

**BEFORE THE UNITED STATES JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**IN RE: FUTURE MOTION, INC.  
PRODUCTS LIABILITY LITIGATION**

**MDL No. 3087**

**THE LOH PLAINTIFFS' RESPONSE TO  
DEFENDANT FUTURE MOTION, INC.'S MOTION FOR TRANSFER OF  
ACTIONS TO THE UNITED STATES DISTRICT COURT FOR THE MIDDLE  
DISTRICT OF FLORIDA PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED  
PURPOSES OR CONSOLIDATED PRETRIAL PROCEEDINGS**

Pursuant to 28 U.S.C. § 1407 and the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Plaintiffs James Loh, Christopher Foo, Sean Michael Smith, Giovany Rico, Raymond Wang, Devon Holt, Jerrod Hunter Nichols, Valentina Forcella, Derek Guilford, James Grant, Johnny Leombruno, Carlos Murphy, Stephen Powell, Bradley Reber, Richard Bonner, and Joshua Flott (the "Loh Plaintiffs"), by and through undersigned counsel, submit this response to Defendant Future Motion, Inc.'s ("Future Motion") Motion to Transfer Actions Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings ("Mot.").

The Loh Plaintiffs and Future Motion agree that this action is not appropriate for transfer and coordination. *See* Mot. at 2-3, ECF No. 1. Transfer is proper when it promotes "the convenience of parties and witnesses and will promote the just and efficient conduct of such actions." 28 U.S.C. § 1407. According to the Multidistrict Litigation Manual, "the Panel seeks to minimize the disruption its rulings will have on the choices for management of litigation made by the parties, and gives the parties' preferences definite consideration." Multidistrict Litigation Manual, § 5:20 (2023). The agreement of the parties in the case to be transferred is another important factor the Panel considers when determining if transfer is appropriate. *Id.* Thus, the agreement between the Loh Plaintiffs and Future Motion supports the conclusion that the statutory

requirement that transfer be “for the convenience of the parties and witnesses” would weigh heavily against transferring this litigation. *See* Multidistrict Litigation Manual, § 5:34 (2023).

Transfer would likewise be inconvenient for the parties and witnesses because Future Motion is headquartered in the Northern District of California. Viewing source code at Future Motion’s offices, ensuring Future Motion’s employees can sit for depositions, and other foreseeable instances where the parties will need to collaborate in discovery will be more convenient if the *Loh* litigation proceeds in the Northern District of California. This is precisely why the *Loh* Plaintiffs originally filed in that venue. Moreover, the *Loh* plaintiffs have extremely limited connections to Florida—only one of the 16 named plaintiffs is domiciled there. Accordingly, Future Motion’s strong ties to the Northern District of California and the plaintiffs’ minimal connection to that venue are additional factors that demonstrate transfer would not be for the convenience of the parties and witnesses.

The parties also oppose transfer because *Loh*, a class action case, concerns legal and factual allegations that are distinct from the products liability lawsuits that Future Motion seeks to transfer and consolidate. The *Loh* Plaintiffs allege they were harmed by Future Motion’s defective Onewheel design and its inadequate safety warnings. Mot., ECF No. 1, Exhibit 15 (Complaint - N.D. Cal. 5:21-CV-06088) at ¶¶ 1-3. Plaintiffs seek to certify a Nationwide Class, Nationwide Direct Purchase Subclass, and several State Subclasses of purchasers, and bring claims for breach of implied warranty, unjust enrichment, common law breach of contract, and violations of state and federal consumer protection laws. *Id.* at ¶¶ 421–757. These allegations do not overlap with the other causes of action that all sound in products liability. Mot. at 1. Centralization of the *Loh* case

with these other actions would therefore not facilitate coordinated discovery, prevent inconsistent rulings, and promote the efficiency and convenience of the parties, counsel, and Court.

In sum, the unanimous agreement of the parties, the parties' attenuated connection to the Middle District of Florida, and the distinct factual and legal allegations at issue in the *Loh* case warrant against transfer. The Loh Plaintiffs respectfully submit that this action should not be transferred and coordinated for pretrial proceedings.

Dated: September 29, 2023.

