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TO: Senator Mike Petersen, Chairman
Senator J.R. Claeys, Vice-Chairman
Senator Tom Hawk, Ranking Minority Member
Members of the Senate Committee on Transportation

FROM: Blake A. Shuart, Hutton & Hutton Law Firm, L.L.C., Wichita
Individually and on behalf of the firm

DATE: March 9, 2022

RE: SB 546: AN ACT concerning motor vehicles; relating to autonomous motor vehicles; providing for the use and regulation thereof; establishing the autonomous vehicle advisory committee; amending K.S.A. 2021 Supp. 8-2106 and 8-2204 and repealing the existing sections. (**OPPOSE**)

Dear Chairman Petersen, Vice-Chairman Claeys, Ranking Minority Member Hawk and the Members of the Senate Committee on Transportation:

I am an attorney with the Hutton & Hutton Law Firm, L.L.C., based in Wichita, and am also a member of the Kansas Trial Lawyers Association (KTLA). I had the privilege of addressing this Committee last month in opposition of SB 546's predecessor, SB 379. SB 379 was not passed out of this Committee and SB 546 seemingly represents an attempt to address the myriad flaws in the prior bill – concerns that were voiced by the many opponents who appeared before the Committee at that time. But SB 546 does not fix these problems – it creates new ones. This important legislation represents the introduction of driverless motor vehicles onto Kansas roadways and will serve as the foundation for all future laws & regulations, making it crucial for us to carefully analyze every last detail. After all, the safety and lives of Kansans are at stake.

I thus respectfully urge this Committee not to pass SB 546 and submit than an interim *Special Committee on Autonomous Motor Vehicles* would be a reasonable option to delve into the fine details and make recommendations to ensure subsequent passage of a proper bill. This written testimony is intended as a supplement to my WebEx testimony on Thursday, March 10.

First, this legislation continues to hoist the financial responsibility for catastrophic injury and death onto the backs of Kansans by requiring only that these driverless vehicles carry the minimum amount of bodily injury coverage required under Kansas law. It continues to reference in §§ 2(c)(1) & 3 the requirement of “insurance, self-insurance or other financial security” required “pursuant to K.S.A. 40-3104, and amendments thereto.” This ultimately equates to \$25,000 per person / \$50,000 total per occurrence under K.S.A. 40-3107. These liability limits are unreasonably low and have been for many years, but SB 546 would now extend the problem of under-insured drivers to vehicles

with no human driver at all behind the wheel. Further, the scope of permissible usage under the new bill has been extended from “middle mile” (fixed, repeatable route) travel to “the public highways of this state” (§ 2(a)), meaning there are no restrictions at all. The level of danger to the average Kansan has increased due to this expansion but the level of proposed insurance has not. Alabama and Louisiana both required \$2 million in liability coverage for autonomous commercial motor vehicles and Kansans are no less deserving of protection.

Beyond the insurance problem is the continued question of *owner* versus *manufacturer* liability. This current bill places the burden on the “owner” of the vehicle to submit a law enforcement interaction plan to the Department of Transportation (§ 2(b)) but the “owner” does not have the requisite knowledge required to complete such a task. Accountability is again missing for the individual or business who creates, tests, maintains, implements and exercises exclusive discretion over the operational aspects of the autonomous vehicle.

These are two of the immediate problems identified as this new legislation remains under review, and I look forward to discussing these issues and others on March 10. I again respectfully urge the Committee not to pass SB 546 and thank the members for your time and consideration.