

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4

5 FIVE BOROUGH BICYCLE CLUB,
6 SHARON BLYTHE, JOSH GOSCIAK,
7 KENNETH T. JACKSON, MADELINE
8 NELSON, ELIZABETH SHURA, LUKE
9 SON,

Plaintiffs, 07 Civ.2488 (LAK)

- against -

10 THE CITY OF NEW YORK; RAYMOND
11 KELLY, Police Commissioner of the
12 New York City Police Department;
13 JAMES TULLER, Commanding Officer,
14 Patrol Borough Manhattan South;
15 Lt. John Doe, and Captain Jane Doe,
16 New York City Police Department,

Defendants.

17 VIDEOTAPED DEPOSITION
18 OF
19 LIEUTENANT JOSEPH S. CANECO
20 New York, New York
21 Thursday, April 5, 2007
22
23

24 Reported by:
25 ANNETTE ARLEQUIN, CCR, RPR
JOB NO. 11025

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April 5, 2007
10:12 a.m.

Videotaped deposition of LIEUTENANT JOSEPH S. CANECO, held at the offices of DEBEVOISE & PLIMPTON LLP, 919 Third Avenue, New York, New York, pursuant to Court Order before Annette Arlequin, a Certified Court Reporter, Registered Professional Reporter and a Notary Public of the State of New York.

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APPEARANCES:

DEBEVOISE & PLIMPTON LLP
Attorneys for Plaintiffs
919 Third Avenue
New York, New York 10022
BY: STEVE VACCARO, ESQ.
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BY: SHERYL R. NEUFELD, ESQ.
MICHELLE GOLDBERG-CAHN, ESQ.

ALSO PRESENT:

STEPHANIE COLLINS, Legal Video Specialist

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

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* Proceedings *

THE VIDEOGRAPHER: This is the start of the tape labeled No. 1 of the videotape deposition of Lieutenant Caneco in the matter of Five Borough Bicycle Club versus the City of New York in the court of Debevoise & Plimpton.

This deposition is being held at 919 Third Avenue, New York, New York on April 5th, at approximately 10:12 a.m.

My name is Stephanie Collins from TSG Reporting and I'm the legal video specialist.

The court reporter is Annette Arlequin in association with TSG Reporting.

Will counsel please introduce yourselves.

MR. VACCARO: Steve Vaccaro of Debevoise & Plimpton LLP for the plaintiffs. I'll be appearing today and taking the deposition of Lieutenant Caneco.

Also in attendance are two law clerks from Debevoise & Plimpton, Katherine Worden and Brendan Caldron, who is not in the room but may join us later.

1 * Proceedings *

2 MS. NEUFELD: I'm Sheryl Neufeld from
3 the Corporation Counsel's office for
4 defendants defending defendants' deposition
5 today and with me today is Michelle
6 Goldberg also from Corporation Counsel's
7 office.

8 * * *

9 L T. JOSEPH S. CANECO, called as
10 a witness, having been duly sworn by a
11 Notary Public, was examined and testified
12 as follows:

13 MR. VACCARO: I'll begin by
14 distributing Plaintiffs' Exhibit 1, which
15 is the Notice of Deposition of Joseph S.
16 Caneco.

17 (Plaintiffs' Exhibit 1, Notice of
18 Deposition, marked for identification, as
19 of this date.)

20 MR. VACCARO: And I'll just go over
21 some preliminaries with counsel.

22 This deposition is being taken
23 pursuant to the Federal Rules of Civil
24 Procedure, also pursuant to the order of
25 the court in this matter on the record at

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1 J. Caneco

2 the hearing held March 29th, 2007.

3 The court indicated a desire to have
4 the evidence in this matter taken and
5 wrapped up expeditiously so that it could
6 rule, so I would request that counsel
7 stipulate that we dispense with the need
8 for signature of Lieutenant Caneco of his
9 deposition transcript before a notary of
10 the State of New York.

