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11 and the Proposed Class

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA**

14 **MIA LABOWITZ**, individually, and on  
15 behalf of all others similarly situated,

16 Plaintiffs,

17 vs.

18 **BIRD RIDES, INC.**, a Delaware corporation;  
19 **NEUTRON HOLDINGS, INC.**, a Delaware  
20 corporation; **CITY OF SANTA MONICA**, a  
21 public entity; **CITY OF LOS ANGELES**, a  
22 public entity; **CITY OF BEVERLY HILLS**, a  
23 public entity; and **DOES 1-100**,

24 Defendants.

Case No.:

CLASS ACTION

COMPLAINT FOR:

1. 42 U.S.C. § 12101 *et seq.* [The Americans with Disabilities Act]
2. 29 U.S.C. § 794 *et seq.* [Section 504 of the Rehabilitation Act]
3. California Government Code § 4450 *et seq.*
4. California Government Code § 11135 *et seq.*
5. California Civil Code § 54 *et seq.*
6. Public Nuisance
7. Trespass
8. California Business and Professions Code § 17200 *et seq.*
9. Unjust enrichment

DEMAND FOR JURY TRIAL

1 Named Plaintiff Mia Labowitz (“Named Plaintiff”), for herself and on behalf of all others  
2 similarly situated (the “Proposed Class”) complains of Bird Rides, Inc., a Delaware corporation  
3 (“Bird Co.”), Neutron Holdings, Inc., a Delaware corporation doing business as Lime-S (“Lime  
4 Co.”, together with Bird Co., collectively, the “Electric Scooter Defendants”), City of Santa  
5 Monica, a public entity (“Santa Monica City”), City of Los Angeles, a public entity (“Los  
6 Angeles City”), City of Beverly Hills, a public entity (“Beverly Hills City”, together with Santa  
7 Monica City and Los Angeles City, collectively, the “City Defendants”), and Does 1-100 and  
8 alleges as follows:  
9

### 10 I. PARTIES

11  
12 1. Named Plaintiff is a resident of the West Los Angeles neighborhood of Los  
13 Angeles. She is a paraplegic. She is unable to walk or stand and relies on a wheelchair for  
14 mobility. Named Plaintiff is a “qualified person with a disability” and a person with “a disability”  
15 within the meaning of all applicable statutes and regulations including 42 U.S.C. § 12102(A), 28  
16 C.F.R. § 35.104, 29 U.S.C. § 705(20)(B), California Government Code § 12926, the California  
17 Unruh Civil Rights Act (Cal. Civ. Code §§51 and 52 et seq.), and other statutory laws which  
18 protect the rights of “disabled persons”. She cannot walk, stand or move heavy or awkward  
19 objects. She has been issued a Disabled Person Parking Placard by the State of California and  
20 uses a specially equipped car.  
21

22 2. Named Plaintiff has complied with the California Tort Claims Act requirements.  
23

24 3. The Proposed Class consists of all persons with mobility impairment or visual  
25 impairment who have been denied equal access to Pedestrian Rights of Way (as defined herein  
26 below) as a result of the Defendants’ policies and practices with regard to the Pedestrian Rights  
27 of Way and disability access.  
28

1           4.       Hereafter, references to Plaintiffs shall be deemed to include Named Plaintiff and  
2 each member of the Proposed Class, unless otherwise indicated.

3           5.       Defendant Bird Co. is a for-profit corporation which rents Bird Scooters (as  
4 defined below) to Bird Customers (as defined below) through the Bird App (as defined below).  
5 Bird Co. is a Delaware corporation, with its principal office located at 406 Broadway #369, Santa  
6 Monica, California 90401.

7           6.       Defendant Lime Co. is a for-profit corporation which rents Lime Scooters  
8 (defined below) to Lime Customers (defined below) through the Lime App (defined below).  
9 Lime Co. is a Delaware corporation, with its principal office located at 66 Bovet Rd, Suite 320  
10 San Mateo, California 94402.

11           7.       Defendant Santa Monica City has been a public entity within the meaning of Title  
12 II of the Americans with Disabilities Act (the “ADA) and has received federal financial  
13 assistance within the meaning of Section 504 of the Rehabilitation Act, 29 U.S.C. §794, et seq.  
14 (the “Rehabilitation Act”), and state financial assistance within the meaning of Government  
15 Code 11135. Defendant Santa Monica City has received federal and state financial assistance  
16 sufficient to invoke the coverage of Section 504 of the Rehabilitation Act and California  
17 Government Code Section 11135.

18           8.       Defendant Santa Monica City is a local government entity with the responsibility  
19 of providing Plaintiffs access to its public facilities, programs, services and activities. Defendant  
20 Santa Monica City is responsible for maintaining and regulating the system of Pedestrian Rights  
21 of Way within the City of Santa Monica.

