

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Mohammad Tajsar (SBN 280152)
mtajsar@aclusocal.org
ACLU Foundation of Southern California
1313 West 8th Street
Los Angeles, CA 90017
Telephone: (213) 977-9500
Facsimile: (213) 977-5297

Jacob A. Snow (SBN 270988)
jsnow@aclunc.org
ACLU Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111
Telephone: (415) 621-2493
Facsimile: (415) 255-8437

Counsel for Plaintiffs
(continued on next page)

**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

JUSTIN SANCHEZ and ERIC ALEJO;

Plaintiffs,

v.

LOS ANGELES DEPARTMENT OF
TRANSPORTATION and CITY OF
LOS ANGELES,

Defendants.

CASE NO: 2:20-cv-05044

COMPLAINT

1 *(continued from previous page)*

2 Jennifer Lynch (SBN 240701)
3 jlynch@eff.org
4 Electronic Frontier Foundation
5 815 Eddy Street
6 San Francisco, CA 94109
7 Tel: (415) 463-9333
8 Fax: (415) 436-9993

9 Douglas E. Mirell (SBN 94169)
10 DMirell@ggfirm.com
11 Timothy J. Toohey (SBN 140117)
12 TToohey@ggfirm.com
13 Greenberg Glusker Fields Claman & Machtinger LLP
14 2049 Century Park East, Suite 2600
15 Los Angeles, California 90067
16 Telephone: (310) 553-3610
17 Fax: (310) 553-0687

18

19

20

21

22

23

24

25

26

27

28

INTRODUCTION

1
2 1. Beginning in late 2017, communities across California witnessed a
3 near-overnight invasion of motorized electric scooters on city sidewalks. Equipped
4 with tiny motors, batteries, and the sleek insignia of their proprietor technology
5 companies, they introduced a new dockless mode of transit for smartphone-
6 equipped consumers as an alternative to cars, bicycles, and public transit. Similar
7 to a car ride-share service, riders reserve and pay for scooter rentals through a
8 smartphone app. At the end of a trip, the user leaves the scooter on the street,
9 where it can be rented again.

10 2. Soon after scooters appeared, complaints targeting the scooter
11 companies followed. Although dockless scooters represented a novel and
12 potentially useful form of transit, they also cluttered city sidewalks, lacked safety
13 features, and interfered with disabled access to city streets. The scooter companies
14 themselves often did jurisdictions no favors, aggressively pushing back against
15 attempts to regulate the vehicles.

16 3. As in other cities across the country, this was the story of scooters in
17 Los Angeles. In an attempt to avoid the unpopular profusion of scooters filling the
18 sidewalks, Defendants Los Angeles Department of Transportation and the City of
19 Los Angeles (collectively “LADOT” or “Defendants”) developed a far-reaching
20 software tool that (they claim) is necessary to managing the right of way. Dubbed
21 the Mobility Data Specification (“MDS”), this software interface, crafted in
22 partnership with a private consultancy, forces operators of dockless vehicles to
23 provide real-time and historical data about each vehicle and trip taken in Los
24 Angeles, all as a condition of operating. Most importantly, the tool requires that
25 scooter companies produce detailed trip data about every single scooter trip taken
26 within city limits, including where each trip starts, the route it takes, and where it
27 ends.

28 4. Although MDS does not record the identity of the rider directly, the

1 precision with which it captures riders' location information—often to within a few
2 feet—likely allows riders to be identified. Knowing that a particular trip began at
3 an office building and ended in front of a home, for example, makes the difficulty
4 of identifying the individual rider as simple as knowing their home and work
5 addresses. Given the large amount of public or otherwise accessible data about
6 people's lives that exists, simply cross-referencing MDS data about a particular
7 trip with any other dataset (including mere observation of a routinely-taken scooter
8 trip) can reveal who took the trip.

