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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 **DANIEL JOSE DURON**, an individual,
21 *Plaintiff,*

22 v.

23 **NEUTRON HOLDINGS. INC, d/b/a LIME**,
24 a Delaware Corporation,

25 *Defendant.*

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Strict Products Liability
2. Negligent Products Liability
3. Breach of Implied Warranty of Merchantability
4. Breach of Implied Warranty of Fitness For a Particular Purpose

26 Plaintiff, **DANIEL JOSE DURON** (hereafter referred to as “Plaintiff”), by and through
27 his undersigned counsel, **JOHNSON BECKER, PLLC** and **HARLAN LAW, P.C.**, hereby
28 submits the following Complaint and Demand for Jury Trial against Defendant **NEUTRON HOLDINGS. INC., d/b/a LIME** (hereafter referred to as “Defendant Lime”) alleges the following upon personal knowledge and belief, and investigation of counsel:

1 **NATURE OF THE CASE**

2 1. Defendant Lime is a company that deploys electronic scooters into the public under
3 the guise of environmentally friendly transportation without the headache of traffic.

4 2. However, since Defendant Lime’s deployment of electronic scooters in late 2017
5 and early 2018, there have been numerous reports of injuries suffered because of equipment
6 failures, including instances of the scooters suddenly breaking in half while in use.

7 3. As outlined below, the Plaintiff in this case was the victim of such equipment
8 failure.

9 **THE PARTIES**

10 4. Plaintiff is a resident and citizen of the city of Lubbock, County of Lubbock, State
11 of Texas.

12 5. Defendant Lime is a company that deploys electronic scooters into the public under
13 the guise of environmentally friendly transportation without the headache of traffic.

14 6. Defendant Lime is Delaware Corporation, with a principal business address of 85
15 2nd Street, Suite 100, San Francisco, CA, 94105-3400.

16 **JURISDICTION AND VENUE**

17 7. This Court has subject matter jurisdiction over this case pursuant to diversity
18 jurisdiction prescribed by 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or
19 value of \$75,000, exclusive of interest and costs, and there is complete diversity between the
20 parties.

21 8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that Defendant
22 Lime is a resident of this district.

23 9. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391 because Defendant
24 has sufficient minimum contacts with the State of California and has intentionally availed itself of
25 the markets within California through the promotion, sale, marketing, and distribution of its
26 products.

27
28

FACTUAL BACKGROUND

1
2 10. On Sunday, June 9, 2019, Plaintiff was attending the Texas Tech vs. Oklahoma
3 State super regional baseball game with his aunt and uncle.

4 11. After the game was over, Plaintiff rented a Lime scooter and used it to go meet
5 some friends. After spending some time with his friends, Plaintiff rented a second Lime scooter to
6 take himself back to his car which was still on campus.

7 12. During the ride to his vehicle, the Lime scooter Plaintiff was riding suddenly broke
8 in half at the base where the footboard, causing significant orthopedic injuries to his right foot and
9 right ankle.

10 13. Since Defendant Lime’s deployment of electronic scooters in late 2017 and early
11 2018, there have been numerous reports of injuries suffered as a result of equipment failures.

12 14. On October 31, 2018, Defendant Lime issued a recall on about 2,000 Segway-
13 made Ninebot scooters after reports that some were catching on fire. The company said it was
14 investigating the "unconfirmed" incidents in at least three cities.

15 15. Less than a month later, Defendant Lime issued a second recall after receiving
16 reports that some of its models were breaking in half; stating that “it was “looking into reports that
17 scooters manufactured by Okai may break and [that it is] working cooperatively with the U.S.
18 Consumer Product Safety Commission and the relevant authorities internationally” and that it
19 would “decommission all Okai scooter is use” but failed to provide a precise number of the
20 affected scooters.¹

21 16. On February 23, 2019, Defendant Lime acknowledged a third problem; this time a
22 “bug in the firmware” of its scooters that “could under *‘rare circumstances’* cause sudden and
23 excessive braking during use.”² Defendant Lime went on to state that “some riders have been
24 injured, and, although most have been ‘bumps and bruises’, any injury is one too many.”