Respectfully submitted,

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**BEFORE THE UNITED STATES JUDICIAL  
PANEL ON MULTIDISTRICT LITIGATION**

IN RE: FUTURE MOTION, INC.  
PRODUCTS LIABILITY LIGATION

MDL DOCKET NO. 3087

**PROOF OF SERVICE**

In compliance with Rule 4.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, the undersigned, counsel for Plaintiffs James Loh, Christopher Foo, Sean Michael Smith, Giovany Rico, Raymond Wang, Devon Holt, Jerrod Hunter Nichols, Valentina Forcella, Derek Guilford, James Grant, Johnny Leombruno, Carlos Murphy, Stephen Powell, Bradley Reber, Richard Bonner, and Joshua Flott, hereby certifies that the *Loh Plaintiffs' Response to Defendant Future Motion, Inc.'s Motion for Transfer of Actions to the United States District Court for the Middle District of Florida Pursuant to 28 U.S.C § 1407 for Coordinated Purposes or Consolidated Pretrial Proceedings and Proof of Service* was filed electronically with the Clerk of the Court using the CM/ECF system on September 29, 2023, and served on all recipients in the manner indicated on the attached service list.

Dated: September 29, 2023

Respectfully submitted,

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Joshua Flott* in Case No. 5:21-cv-06088 (N.D. Cal.)

**IN RE: FUTURE MOTION, INC. PRODUCTS LIABILITY LITIGATION**

**MDL NO. 3087**

**SERVICE LIST**

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| <p><b><i>Matthew L. McAllister v. Future Motion, Inc. also known as Onewheel (E.D. Tex., No. 4:23-cv-00205-SDJ-AGD)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |  |
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| <p><b><i>Kevin Roesler v. Future Motion, Inc. (M.D. Fla., No. 2:22-cv-00144-SPC-KCD)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |  |
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| <p><i>Schuyler Elliott v. Future Motion, Inc. (M.D. Fla., No. 3:23-cv-00789-BJD-LLL)</i></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>  |  |
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| <p><b><i>Brandon Greer v. Future Motion, Inc. (M.D. Tenn., No. 3:22-cv-00810)</i></b></p>   |  |
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| <p><b><i>Stephen Russo v. Future Motion, Inc. (D.N.J., No. 2:22-cv-04383-SDW-MAH)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>Bryan Reedy v. Future Motion, Inc. (D.N.J., No. 3:21-cv-17081-ZNQ-TJB)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>Kirston Gould v. Future Motion, Inc. (D.N.M., No. 1:23-cv-00266-JB-KK)</i></b></p>   |  |
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| <p><b><i>Michael Haggerty v. Future Motion, Inc. (N.D. Ga., No. 1:22-cv-00322-SEG)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>James Loh, Sean Michael Smith, Giovany Rico, Bradley Reber, Raymond Wang, Christopher Foo, Devon Holt, Valentina Forcella, Derek Guilford, James Grant, Johnny Leombruno, Carlos Murphy, Stephen Powell, Richard Bonner, Jerrod Hunter Nichols, and Joshua Flott v. Future Motion, Inc. (N.D. Cal., No. 5:21-cv-06088-PCP)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>  |  |
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| <p><b><i>Caleb Metts v. Future Motion, Inc. (N.D. Cal., No. 5:23-cv-04445-NC)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>  |  |
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| <p><b><i>Darryl Martin John Oatridge and Bridget Oatridge v. Future Motion, Inc. (N.D. Cal., No. 5:21-cv-09906-BLF)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>Jonathan Reeves v. Future Motion, Inc. (S.D. Fla., No. 0:23-cv-61295-RS)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>Brian Kinchen and Lori Kinchen v. Future Motion, Inc. (S.D. Tex., No. 4:22-cv-01970)</i></b></p> <p><b>VIA ELECTRONIC MAIL</b></p>   |  |
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| <p><b><i>Samuel W. King v. Future Motion Inc. (D.S.C., No. 8:22-cv-03323-TMC)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>  |  |
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| <p><b><i>Orlando Lopez-Roman v. Future Motion, Inc. (S.D. Fla., No. 4:23-cv-10072-KMM)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |  |
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| <p><b><i>Grant Downs v. Future Motion, Inc. (W.D. Okla., No. 5:22-cv-01029-D)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>  |  |
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| <p><b><i>Whitney Young and Mary Kokstis v. Future Motion, Inc. (W.D. Wash., No. 1:22-cv-05528)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |   |
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| <p><b><i>Matthew Boston v. Future Motion, Inc. (D. Colo., No. 1:23-cv-02308)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |   |
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| <p><b><i>Jonathan Wesley Burke v. Future Motion, Inc. (S.D. Fla., No. 1:23-cv-23442)</i></b></p> <p><b><u>VIA ELECTRONIC MAIL</u></b></p>   |   |
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***Christopher John Emmel v. Future Motion, Inc. (D. Minn., No. 0:23-cv-02756)***

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