9 5. Beyond identifying an individual rider, the locations where an
10 individual's trip starts and ends can also reveal *why* that rider made the trip.
11 Regular trips that start near a residence and end at an office reveal that a person
12 living at the residence works at the office and takes a particular route to work.
13 Periodic trips that begin at a high school and end in a family-planning clinic could
14 reveal that a student is seeking reproductive health care. Even a single trip to a
15 protest against police violence may result in a rider's name being revealed and her
16 presence at the protest exposed against her wishes.

17 6. LADOT has never articulated an adequate or reasonable justification
18 for the collection of such sensitive location information *en masse*. When mandated
19 by the Los Angeles City Council to identify, by February 25, 2020, its reasons for
20 collecting precise location data, LADOT failed to do so. Now, over three months
21 after this deadline, LADOT has still not articulated an operationally specific need
22 for this data. To date, it has offered only the most generic justifications for
23 collecting precise location information, stating at one point that its goal is to
24 “experiment” with riders' protected information when setting agency policy.

25 7. The Constitution prohibits LADOT from experimenting with the
26 rights of its constituents. The Fourth Amendment strictly limits the warrantless
27 collection of vehicular location information. As a Supreme Court majority
28 recognized in *United States v. Jones*, “GPS monitoring generates a precise,

1 comprehensive record of a person’s public movements that reflects a wealth of
2 detail about her familial, political, professional, religious, and sexual associations.”
3 565 U.S. 400, 415 (2012) (J., Sotomayor, concurring); *id.* at 430 (J., Alito,
4 concurring) (long-term capture of vehicle location information violates reasonable
5 expectation of privacy). This is particularly true here, where the scale and breadth
6 of that data collection has no conceivable relation to a targeted investigation of a
7 particular individual. MDS collects precise location data associated with *every*
8 *single rider* of scooters within the City, *every single time* they ride such a vehicle.
9 And once MDS software is deployed, it gathers location data without any human
10 involvement and at the maximum precision generated by the vehicles.

11 8. Plaintiffs ride electric scooters in the City of Los Angeles, using the
12 vehicles to make trips from their homes to work, friends, businesses, and places of
13 leisure. LADOT uses MDS to warrantlessly collect sensitive vehicle location data
14 associated with each of Plaintiffs’ trips, in violation of their right to be free from
15 unreasonable searches and seizures in contravention of the United States and
16 California Constitutions. The compelled production of Plaintiffs’ location
17 information also violates the California Electronic Communications Privacy Act
18 (“CalECPA”).

19 9. LADOT violates these rights irrespective of whether it collects data
20 about Plaintiffs’ movements in real-time or after a period of delay. The gathering
21 of historical location information about individuals without sufficient justification
22 violates the Constitution. *United States v. Carpenter*, 138 S. Ct. 2206, 2218 (2018)
23 (comparing the greater harms of historical location tracking as opposed to manual
24 real-time observation, and explaining that “[u]nlike with the GPS device in *Jones*,
25 police need not even know in advance whether they want to follow a particular
26 individual, or when.”). When that location data is highly precise (as the MDS data
27 is), the risks with collecting historical location information are too great without a
28 warrant.

1 shall obtain a permit from the Department [of Transportation] and comply with all
2 Department permit rules, regulations, indemnification, insurance and fee
3 requirements.”

4 20. In response, LADOT created the permitting program via an
5 application and review process. In exchange for a license to operate a
6 micromobility company within City limits, LADOT instructed operators to submit
7 an application detailing their intended deployment in the City and agreeing to
8 numerous regulatory requirements.¹ These requirements included otherwise
9 standard insurance requirements, an agreement to an indemnification provision,
10 limits on the total number of vehicles any individual operator could deploy within
11 Los Angeles, agreements to place safety features like lights and reflectors on
12 vehicles, requirements that operators ensure vehicles are appropriately parked and
13 not blocking pedestrian rights of way, and incentives for operators to diversify the
14 geographic distribution of their vehicles. Relevant here, the permitting application
15 required operators agree to implement MDS’s data collection protocols.

16 21. Once an operator applied for a permit, LADOT reviewed the
17 application and awarded an operating permit to the applicant accordingly.
18 Individual end users were not parties to the application agreement, despite their
19 sensitive location data being critical to the process.