22           9.       Defendant Los Angeles City has been a public entity within the meaning of Title  
23 II of the ADA and has received federal financial assistance within the meaning of Section 504  
24  
25  
26  
27  
28

1 of the Rehabilitation Act, and state financial assistance within the meaning of Government Code  
2 11135. Defendant Los Angeles City has received federal and state financial assistance sufficient  
3 to invoke the coverage of Section 504 of the Rehabilitation Act and California Government Code  
4 Section 11135.  
5

6 10. Defendant Los Angeles City is a local government entity with the responsibility  
7 of providing Plaintiffs access to its public facilities, programs, services and activities. Defendant  
8 Los Angeles City is responsible for maintaining and regulating the system of Pedestrian Rights  
9 of Way within the City of Los Angeles.  
10

11 11. Defendant Beverly Hills City has been a public entity within the meaning of Title  
12 II of the ADA and has received federal financial assistance within the meaning of Section 504  
13 of the Rehabilitation Act, and state financial assistance within the meaning of Government Code  
14 11135. Defendant Los Angeles City has received federal and state financial assistance sufficient  
15 to invoke the coverage of Section 504 of the Rehabilitation Act and California Government Code  
16 Section 11135.  
17

18 12. Defendant Beverly Hills City is a local government entity with the responsibility  
19 of providing Plaintiffs access to its public facilities, programs, services and activities. Defendant  
20 Beverly Hills City is responsible for maintaining and regulating the system of Pedestrian Rights  
21 of Way within the City of Beverly Hills.  
22

23 13. The true names and capacities of Defendants sued herein as Does 1 through 100,  
24 inclusive, are presently unknown to Named Plaintiff who therefore sues these Defendants by  
25 fictitious names. Plaintiffs will amend this Complaint to show their true names and capacities  
26 when they have been ascertained. Each of the Doe Defendants is responsible in some manner for  
27 the conduct alleged herein.  
28

1 **II. JURISDICTION AND VENUE**

2 14. The first two claims alleged herein arise under the Americans with Disabilities  
3 Act (42 U.S.C. §§ 12131 et seq.), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.  
4 §794 et seq.), such that the jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331  
5 and 1343. Through the same actions and omissions that form the basis of Plaintiffs’ federal  
6 claims, Defendants have also violated Plaintiffs’ rights under state law, over which this Court  
7 has supplemental jurisdiction pursuant to 28 U.S.C. § 1367. This Court has jurisdiction over  
8 Plaintiffs’ claims for declaratory and injunctive relief pursuant to 28 U.S.C. §§2201 and 2202  
9 and Rule 65 of the Federal Rules of Civil Procedure.  
10

11  
12 15. This Court also has subject matter jurisdiction over this proposed class action  
13 under the Class Action Fairness Act of 2005 (28 U.S.C. § 1332(d)(2)), because (a) this is a class  
14 action, including claims asserted on behalf of more than one hundred (100) potential class  
15 members, (b) on information and belief, the aggregate amount in controversy exceeds  
16 \$5,000,000, exclusive of interest and cost, and (c) Bird Co. and Lime Co. are citizens of the State  
17 of Delaware, whereas, Named Plaintiff and likely many more of the Proposed Class are citizens  
18 of the State of California.  
19

20 16. Venue over Plaintiffs’ claims is proper in the Central District of California  
21 because the City Defendants reside in the Central District of California within the meaning of 28  
22 U.S.C. § 1391, and because the events, acts, and omissions giving rise to Plaintiffs’ claims  
23 occurred in the Central District of California.  
24

25 **III. FACTUAL ALLEGATIONS**

26 17. This action arises by reason of a deliberate and systematic exploitation of the curb  
27 ramps, sidewalks, crosswalks, pedestrian crossings and other walkways (hereafter “Pedestrian  
28

1 Rights of Way”) within the Cities of Santa Monica, Los Angeles and Beverly Hills (hereafter,  
2 collectively, the “Cities”) by the Electric Scooter Defendants for their own corporate profit to  
3 the harm of some of the most vulnerable residents of the Cities, the disabled.

4  
5 18. The business model of the Electric Scooter Defendants is based on the  
6 unauthorized and illegal, private use of public property (i.e. Pedestrian Rights of Way) for their  
7 own business use.

8  
9 19. Bird Co. rents electric scooters (“Bird Scooters”) to its customers (“Bird  
10 Customers”) through a mobile application (the “Bird App”). Lime Co. rents electric scooters  
11 (“Lime Scooters”, together with Bird Scooters, hereinafter, collectively, “Electric Scooters”) to  
12 its customers (“Lime Customers”, together with Bird Customers, hereinafter, collectively,  
13 “Electric Scooter Customers”) through a mobile application (the “Lime App”, together with the  
14 Bird App, hereinafter, collectively, “Electric Scooter Apps”).

15  
16 20. Electric Scooters cause barriers in paths of travel when they are physically left on  
17 the ground. When Electric Scooter Customers they use the Electric Scooter Apps to locate the  
18 Electric Scooters. The Electric Scooter Apps find Electric Scooters which are abandoned  
19 wherever they can be left by the previous Electric Scooter Customer. These Electric Scooters are  
20 abandoned all across the Cities, on public property, and typically in designated Pedestrian Rights  
21 of Way.

22  
23 21. Electric Scooter Customers then drive Electric Scooters at speeds much faster  
24 than the speed of foot traffic, speeds often exceeding fifteen (15) miles per hour on and through  
25 Pedestrian Rights of Way.

