



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Oct-11-2018 1:53 pm

Case Number: CPF-18-516368

Filing Date: Oct-11-2018 1:43

Filed by: MEREDITH GRIER

Image: 06530811

PETITION

IN RE: NEUTRON HOLDINGS, INC. D/B/A LIME

001C06530811

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FILED
San Francisco County Superior Court

OCT 11 2018

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN FRANCISCO**

10
11 NEUTRON HOLDINGS, INC. d/b/a LIME,
12
13 Plaintiff and Petitioner,

14 v.

15 CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation; SAN
16 FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY, a public
17 agency; EDWARD D. REISKIN, in his
official capacity as Director of the San
18 Francisco Municipal Transportation Agency
only; and DOES 1-20, inclusive,

19 Defendants.

Case No. **CPF-18-516368**

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND
INJUNCTIVE RELIEF AND VERIFIED
PETITION FOR WRIT OF MANDATE**

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**VERIFIED COMPLAINT FOR DECLARATORY RELIEF AND INJUNCTIVE RELIEF AND VERIFIED
PETITION FOR WRIT OF MANDATE**

1 Plaintiff and Petitioner Neutron Holdings, Inc. d/b/a Lime (“Lime”) reluctantly files this
2 Complaint to address critical deficiencies and lack of due process in the San Francisco Municipal
3 Transportation Agency (“SFMTA”) Board of Directors’ Powered Scooter Share Pilot Program
4 (“Pilot Program”).

5 Lime is a mobility company whose mission is to reduce cars on city streets by providing
6 electric scooter and dock-free smart bikes. Founded locally, Lime has successfully partnered with
7 cities all over the world to improve transportation and reduce congestion. Naturally, Lime hoped
8 to partner with the SFMTA to bring these same benefits to its hometown in the form of the Pilot
9 Program. Unfortunately, however, the SFMTA’s process to select the participants in such a
10 program was fatally flawed from the outset, and as a result, Lime was excluded from the scooter
11 pilot. Lime attempted to resolve this dispute with the SFMTA – requesting, for example, that the
12 SFMTA delay the start of the pilot program on October 15th pending administrative review – but
13 the SFMTA refused.

14 Worse, the SFMTA has cloaked the entire process in a veil of secrecy. Lime has made
15 repeated requests to SFMTA for documents that would shed light on SFMTA’s permit decision,
16 but SFMTA has failed to substantively respond. Instead, it has asserted a wall of objections,
17 including attorney-client privilege that, conveniently, impair Lime’s ability to mount an effectual
18 appeal—scheduled for hearing on October 24, 2018—of the SFMTA’s decision.

19 On October 15th, two companies with less operating capacity or experience than Lime will
20 launch on city streets, locking Lime (and other operators) out and undermining its ability to
21 demonstrate to San Francisco residents its superior service. As a result, Lime was left with no
22 choice but to stand up for its community of riders and file this Complaint. Through this
23 complaint, Lime respectfully requests the Court permanently enjoin Defendants from issuing the
24 permits granted pursuant to its unconstitutional Pilot Program unless and until the program is
25 revised to conform to constitutional and legal requirements.

1 **INTRODUCTION**

2 1. On May 1, 2018, the SFMTA Board of Directors adopted a Pilot Program to allow
3 the operation of shared electric scooters in San Francisco. The SFMTA Board of Directors
4 authorized the Director of Transportation to issue permits to scooter operators who comply with or
5 agree to the Pilot Program’s criteria, including operational plans, a low-income user plan, and
6 various technological requirements, among others.

7 2. Bias contaminated the SFMTA’s Pilot Program, from its inception to its
8 application. When adopting the Pilot Program, the SFMTA Board of Directors instructed SFMTA
9 Director of Transportation Edward Reiskin (“Director Reiskin”) to include a provision punishing
10 the lawful past behavior of certain applicants, including Plaintiff and Petitioner Neutron Holdings,
11 Inc. d/b/a Lime (“Lime”). Director Reiskin then evaluated applications arbitrarily. He ignored the
12 successful applicants’ failure to comply with mandatory criteria, such as providing a low-income
13 user plan. And he subjectively gave Lime lower evaluations for the same or similar
14 demonstrations of compliance in their applications as those of the successful applicants. For
15 instance, Lime received a low evaluation for its helmet-promotion proposals, whereas the
16 successful applicants received higher marks for identical proposals. By denying Lime a fair
17 evaluation through the uniform application of criteria, SFMTA’s actions violate the due process
18 clause of the California Constitution, statutory law, and common law.

