

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

| | | |
|--|---|-----------------------|
| KELCIE INGRAM and CYNTHIA INGRAM, |) | |
| |) | |
| Plaintiffs, |) | Case No. _____ |
| |) | |
| v. |) | |
| |) | |
| NEUTRON HOLDINGS, INC. d/b/a LIMEBIKE a/k/a LIME, |) | JURY DEMANDED |
| |) | |
| Defendant. |) | |

NOTICE OF REMOVAL OF DEFENDANT NEUTRON HOLDINGS, INC.

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant NEUTRON HOLDINGS, INC. d/b/a LIME (“Lime”) removes this action styled *Kelcie Ingram and Cynthia Ingram v. Neutron Holdings, Inc. d/b/a LIMEBIKE a/k/a LIME*, from the Circuit Court for Davidson County, Tennessee, to the United States District Court for the Middle District of Tennessee.

As explained below, the United States District Court for the Middle District of Tennessee has original subject matter jurisdiction of this civil action pursuant to 28 U.S.C. § 1332(a) and 1441 *et seq.* because complete diversity exists between Plaintiffs and Defendant and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Lime respectfully states to this Court as follows:

1. A civil action originally entitled *Kelcie Ingram and Cynthia Ingram v. Neutron Holdings, Inc., d/b/a Limebike a/k/a Lime*, No. 19C2862 was filed on December 6, 2019 in the Circuit Court for Davidson County, the 20th Judicial District of Tennessee. (Ex. 1, Complaint). In

their Complaint, Plaintiffs allege negligence against Lime arising from a December 29, 2018 scooter accident involving Plaintiff Kelcie Ingram.

2. The Circuit Court for Davidson County, Nashville, Tennessee, is located in the area that constitutes the Middle District of Tennessee. Venue for this action is proper in this Court because the Middle District of Tennessee, Nashville Division, is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

3. Lime was served with the Summons and Complaint on December 13, 2019. (Ex. 1, CT Corp. Service of Process Transmittal). Lime filed this Notice of Removal on January 10, 2019. Therefore, removal is timely under 28 U.S.C. § 1446(b).

4. Defendant will promptly file a true and correct copy of this Notice of Removal with the Clerk of the Circuit Court of Davidson County, as required by 28 U.S.C. § 1446(d).

5. Written Notice of Filing the Notice of Removal will be given promptly to the Plaintiffs after filing this Notice of Removal, as required by 28 U.S.C. § 1446(d).

6. Attached to this Notice of Removal, and by reference made a part hereof, are true and correct copies of all process, pleadings, and orders served upon Lime in the aforesaid action, pursuant to 28 U.S.C. § 1446(a). (Ex. 1, Summons and Complaint).

7. By filing this Notice of Removal, Lime does not waive any defenses that may be available to it, including but not limited to contractual defenses and compelling arbitration.

8. Pursuant to 28 U.S.C. § 1441, an action is generally removable if it could have originally been brought in federal court. This action could have originally been brought in federal court on the basis of diversity of citizenship jurisdiction.

9. This Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this Court embraces the pending action, Defendant is not a citizen of the same state as either Plaintiff, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

Diversity of Citizenship

10. Plaintiffs Kacie Ingram and Cynthia were residents of Tennessee at the time of filing the Complaint and at the time of the filing of this Notice of Removal. (Ex. 1., Compl. ¶ 1).

11. For purposes of determining its citizenship under 28 U.S.C. § 1332(c)(1), Lime is a citizen of the State of Delaware and the State of California because at the time of filing the Complaint and at the time of filing this Notice of Removal, Lime is incorporated in the State of Delaware, with its principal place of business in the State of California. (Ex. 2, Affidavit of Kevin Bajurin, ¶ 2).

12. Accordingly, there is complete diversity between the parties. Plaintiffs are citizens of Tennessee and Defendant is a citizen of California and Delaware.

13. 28 U.S.C. § 1441(b) does not restrict removal because no defendant is a citizen of the State of Tennessee. (Ex. 2, Affidavit of Kevin Bajurin, ¶ 3).