20 22. The original one-year pilot program launched in March 2019, and has
21 been extended for six months through September 15, 2020. At the close of the
22 now-eighteen-month pilot, LADOT plans to establish a one-year formal dockless
23 mobility pilot program.

24 **II. DEFENDANTS UTILIZE THE MOBILITY DATA SPECIFICATION**
25 **TO UNLAWFULLY COLLECT PRECISE MOVEMENT DATA.**

26 23. As a condition of securing a permit to operate in the City of Los

27 ¹ LADOT’s original permit application is available at
28 <https://files.acluwest.org/s/XATp4ErkW4WsSsT>.

1 Angeles, LADOT requires mobility companies to implement MDS’s data
2 collection requirements. MDS contains two interrelated parts: 1) the data-
3 collection standard, which specifies what information mobility providers must
4 deliver to the governing jurisdiction, and 2) reference implementations in software
5 code that both mobility providers and the governing jurisdiction can use to set up
6 the information exchange. MDS ingests data directly from the transportation
7 companies, enabling LADOT “to actively manage private mobility providers and
8 the public right-of-way . . . through a shared data vocabulary and to communicate
9 directly with product companies in real time using code.”²

10 24. The purpose of MDS is to accelerate information collection by cities
11 and counties facing an increase in the volume of permitting associated with
12 dockless scooters. According to the non-profit Open Mobility Foundation, the
13 proprietor of MDS who took over its administration from LADOT, “the goals of
14 MDS are to provide a standardized way for municipalities or other regulatory
15 agencies to ingest, compare and analyze data from mobility service providers, and
16 to give municipalities the ability to express regulation in machine-readable
17 formats. . . . MDS is a key piece of digital infrastructure that supports the effective
18 implementation of mobility policies in cities around the world.” Instead of each
19 city deciding for itself what information to collect and writing the necessary
20 software, MDS encourages cities to adopt a single existing standard.

21 25. MDS, once implemented by private dockless scooter companies,
22 ingests a wide variety of data directly from the providers without any human input.
23 The data includes the provider’s name, a unique device identifier for the vehicle,
24 the type of vehicle, the length of the trip, its starting point, end point, and the route
25 the vehicle took on its trip. Relevant here is the route information requirement,

26
27 ² “Mobility Data Specification: Information Briefing,” Los Angeles
28 Department of Transportation, <https://ladot.io/wp-content/uploads/2018/12/What-is-MDS-Cities.pdf>, Oct. 31, 2018.

1 which calls for granular trip data from the providers to LADOT about every ride
2 taken within Los Angeles—including the starting point of the ride, the starting time
3 of the ride, the end point for the ride, and the ending time of the ride. LADOT
4 requires that start and end locations be provided in real-time, and the route that the
5 trip took between those points provided after 24 hours.

6 26. While MDS does not collect any information directly identifying the
7 rider of a particular vehicle, the sensitivity of movement information makes it
8 possible to identify individual riders anyway. Coupling a rider’s precise trip data
9 with information from just one other dataset—for instance, additional scooter rides
10 that show a pattern of repeated trips to and from the same locations, public voting
11 records from particular addresses, or even simple physical observation of a rider—
12 can likely identify the individual who took the trip. In addition, it may reveal
13 important information about the individual’s residence, the identity of her
14 employer, associates, or friends, the type of physicians she visits, or her favorite
15 recreational activities. And when end points are sensitive locations—like
16 therapists’ offices, marijuana dispensaries, or Planned Parenthood clinics—those
17 routes may reveal *why* she made that trip.

18 27. In a time when protests are erupting around the country, the risk of
19 identifying individuals based on physical observation takes on a new importance.
20 Imagine a person who takes a scooter to a political protest, or even rides past and is
21 captured by one of the many cameras used to document interaction between
22 protesters and police. With the information LADOT ingests through MDS, that
23 individual ride could be picked out of a haystack of data and handed over to the
24 police, who would then know where the person ended their trip, where they started,
25 and the precise route they took.