19 3. Lime requests injunctive relief to enjoin the City and County of San Francisco (the
20 “City”), SFMTA, and Director Reiskin (collectively, “Defendants”) from issuing permits under
21 the Powered Scooter Share Pilot Program while Lime’s administrative appeal before an SFMTA-
22 designated hearing officer is pending. Lime additionally seeks the Court’s declaration that
23 SFMTA failed to establish a constitutionally valid permitting program under Section 916.

24 4. Compounding its arbitrary and capricious permit decisions, SFMTA has failed to
25 comply with Chapter 67 of the San Francisco Administrative Code—the San Francisco Sunshine
26 Ordinance (“Sunshine Ordinance”). Lime has made repeated requests to SFMTA for responsive
27 documents that would shed light on SFMTA’s permit decisions, such as SFMTA staff’s
28 evaluations of permit applications, scoresheets comparing applications, or notes. SFMTA has

1 failed to produce a single record of such documents or to justify the withholding of such records,
2 leaving Lime in the dark regarding additional facts germane to its permit denial. It is implausible
3 that SFMTA adequately responded to Lime's requests. Lime petitions the Court for a writ of
4 mandate compelling SFMTA to comply with the Sunshine Ordinance by producing responsive
5 public records.

6 5. Shared electric scooters are a nascent and rapidly growing industry. Lime has been
7 an enthusiastic supporter of scooter regulations in San Francisco in order to allow for the orderly
8 implementation of this new mode of transportation. Instead of taking an even-handed approach to
9 implanting such regulations, Defendants have bowed to political whims and biases by subjectively
10 picking winners and losers among the Pilot Program applicants. This Court should hold SFMTA
11 to its own standards and ensure that all qualified Pilot Program applicants are evaluated fairly.

12 6. Lime seeks to compel Defendants to produce relevant public records and to stop the
13 Defendants from issuing permits under its unconstitutional Power Scooter Share Pilot Program
14 unless and until the program is revised to conform to constitutional and legal requirements.

15 **THE PARTIES**

16 7. Lime is a privately held Delaware corporation headquartered in San Francisco that
17 provides smart mobility solutions through its fleet of rental smart bikes, electric-assist bikes, and
18 electric scooters to over 100 communities throughout the United States and abroad. Lime's
19 principal place of business is in San Francisco, California.

20 8. Defendant City and County of San Francisco is a municipal corporation organized
21 and existing under its Charter and the laws of the State of California.

22 9. Defendant San Francisco Municipal Transportation Agency is a public agency
23 organized and existing under the Charter of the City and County of San Francisco ("Charter").

24 10. Under the applicable portions of the Charter and Transportation Code, Director
25 Reiskin is responsible for evaluating applications for permits under the Power Scooter Share Pilot
26 Program and is sued herein only in his official capacity.

27 11. The true names of defendants DOES 1 through 20, inclusive, are unknown to Lime,
28 who therefore sues said defendants by such fictitious names. Lime is informed and believes and

1 thereon alleges that each of the defendants designated as a DOE is liable to Lime in some manner
2 on the facts alleged in this action. Lime will seek leave of Court to allege their true names and
3 capacities when the same have been ascertained.

4 12. On information and belief, each of the Defendants is and was at all relevant times
5 an agent and/or employee of the other, acting with one another in concert as alleged herein in the
6 course and scope of that relationship.

7 **JURISDICTION AND VENUE**

8 13. This Court has jurisdiction over this matter pursuant to Article VI, Section 10 of the
9 California Constitution, Code of Civil Procedure sections 410.10 and 1085, and California
10 Government Code sections 6258 and 6259 because all parties reside in California and the subject
11 matter of this dispute falls within the general jurisdiction of the Superior Courts of the State of
12 California.

13 14. Venue in this Court is proper under Code of Civil Procedure sections 394 and 395,
14 subdivision (a), because Defendants reside in San Francisco County.