11 MS. NEUFELD: With the stipulation
12 that we can, if necessary, write to the
13 court with any clarification if it comes to
14 our attention if we recognize that there is
15 something that needs to be clarified after
16 the transcript is sent to the court, that
17 is fine.

18 MR. VACCARO: That's perfectly
19 understandable and in fact I'd like to
20 address that issue of any corrections that
21 might need to be made.

22 I'm sure that our reporter is going
23 to transcribe everything perfectly
24 accurately, but in the event there is a
25 need for any clarifications, we've arranged

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1 J. Caneco

2 for a final of the transcript to be
3 available tomorrow morning for receipt and
4 review, and I'd like to know if you're
5 willing to stipulate to providing any
6 corrections to the transcript by the close
7 of business of let's say Tuesday of next
8 week.

9 (Witness and counsel confer.)

10 MR. VACCARO: If you'd like to go off
11 the record to discuss it.

12 THE VIDEOGRAPHER: The time is 10:16
13 We are off the record.

14 (Off the record.)

15 THE VIDEOGRAPHER: The time is
16 approximately 10:17 a.m. We are on the
17 record.

18 MS. NEUFELD: After conferring with
19 Lieutenant Caneco regarding his schedule,
20 we believe that it's likely that we'll be
21 able to make all corrections by the close
22 of business on Tuesday, the 10th, barring
23 any unforeseen circumstances.

24 MR. VACCARO: All right. We can
25 proceed on that basis.

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1 J. Caneco

2 EXAMINATION BY

3 MR. VACCARO:

4 **Q. Good morning, Lieutenant Caneco.**

5 A. Good morning.

6 **Q. I'm Steve Vaccaro and I represent the
7 plaintiffs in this matter.**

8 **Am I correct in assuming that you've
9 previously given sworn testimony?**

10 A. Yes.

11 **Q. All right. So have you done so in
12 both depositions and in a courtroom setting?**

13 A. Not in a courtroom setting, no.

14 **Q. And approximately how many times?**

15 A. Depositions, two.

16 **Q. All right. I will go through some
17 sort of ground rules that I think will help make
18 that testimony go a bit more smoothly today.**

19 **The court reporter is of course
20 transcribing your testimony and the transcript
21 may be used in court or otherwise as evidence in
22 the case.**

23 A. Okay.

24 **Q. Because the court reporter has to
25 take down everything that we say, it's important**

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1 **J. Caneco**
2 **to speak slowly and clearly and that we allow**
3 **each other to answer, to ask and then to answer**
4 **each question so that she's able to take down**
5 **each word.**

6 **It's also important that you give**
7 **verbal responses as opposed to a nod of the head**
8 **or a gesture in response even though that can**
9 **seem very natural.**

10 **If you don't understand a question I**
11 **ask, please ask me to clarify it. I'll try to**
12 **ask in it a way that makes more sense that will**
13 **enable you to answer.**

14 A. Can I make a request?

15 **Q. Oh, yes.**

16 A. Can we close that blind?

17 **Q. Oh, yes.**

18 MR. VACCARO: Lieutenant Caneco,
19 could you please put your mike a little bit
20 further up?

21 THE WITNESS: All right.

22 THE VIDEOGRAPHER: Thank you.

23 BY MR. VACCARO:

24 **Q. If you there's anything you need for**
25 **your comfort, a break or anything else in the**

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1 **J. Caneco**
2 **room that would help the deposition go more**
3 **smoothly and comfortable, please just let us**
4 **know and we'll try to accommodate you.**

5 A. I appreciate that.

6 **Q. Is there any reason that you can't**
7 **testify fully and truthfully here today?**

8 A. No, there's no reason.

9 **Q. Can you please state your name and**
10 **business address for the record?**

11 A. My name is Joseph Caneco. My
12 business address is the One Police Plaza.

13 **Q. Did you do anything to prepare for**
14 **today's deposition, Lieutenant Caneco?**