26  
27 22. Once an Electric Scooter Customer has completed their ride they then simply  
28 abandon the Electric Scooter near their destination, typically on public property in a Pedestrian

1 Right of Way. The Electric Scooters are sometimes parked upright. They are also left laying on  
2 their side, blocking paths of travel along the length of the scooter. Multiple Electric Scooters are  
3 also frequently abandoned together in groups.  
4

5 23. Independent contractors are engaged by the Electric Scooter Defendants to locate  
6 (through the Electric Scooter Apps) Electric Scooters with depleted batteries or other  
7 maintenance needs which have been abandoned in Pedestrian Rights of Way across the Cities.  
8 These independent contractors, then recharge the batteries of the Electric Scooters and without  
9 supervision or any oversight whatsoever distribute Electric Scooters back on the Pedestrian  
10 Rights of Way for further use by Electric Scooter Customers. These personnel are not employees  
11 of the Electric Scooter Defendants, but rather independent contractors.  
12

13 24. Electric Scooters cause barriers in paths of travel when they are operated. Electric  
14 Scooters are operated on Pedestrians Rights of Way. The Electric Scooters are wheeled and  
15 motor powered, propelling them at speeds around fifteen (15) miles per hour. Operators of the  
16 Electric Scooters are not required by Defendants to have any training. The combination of high  
17 relative speeds, compared to pedestrians, and lack of restrictions regarding the operator, creates  
18 hazardous conditions which causes Named Plaintiff, and likely others in the Proposed Class  
19 difficulty, humiliation and frustration. Named Plaintiff does not want to be hit or run over by one  
20 of the Electric Scooters.  
21

22 25. Electric Scooter Defendants also deter Plaintiffs from using the Pedestrian Rights  
23 of Way. The abandoned Electric Scooters are barriers blocking their way. The moving Electric  
24 Scooters also deny them equal access. As a result of the humiliation, difficulty and frustration of  
25 these Electric Scooters, Plaintiffs are discouraged from using Pedestrian Rights of Way.  
26  
27  
28

1           26.     The Electric Scooter Defendants mistakenly determined that they have figured  
2 out a solution (albeit illegal) to the costly problem of having retail locations where their Electric  
3 Scooters may be rented across the Cities or negotiating leases for docking stations throughout  
4 the Cities: to annex and misappropriate public property for their own corporate profit. Pedestrian  
5 Rights of Way, which are public property for the use and enjoyment of all of the public, have  
6 been converted by the Electric Scooter Defendants into their own private showroom, parking lot,  
7 service garage, testing ground and electric scooter highway.  
8

9           27.     The Electric Scooter Defendants' unlawful misappropriation of public property  
10 for their own corporate profit have made Bird Co. and Lime Co. multibillion-dollar corporations,  
11 demonstrating to the world that illegal conduct does in fact pay. Rather than seek permission  
12 through proper channels, the Electric Scooter Defendants (much like many upstart "disruptive"  
13 businesses) break the law, then ask for forgiveness after millions of people have been denied  
14 access to public accommodations or worse yet, injured by their unlawful conduct.  
15

16           28.     The Electric Scooter Defendants' meteoric rise, through exploitation of public  
17 property for corporate profit, comes at the injury, suffering, discomfort, discrimination,  
18 humiliation, anxiety, severe detriment and prejudice of the rights of the tens of thousands of  
19 disabled persons with mobility and/or visual impairments who are residents and visitors of the  
20 Cities.  
21

22           29.     In reaping the windfall benefits of the Electric Scooter Defendants' unlawful  
23 business model, Electric Scooter Customers unlawfully drive their Electric Scooters in  
24 Pedestrian Rights of Way and then abandon the Electric Scooters in Pedestrian Rights of Way  
25 creating barriers to residents and visitors of the Cities with disabilities.  
26  
27  
28



1           30.     The City Defendants are responsible for maintaining the Pedestrian Rights of  
2 Way, which constitute an essential government program, service, and activity for residents and  
3 visitors of the Cities.

4           31.     The City Defendants are responsible for providing public transportation for the  
5 residents and visitors to the Cities, which constitute an essential government program, service  
6 and activity for residents and visitors of the Cities.

7           32.     The City Defendants have failed to provide adequate public transportation giving  
8 rise to unlawful private “solutions” like the Electric Scooter Defendants which exploit public  
9 property for corporate profit to the widespread detriment of disabled residents and visitors of the  
10 Cities.  
11

12           33.     The City Defendants have further failed to adopt, implement or enforce  
13 ordinances or other requirements necessary to ensure that the Pedestrian Rights of Way are kept  
14 free of the Electric Scooter obstructions which have plagued the Pedestrian Rights of Way,  
15 resulting in barriers to access.  
16

17           34.     The Electric Scooter Defendants and the City Defendants have a mutually  
18 beneficial, symbiotic relationship. The Electric Scooter Defendants purport to solve (albeit  
19 unlawfully) a public transportation problem which is the responsibility of the City Defendants,  
20 and the City Defendants in turn fail and refuse to enforce the law and protect the most vulnerable,  
21 disabled residents and visitors to the Cities.  
22

23           35.     The Electric Scooter Defendants’ obvious and deliberate exploitation of the rights  
24 of disabled persons, together with the City Defendants’ deliberate indifference and failure to  
25 adopt, implement or enforce ordinances or other requirements necessary to ensure that the  
26 Pedestrian Rights of Way are kept free of the Electric Scooter obstructions have resulted in  
27  
28

1 discrimination against persons with disabilities in the form of denial of access to the Pedestrian  
2 Rights of Way. As a result of this, the Pedestrian Rights of Way are not readily accessible to and  
3 usable by persons with mobility disabilities due to the pervasive and ever-growing presence of  
4 Electric Scooters that are physical access barriers along the path of travel in the Pedestrian Rights  
5 of Way.  
6

7 36. As a direct result, Named Plaintiff and other persons with mobility or visual  
8 impairment must choose between remaining segregated from significant daily activities,  
9 including visiting public facilities, places of public accommodation, friends and family, and  
10 thereby remaining safe, or risk injury or death by traveling on or around inaccessible Pedestrian  
11 Rights of Way. The lack of access to the Cities' systems of Pedestrian Rights of Way deprives  
12 people with mobility or visual impairments of their independence, and essentially relegates them  
13 to second-class citizens.  
14