15 **FACTUAL ALLEGATIONS**

16 **Lime's Smart Mobility Operations**

17 15. Lime was founded in January 2017, and provides electric scooter and dock-free
18 smart bike programs to cities and universities across the country, with a focus on reducing traffic
19 congestion, promoting healthy living, and addressing the critical challenge of first and last-mile
20 transportation. Lime's mission is to change mobility by providing residents with a cost-effective
21 and accessible transportation option that advances sustainability. Lime's goals are achieved by
22 using wireless technologies to make mobility universally available and affordable with a subsidy-
23 free network that is flexible and customizable, does not displace or occupy existing infrastructure,
24 and can be easily moved in the case of emergencies, special events, weather, or other public-space
25 priorities. Lime's fleet of electric scooters are also zero emission and entirely carbon neutral,
26 furthering important environmental and sustainability goals.

27 16. Lime is committed to providing its services to all members of the communities in
28 which it operates, and strongly believes in providing smart-mobility solutions for all. To that end,

1 Lime has designed a Lime Access equity program that provides low-income individuals with
2 heavily subsidized rides. Additionally, in all of its markets, Lime has also made a significant
3 effort to hire locally for its field-operations team and has worked to source candidates through
4 local community partners, as well as through established workforce-development agencies that
5 assist in hiring hard-to-hire community members.

6 17. Lime has worked cooperatively with cities and other government agencies to
7 provide its smart mobility transportation services in their communities. Throughout its existence,
8 Lime has demonstrated its ability to provide shared electric scooter services successfully at scale
9 to cities across the world.

10 **Lime Begins Shared Powered Scooter Operations in San Francisco**

11 18. Beginning in March of 2018, Lime introduced its shared electric scooter program in
12 San Francisco through several “pop-up” events. Following those successful events, and in
13 response to other operators launching shared scooter services throughout San Francisco, Lime
14 expanded on its pop-up program to provide shared scooters to San Franciscans in multiple
15 neighborhoods. At that time, there were no permits required to operate a shared scooter program
16 in San Francisco. California has always law expressly permits the operation of powered scooters
17 on public streets.

18 19. Shortly after Lime began operating in San Francisco, Director Reiskin sent a letter
19 dated March 28, 2018 to Lime informing it that SFMTA was in the process of developing a
20 permitting program for shared scooters and that the City would enforce local laws protecting its
21 right-of-way. Director Reiskin’s letter accused Lime of “bad faith” and of violating SFMTA’s
22 “understanding” of Lime’s operations in San Francisco. That letter requested additional
23 information regarding Lime’s plans for operations in San Francisco. Director Reiskin requested a
24 response by April 6, 2018.

25 20. On April 2, 2018, Lime timely responded to Director Reiskin. In its response
26 letter, Lime addressed the concerns raised in Director Reiskin’s letter regarding Lime’s operations
27 and their impact on the public right-of-way and public safety. Lime also reiterated its desire to
28 work collaboratively with SFMTA and other key stakeholders to develop and implement a permit

1 process for the operation of a powered scooter share program in San Francisco.

2 21. Lime also timely responded to a letter from the San Francisco City Attorney,
3 Dennis Herrera, on April 30, 2018, addressing concerns raised by both the City Attorney and the
4 San Francisco Board of Supervisors related to rider safety and proper parking of Lime’s electric
5 scooters. Lime provided the requested information regarding its pilot operations and expressed its
6 desire to continue to work collaboratively with the City Attorney’s Office, SFMTA, the Board of
7 Supervisors, and the community in the development of a formal permit process for a powered
8 scooter share program. In a meeting with Lime representatives, City Attorney Herrera
9 acknowledged Lime’s response and advised Lime that he would not take any further action with
10 respect to Lime as SFMTA developed the permitting program.

11 22. Throughout the entirety of Lime’s pilot program in San Francisco, Lime operated
12 lawfully and did not violate any existing laws or regulations.

13 **Defendants Adopt Permit Requirements for a Powered Scooter Share Pilot Program**

14 23. On April 17, 2018, the San Francisco Board of Supervisors voted unanimously to
15 pass an ordinance that would require powered scooter share companies to obtain permits from
16 SFMTA to operate in San Francisco. SFMTA then drafted proposed amendments to Section 916
17 of the San Francisco Transportation Code (“Section 916”) establishing a 12-month “Powered
18 Scooter Share Pilot Program” for powered scooter share operations in San Francisco. SFMTA’s
19 proposed amendments to Section 916 of the Transportation Code were adopted through
20 Resolution No. 180501-073 following a public meeting of SFMTA’s Board of Directors on May
21 1, 2018, and the amendments went into effect on June 1, 2018.