Amount in Controversy

14. Pursuant to 28 U.S.C. § 1332(a), the amount in controversy exceeds \$75,000, exclusive of interest and costs.

15. “[A]s specified in § 1446, a defendant’s notice of removal need only include a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014). Therefore, Plaintiffs’ complaint filed in state court demanding \$750,000, if asserted in good faith, is “deemed to be the amount in controversy.” *Id.* (citing § 1446(c)(2)).

16. For diversity removal, “the general rule is that the amount claimed by a plaintiff in his complaint determines the amount in controversy, unless it speaks to a legal certainty that the claim is for less than the jurisdictional amount.” *Rosen v. Chrysler Corp.*, 205 F.3d 918, 920-21 (6th Cir. 2000). In this case there are two plaintiffs. “To satisfy the amount-in-controversy requirement at least one plaintiff’s claim must independently meet the amount-in-controversy specification.” *Everett v. Verizon Wireless, Inc.*, 460 F.3d 818, 822 (6th Cir. 2006).

17. The complaint alleges that on December 29, 2018, then-seventeen-year-old Kelcie Ingram fell and injured herself riding a Lime scooter. (Ex. 1, Complaint ¶¶ 23, 27). Kelcie Ingram must be an adult at the time of removal, as more than a year has passed since December 29, 2018. The Complaint also asserts a claim by Cynthia Ingram, Kelcie’s mother.

18. Kelcie Ingram’s claim satisfies the amount in controversy—a seventeen-year-old allegedly suffered “serious and painful personal injuries which required and continue to require medical treatment,” (Ex. 1, Complaint ¶ 27), and “permanent disability and impairments,” (*Id.* ¶ 37(E)). The damages are alleged to also include past and future medical expenses; past and future pain and suffering; past and future mental anguish; past and future loss of enjoyment of life; disfigurement; and loss of earning capacity. (*Id.* ¶ 37). The complaint alleges that Plaintiffs seek damages up to \$750,000, ten times the amount in controversy threshold. (Ex. 1, Complaint p. 7, ¶ 2). It is clear from the face of the complaint that the amount in controversy on Kelcie Ingram’s claim exceeds \$75,000.

19. If for some reason Cynthia Ingram’s claim is alleged to be derivative of Kelcie’s claim, then Cynthia’s claim satisfies the amount in controversy. Whomever holds the claim for compensation related to Kelcie Ingram’s injury, the Complaint alleges that Plaintiffs seek damages up to \$750,000, ten times the amount in controversy threshold. (Ex. 1, Complaint p. 7, ¶ 2).

20. Additionally, a settlement demand letter provides “some evidence” of the amount in controversy. *MetLife Sec., Inc. v. Holt*, No. 2:16-CV-32, 2016 U.S. Dist. LEXIS 95017, at * (Jul. 21, 2016) (citing *Shupe v. Asplundh Tree Expert Co.*, 566 Fed. App’x 476, 480-81 (6th Cir. 2014)). Plaintiffs allege that Kelcie Ingram broke her right ankle as a result of falling from the Lime scooter. (Ex. 3, 9/20/19 Settlement Demand at 3). The medical expenses allegedly associated with the treatment total \$22,585.85. (*Id.* at 6). The settlement demand letter alleges that Kelcie Ingram continues to experience leg pain, and “[s]he worries whether the lasting effects of this injury will affect her long-term career and the necessity to be on her feet as a registered nurse.” (*Id.*) The plaintiffs’ counsel demanded \$425,000 to settle the case, more than five times the amount-in-controversy threshold. (*Id.*) Under these circumstances, the settlement demand is independent evidence that Kelcie Ingram’s claim exceeds \$75,000.

WHEREFORE, Defendant, Lime, gives notice that the action captioned *Kelcie Ingram, and Cynthia Ingram, v. Neutron Holdings, Inc., d/b/a Limebike a/k/a Lime*, No. 19C2862, pending in the Circuit Court of Davidson County, the 20th Judicial District, Nashville, Tennessee, is removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441 *et seq.*

/s/ Travis B. Swearingen
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