15 A. Yes.

16 **Q. What did you do?**

17 A. I met with counsel yesterday.

18 **Q. And were there any non-attorneys**
19 **present at that meeting?**

20 A. No.

21 **Q. And did you review any documents at**
22 **that meeting?**

23 A. Yes.

24 **Q. Did you bring any of those documents**
25 **with you today?**

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1 **J. Caneco**
2 A. No, I did not.
3 **Q. Can you tell me what documents you**
4 **reviewed?**

5 A. The two depositions affidavits. I
6 don't know the terminology.

7 **Q. Do you know the author of the**
8 **affidavits or depositions you're referring to?**

9 A. I don't understand what you mean by
10 author.

11 **Q. Okay. What was the name of the**
12 **affidavit that you reviewed?**

13 A. I still don't understand.

14 **Q. Was it your affidavit?**

15 A. Was it something I signed?

16 **Q. Yes.**

17 A. Yes.

18 **Q. Okay. And there were two documents**
19 **of that nature?**

20 A. Yes.

21 **Q. Were there any other documents you**
22 **reviewed in connection with this deposition?**

23 A. Not that I recall. Not yesterday,
24 okay? If that's pertaining to yesterday, no.

25 **Q. Were there any other meetings in**

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1 **J. Caneco**
2 **connection with this proceeding that you**
3 **participated in?**

4 A. No, just the actual drawing up of the
5 affidavit.

6 MR. VACCARO: Okay. I'll distribute
7 Plaintiffs' Exhibit 2, which is the
8 declaration of Joseph Caneco in this
9 matter.

10 (Plaintiffs' Exhibit 2, Declaration
11 of Joseph Caneco, is marked for
12 identification, as of this date.)

13 (Witness reviewing exhibit.)

14 BY MR. VACCARO:

15 **Q. Lieutenant Caneco, is this one of the**
16 **documents that were viewed in the meeting that**
17 **you mentioned just a moment ago?**

18 A. Yes.

19 **Q. And that is your signature on the**
20 **last page, page 4 of Plaintiffs' Exhibit 2?**

21 A. Yes.

22 **Q. Paragraph 1 of your declaration**
23 **states that your statements are based on your**
24 **personal knowledge and also your review of**
25 **records; is that correct?**

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1 **J. Caneco**

2 A. Yes.

3 **Q. Can you tell me what records you**
4 **reviewed in preparing this declaration?**

5 A. I don't understand. Rephrase it or
6 try to reask it.

7 **Q. Okay. There's a sentence I'll draw**
8 **your attention to that begins at the bottom of**
9 **the first page that reads, "I am either**
10 **personally familiar with the facts and**
11 **circumstances set forth herein or believe them**
12 **to be true based upon my review of the records**
13 **of the police department and on my conversations**
14 **with agents, officers and employees of the City**
15 **of New York."**

16 **And I'm focusing your attention on**
17 **the portion of that sentence that refers to the**
18 **review of records of the police department and**
19 **I'm asking you to identify for me any records**
20 **that you reviewed in preparing this declaration.**

21 A. What we call is a detail request.

22 **Q. Can you tell me what a detail request**
23 **is?**

24 A. Request for personnel.

25 **Q. These are written requests for**

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1 **J. Caneco**

2 **personnel that you reviewed?**

3 A. Yes.

4 **Q. Requests for personnel in connection**
5 **with group bicycle rides?**

6 A. Yes.

7 **Q. And these were requests that were**
8 **made by you to obtain personnel in connection**
9 **with group bicycle rides?**

10 A. Yes.

11 **Q. And these detail requests would**
12 **indicate which personnel were provided in**
13 **connection with group bicycle rides?**

14 A. Yes.

15 **Q. What other information do they**
16 **contain?**

17 A. That's it, just personnel requests.

18 **Q. And did these detail requests relate**
19 **to a number of different group bicycle rides?**

20 A. Well, requests for each bicycle ride,
21 yes.

22 **Q. Approximately how many different**
23 **bicycle rides were there to which these detailed**
24 **requests related?**

25 A. Approximately four to six a year and

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1 **J. Caneco**

2 then we have the monthly ones. All together
3 anywhere from 16 to 18.