22 24. As amended, Section 916 authorizes Director Reiskin to issue up to five total
23 “Powered Scooter Share Permits.” The maximum number of powered scooters authorized under
24 the Pilot Program for the first six months of the program is 1,250, which can be increased to a total
25 of 2,500 during the remainder of the Pilot Program. Section 916, subdivision (e)(1) also grants
26 Director Reiskin authority to grant a permit either in the form requested or with modifications, or
27 to deny an application.

28 25. In addition, the SFMTA Board of Directors introduced and adopted the following

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1 unlawful amendment to Section 916, subdivision (e)(3) during the SFMTA’s Board of Directors’
2 meeting on May 1, 2018:

3 In evaluating a permit application, the Director of Transportation
4 may consider the extent to which an operator has the capacity to
5 meet the permit terms based on past experience, including
6 compliance with applicable laws and its efforts to ensure compliance
7 by its users with applicable laws.

8 As explained below, statements by various public officials, including Director Reiskin, during
9 SFMTA’s May 1, 2018 public meeting reveal that Section 916, subdivision (e)(3) was enacted
10 with the express purpose of punishing companies like Lime who had lawfully operated shared
11 powered scooters in San Francisco prior to the adoption of the Pilot Program.

12 **The Powered Scooter Share Program Permitting Process Violates Due Process**

13 26. “A person may not be deprived of life, liberty, or property without due process of
14 law” (Cal. Const., art. I, § 7.) Because the language in the federal constitution is nearly
15 identical to California’s Constitution, California courts look to the United States Supreme Court’s
16 precedents for guidance regarding the interpretation of California’s due process clause. (See, e.g.,
17 *Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731,
18 736-737.) An opportunity to be heard should be provided “at a meaningful time and in a
19 meaningful manner.” (*Armstrong v. Manzo* (1965) 380 U.S. 545, 552.) “The contention that a
20 fair hearing requires a neutral and unbiased decision maker is a fundamental component of a fair
21 adjudication.” (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1234.)

22 27. Under the federal constitution, due process protections are triggered when
23 governmental decisions deprive individuals of “liberty” or “property” interests. (*Mathews v.*
24 *Eldridge* (1976) 424 U.S. 319, 332.) In California, this includes a liberty interest in “freedom
25 from arbitrary adjudicative procedures.” (*People v. Ramirez* (1979) 25 Cal.3d 260, 268-269;
26 accord, *Saleeby v. State Bar of California* (1985) 39 Cal.3d 547, 563-564.)

27 28. Under California law, fairness of the administrative hearing procedures may be
28 evaluated under due process even where the hearings do not involve deprivation of a property
interest. “Procedural due process under the California Constitution . . . extends potentially to any
statutorily conferred benefit, whether or not it can be properly construed as a liberty or property

1 interest.” (*Conejo Wellness Center, Inc. v. City of Agoura Hills* (2013) 214 Cal.App.4th 1534,
2 1562.)

3 29. The permitting process established by Defendants for the Pilot Program violates
4 due process because it sets forth a permit scheme that excludes scooter operators like Lime from
5 operation within San Francisco without providing any meaningful opportunity to present a permit
6 application to an unbiased decision-maker.

7 30. Section 916, subdivision (e)(3) was written and adopted explicitly to punish scooter
8 operators such as Lime without any legal or factual justification.

9 31. As one example, when discussing the proposed amendments to Section 916, Lee
10 Hepner, an aide to San Francisco Supervisor Aaron Peskin stated, in relevant part, as follows:

11 Second, and this is one that Supervisor Peskin has been really
12 adamant about is that there ought to be some consideration of past
13 bad behavior of some of these companies. And it would be one
14 thing if these companies approached us with an idea to operate on
15 our streets but . . . and with a desire to collaborate with us, but
16 instead, what we’ve seen is the introduction of our permit
17 requirement and after that point multiple scooter companies coming
18 in with a great deal of arrogance, I believe, and causing these
19 troubles on our public rights of way. And is that behavior that we
20 should be rewarding? Or can we insert something, and I believe it
21 would be in section 916, subsection (e), of the legislation before
22 you, that would at least allow the Department or the Director of
23 Transportation to consider the past behavior of some of these
24 proprietors. It’s worth knowing that there are other scooter
25 manufacturers who have not entered into our public rights of way
26 right now and are waiting to see how this plays out, and maybe that
27 should be considered when we’re acknowledging who is entitled to
28 a permit to operate in the City and County of San Francisco over
some of the companies that have instead opted to move fast and
break things in our City. So, cautious of rewarding that past
behavior; otherwise, you know, I am very much looking forward to I
think some extensive public comments here. Thank you for
indulging my extensive comments as well. And I look forward to
whatever results from this today.¹

