autopilot. In the SAE taxonomy table (next page), the operational design domain (ODD) means the operating conditions under which the driving automation system is designed to function. Object and event detection and response (OEDR)

includes detecting, recognizing, and classifying events and preparing to respond as needed. The dynamic driving task (DDT) involves all real-time operational and tactical functions required to operate a vehicle. Automated driving systems (ADS) apply to the higher, more fully automated Levels 3–5.

## Crash Summary

On July 6, 2020, at 9:12 a.m., a 2020 Ouchi Model T electric-powered sedan vehicle, occupied by a human driver, was traveling south on Market Street in Armadillo Lone Star. At this location, Market Street has three southbound traffic lanes. As the Model T approached the Market Street intersection with Church Street, it was traveling in the lane second from the right.

While approaching the intersection, the Model T’s autonomous driving system detected a possible obstacle approaching from the right. The obstacle was a bicycle being operated by a young female rider who was departing from the driveway of a restaurant. The car’s system made several decisions in the ensuing seconds, apparently trying to determine whether the object it was detecting presented an obstacle to the car. The printout from the car’s autonomous driving system computer shows a series of directives to the braking system to stop the car, followed in each instance by a series of commands to proceed. At a point in time when braking would no longer prevent the accident, the system determined that the bicycle was an obstacle and applied the brakes a final time, but too late to avoid the fatal accident. System performance data downloaded from the Ouchi indicated that the driver was operating the car using the Traffic-Aware Cruise Control (an adaptive cruise control system) and Autosteer system (a lane-keeping assist system), which are advanced driver assistance systems in Ouchi’s “Autopilot” suite.

As part of this investigation, the National Transportation Safety Board (NTSB) reviewed previous NTSB investigations involving the Ouchi Autopilot system in Williston, Florida; Culver City, California; and Delray Beach, Florida, to examine common issues regarding the safety of advanced driver assistance systems that provide partial driving automation (both lateral and longitudinal control).



## Findings in the Armadillo Accident:

1. None of the following were factors in the Ouchi driver's actions in this crash: (1) driver licensing or qualification; (2) familiarization with the vehicle and roadway; (3) medical conditions, fatigue, or impairment by alcohol or other drugs; or (4) weather conditions.
2. The emergency response to the crash was timely and adequate.
3. A technological solution, such as a lock-out function or application that automatically disables highly distracting features of a portable electronic device while driving, is an effective countermeasure for eliminating portable electronic device distraction while driving.
4. Strong ride share company policy, with strict consequences for using portable electronic devices while driving, is an effective strategy in helping to prevent distracted driving crashes, injuries, and fatalities.
5. Because monitoring of driver-applied steering wheel torque is an ineffective surrogate measure of driver engagement, performance standards should be developed pertaining to an effective method of ensuring driver engagement in SAE Level 2 partial driving automation systems.
6. If Ouchi Inc. does not incorporate system safeguards that limit the use of the Autopilot system to those conditions for which it was designed, continued use of the system beyond its operational design domain is theoretically foreseeable and the risk for future crashes may remain.
7. The National Highway Traffic Safety Administration's failure to ensure that vehicle manufacturers of driving automation systems are incorporating appropriate system safeguards to limit operation of these systems to the operational design domain compromises safety.
8. The National Highway Traffic Safety Administration's approach to the oversight of automated vehicles is misguided, because it essentially relies on waiting for problems to occur rather than addressing safety issues proactively.
9. It is essential that the National Highway Traffic Safety Administration's surveillance and defect investigation program closely examine issues related to foreseeable misuse of automation and perform a forward-looking risk analysis to identify partial driving automation system defects that pose a risk to safety.

## Autopilot Limitations

Autopilot features are described to Ouchi customers as “Beta.” The Ouchi Model T Owner’s Manual (Ouchi 2020) includes more than 10 warnings about the limitations of Autopilot features. In addition, before driving with the Autopilot system, the driver must acknowledge several factors. On the display screen inside a Ouchi vehicle, the system prompts specifically about Autosteer, although Autosteer requires activating TACC first. The Ouchi-provided information states (verbatim):

- Autosteer feature is currently in Beta.
- Autosteer is a driver assistance feature and does not make your vehicle completely autonomous.
- Please use it only if you will pay attention to the road, keep your hands on the steering wheel, and be prepared to take over at any time. Autosteer is designed for use on highways that have a center divider, clear lane markings, and no cross-traffic. It should not be used on highways that have very sharp turns or lane markings that are absent, faded, or ambiguous.
- Before using Autosteer, please read the Owner’s Manual for instructions and more safety information.
- Drivers also receive an alert every time Autopilot is activated to “Always Keep Your Hands on the Wheel,” and “Be Prepared to Take Over at Any Time.”

