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13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **THERESA THOM**, an individual,

17 *Plaintiff,*

18 v.

19
20 **NEUTRON HOLDINGS. INC, d/b/a**
21 **LIME**, a Delaware Corporation,

22 *Defendant.*
23
24

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

25 Plaintiff, **THERESA THOM** (hereafter referred to as "Plaintiff"), by and
26 through her undersigned counsel, **JOHNSON BECKER, PLLC** and
27 **HARLAN LAW, P.C.**, hereby submits the following Complaint and Demand
28 for Jury Trial against Defendant **NEUTRON HOLDINGS. INC., d/b/a LIME**

1 (hereafter referred to as “Defendant Lime”) alleges the following upon personal
2 knowledge and belief, and investigation of counsel:

3 **NATURE OF THE CASE**

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

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

11 3. As outlined below, the Plaintiff in this case was the victim of such
12 an equipment failure.

13 **THE PARTIES**

14 4. Plaintiff is a resident and citizen of the city of Troy, County of
15 Oakland, State of Michigan.

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

19 6. Defendant Lime is Delaware Corporation, with a principal
20 business address of 2121 South El Camino Real, Suite B100, Fremont,
21 California 94403.

22 **JURISDICTION AND VENUE**

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

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

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

5 **FACTUAL BACKGROUND**

6 10. Since Defendant Lime's deployment of electronic scooters in late
7 2017 and early 2018, there have been numerous reports of injuries suffered as
8 a result of equipment failures.

9 11. On October 31, 2018, Defendant Lime issued a recall on about
10 2,000 Segway-made Ninebot scooters after reports that some were catching on
11 fire. The company said it was investigating the "unconfirmed" incidents in at
12 least three cities.

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

20 13. On February 23, 2019, Defendant Lime acknowledged a third
21 problem; this time a "bug in the firmware" of its scooters that "could under
22 'rare circumstances' cause sudden and excessive braking during use."²

23
24
25 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/)
26 [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
September 21, 2021).

27 ² See <https://www.lime.com/second-street/safety-update-february-2019> (last accessed September 21,
28 2021) (emphasis added).

1 Defendant Lime went on to state that “some riders have been injured, and,
2 although most have been ‘bumps and bruises’, any injury is one too many.”

3 14. On October 13, 2019, Plaintiff was attending a music festival in
4 Corpus Christi, Texas.

5 15. After the festival was over, Plaintiff rented a Lime scooter.

6 16. While using the scooter, the throttle became stuck in the locked
7 position, and the scooter accelerated to full speed.

8 17. Plaintiff was unable to stop the scooter and hit a crack in the
9 pavement; causing her to be thrown forward and severely injuring her left
10 wrist and hand, which ultimately required surgery.

11 18. Upon information and belief, Defendant Lime’s electronic scooters
12 are manufactured with inadequate safety features.

13 19. Upon information and belief, Defendant Lime does not properly
14 maintain the scooters, but deploys its scooters into the public and takes no
15 measures to inspect and maintain the scooters.

16 20. Upon information and belief, Defendant Lime employs "juicers" to
17 pick up the Lime scooters and charge them at their own residence, eventually
18 putting the scooter back into public rotation when charged.

19 21. Upon information and belief, the Defendant Lime "juicers" are not
20 paid by Lime until they charge the scooter and deploy it back into rotation, at
21 a "LimeHub." Upon information and belief, the Lime "juicers" are not paid if
22 they inform Lime that the scooter is defective and do not place the scooter back
23 into rotation. Upon information and belief, the "juicers" are not employed to
24 maintain the scooters.

25 22. Upon information and belief, the Lime scooters are defective, as
26 manufactured and designed, or not properly maintained, leading to a
27 dangerous nuisance.

28

1 23. Upon information and belief, riders, such as the Plaintiff in this
2 case, are unaware of the clear failure to maintain the scooters, the defective
3 nature of the scooters, and the dangers associated with the scooters, are
4 seriously injured upon using the scooters.

5 24. Upon information and belief, Lime fails to provide adequate
6 warnings and operational instructions.

7 **FIRST CAUSE OF ACTION**

8 **STRICT PRODUCTS LIABILITY**

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

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

13 26. At the time of Plaintiff's injuries, Defendant's scooters were
14 defective and unreasonably dangerous for use by foreseeable consumers,
15 including Plaintiff.

16 27. Defendant's scooters were in the same or substantially similar
17 condition as when they left the possession of the Defendant.

18 28. Plaintiff did not misuse or materially alter the scooter.

19 29. The scooters did not perform as safely as an ordinary consumer
20 would have expected them to perform when used in a reasonably foreseeable
21 way.

22 30. Further, a reasonable person would conclude that the possibility
23 and serious of harm outweighs the burden or cost of making the scooters safe.

24 31. Defendant's actions and omissions were the direct and proximate
25 cause of the Plaintiff's injuries and damages.

26 32. Defendant's conduct, as described above, was extreme and
27 outrageous. Defendant risked the safety and well-being of the consumers and
28

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