29 32. Further, in response to a question about whether to add a provision to Section 916
30 to punish Lime and others, Director Reiskin stated:

31 _____
32 ¹ (May 1, 2018 Hearing Recording of SFMTA’s Board of Director’s Meeting [“SFMTA Hearing
Recording”] (testimony provided at 1:47:34-1:48:57 of the video recording) (available at
http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=55&clip_id=30423).

1 So, we would certainly welcome input from the Board on changes to
2 fine amounts [and] on explicit consideration of past behavior. I
3 think there's some discretion that already exists in the language as
4 proposed and maybe during public comment I can ask our attorney
and staff to explore to what extent we think we already have the
ability to do that and if not, I would certainly be open to that, I think
it would be appropriate.²

5 Director Reiskin thus publicly adopted Supervisor Peskin's view that it was appropriate to punish
6 scooter operators like Lime who lawfully operated in San Francisco prior to the enactment of the
7 Pilot Program.

8 33. Also during the May 1, 2018 hearing, a member of the SFMTA Board of Directors,
9 Art Torres, told Director Reiskin:

10 Well these people are bad actors, number one. . . . So, I guess it goes
11 back to what we said earlier in terms of past bad behavior. We ought
12 not to be rewarding people who have stuck their fingers at us when
13 dealing with cease and desist orders. Those of us on this panel, I
14 know, believe in the rule of law. What are we going to do to [*sic*]
15 that?³

16 34. Director Reiskin was instructed that Section 916, subdivision (e) should be
17 amended to include a provision punishing entirely lawful past behavior. These statements by the
18 officials responsible for adopting and implementing the Pilot Program are examples of
19 Defendants' unlawful bias.

20 35. The standards for evaluating applications under the Pilot Program were unknown to
21 applicants and were ultimately unrelated to the application requests or the qualifications set forth
22 in Section 916. While Section 916, subdivision (d) includes a list of criteria for Director Reiskin
23 to consider, nothing explains how the various factors would be weighed or scored. Lime and other
24 applicants did not have meaningful notice about the standards that would be applied to their
25 applications. On information and belief, the application evaluation standards were developed
26 using factors that would further ensure that Lime and similarly situated applicants would not be
27 awarded permits.

28 36. Revealing SFMTA's shifting guidelines and lack of transparent criteria, at the

27 ² (SFMTA Hearing Recording at 1:50:42-1:51:09.)

28 ³ (SFMTA Hearing Recording at 1:51:33-1:52:09.)

1 October 1, 2018 hearing of the Land Use and Transportation Committee, SFMTA Director of
2 Sustainable Streets Tom Maguire answered Supervisor Ahsha Safaí about the weighting of the
3 various application criteria by acknowledging:

4 [T]he criteria were put in the application . . . it's a good question about the weight.
5 We did not publish—this was not a procurement—like a request for proposal
6 where we were asking vendors to come in and score ten points on this, five points
7 on this. There were certain issues, like accountability and safety, for which a poor
8 rating would not be acceptable, no matter how well a vendor scored on the other
9 criteria. And for that reason we didn't publish, you know, a specific framework
10 whereby if you get 26 point out of 50 you automatically get a permit.⁴

11 As Director Maguire admitted, the mandatory nature of certain criteria was not disclosed to
12 applicants prior to the application deadline.

13 37. SFMTA's bias is additionally apparent in the arbitrary and unfounded application
14 assessments for the different applicants. The SFMTA ratings of "Poor," "Fair," and "Strong" for
15 various criteria are unfounded in any quantitative assessment of the applications. Lime received
16 lower ratings for certain criteria compared to the successful applicants, despite Lime's application
17 providing the same or a quantitatively superior service for those criteria. On information and
18 belief, SFMTA abused its permitting discretion and arbitrarily applied criteria to disadvantage
19 Lime and similarly situated applicants.