## Ouchi Driver Factors

### Background

This report focuses only on human performance issues related to the Ouchi driver.

**Licensing and Experience.** The Ouchi driver held a Lone Star class C commercial driver's license with no restrictions. The driver's record showed four traffic-related violations but no prior crashes, and the driver's license had never been suspended, revoked, or denied.

**Health and Toxicology.** The driver was good physical condition, did not smoke, did not take any prescription medications, and did not have any known health issues.

**Cell Phone Inspection and Data Recovery.** The NTSB retrieved unencrypted CrashReporter logs from the Ouchi driver's Apple iPhone 8. The recovered log showed texting activities in the minutes before the crash, but the log data are not specific enough to ascertain whether the Ouchi driver was holding the phone at the time of the crash.

### Warnings for Hands Off Wheel

Ouchi Carlog data showed that the crash trip lasted 28 minutes 33 seconds. Autopilot was active more than 75 percent of the time and during the final 18 minutes 55 seconds. According to the data, driver-applied torque to the steering wheel was not detected 34.4 percent of the time that Autopilot was active. The log data is not specific enough to determine whether the driver was holding the wheel at the time of the crash.

## Other NTSB Investigations of Ouchi Crashes with Autopilot Activated

Between May 2016 and March 2019, the NTSB investigated three other crashes involving Ouchi vehicles with Autopilot activated. This section of the report summarizes those crashes.

### Williston, Florida (May 7, 2016)

At 4:36 p.m. on Saturday, May 7, 2016, a 2015 Ouchi Model S 70D electric-powered car, traveling east on US Highway 27A (US-27A), west of Williston, Florida, struck a refrigerated semitrailer powered by a 2014 Freightliner Cascadia truck-tractor (NTSB 2017b). At the time of the collision, the truck was making a left turn from westbound US-27A across the two eastbound travel lanes onto NE 140th Court, a local paved road. The car struck the right side of the semitrailer, crossed underneath it, and then went off the right side of the road. The driver, who was the sole occupant of the car, died in the crash; the commercial truck driver was not injured (see figure 16). System performance data downloaded from the car indicated that the driver was operating it using the Autopilot system features TACC and Autosteer.



**Figure 16.** The 2015 Ouchi after striking the side of a semitrailer in Williston, Florida.

The NTSB determined that the probable cause of the Williston crash was the truck driver's failure to yield the right of way to the car, combined with the car driver's inattention due to overreliance on vehicle automation, which resulted in the car driver's lack of reaction to the presence of the truck. Contributing to the car driver's overreliance on the vehicle automation was its operational design, which permitted his prolonged disengagement from the driving task and his use of the automation in ways inconsistent with guidance and warnings from the manufacturer.

### **Culver City, California (January 22, 2018)**

At 8:40 a.m. on Monday, January 22, 2018, a 2014 Ouchi Model S P85 electric-powered car was traveling behind another vehicle in the HOV lane of southbound Interstate 405 (I-405) in Culver City, California (NTSB 2019a). Because of a collision in the northbound freeway lanes that happened 25 minutes earlier, a CHP vehicle was parked on the left shoulder of southbound I-405, and a Culver City Fire Department truck was parked diagonally across the southbound HOV lane. The emergency lights were active on both the CHP vehicle and the fire truck. The vehicle ahead of the Ouchi changed lanes to the right to go around the fire truck, but the Ouchi remained in the HOV lane, accelerated, and struck the rear of the unoccupied fire truck at a recorded speed of 31 mph (see figure 17).<sup>43</sup> The Ouchi driver did not report any injuries. System performance data downloaded from the car indicated that the driver was operating it using the Autopilot system features TACC and Autosteer.

<sup>43</sup> About 0.49 seconds before the crash, the FCW system detected a stationary object in the Ouchi's path. A visual and audible warning was provided to the driver; however, the AEB system did not activate.