26 28. The likelihood of identifying individuals based only on location
27 information is not a hypothetical concern. A growing body of research has
28 demonstrated that location datasets are easily susceptible to identification. “With

1 merged mobility datasets, this becomes even easier: An agent could potentially
2 match users trajectories in anonymized data from one dataset, with deanonymized
3 data in another, to unmask the anonymized data.”³ For instance, researchers have
4 found that they could identify 50% of people from only two randomly chosen data
5 points in a dataset that contained only time and location data.⁴

6 29. Identification of location data poses grave risks to individuals—
7 particularly marginalized or justice-impacted members of the community. In
8 addition to revealing sensitive information about people’s lives, this information
9 can exacerbate persistent forms of state violence and bias that target those at the
10 fringes. This includes police encounters, immigration enforcement, homelessness
11 sweeps, or enforcement of pre-trial release terms or probation conditions, to name
12 a few. Past experience has also shown that individual location information in the
13 hands of authorities can stoke racial and gender-based violence. When collected
14 without adequate safeguards, location information often results in cases of
15 domestic abuse and stalking, as a recent investigation of automatic license plate
16 reader information in California revealed.⁵

17 _____
18 ³ Rob Matheson, *The privacy risks of compiling mobility data: Merging*
19 *different types of location-stamped data can make it easier to discern users’*
20 *identities, even when the data is anonymized*, MIT News (Dec. 7, 2018),
21 <http://news.mit.edu/2018/privacy-risks-mobility-data-1207> (describing Daniel
22 Kondor et al., “Towards matching user mobility traces in large-scale datasets,”
23 IEEE Transactions on Big Data (Sep. 24, 2018), available at
24 [http://senseable.mit.edu/papers/pdf/20180927_Kondor-](http://senseable.mit.edu/papers/pdf/20180927_Kondor-et-al_TowardsMatching_IEEE-BigData.pdf)
25 [etal_TowardsMatching_IEEE-BigData.pdf](http://senseable.mit.edu/papers/pdf/20180927_Kondor-et-al_TowardsMatching_IEEE-BigData.pdf))).

26 ⁴ Yves-Alexandre de Montjoye, et al., *Unique in the Crowd: The privacy*
27 *bounds of human mobility*, 3 Nature Scientific Reports 1376 (2013),
28 <http://www.nature.com/articles/srep01376> (finding that “in a dataset where the
location of an individual is specified hourly, and with a spatial resolution equal to
that given by the carrier’s antennas, four spatio-temporal points are enough to
uniquely identify 95% of the individuals.”).

⁵ “Automated License Plate Readers: To Better Protect Individuals”
Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects,”

(cont’d)

1 30. Despite the sensitivity of location data and the increasing legal
2 protections individuals have over their location information, LADOT's MDS
3 protocol demands maximally precise locations about individuals' trips. LADOT's
4 technical consultants developed the program to collect as precise information as
5 the vehicles generate. With the pilot program in full effect, LADOT captured GPS
6 coordinates broadcast by scooters up to seven decimal places, an extraordinary
7 level of accuracy even assuming a wide margin of error. For background, GPS
8 coordinates are often expressed through decimal degrees via longitude and latitude
9 coordinates. The more decimal places a GPS coordinate is measured in, the more
10 precise the location it reveals is.⁶ MDS compels vehicle operators to provide the
11 coordinates of each vehicle in latitude and longitude to the maximum precision
12 allowed by the vehicle, which can be up to seven decimal places. For reference,
13 coordinates in seven decimal degrees are accurate to within 1.11 centimeters at the
14 equator. In real-world conditions away from the equator, the accuracy with which
15 the companies capture a vehicle's location depends on the scooter's hardware, the
16 availability of over-the-air internet connectivity, and the physical conditions
17 surrounding a vehicle that may impact GPS signal strength. Given advances in
18 technology and widespread access to 4G (and, soon, 5G connectivity), the
19 coordinates generated by dockless vehicles can accurately place them within a few
20 dozen feet, indicating with confidence, for example, where on a city block a
21 scooter is and the building or piece of city infrastructure nearest which it is parked.