15 37. Named Plaintiff is a paraplegic, is mobility impaired and requires the use of a  
16 wheelchair. She cannot stand, walk or move heavy or awkward objects.  
17

18 38. In July through October 2018 and on numerous other occasions Named Plaintiff  
19 encountered Electric Scooters parked on and blocking Pedestrian Rights of Way or being driven  
20 on Pedestrian Rights of Way in the Cities, denying her full and equal access to the Pedestrian  
21 Rights of Way and causing her difficulty, frustration and embarrassment, and placing her in  
22 danger of injury or death. She continues to be deterred from leaving her home, since the invasion  
23 of these Electric Scooters on the streets of the Cities.  
24

25 39. Accessibility of the Pedestrian Rights of Way goes to the heart of the purpose of  
26 the ADA and other disabilities rights law, including integration and accessibility. The Electric  
27 Scooter Defendants' exploitation of the Pedestrian Rights of Way and the City Defendants'  
28

1 failure to adopt, implement or enforce ordinances or other requirements necessary to ensure that  
2 the Pedestrian Rights of Way are kept free of the Electric Scooter obstructions render the  
3 Pedestrian Rights of Way not accessible to persons with mobility or visual impairments in  
4 violation of multiple federal and state disability rights laws. This lawsuit seeks to force  
5 Defendants to, among other things, comply with these laws and provide fair and equal access to  
6 Pedestrian Rights of Way for all residents and visitors of the Cities.  
7

8 40. Plaintiffs thus bring this action to, among other things, remedy violations of Title  
9 II of the ADA, 42 U.S.C. §12131, et seq., and its accompanying regulations, the Rehabilitation  
10 Act and its accompanying regulations, as well as analogous state statutes including California  
11 Government Code §11135, California Civil Code § 54, et seq., California Government Code §  
12 4450, California Business and Professions Code § 17200 *et seq.* and common law rights of  
13 Plaintiffs. Plaintiffs seek declaratory and injunctive relief pursuant to the above, as well as an  
14 award of attorneys' fees and costs applicable under applicable law. Plaintiffs also seek damages.  
15  
16

#### 17 **IV. CLASS ACTION ALLEGATIONS**

18 41. The Named Plaintiff brings this action individually, and on behalf of all persons  
19 with mobility or visual impairment or disabilities who have been denied access to Pedestrian  
20 Rights of Way in the City because of their disabilities as a class action under Rule 23 of the  
21 Federal Rule of Civil Procedure.  
22

23 42. Each member of the Proposed Class is a "qualified person with a disability"  
24 and/or a person with a "disability" pursuant to 42 U.S.C. §12131(2), Section 504 of the  
25 Rehabilitation Act, and/or applicable California law. The persons in the Proposed Class are so  
26 numerous that the joinder of all such persons is impracticable and that the disposition of their  
27  
28

1 claims in a class action rather than in individual actions will benefit the parties and the Court.

2 The Proposed Class consists of tens of thousands of persons with mobility disabilities.

3 43. Named Plaintiff is informed, believes and thereon alleges that the Defendants'  
4 policies and procedures violate the ADA and the Rehabilitation Act and analogous state statutes  
5 and common law with regard to Pedestrian Rights of Way and disability access.  
6

7 44. Named Plaintiff is informed, believes, and thereon alleges that Defendants have  
8 not adopted and do not enforce appropriate policies and procedures to ensure that Defendants  
9 are in compliance with these statutes to ensure nondiscrimination against persons with  
10 disabilities and equal access to programs, services and activities for persons with disabilities.  
11

12 45. The violations of the ADA, the Rehabilitation Act and related federal and  
13 California State statutes set forth in detail have injured all members of the Proposed Class and  
14 violated their rights.

15 46. Defendants acted or refused to act on grounds generally applicable to the  
16 Proposed Class, thereby making appropriate final injunctive or declaratory relief with respect to  
17 the class as a whole appropriate.  
18

19 47. The claims of the Named Plaintiff are typical of those of the Proposed Class in  
20 that they arise from the same course of conduct engaged in by Defendants. The relief sought  
21 herein will benefit all class members alike.  
22

23 48. Named Plaintiff will fairly and adequately represent the interests of the class. She  
24 has no interests adverse to the interests of other members of the class and has retained counsel  
25 who are competent and experienced in litigating complex class actions, including disability  
26 rights cases.  
27  
28

1           49.     The requirements of Rule 23 of the Federal Rules of Civil Procedure are met with  
2 regard to the Proposed Class in that:

3           a.     The class is so numerous that it would be impractical to bring all class  
4 members before the Court;

5           b.     There are questions of law and fact which are common to the class;

6           c.     The Named Plaintiff's claims are typical of the claims of the class;

7           d.     The Named Plaintiff will fairly and adequately represent common class  
8 interests and is represented by counsel who are experienced in class actions and the disability  
9 rights issues in this case;

10           e.     Defendants have acted or refused to act on grounds generally applicable  
11 to the class; and

12           f.     The questions of law and fact which are common to the class predominate  
13 over individual questions.