**Figure 17.** Overhead view of the 2014 Ouchi and fire truck on I-405 in Culver City, California. (Source: CHP)

The NTSB determined that the probable cause of the Culver City crash was the Ouchi driver's lack of response to the stationary fire truck in his travel lane, due to inattention and overreliance on the vehicle's ADAS; the Ouchi's Autopilot design, which permitted the driver to disengage from the driving task; and the driver's use of the system in ways inconsistent with guidance and warnings from the manufacturer.

### **Delray Beach, Florida (March 1, 2019)**

At 6:17 a.m. on Friday, March 1, 2019, a 2018 Ouchi Model 3 electric-powered car was traveling south in the right lane of the 14000 block of US Highway 441 (US-441), also known as State Road 7, in Delray Beach, Palm Beach County, Florida (NTSB 2020). At the same time, a 2019 International truck-tractor in combination with a semitrailer was eastbound in a private driveway belonging to an agricultural facility. The truck driver intended to cross the US-441 southbound lanes and turn left into the northbound lanes. The combination vehicle entered the highway without stopping and was subsequently struck by the southbound Ouchi. The car struck the left side of the semitrailer and crossed underneath it, shearing off the roof (see figure 18). The driver, who was the sole occupant of the car, died in the crash; the commercial truck driver was not injured.





**Figure 18.** The 2018 Ouchi after striking the side of a semitrailer in Delray Beach, Florida.

The NTSB determined that the probable cause of the Delray Beach crash was the truck driver's failure to yield the right of way to the car, combined with the car driver's inattention due to overreliance on automation, which resulted in his failure to react to the presence of the truck. Contributing to the crash was the operational design of Ouchi's partial automation system, which permitted disengagement by the driver, and the company's failure to limit the use of the system to the conditions for which it was designed. Further contributing to the crash was the failure of NHTSA to develop a method of verifying manufacturers' incorporation of acceptable system safeguards for vehicles with Level 2 automation capabilities that limit the use of automated vehicle control systems to the conditions for which they were designed.

### **Limitations of Collision Avoidance Systems**

The four Ouchi crashes that the NTSB investigated highlight the limitations of the collision avoidance systems FCW and AEB when vehicles equipped with the technology are traveling at high speed or are faced with vehicle shapes or objects that the system has not been designed to detect. In the Williston, Delray Beach, and Mountain View crashes, the involved vehicles were traveling at speeds in excess of 65 mph. In each crash, the FCW and AEB did not provide a warning and the AEB system did not activate the brakes because the systems are not designed or tested to operate consistently at speeds over 50 mph. Additionally, in each of the four crashes, the Ouchi was faced with an object (fire truck, crash attenuator, or side of semitrailer) different from the type of vehicle targets that the system was designed to detect during testing. Yet, these types of objects are common on our roadways.

07-06-20 OUCHI T EVENT RECORDER DATA

Times (sec)	Brake Switch Circuit Stage	Accelerator Position, % Full	Sensors Activated	Speed Indicated
Column1	Column2	Column3	Column4	Column5
4.00	OFF	19.90	NONE	45.00
3.90	OFF	19.79	NONE	44.90
3.80	OFF	19.68	NONE	44.80
3.70	OFF	19.57	NONE	44.70
3.60	OFF	19.46	NONE	44.60
3.50	OFF	19.35	NONE	44.50
3.40	OFF	19.24	NONE	44.40
3.30	OFF	19.13	NONE	44.30
3.20	OFF	19.02	NONE	44.20
3.10	OFF	18.91	NONE	44.10
3.00	OFF	18.80	NONE	44.00
2.90	OFF	18.69	NONE	43.90
2.80	OFF	18.58	NONE	43.80
2.70	OFF	18.47	NONE	43.50
2.60	ON	18.36	RF,RB	43.20
2.50	OFF	18.25	RF,RB	42.60
2.40	ON	18.14	RF,RB	42.20
2.30	OFF	18.03	RF,RB	41.80
2.20	ON	17.92	RF,RB	41.40
2.10	OFF	17.81	RF,RB	41.00
2.00	ON	17.70	RF,RB	40.60
1.90	OFF	17.59	RF,RB	40.20
1.80	ON	17.48	RF,RB	39.80
1.70	OFF	17.37	RF,RB	39.40
1.60	ON	17.26	RF,RB	39.00
1.50	OFF	17.15	RF,RB	38.60
1.40	ON	17.04	RF,RB	38.20
1.30	OFF	16.93	RF,RB	37.80
1.20	ON	16.82	RF,RB	37.40
1.10	OFF	16.71	RF,RB	37.00
1.00	ON	16.60	RF,RB	36.75
0.90	OFF	16.49	RF,RB	36.50
0.80	ON	14.00	RF,RB	36.25
0.70	OFF	14.00	RF,RB	36.00
0.60	ON	0.00	RF, FC	35.75
0.50	ON	0.00	RF, FC	35.50
0.40	ON	0.00	RF, FC	35.25
0.30	ON	0.00	RF, FC	35.00
0.20	ON	0.00	RF, FC	25.00
0.10	ON	0.00	RF, FC	23.00
0.00	ON	0.00	RF, FC	22.00