22 31. Research has demonstrated that even truncating GPS coordinates of
23 trips' origins and destinations by lopping off GPS decimal places does little to

24 _____
25 California State Auditor (Feb. 20, 2020),
26 <https://www.auditor.ca.gov/pdfs/reports/2019-118.pdf>, at 12–13 (discussing
instance of gender-based assault resulting from license plate location information).

27 ⁶ For a helpful explanation of the math behind the precision of GPS
28 locations, see "Decimal Degrees," WIKIPEDIA,
https://en.wikipedia.org/wiki/Decimal_degrees (last visited June 3, 2020).

1 protect individuals’ privacy. Such is the sensitivity of location data sets, which
2 cannot reasonably be considered “anonymized” in any real sense when collected *en*
3 *masse* and with the precision that MDS currently demands.

4 32. Given these facts, and upon information and belief, a simple analysis
5 of MDS data will likely identify the precise trips taken by Plaintiffs in this case and
6 where they live, work, shop, and frequent. Plaintiffs have never agreed to share
7 their precise location data with LADOT, even though LADOT has used MDS to
8 extract this data from the operators whose vehicles Plaintiffs rented.

9 **III. DEFENDANTS HAVE FAILED TO PROVIDE REASONABLE**
10 **JUSTIFICATIONS FOR COMPELLING PRODUCTION OF**
11 **LOCATION INFORMATION.**

12 33. When LADOT launched its pilot MDS program, it did not identify
13 with operational specificity how it intended to use the data ingested by MDS. Nor
14 did it develop a data collection and retention program narrowly tailored to meet
15 even the use cases it did identify. As a result, granular location information easily
16 susceptible to identification is needlessly—and illegally—collected and at risk of
17 being shared with third parties and targeted by other government actors.

18 34. According to LADOT, the purpose of MDS is multifaceted, and
19 allows LADOT to “actively manage private companies who operate in our public
20 space.”⁷ During the development of the pilot program, LADOT identified
21 numerous overlapping and related benefits that mass location data may provide to
22 the regulators, some more specific than others, but none that necessitated collecting
23 all riders’ granular and precise location information *en masse*.

24 35. To the contrary, LADOT leadership expressly identified the MDS
25 pilot as a mechanism to “experiment” with this data collection project.⁸ Put

26 _____
27 ⁷ “LADOT | Putting Ideas into motion,” <https://ladot.io/> (embedding
28 YouTube video entitled “The Future of Mobility – Mobility Data Specification”).

⁸ David Zipper, “Cities can see where you’re taking that scooter,” *Slate*, Apr.
(cont’d)

1 differently, LADOT has intentionally gathered sensitive and legally protected
2 location information in an experimental posture with data concerning actual users
3 in real time—unlawfully collecting data in order to determine *post hoc* how to
4 exploit them to serve non-specific regulatory needs.

5 36. LADOT’s dockless scooter pilot program fails to tailor its collection
6 of individual location data to articulable use cases. Given the lack of specificity for
7 its proposed use cases, it is difficult to identify potential alternatives to maintaining
8 individual trip data, or to gauge the necessity of mass location data collection to
9 achieve LADOT’s regulatory ends.

10 37. To the contrary, LADOT has been exceptionally vague about how it
11 intends to use this data, in part to allow the agency to experiment with exploiting
12 the data *after* it is collected. Each of the articulated use cases LADOT has offered
13 for its desire to collect *en masse* individual vehicle location data fails under
14 scrutiny. For instance, the City Council mandated that LADOT’s pilot program
15 incentivize providers to diversify access to its vehicles. Addressing equity in
16 regional distributions of vehicles by itself does not require individual, granular
17 location data. For instance, collecting a vehicle’s neighborhood-level locations at
18 regular, but disparate, time intervals (*e.g.*, every two hours) will adequately inform
19 regulators whether providers are distributing their vehicles equitably—without
20 collecting individuals’ trip data.