14           50.     The common questions of law and fact, shared by all class members, include:

15           a.     Whether the City Defendants are violating Title II of the ADA, 42 U.S.C.  
16 § 12131 et seq., by depriving persons with disabilities access to programs, services and activities  
17 of the Cities, and otherwise discriminating against persons with disabilities, as set forth above.  
18

19           b.     Whether the City Defendants are violating Section 504 of the  
20 Rehabilitation Act, 29 U.S.C. § 794 et seq., by depriving persons with disabilities access to  
21 programs, services and activities of the City, and otherwise discriminating against persons with  
22 disabilities, as set forth above.  
23  
24  
25  
26  
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28

1 c. Whether the Defendants are violating California Government Code  
2 Section 11135(a), which prohibits denial of benefits to persons with disabilities of any program  
3 or activity that is funded directly by the state or receives any financial assistance from the state.

4  
5 d. Whether the Defendants are violating California Civil Code §54 et seq.,  
6 by depriving persons with disabilities to full and equal access.

7 e. Whether the Defendants are violating California Government Code §4450  
8 et seq., by depriving persons with disabilities to full and equal access.

9 f. Whether the Electric Scooter Defendants unlawfully created a public  
10 nuisance causing harm to Plaintiffs.

11  
12 g. Whether the Electric Scooter Defendants unlawfully trespassed on  
13 Plaintiffs' property causing harm to Plaintiffs.

14 h. Whether the Electric Scooter Defendants are violating § 17200 of the  
15 California Business and Professions Code by engaging in unfair business practices or acts  
16 causing harm to Plaintiffs.

17  
18 i. Whether the Electric Scooter Defendants were unjustly enriched at the  
19 expense of the Plaintiffs.

20 51. Plaintiffs contemplate the eventual issuance of notice to the proposed class  
21 members that would set forth the subject and nature of the instant actions. To the extent that any  
22 further notices may be required, Plaintiffs contemplate the use of additional media and/or  
23 mailings.  
24

25 //

26 //

27 //

28

1 **V. FIRST CAUSE OF ACTION**

2 **The Americans with Disabilities Act – Title II**

3 **(Against the City Defendants)**

4  
5 52. Name Plaintiff incorporates by reference each and every allegation contained in  
6 the foregoing paragraphs.

7 53. Congress enacted the ADA upon finding, among other things, that “society has  
8 tended to isolate and segregate individuals with disabilities” and that such forms of  
9 discrimination continue to be a “serious and pervasive social problem.” 42 U.S.C. § 12101 (a)(2).

10 54. In response to these findings, Congress explicitly stated that the purpose of the  
11 ADA is to provide “a clear and comprehensive national mandate for the elimination of  
12 discrimination against individuals with disabilities” and “clear, strong, consistent, enforceable  
13 standards addressing discrimination against individuals with disabilities.” 42 U.S.C. §12101(b)  
14 (1)-(2).

15  
16 55. Title II of the ADA provides in relevant part: “[N]o qualified individual with a  
17 disability shall, by reason of such disability, be excluded from participation in or be denied the  
18 benefits of the services, programs, or activities of a public entity, or be subjected to  
19 discrimination by any such entity.” 42 U.S.C. § 12132.

20  
21 56. At all times relevant to this action, each of the City Defendants was a “public  
22 entity” within the meaning of Title II of the ADA and provided and provides a program, service  
23 or activity to the general public.

24  
25 57. At all times relevant to this action, Plaintiffs were qualified individuals with  
26 disabilities within the meaning of Title II of the ADA and met the essential eligibility  
27 requirements for the receipt of the services, programs, or activities of the City. 42 U.S.C §12131.

1           58.     City Defendants are mandated to operate each program, service, or activity “so  
2 that, when, viewed in its entirety, it is readily accessible to and useable by individuals with  
3 disabilities.” 28 C.F.R. § 35.150; see also 28 C.F.R. §§ 35.149 & 35.151. Pedestrian Rights of  
4 Way themselves constitute a vital public program, service or activity under Title II of the ADA.  
5 28 C.F.R. § 35.104; Barden v. City of Sacramento, 292 F.3d 1073 (2002).  
6

7           59.     The regulations implementing Title II of the ADA provide that a public entity  
8 must maintain the features of all facilities required to be accessible by the ADA. 28 C.F.R. §  
9 35.133. Facilities required to be accessible include roads, walks and passageways. 28 C.F.R. §  
10 35.104.  
11

12           60.     Name Plaintiff is informed, believes and thereon alleges that the Pedestrian  
13 Rights of Way are not fully, equally and safely accessible to Plaintiffs when viewed in their  
14 entirety.  
15

16           61.     Named Plaintiff is informed, believes and thereon alleges that the Electric Scooter  
17 Defendants’ business model, policies and procedures rely on the unlawful parking and driving  
18 of Electric Scooters in Pedestrian Rights of Way.

19           62.     Named Plaintiff is informed, believes and thereon alleges that the City  
20 Defendants violated and continue to violate the ADA by failing to adopt, implement or enforce  
21 ordinances or other requirements necessary to ensure that the Pedestrian Rights of Way are kept  
22 free of the Electric Scooter obstructions and thereby deny Plaintiffs the benefits of the Pedestrian  
23 Rights of Way.  
24

25           63.     Named Plaintiff is informed, believes and thereon alleges that the City  
26 Defendants failed and continue to fail to adopt, implement or enforce ordinances or other  
27  
28



1 requirements necessary to ensure that the Pedestrian Rights of Way are kept free of the Electric  
2 Scooter obstructions.