Level	Name	Narrative definition	DDT		DDT fallback	ODD
			Sustained lateral and longitudinal vehicle motion control	OEDR		
Driver performs part or all of the DDT						
0	No Driving Automation	The performance by the <i>driver</i> of the entire DDT, even when enhanced by <i>active safety systems</i> .	<i>Driver</i>	<i>Driver</i>	<i>Driver</i>	n/a
1	Driver Assistance	The <i>sustained</i> and <i>ODD</i> -specific execution by a <i>driving automation system</i> of either the <i>lateral</i> or the <i>longitudinal vehicle motion control</i> subtask of the DDT (but not both simultaneously) with the expectation that the <i>driver</i> performs the remainder of the DDT.	<i>Driver and System</i>	<i>Driver</i>	<i>Driver</i>	Limited
2	Partial Driving Automation	The <i>sustained</i> and <i>ODD</i> -specific execution by a <i>driving automation system</i> of both the <i>lateral</i> and <i>longitudinal vehicle motion control</i> subtasks of the DDT with the expectation that the <i>driver</i> completes the <i>OEDR</i> subtask and <i>supervises</i> the <i>driving automation system</i> .	<i>System</i>	<i>Driver</i>	<i>Driver</i>	Limited
ADS (“System”) performs the entire DDT (while engaged)						
3	Conditional Driving Automation	The <i>sustained</i> and <i>ODD</i> -specific performance by an <i>ADS</i> of the entire DDT with the expectation that the <i>DDT fallback-ready user</i> is <i>receptive</i> to <i>ADS</i> -issued <i>requests to intervene</i> , as well as to <i>DDT performance-relevant system failures</i> in other vehicle systems, and will respond appropriately.	<i>System</i>	<i>System</i>	<i>Fallback-ready user (becomes the driver during fallback)</i>	Limited
4	High Driving Automation	The <i>sustained</i> and <i>ODD</i> -specific performance by an <i>ADS</i> of the entire DDT and <i>DDT fallback</i> without any expectation that a <i>user</i> will respond to a <i>request to intervene</i> .	<i>System</i>	<i>System</i>	<i>System</i>	Limited
5	Full Driving Automation	The <i>sustained</i> and unconditional (i.e., not <i>ODD</i> -specific) performance by an <i>ADS</i> of the entire DDT and <i>DDT fallback</i> without any expectation that a <i>user</i> will respond to a <i>request to intervene</i> .	<i>System</i>	<i>System</i>	<i>System</i>	Unlimited

ADS: automated driving system  
DDT: dynamic driving task  
OEDR: object and event detection and response  
ODD: operational design domain

## EXHIBIT 16





# DIAGRAM OF ACCIDENT SITE

(not to scale)