20 38. Pursuant to Section 916, subdivision (e)(1), Director Reiskin is provided with the
21 sole authority to promulgate procedures for any review requested by scooter operator applicants
22 whose permit applications have been denied. Thus, any review of denied Powered Scooter Share
23 Permits is conducted by the same staff that denied the permit in the first instance and is necessarily
24 infected with the same bias and predetermination as the initial application review.

25 39. The unlawful bias and procedural failings described above resulted in a permitting
26 scheme that was fundamentally flawed, deprived Lime of its constitutional right to procedural due
27 process, and resulted in a decision that was entirely arbitrary and capricious. The process to obtain

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⁴ (October 1, 2018 Recording of the Land Use and Transportation Committee of the San Francisco
Board of Supervisors (statement made at 4:03:39-4:04:09 of the video recording) (available at
http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=177&clip_id=31470).

1 permits under the Pilot Program violates the due process rights of Lime and all other applicants to
2 the detriment of San Franciscans who rely on their local government to promote fairness and
3 equity in their City.

4 **Lime Submits Requests for Public Records to Better Understand the Permitting Process,**
5 **and SFMTA Partially Responds**

6 40. Pursuant to San Francisco Administrative Code, sections 67.21, 67.24 and 67.25
7 (San Francisco's "Sunshine Ordinance"), and the California Public Records Act ("CPRA"), on
8 August 22 and 23, 2018, and on September 6 and 27, 2018, counsel for Lime submitted to
9 SFMTA eleven separate requests for immediate disclosure of documents, including, without
10 limitation: Director Reiskin's Daily Calendar for the relevant period, emails to or from Director
11 Reiskin and/or certain SFMTA staff members that contain certain words and phrases relating to
12 the Pilot Program, the names of individuals who evaluated or scored applications for the Pilot
13 Program, emails to or from individuals who evaluated or scored applications for the Pilot
14 Program, the criteria used to evaluate applications, individual ratings, comments, score sheets, and
15 correspondence relating to Section 916, subdivision (e)(3).

16 41. While SFMTA has provided some responsive documents, it granted itself
17 additional time to respond to Lime's requests and did not fully responded to all of Lime's requests.
18 SFMTA also expressly withheld documents based upon broad and unsupportable exemptions, in
19 violation of the Sunshine Ordinance and PRA. While the SFMTA may not want to disclose these
20 documents, they must be made public as a matter of law.

21 **FIRST CAUSE OF ACTION**

22 **Injunctive Relief - Code Civ. Proc., § 526**

23 **(against all Defendants)**

24 42. Lime re-alleges and incorporates by this reference Paragraphs 1 through 41 as if set
25 forth in full herein.

26 43. Lime applied for a Powered Scooter Share Permit on or around June 6, 2018.

27 44. On information and belief, 11 other companies also applied for Powered Scooter
28 Share Permits around the same time.

1 45. On August 30, 2018, SFMTA notified Lime that its permit application had been
2 denied.

3 46. That same day, SFMTA announced that Powered Scooter Share Permits would be
4 awarded to two applicants, Scoot Networks and Waybots, Inc. d/b/a Skip.

5 47. SFMTA has publicly stated that permits will not be issued under the Pilot Program
6 until on or around October 15, 2018, but, on information and belief, SFMTA may issue the
7 permits sooner.

8 48. The Defendants' actions to deprive Lime of procedural due process constitute
9 irreparable harm. Lime will be irreparably harmed if Defendants are allowed to issue permits
10 under the Pilot Program while at the same time excluding Lime from the San Francisco market.

11 49. Market visibility and access is crucial to the success of shared mobility programs,
12 and Lime will face irreparable harm if the unconstitutional permit process is not enjoined.

13 50. Allowing other operators to access the market for at least 12 months, while
14 wrongfully excluding Lime, will give those permitted companies a decided advantage in
15 developing market share, brand recognition, customer loyalty, and goodwill in a rapidly
16 developing industry.

17 51. The Pilot Program will also harm the citizens of San Francisco, who will suffer
18 from the reduced selection and/or geographic availability of beneficial electric scooter alternatives
19 from applicants, including Lime.

20 52. Lime has no plain, speedy, or adequate remedy in the ordinary course of the law for
21 these harms.