21 38. Even the few use cases LADOT has offered for why granular trip data
22 is necessary do not require detailed vehicle telemetry data. For instance, even
23 though MDS calls for acquiring GPS coordinates up to a maximum level of
24 precision, current physical limitations on the accuracy of GPS broadcasts from

25 _____
26 2, 2019, [https://slate.com/business/2019/04/scooter-data-cities-mds-uber-lyft-los-](https://slate.com/business/2019/04/scooter-data-cities-mds-uber-lyft-los-angeles.html)
27 [angeles.html](https://slate.com/business/2019/04/scooter-data-cities-mds-uber-lyft-los-angeles.html) (quoting LADOT General Manager Seleta Reynolds, “When bikes
28 and scooters showed up, they gave us a pretty interesting sandbox to start
experimenting.”)

1 vehicles make their coordinates too imprecise to determine whether scooters are
2 appropriately parked adjacent to a curb versus inappropriately parked in the middle
3 of a sidewalk a couple of feet away, another purpose LADOT has offered for why
4 it needs individual users' trip information.

5 39. Even when the City Council instructed LADOT to articulate "specific
6 regulatory purposes for the collection and use of each type of data required by
7 MDS," LADOT simply did not comply. This request came in a Los Angeles City
8 Council Motion passed on November 27, 2019, which required LADOT to, among
9 other things, provide a report outlining the "specific regulatory purposes for the
10 collection and use of each type of data required by MDS" by February 25, 2020.⁹
11 To date, and more than three months after the deadline, LADOT has still not
12 articulated those purposes in response to the request.

13 40. Importantly, LADOT lacks reasonable and justifiable uses for both
14 real-time location information and historical location data—both of which present
15 substantially similar violations of Plaintiffs' rights. This is in contrast to concerns
16 raised by some of the micromobility providers, including JUMP. While JUMP has
17 historically protested LADOT's requirement that it produce precise location
18 information in real-time, including by filings its own lawsuit challenging MDS
19 data collection by MDS, JUMP offered to produce that information to LADOT
20 after a 24-hour delay.¹⁰ According to JUMP, a 24-hour delay "significantly
21 mitigate[s] the frightening risks of direct and constant government surveillance and
22 possible interception of individual users."¹¹

23 41. Perhaps most ominously, LADOT plans to extend the same model for
24

25 ⁹ Motion No. 19-1355, Intro. By David Ryu (Nov. 1, 2019), *available at*
26 http://clkrep.lacity.org/onlinedocs/2019/19-1355_mot_11-01-2019.pdf.

27 ¹⁰ *Social Bicycles LLC d/b/a JUMP v. City of Los Angeles*, No. 2:20-cv-
28 02746 (C.D. Cal. filed Mar. 24, 2020), ECF No. 1, at ¶ 11 (challenging MDS
location collection from perspective of private scooter operator).

¹¹ *Id.*

1 real-time geolocation information collection that it uses for dockless vehicles to
2 “all kinds of future transportation forms—from ride-hailing and car-sharing to
3 delivery drones and autonomous vehicles.”¹² Under LADOT’s leadership, the use
4 of MDS for dockless vehicles has expanded to over eighty cities, with more to
5 come. While Plaintiffs do not challenge LADOT’s need to regulate emerging
6 technologies and transportation modalities, such regulation must not compromise
7 its obligations to protect the civil rights of its constituents.

8 **CLAIMS FOR RELIEF**

9 **FIRST CLAIM**

10 **Violation of the Fourth Amendment (42 U.S.C. § 1983)**

11 **(All Plaintiffs Against All Defendants)**

12 42. Plaintiffs incorporate the preceding paragraphs as if fully set forth
13 herein.

14 43. Defendants’ deployment of MDS violates Plaintiffs’ right to be free
15 from unreasonable search and seizure, as protected by the Fourth Amendment to
16 the United States Constitution.

17 44. Defendants’ administrative scheme to collect Plaintiffs’ granular
18 vehicle and mobility location information constitutes a search under the Fourth
19 Amendment, whether in real-time or historically. Defendants’ collection of this
20 data is unreasonable, unconnected to any legitimate government interest, and
21 occurs without any opportunity for administrative or judicial review pre-collection.