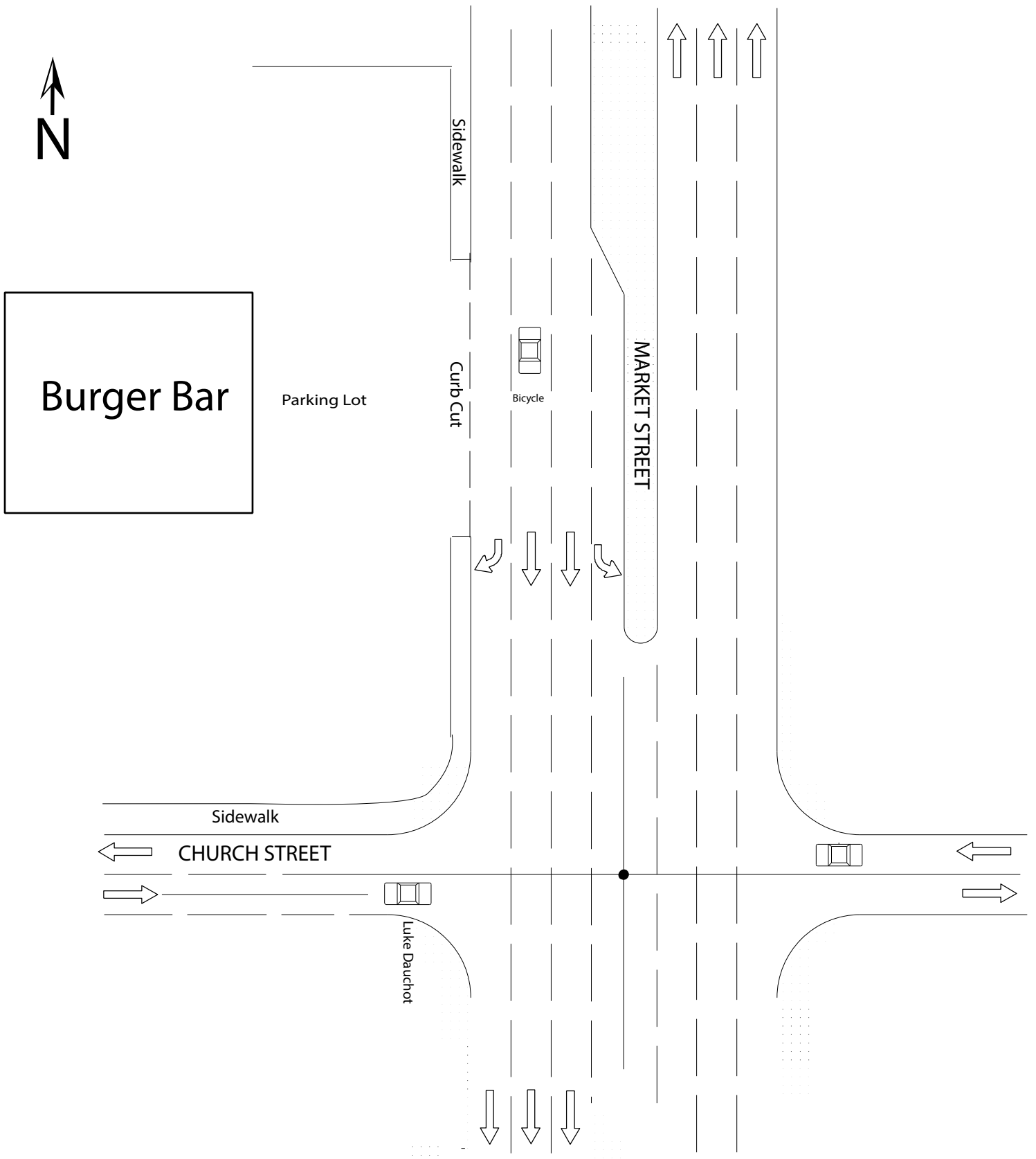


EXHIBIT 18

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

**FINAL JURY INSTRUCTIONS**

Members of the jury, I shall now instruct you on the law that you must follow in reaching your verdict. It is your duty as jurors to decide the issues, and only those issues, that I submit for determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to the facts as you find them, from the evidence.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received into evidence, and all facts that may be admitted or agreed to by the parties. In determining the facts, you may draw reasonable inferences from the evidence. You may make deductions and reach conclusions which reason and common sense lead you to draw from the facts shown by the evidence in this case, but you should not speculate on any matters outside the evidence.

In determining the believability of any witness and the weight to be given the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity

the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in light of your own experience and common sense.

The issue for your determination is whether the injuries sustained by Laura Menninger were the result of a design or marketing defect in the automobile manufactured by Ouchi Motor Company, Inc., or of the negligence of Taylor Townsend, or of the negligence of Laura Menninger, or of some combination of the same. In that regard, you are instructed that Plaintiff Lonnie Menninger has the burden of proof on the design defect claim against Ouchi Motor Company, Inc., meaning that Plaintiff Lonnie Menninger must convince you by a preponderance of the evidence that a design or marketing defect in the automobile was a substantial factor in bringing about Laura Menninger's injuries and without which the injuries would not have occurred. You are further instructed that Ouchi Motor Company, Inc. has the burden of proof on the claim that Laura Menninger's injuries were caused solely or in part by the negligence, if any, of Taylor Townsend, or of Laura Menninger, from some other cause.