22 53. Lime is therefore entitled to a temporary restraining order, preliminary injunction,
23 and permanent injunction either prohibiting the Defendants from issuing permits under the Pilot
24 Program or prohibiting the Defendants from enforcing the limits established by the Pilot Program
25 against Lime and other applicants who did not receive permits.

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1 **SECOND CAUSE OF ACTION**

2 **Declaratory Relief- Code Civ. Proc., § 1060**

3 **(against all Defendants)**

4 54. Lime re-alleges and incorporates by this reference Paragraphs 1 through 53 as if set
5 forth in full herein.

6 55. On information and belief, the Defendants contend that the permitting process for
7 its Pilot Program comports with the due process clause of the California Constitution, a contention
8 Lime disputes. Accordingly, an actual controversy has arisen and now exists between Lime and
9 Defendants concerning that issue.

10 56. If Defendants are allowed to issue the permits pursuant to its unconstitutional
11 process, while denying Lime access to the San Francisco market, Lime will be harmed as
12 described above.

13 57. Lime has no plain, speedy, and adequate remedy in the ordinary course of the law
14 for the harms it will suffer if the Pilot Program is allowed to proceed, resulting in some operators
15 entering the San Francisco market based on the flawed permitting process, while Lime is
16 excluded.

17 58. Lime is therefore entitled to a judicial declaration of its rights and the Defendants'
18 duties under section 1060 of the California Code of Civil Procedure with respect to the
19 constitutionality of the Defendants' existing permitting process.

20 **THIRD CAUSE OF ACTION**

21 **Writ of Mandate - California Public Records Act and Sunshine Ordinance**

22 **Gov. Code, § 6250, et seq.; San Francisco Admin. Code, §§ 67.21, 67.24, 67.25**

23 **(against all Defendants)**

24 59. Lime re-alleges and incorporates by this reference Paragraphs 1 through 58 as if set
25 forth in full herein.

26 60. Lime is constrained in its understanding of how permit applications were evaluated
27 by the SFTMA based on SFMTA's failure to fully respond to Lime's requests for information
28 under the Sunshine Ordinance and CPRA.

1 61. Of the eleven requests for information submitted, SFMTA has only responded to
2 six. In addition, while SFMTA asserts that it has fully responded to Lime’s request for the names
3 of individuals who evaluated or scored Pilot Program applications and the resulting ratings,
4 comments, and score sheets, it has failed to produce a single record of individual scoresheets or
5 notes. It is implausible that SFMTA has adequately responded to Lime’s request. On information
6 and belief, SFMTA is in possession of records responsive to Lime’s request that the law requires
7 Defendants to produce but have not been produced.

8 62. SFMTA’s claim, after Lime appealed its permit decision, that any additional
9 responsive documents are protected by the attorney-client privilege or “draft recommendations of
10 the author” exemptions is untenable. SFMTA has completed its review of the scooter operator
11 permit applications, and there is no basis for it to withhold relevant documents requested by Lime.

12 63. Before withholding any record in response to a valid request under the Sunshine
13 Ordinance, SFMTA must “justify withholding any record by demonstrating, in writing as soon as
14 possible and within ten days following receipt of a request, that the record in question is exempt
15 under express provisions of this ordinance.” (San Francisco Admin. Code, § 67.21, subd. (b).)
16 SFMTA has failed to make the requisite showing to justify withholding the records.

17 64. On information and belief, SFMTA cannot demonstrate that the records subject to
18 Lime’s request, or any portion of those records, is exempt from disclosure under the express
19 provisions of the Sunshine Ordinance or any other authority, or that on the facts of this particular
20 case, the public interest served by not disclosing the record clearly outweighs the public interest
21 served by disclosing the record. Because the Lime’s requests target internal communications and
22 documents that bear on SFMTA’s process for creating the permit application process and its
23 evaluation of applications through scores sheets and comments, these documents must be
24 produced before SFMTA issues permits under its Pilot Program.

25 65. Lime petitions the Court for a writ of mandate to compel SFMTA to make
26 available to Lime the remaining records Lime requested that have not yet been produced.

