

Personal Injury Litigation In The Age Of Driverless Cars

April 13, 2017 | by Einhorn Barbarito

Recent technological advances have transformed driverless cars from fantasy to near-reality. The interesting question becomes whether personal injury law can keep pace with our quest for automation. By removing human drivers from the equation, we must give pause to consider how “traditional” notions of negligence suits may shift in terms of assigning fault for the cause of a motor vehicle accident and/or whether it is economically feasible to pursue a given plaintiff’s claim for bodily injuries. The irony is, that for as much ease and efficiency as driverless cars are intended to provide, they may also cause as much complexity and confusion – at least as far as the law is concerned.

Take “fault” for example. In a garden-variety motor vehicle accident, fault can be attributed to a given driver as a result of human error. But in the context of driverless cars, fault takes on a new meaning: Liability may be allocated among the manufacturer, software developer, distributor and vehicle owner under what is referred to as a “products liability action.” It will be incumbent upon the injured party to prove, in part, that the driverless car was defective in some way, or that the manufacturer failed to provide adequate warning and instruction.

As an aside, and assuming such vehicles can be connected to the Internet via Wi-Fi, there is always the possibility that driverless cars could be susceptible to cyber attacks. Who bears the responsibility for bodily injuries under that scenario – the hacker? In any event, as we move away from ordinary negligence suits and towards product liability actions, increased litigation costs may also be encountered. These cases tend to be much costlier because of their intricacies and the number and type(s) of experts, among other expenses, required in proving that a “product” is defective.

Plaintiffs may, in turn, encounter implicit monetary thresholds that could potentially threaten the economic viability of their bodily injury claims. In other words, a plaintiff could be injured and have a legitimate case, but it may not be worth pursuing because the costs of recovery would outweigh the recovery itself. Genuinely injured plaintiffs could be turned away from representation because it may

not make good “business sense” to pursue their case(s). Will plaintiffs with injuries of “lesser value” be forced to band together in the form of class action lawsuits to spread cost and risk? Will settlements and jury verdicts increase in value to preserve the individual pursuit of damages? On the flip side, will this ultimately drive up the cost of driverless cars and the liability insurance premiums of their manufacturers? How will it affect the insurance industry in general?

While the answers to these questions remain speculative at this time, one thing is for certain: The landscape of personal injury law could see drastic changes in the near future.

For more information on driverless cars, please read [this article](#) from the Washington Post.