4 **Q. So there are detail requests both --**
5 **that are both annual as well as monthly with**
6 **respect to group bicycle rides?**

7 A. Well, the annual is the monthly and
8 then there's one -- yeah, actually right, there
9 are a few annual, yes.

10 **Q. And these detail requests indicate**
11 **the identity and also the number of personnel**
12 **fielded by the police department in connection**
13 **with particular group bicycle rides?**

14 A. I'm sorry. One more time. You have
15 to rephrase that.

16 **Q. Sure.**

17 **Do the --**

18 MS. NEUFELD: Objection to the form.
19 BY MR. VACCARO:

20 **Q. Do the detail -- you mentioned that**
21 **the detail requests identify the personnel that**
22 **the police department assigns to particular**
23 **group bicycle rides?**

24 A. Yes.

25 **Q. And do the detail requests also**

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1 **J. Caneco**

2 **identify the total number of police department**
3 **personnel assigned to each group bicycle ride?**

4 A. Yes.

5 **Q. And can you give me an approximate**
6 **idea of the range of numbers of police**
7 **department personnel who were assigned to the**
8 **different group bicycle rides covered by the**
9 **detail requests?**

10 A. Not at this time.

11 **Q. Was it generally more than ten?**

12 A. Yes.

13 **Q. Was it generally more than 50?**

14 A. I don't recall 50. I don't recall.

15 **Q. Were there any documents other than**
16 **detail requests that you reviewed in connection**
17 **with preparing your declaration?**

18 A. No.

19 **Q. I have some questions about your**
20 **background, Lieutenant Caneco.**

21 **How long have you been a lieutenant**
22 **with the police department?**

23 A. Since November '97.

24 **Q. And how long have you been with the**
25 **New York Police Department overall?**

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1 **J. Caneco**
 2 A. Since January '83.
 3 **Q. If you could, please, in reverse**
 4 **chronological order starting from your**
 5 **assignment to Patrol Borough Manhattan South,**
 6 **can you summarize your assignments with the New**
 7 **York Police Department?**
 8 A. Before being assigned to the Borough
 9 Operations, I was assigned to the Manhattan
 10 South Peddling Unit for approximately, that was
 11 from October '02 to my assignment at the Borough
 12 Operations.
 13 Prior to that, from May '98 to
 14 October '02 I was assigned to the Citywide
 15 Street Crime Unit.
 16 Prior to that I was a lieutenant at
 17 the 9th Precinct where I was first assigned as
 18 lieutenant for six months.
 19 Prior to that I was a sergeant in the
 20 120 Precinct on patrol from April '97, I'm
 21 sorry, April '94 to November '97.
 22 Prior to that I was in the 5th
 23 Precinct on patrol as a sergeant from October
 24 '90 to '94.
 25 Prior to that, from December '89 to

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1 **J. Caneco**
 2 October '90 I was a sergeant with the training
 3 unit which was, it was what we call is the FTU
 4 Field Training, the officers that get out of the
 5 academy for ten months.
 6 Prior to that I was a cop in the 123
 7 for July '85 to I got promoted sergeant until
 8 April of '89. I'm sorry. April '89 to
 9 December, December '89 I was a sergeant in the
 10 6th Precinct.
 11 I worked a year-and-a-half in the 70
 12 Precinct from January '84 to July '85.
 13 And then I was a -- I was in the
 14 training unit myself in what we call NSU, NSU
 15 12, and that was out of the academy, and the
 16 academy.
 17 **Q. All right. Thank you.**
 18 A. You're welcome.
 19 **Q. You mentioned in the '02 time frame**
 20 **being assigned to the Manhattan South Penalty**
 21 **Unit.**
 22 **Is that --**
 23 A. Peddling Unit.
 24 **Q. I'm sorry.**
 25 A. Peddling.