25 _____
26 ¹ See [https://www.washingtonpost.com/technology/2018/11/10/electric-scooter-giant-lime-](https://www.washingtonpost.com/technology/2018/11/10/electric-scooter-giant-lime-launches-global-recall-one-its-models-amid-fears-scooters-can-break-apart/)
27 [launches-global-recall-one-its-models-amid-fears-scooters-can-break-apart/](https://www.washingtonpost.com/technology/2018/11/10/electric-scooter-giant-lime-launches-global-recall-one-its-models-amid-fears-scooters-can-break-apart/) (last accessed June 3,
2021).

28 ² See <https://www.lime/second-street/safety-update-february-2019> (last accessed June 3, 2021)

1 17. Upon information and belief, Defendant Lime's electronic scooters are
2 manufactured with inadequate safety features.

3 18. Upon information and belief, Defendant Lime does not properly maintain the
4 scooters, but deploys its scooters into the public and takes no measures to inspect and maintain the
5 scooters.

6 19. Upon information and belief, Defendant Lime employs "juicers" to pick up the
7 Lime scooters and charge them at their own residence, eventually putting the scooter back into
8 public rotation when charged.

9 20. Upon information and belief, the Defendant Lime "juicers" are not paid by Lime
10 until they charge the scooter and deploy it back into rotation, at a "LimeHub." Upon information
11 and belief, the Lime "juicers" are not paid if they inform Lime that the scooter is defective and do
12 not place the scooter back into rotation. Upon information and belief, the "juicers" are not
13 employed to maintain the scooters.

14 21. Upon information and belief, the Lime scooters are defective, as manufactured and
15 designed, or not properly maintained, leading to a dangerous nuisance.

16 22. Upon information and belief, riders, such as the Plaintiff in this case, are unaware
17 of the clear failure to maintain the scooters, the defective nature of the scooters, and the dangers
18 associated with the scooters, are seriously injured upon using the scooters.

19 23. Upon information and belief, Lime fails to provide adequate warnings and
20 operational instructions.

21 **FIRST CAUSE OF ACTION**

22 **STRICT PRODUCTS LIABILITY**

23 PLAINTIFF, FOR A FIRST CAUSE OF ACTION AGAINST NEUTRON HOLDINGS,
24 INC., ALLEGES AS FOLLOWS:

25 24. Plaintiff incorporates by reference each preceding and succeeding paragraph as
26 though set forth fully at length herein.

27 _____
28 (emphasis added).

1 25. At the time of Plaintiff's injuries, Defendant's scooters were defective and
2 unreasonably dangerous for use by foreseeable consumers, including Plaintiff.

3 26. Defendant's scooters were in the same or substantially similar condition as when
4 they left the possession of the Defendant.

5 27. Plaintiff did not misuse or materially alter the scooter.

6 28. The scooters did not perform as safely as an ordinary consumer would have
7 expected them to perform when used in a reasonably foreseeable way.

8 29. Further, a reasonable person would conclude that the possibility and serious of
9 harm outweighs the burden or cost of making the scooters safe.

10 30. Defendant's actions and omissions were the direct and proximate cause of the
11 Plaintiff's injuries and damages.

12 31. Defendant's conduct, as described above, was extreme and outrageous. Defendant
13 risked the safety and well-being of the consumers and users of its scooters, including the Plaintiff
14 to this action, with the knowledge of the safety and efficacy problems.

15 **WHEREFORE**, Plaintiff demands judgment against Defendant for damages, together
16 with interest, costs of suit, and all such other relief as the Court deems proper.

17 **SECOND CAUSE OF ACTION**

18 **NEGLIGENT PRODUCTS LIABILITY**

19 PLAINTIFF, FOR A SECOND CAUSE OF ACTION AGAINST NEUTRON
20 HOLDINGS, INC., ALLEGES AS FOLLOWS:

21 32. Plaintiff incorporates by reference each preceding and succeeding paragraph as
22 though set forth fully at length herein.

23 33. Defendant had a duty of reasonable care to design, manufacture, market, and sell
24 non-defective scooters that are reasonably safe for its intended uses by consumers, such as
25 Plaintiff.

26 34. Defendant failed to exercise ordinary care in the manufacture, sale, warnings,
27 quality assurance, quality control, distribution, advertising, promotion and marketing of its
28

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