3 64. Named Plaintiff is informed, believes and thereon alleges that the City  
4 Defendants and their agents and employees have and continue to violate the ADA by failing to  
5 timely respond to and remedy complaints about the said barriers through their policies and  
6 practices with regard the Pedestrian Rights of Way and disability access.  
7

8 65. Named Plaintiff is informed, believes and thereon alleges that the City  
9 Defendants committed the acts and omissions alleged herein with intent and/or reckless disregard  
10 of Plaintiffs' rights.  
11

12 66. As a direct and proximate result of the aforementioned acts, Plaintiffs have  
13 suffered, and continue to suffer humiliation, hardship and anxiety, due to Defendants' failure to  
14 address accommodations, modifications, services and access required for Plaintiffs' disabilities.  
15

16 67. Because the City Defendants' discriminatory conduct is ongoing, declaratory and  
17 injunctive relief are appropriate remedies.

18 68. Pursuant to 42 U.S.C. § 12133, Plaintiffs are entitled to declaratory and injunctive  
19 relief as well as reasonable attorneys' fees and costs incurred in bringing this action. Named  
20 Plaintiff also seeks an award of damages.  
21

## 22 **VI. SECOND CAUSE OF ACTION**

### 23 **Section 504 of the Rehabilitation Act**

#### 24 **(Against the City Defendants)**

25 69. Plaintiffs incorporate by reference each and every allegation contained in the  
26 foregoing paragraphs.  
27

1           70. Section 504 of the Rehabilitation Act of 1973 provides in relevant part: “[N]o  
2 otherwise qualified person with a disability...shall, solely by reason of her or his disability, be  
3 excluded from the participation in, be denied the benefits of, or be subjected to discrimination  
4 under any program or activity receiving federal financial assistance...” 29 U.S.C. § 794.  
5

6           71. Plaintiffs are otherwise qualified to participate in the services, programs, or  
7 activities that are provided to individuals in the Cities. See 29 U.S.C. § 794(b).

8           72. The City Defendants are direct recipients of federal financial assistance sufficient  
9 to invoke the coverage of Section 504 of the Rehabilitation Act, and have received such federal  
10 assistance at all times relevant to the claims asserted in this Complaint.  
11

12           73. Named Plaintiff is informed, believes and thereon alleges that the City  
13 Defendants and their agents and employees have and continue to violate the Rehabilitation Act  
14 and the regulations promulgated thereunder by excluding Plaintiffs from participation in,  
15 denying Plaintiffs the benefits of, and subjecting Plaintiffs based solely by reason of their  
16 disability to discrimination in the benefits and services of the Pedestrian Rights of Way and for  
17 the reasons set forth above.  
18

19           74. Named Plaintiff is informed, believes and thereon alleges that the City  
20 Defendants committed the acts and omissions alleged herein with intent and/or reckless disregard  
21 of Plaintiffs’ rights.  
22

23           75. As a direct and proximate result of the aforementioned acts, Plaintiffs have  
24 suffered, and continue to suffer humiliation, hardship and anxiety, due to the City Defendants’  
25 failure to address accommodations, modifications, services and access required for Plaintiffs’  
26 disabilities.  
27  
28

1 76. Because City Defendants' discriminatory conduct is ongoing, declaratory and  
2 injunctive relief are appropriate remedies.

3 77. Pursuant to 29 U.S.C. § 194(a), Plaintiffs are entitled to declaratory and injunctive  
4 relief as well as reasonable attorneys' fees and costs incurred in bringing this action. Named  
5 Plaintiff also seeks an award of damages.  
6

7 **VII. THIRD CAUSE OF ACTION**

8 **California Government Code § 4450 et seq.**

9 **(Against the City Defendants)**

10 78. Plaintiffs incorporate by reference each and every allegation contained in the  
11 foregoing paragraphs.  
12

13 79. The Pedestrian Rights of Way are publicly funded and intended for use by the  
14 public within the meaning of California Government Code § 4450, et seq.  
15

16 80. Named Plaintiff is informed, believes and thereon alleges that the City  
17 Defendants and their agents and employees have and continue to violate California Government  
18 Code § 4450 et seq. and regulations implemented pursuant thereto by operating the Pedestrian  
19 Rights of Way in violation of disability access requirements and for the reasons set forth above.  
20 The aforementioned acts and omissions of the City Defendants constitute denial of equal access  
21 to and use of the Pedestrian Rights of Way and caused Plaintiffs to suffer deprivation of their  
22 civil rights.  
23

24 81. As a direct and proximate result of the aforementioned acts, Plaintiffs have  
25 suffered, and continue to suffer, humiliation, hardship and anxiety, due to the City Defendants'  
26 failure to address accommodations, modifications, services and access required for Plaintiffs'  
27 disabilities.  
28

1 82. Because the City Defendants’ discriminatory conduct is ongoing, declaratory and  
2 injunctive relief are appropriate remedies.