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1 **PRAYER FOR RELIEF**

2 For the reasons set forth above, Lime prays for relief as follows:

3 A. That the Court issue a judicial declaration finding that the Defendant's Powered
4 Scooter Share Pilot Program violates the due process rights of Lime and other applicants and is
5 void and unenforceable;

6 B. That the Court immediately and permanently enjoin Defendants from issuing the
7 permits granted pursuant to its unconstitutional Powered Scooter Share Pilot Program unless and
8 until the program is revised to conform to constitutional and legal requirements;

9 C. That the Court order Defendants to respond fully to all requests for information
10 under the CPRA and the Sunshine Ordinance submitted by Lime;

11 D. That the Court award costs and reasonable attorney fees, as provided by section
12 1021.5 of the California Code of Civil Procedure, section 6259, subdivision (d) of the California
13 Government Code and other applicable law; and

14 E. That the Court grant such other and further relief as the Court deems just and
15 proper.

16 DATED: October 11, 2018

MORRISON & FOERSTER LLP

17
18 By: 
19 WILLIAM F. TARANTINO
20 Attorneys for Plaintiff
21 Neutron Holdings, Inc. d/b/a Lime
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VERIFICATION

I, Andrew Savage am employed by Neutron Holdings, Inc. d/b/a Lime (hereafter, "Lime") as its Vice President of Strategic Development, overseeing Lime's government relations and business development. I have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and Verified Petition for Writ of Mandate. I know the contents of the Verified Complaint and Petition for Writ of Mandate to be true of my own knowledge, except as to those matters that are alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Francisco, this 11th day of October, 2018.



Andrew Savage

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address):
Zane O. Gresham (Bar No. 57165), William F. Tarantino (Bar No. 215343)
MORRISON & FOERSTER LLP
425 Market Street, Suite 3200
San Francisco, CA 94105
TELEPHONE NO.: 415.268.7000 FAX NO.: 415.268.7522
ATTORNEY FOR (Name): Neutron Holdings, Inc., d/b/a Lime.

FOR COURT USE ONLY
FILED
San Francisco County Superior Court
OCT 11 2018
CLERK OF THE COURT
BY: [Signature]
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS: 400 McAllister Street
CITY AND ZIP CODE: San Francisco, CA 94102
BRANCH NAME: --

CASE NAME:
Neutron Holdings, Inc. d/b/a Lime v. CCSE, SFMTA, Ed Reiskin, et al.

CIVIL CASE COVER SHEET
[Checked] Unlimited (Amount demanded exceeds \$25,000)
[] Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
[] Counter [] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
APF-18-516368
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
Auto Tort: [] Auto (22), [] Uninsured motorist (46)
Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort: [] Asbestos (04), [] Product liability (24), [] Medical malpractice (45), [] Other PI/PD/W (23)
Non-PI/PD/W (Other) Tort: [] Business tort/unfair business practice (07), [] Civil rights (08), [] Defamation (13), [] Fraud (16), [] Intellectual property (19), [] Professional negligence (25), [] Other non-PI/PD/W tort (35)
Employment: [] Wrongful termination (36), [] Other employment (15)
Contract: [] Breach of contract/warranty (06), [] Rule 3.740 collections (09), [] Other collections (09), [] Insurance coverage (18), [] Other contract (37)
Real Property: [] Eminent domain/Inverse condemnation (14), [] Wrongful eviction (33), [] Other real property (26)
Unlawful Detainer: [] Commercial (31), [] Residential (32), [] Drugs (38)
Judicial Review: [] Asset forfeiture (05), [] Petition re: arbitration award (11), [] Writ of mandate (02), [Checked] Other judicial review (39)
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403): [] Antitrust/Trade regulation (03), [] Construction defect (10), [] Mass tort (40), [] Securities litigation (28), [] Environmental/Toxic tort (30), [] Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment: [] Enforcement of judgment (20)
Miscellaneous Civil Complaint: [] RICO (27), [] Other complaint (not specified above) (42)
Miscellaneous Civil Petition: [] Partnership and corporate governance (21), [] Other petition (not specified above) (43)

2. This case [] is [Checked] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. [] Large number of separately represented parties
b. [] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. [] Substantial amount of documentary evidence
d. [] Large number of witnesses
e. [] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. [] Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. [] monetary b. [Checked] nonmonetary; declaratory or injunctive relief c. [] punitive

4. Number of causes of action (specify): 3

5. This case [] is [Checked] is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 11, 2018
William F. Tarantino
(TYPE OR PRINT NAME) [Signature] (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
• File this cover sheet in addition to any cover sheet required by local court rule.
• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.