22 45. Defendants’ administrative scheme also unreasonably conditions
23 Plaintiffs’ ability to ride dockless vehicles upon the disgorgement of Plaintiffs’
24 otherwise protected location information.

25
26 ¹² Laura Bliss, *This City Was Sick of Tech Disruptors. So It Decided to*
27 *Become One.*, CITYLAB, <https://www.citylab.com/transportation/2020/02/los-angeles-transportation-data-mobility-scooter-mds-uber/606178/> (last visited June
28 7, 2020).

1 46. Finally, Defendants' ongoing retention of Plaintiffs' precise location
2 data concerning their movements constitutes a warrantless search under the Fourth
3 Amendment, and is not reasonable or justified.

4 47. Plaintiffs seek an injunction to compel Defendants to delete all precise
5 and identifiable location data concerning their movements collected by Defendants
6 via MDS. Plaintiffs also seek an injunction to end all prospective collection,
7 storage, or maintenance of their precise location data via MDS.

8 48. Plaintiffs also seek damages against Defendants arising out of their
9 unconstitutional collection, storage, and maintenance of their location information.

10 **SECOND CLAIM**

11 **Violation of Article 1, § 13 of the California Constitution**

12 **(All Plaintiffs Against All Defendants)**

13 49. Plaintiffs incorporate the preceding paragraphs as if fully set forth
14 herein.

15 50. Defendants' deployment of MDS violates Plaintiffs' right to be free
16 from unreasonable search and seizure, as protected by Article 1, Section 13 of the
17 California Constitution.

18 51. Defendants' administrative scheme to collect Plaintiffs' granular
19 vehicle and mobility location information constitutes a search under the California
20 Constitution. Defendants' collection of this data is unreasonable, unconnected to
21 any legitimate government interest, and occurs without any opportunity for
22 administrative or judicial review pre-collection.

23 52. Defendants' administrative scheme also unreasonably conditions
24 Plaintiffs' ability to ride dockless vehicles upon the disgorgement of Plaintiffs'
25 otherwise protected location information, itself a violation of the California
26 Constitution.

27 53. Finally, Defendants' ongoing retention of Plaintiffs' precise location
28 data concerning their movements constitutes a warrantless search under the

1 California Constitution, and is not reasonable or justified.

2 54. Plaintiffs seek an injunction to compel Defendants to delete all precise
3 and identifiable location data concerning their movements collected by Defendants
4 via MDS. Plaintiffs also seek an injunction to end all prospective collection,
5 storage, or maintenance of their precise location data via MDS.

6 55. Plaintiffs also seek damages against Defendants arising out of their
7 unconstitutional collection, storage, and maintenance of their location information.

8 **THIRD CLAIM**

9 **Violation of the California Electronic Communications Privacy Act, Cal.**

10 **Penal Code § 1546 et seq.**

11 **(All Plaintiffs Against All Defendants)**

12 56. Plaintiffs incorporate the preceding paragraphs as if fully set forth
13 herein.

14 57. Under the California Electronic Communications Privacy Act, a
15 California government entity may only compel the production of electronic
16 information through the execution of a probable-cause warrant or analogous order,
17 or under a narrowly circumscribed set of exceptional circumstances. Cal. Penal
18 Code § 1546.1(a), (d).

19 58. Location information gathered by MDS constitutes both “electronic
20 communication information” and “electronic device information” under the terms
21 of CalECPA, subjecting it to CalECPA’s strict requirements for access and
22 collection. *See* Cal. Penal Code § 1546(c)–(d), (g).

23 59. The mobility providers that operate dockless vehicles, including
24 JUMP, Lyft, Lime, and others, constitute “service providers” within the terms of
25 CalECPA, since they offer “electronic communication service[s]” that in part
26 provide to riders “the ability to send or receive electronic communications”
27 Defendants constitute “government entities” under the statute. Cal. Penal Code
28 § 1546(e), (j).