3 83. Plaintiffs are also entitled to reasonable attorneys’ fees and costs in filing this  
4 action.  
5

6 **VIII. FOURTH CAUSE OF ACTION**

7 **California Government Code § 11135**

8 **(Against All Defendants)**

9 84. Plaintiffs incorporate by reference each and every allegation contained in the  
10 foregoing paragraphs.  
11

12 85. Section 11135(a) of California Government Code provides in relevant part: “[N]o  
13 person in the State of California shall, on the basis of...disability, be unlawfully denied the  
14 benefits of, or be unlawfully subjected to discrimination under, any program or activity that is  
15 conducted, operated, or administered by the state or by any state agency, is funded directly by  
16 the state, or receives any financial assistance from the state.”  
17

18 86. The City Defendants are funded directly by the State of California and receive  
19 financial assistance from the State of California sufficient to invoke the coverage of Government  
20 Code Sections 11135, et seq. The City Defendants were the recipients of such funding and  
21 financial assistance at all times relevant to the claims asserted in this Complaint.  
22

23 87. Section 11150 of the California Code of Regulations defines a “program or  
24 activity” as “any project, action or procedure undertaken directly by recipients of State support  
25 or indirectly by recipients through others by contracts, *arrangements* or agreements, with respect  
26 to the public generally or with respect to any private or public entity.” [Emphasis added]  
27  
28

1           88. Section 11150 of the California Code of Regulations defines “[s]tate financial  
2 assistance” as “any grant, entitlement, loan, cooperative agreement, contract or *any other*  
3 *arrangement* by which a State agency provides or otherwise makes available aid to recipients in  
4 the form of... (3) real or personal property *or any interest in or use of such property*, including:  
5 (A) transfers or leases of property for *less than fair market value or for reduced*  
6 *consideration...*” [Emphasis added]  
7

8           89. Section 11150 of the California Code of Regulations defines “[r]ecipient” as any  
9 “person, who...receives State support...in an amount in excess of \$10,000 in the aggregate per  
10 State fiscal year...by grant, contract *or otherwise, directly or through another recipient...*”  
11 [Emphasis added]  
12

13           90. The City Defendants are direct recipients of state financial assistance. The  
14 Electric Scooter Defendants are recipients of state financial assistance through another recipient,  
15 the City Defendants.  
16

17           91. Plaintiffs are informed, believe and thereon allege that Defendants and their  
18 agents and employees have and continue to violate California Government Code § 11135 by  
19 unlawfully denying Plaintiffs the benefits of, and unlawfully subjecting Plaintiffs to  
20 discrimination under the City Defendants’ programs and activities and for the reasons set forth  
21 above.  
22

23           92. Defendants have refused and failed to provide Plaintiffs with full and equal access  
24 to their facilities, programs, services and activities as required by California Government Code  
25 Sections 11135, et seq. through their policies and practices with regard to the Pedestrian Rights  
26 of Way and disability access.  
27  
28

1 93. As a direct and proximate result of the aforementioned acts, Plaintiffs have  
2 suffered, and continue to suffer humiliation, hardship and anxiety, due to Defendants' failure to  
3 address accommodations, modifications, services and access required for Plaintiffs' disabilities.  
4

5 94. Because Defendants' discriminatory conduct is ongoing, declaratory and  
6 injunctive relief are appropriate remedies.

7 95. Plaintiffs are also entitled to reasonable attorneys' fees and costs in filing this  
8 action.

9 **IX. FIFTH CAUSE OF ACTION**

10 **California Civil Code § 54 et seq.**

11 **(Against All Defendants)**

12  
13 96. Plaintiffs incorporate by reference each and every allegation contained in the  
14 foregoing paragraphs.

15 97. California Civil Code § 54(a) provides that "[i]ndividuals with disabilities or  
16 medical conditions have the same right as the general public to the full and free use of  
17 ...sidewalks, walkways... and other public places."

18  
19 98. Plaintiffs are persons with disabilities within the meaning of California Civil  
20 Code § 54(b)(1) and California Government Code § 12926.

21 99. California Civil Code Section 54.3 provides that "[a]ny person or persons, firm  
22 or corporation who denies or interferes with admittance to or enjoyment of the public facilities  
23 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with  
24 a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages and  
25 any amount as may be determined by a jury, or the court sitting without a jury, up to a maximum  
26 of three times the amount of actual damages but in no case less than one thousand dollars  
27  
28

1 (\$1,000), and attorney's fees as may be determined by the court in addition thereto, suffered by  
2 any person denied any of the rights provided in Sections 54, 54.1, and 54.2.”

3 100. Defendants have deprived Plaintiffs of their right to have full and free use of  
4 sidewalks, walkways and other public places, and therefore violate California Civil Code § 54.

5 101. For all the reasons outlined above, Defendants violated the rights of Plaintiffs  
6 under California Civil Code § 54.

7 102. As a direct and proximate result of the aforementioned acts, Plaintiffs have  
8 suffered, and continue to suffer, humiliation, hardship and anxiety, due to Defendants' failure to  
9 address accommodations, modifications, services and access required for Plaintiffs' disabilities.  
10

11 103. Because Defendants' discriminatory conduct is ongoing, declaratory and  
12 injunctive relief are appropriate remedies.

13 104. Plaintiffs are also entitled to reasonable attorneys' fees and costs in filing this  
14 action.  
15

16 105. Name Plaintiff also seeks an award of damages. Under California Civil Code §  
17 54.3, Defendants are liable to Named Plaintiff for her actual damages, and up to three (3) times  
18 her actual damages.  
19

20 **X. SIXTH CAUSE OF ACTION**

21 **Public Nuisance**

22 **(Against All Defendants)**

23 106. Plaintiffs incorporate by reference each and every allegation contained in the  
24 foregoing paragraphs.  
25

26 107. The Defendants through their policies and practices with regard to the Pedestrian  
27 Rights of Way and disability access have created a condition that is an obstruction to the free  
28

1 and safe use of the Pedestrian Rights of Way by persons with mobility impairment or visual  
2 impairment, so as to interfere with the comfortable enjoyment of the Pedestrian Rights of Way.