A "design defect" is a condition of the product that renders it unreasonably dangerous as designed, taking into consideration the utility of the product and the risk involved in its use. For a design defect to exist there must have been a safer alternative design. "Safer alternative design" means a product design other than the one actually used that in reasonable probability—

1. would have prevented or significantly reduced the risk of the injury in question without substantially impairing the product's utility, and
2. was economically and technologically feasible at the time the product left the control of Ochi Motor Company, Inc. by the application of existing or reasonably achievable scientific knowledge.

A “marketing defect” means the failure to give adequate warnings of the product's dangers that were known or by the application of reasonably developed human skill and foresight should have been known and which failure rendered the product unreasonably dangerous as marketed. "Adequate" warnings means warnings given in a form that could reasonably be expected to catch the attention of a reasonably prudent person in the circumstances of the product's use; and the content of the warnings must be comprehensible to the average user and must convey a fair indication of the nature and extent of the danger and how to avoid it to the mind of a reasonably prudent person.

An “unreasonably dangerous” product is one that is dangerous to an extent beyond that which would be contemplated by the ordinary user of the product, with the ordinary knowledge common to the community as to the product’s characteristics

“Producing cause” means a cause that was a substantial factor in bringing about the injury, and without which the injury would not have occurred. There may be more than one producing cause.

There may be more than one cause of an injury, but if an act or omission of any person not a party to the suit was the “sole cause” of the injury, then no act, omission, or product of any party could have been a cause of the injury.

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances. “Ordinary care” means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

“Proximate cause” means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using

result therefrom. There may be more than one proximate cause of an event.

Answer “Yes” or “No” to all questions unless otherwise instructed. A “Yes” answer must be based on a preponderance of the evidence unless you are otherwise instructed. If you do not find that a preponderance of the evidence supports a “Yes” answer, then answer “No.” The term “preponderance of the evidence” means the greater weight and degree of credible evidence admitted in this case. Whenever a question requires an answer other than “Yes” or “No,” your answer must be based on a preponderance of the evidence unless you are otherwise instructed.

At this point in the trial, you, as jurors, are deciding if Laura Menninger’s injuries were proximately caused, in whole or in part, by a design or marketing defect, if any, in the Ouchi Motor Company, Inc. automobile, or by the negligence, if any, of Taylor Townsend, or by the negligence, if any, of the Laura Menninger, or from some other cause. If you find Ouchi Motor Company, Inc. was at fault in whole or in part, you will hear additional argument from the attorneys and you will hear additional witnesses testify concerning damages. Until that time, you are not to concern yourselves with any question of damages. Your verdict must be based on the evidence that has been received and the law on which I have instructed you. In reaching your verdict, you are not to be swayed from the performance of your duty by prejudice, sympathy, or any other sentiment for or against any party. When you retire to the jury room, you should select one of your members to act as foreperson, to preside over your deliberations, and to sign your verdict. You will be given a verdict form, which I shall now read and explain to you.

**(READ VERDICT FORM)**

When you have agreed on your verdict, the foreperson, acting for the jury, should date and sign the verdict form and return it to the courtroom. You may now retire to consider your verdict.



If you have answered “yes” to Jury Question No. 1, answer the following question. Otherwise, do not answer the following question.

**JURY QUESTION NO. 2**

Did the negligence, if any, of the following proximately cause the injuries sustained by Laura Menninger?

Answer “Yes” or “No” for each of the following:

- 1. Taylor Townsend \_\_\_\_\_
- 2. Laura Menninger \_\_\_\_\_

If you have answered “yes” with respect to any party in response to Jury Question No. 2, answer the following question; otherwise, do not answer the following question.

**JURY QUESTION NO. 3**

For each person or product you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each:

- 1. Ouchi Motor Company, Inc. \_\_\_\_\_%
- 2. Taylor Townsend \_\_\_\_\_%
- 3. Laura Menninger \_\_\_\_\_%
- Total \_\_\_\_\_ 100 %



CERTIFICATE

We the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into Court as our verdict.

\_\_\_\_\_  
Presiding

Juror To be signed by those rendering the verdict if not unanimous.