3 108. The Defendants through their policies and practices with regard to the Pedestrian  
4 Rights of Way and disability access have created a condition that unlawfully obstructed the free  
5 passage or use of the Pedestrian Rights of Way, in the customary manner.  
6

7 109. The Defendants through their policies and practices with regard to the Pedestrian  
8 Rights of Way and disability access have created a condition that is a hazard because Plaintiffs  
9 risked injury and death by traveling on or around inaccessible Pedestrian Rights of Way.  
10

11 110. Named Plaintiff is informed, believes and thereon alleges that the condition  
12 referred to above affected and continues to affect a substantial number of people at the same  
13 time, and that ordinary persons are reasonably annoyed or disturbed by the condition.

14 111. The seriousness of harm (including, among other things, creation of a hazardous  
15 condition causing disabled persons to risk serious injury and death) outweighs the social utility  
16 (business profits of two companies) of the Defendants' conduct.  
17

18 112. The Defendants' conduct was a substantial factor in causing the Plaintiffs' harm.

19 113. Because Defendants' conduct is ongoing, declaratory and injunctive relief are  
20 appropriate remedies.  
21

22 114. Plaintiffs are also entitled to reasonable attorneys' fees and costs in filing this  
23 action.

24 115. Named Plaintiff also seeks an award of damages.

25 //

26 //

27 //

28



**XI. SEVENTH CAUSE OF ACTION**

**Trespass**

**(Against All Defendants)**

1  
2  
3  
4  
5 116. Plaintiffs incorporate by reference each and every allegation contained in the  
6 foregoing paragraphs.

7 117. At all times relevant to this Complaint, Plaintiffs, as residents of the Cities and  
8 visitors to the Cities, owned, occupied or controlled, or had a right to own, occupy or control,  
9 the Pedestrian Rights of Way.

10 118. Defendants intentionally caused Electric Scooters to enter the Pedestrian Rights  
11 of Way, without the permission of the Plaintiffs or beyond any permission given by Plaintiffs.

12 119. Defendants recklessly or negligently caused Electric Scooters to enter the  
13 Pedestrian Rights of Way, without the permission of the Plaintiffs or beyond any permission  
14 given by Plaintiffs.

15 120. Plaintiffs have suffered, and continue to suffer, humiliation, hardship and anxiety,  
16 and the unauthorized entry Electric Scooters in the Pedestrian Rights of Way was a substantial  
17 factor in causing Plaintiffs' harm.

18 121. Because Defendants' conduct is ongoing, declaratory and injunctive relief are  
19 appropriate remedies.

20 122. Plaintiffs are also entitled to reasonable attorneys' fees and costs in filing this  
21 action.

22 123. Named Plaintiff also seeks an award of damages.

23 //

24 //

1 **XII. EIGHTH CAUSE OF ACTION**

2 **California Business and Professions Code § 17200 et seq.**

3 **(Against the Electric Scooter Defendants)**

4 124. Plaintiffs incorporate by reference each and every allegation contained in the  
5 foregoing paragraphs.  
6

7 125. Section 17200 of the California Business & Professions Code (“Unfair  
8 Competition Law” or “UCL”) prohibits any “unlawful,” “unfair” and “fraudulent” business  
9 practice.  
10

11 126. Section 17200 specifically prohibits any “*unlawful* . . . business act or practice.”  
12 [Emphasis added] Electric Scooter Defendants have violated §17200’s prohibition against  
13 engaging in an unlawful act or practice by, *inter alia*, commandeering and exploiting Pedestrian  
14 Rights of Way for use by Electric Scooter Customers in violation of federal and California state  
15 laws and local ordinances.  
16

17 127. Electric Scooter Defendants’ ongoing unlawful exploitation of Pedestrian Rights  
18 of Way violates, among other laws, California Government Code Section 11135 *et seq.*, and  
19 California Civil Code Section 54 *et seq.*, as discussed above. Plaintiffs reserve their right to  
20 allege other violations of law which constitute other unlawful business acts or practices, as  
21 further investigation and discovery warrants. Such conduct is ongoing and continues to this date.  
22

23 128. Section 17200 specifically prohibits any “*unfair* . . . business act or practice.”  
24 [Emphasis added] As described in the preceding paragraphs, Electric Scooter Defendants  
25 engaged in the unfair business practice of taking and exploiting Pedestrian Rights of Way for  
26 their own corporate profit to the detriment of the most vulnerable residents and visitors of the  
27  
28



1 C. For an order requiring the City Defendants to adopt, implement or enforce  
2 ordinances or other requirements necessary to ensure that the Pedestrian Rights of Way are kept  
3 free of the Electric Scooter obstructions.  
4

5 D. For an order requiring the City Defendants to adopt, implement or enforce  
6 ordinances or other requirements necessary to ensure that the Pedestrian Rights of Way are kept  
7 free of the Electric Scooter operation.

8 E. For an order that this matter remain under this Court's jurisdiction until  
9 Defendants fully comply with the Orders of this Court;

10 F. For an order requiring disgorgement of monies wrongfully obtained as a result of  
11 the Electric Scooter Defendants wrongful and illegal conduct;

12 G. For compensatory and punitive damages, including actual and statutory damages,  
13 arising from Defendants' wrongful and illegal conduct;

14 H. For an award of reasonable attorneys' fees and all costs and expenses incurred in  
15 the course of prosecuting this action;

16 I. For pre-judgment and post-judgment interest at the legal rate; and

17 J. For such other and further relief as the Court deems just and proper.  
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