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1 **J. Caneco**
 2 **Q. Peddler. Oh, okay.**
 3 **Could you describe a little bit of**
 4 **what that assignment involved?**
 5 A. Enforcing the Environmental Control
 6 Bureau issues and general vending laws.
 7 **Q. Have you ever been a defendant or a**
 8 **plaintiff in a lawsuit?**
 9 A. No.
 10 **Q. Have you ever been arrested?**
 11 A. No.
 12 **Q. Have you ever been taken into**
 13 **custody?**
 14 A. No.
 15 **Q. Have you ever had an employment**
 16 **related disciplinary action taken against you?**
 17 A. Yes.
 18 **Q. May I ask the nature?**
 19 A. What was the nature of the
 20 disciplinary? It had to do over a parking
 21 plaque.
 22 **Q. And what was the disposition of that?**
 23 A. One and admonish.
 24 **Q. Have you been the subject of any**
 25 **Civilian Complaint Review Board proceedings?**

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1 **J. Caneco**
 2 A. Yes.
 3 **Q. Can you describe the nature of those**
 4 **proceedings?**
 5 A. It was just my first one was actually
 6 not too long ago.
 7 **Q. What was the nature of the complaint?**
 8 A. The nature of the complaint was that
 9 the person alleged that I grabbed them from a
 10 bicycle.
 11 **Q. Are there -- is there just one CCRB**
 12 **complaint or are there others?**
 13 A. No, that's the only one.
 14 **Q. And has that complaint been resolved**
 15 **or is it still pending, if you know?**
 16 A. I think that's been resolved.
 17 **Q. And what was the disposition if you**
 18 **know?**
 19 A. I'm not sure.
 20 **Q. You state in your declaration that**
 21 **you personally observed critical mass bicycle**
 22 **rides since -- for the period of January 2005**
 23 **through January 2007; is that correct?**
 24 A. Yes.
 25 **Q. And those are the group bicycle rides**

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1 **J. Caneco**

2 **that originate at Union Square the last Friday**
3 **of each month?**

4 A. Yes.

5 **Q. Okay. For purposes of the**
6 **deposition, I'll try to refer to those as**
7 **Manhattan critical mass rides so that we have**
8 **this similar terminology.**

9 A. Okay.

10 **Q. Have you ever observed any critical**
11 **mass bicycle rides that originate in Brooklyn?**

12 A. No, I have not.

13 **Q. Are you aware that there are critical**
14 **mass rides that originate in Brooklyn?**

15 A. Yes.

16 **Q. And in your capacity as a lieutenant**
17 **in the NYPD, have you observed bicycle rides**
18 **other than Manhattan critical mass rides?**

19 A. No.

20 **Q. So in paragraph 1 of your declaration**
21 **you state, I'll draw your attention to a**
22 **sentence in the middle of the paragraph that**
23 **says, "In this capacity..." and you're referring**
24 **to the capacity of lieutenant of the operations**
25 **unit. "In this capacity I had the opportunity**

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1 **J. Caneco**

2 **to observe firsthand the monthly critical mass**
3 **bicycle rides from January 2005 through January**
4 **2007. I also coordinated bicycle processions**
5 **with other organizations, including discussing**
6 **the permit route and police involvement."**

7 **The second sentence I just read**
8 **regarding coordinating bicycle processions with**
9 **other organizations, can you -- are you telling**
10 **me that you didn't actually observe these**
11 **bicycle processions you coordinated with other**
12 **organizations?**

13 A. I'm sorry?

14 **Q. Okay. Did you observe any of the**
15 **bicycle processions that you coordinated with**
16 **the other organizations as referred to?**

17 A. No, I did not.

18 **Q. Can you provide more detail in terms**
19 **of describing what you did to coordinate the**
20 **bicycle processions with other organizations?**

21 A. Just facilitate the paperwork.

22 **Q. Can you name any particular bicycle**
23 **rides or organizations you did this work with?**

24 A. None come to mind.

25 **Q. Can you estimate the number of**

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1 **J. Caneco**

2 **bicycle rides other than critical mass rides in**
3 **which you played this role of coordinating?**

4 A. Four to six a year.

5 **Q. Four to six per year?**

6 A. Yes. Four to six a year, yes.

7 **Q. And for what time frame?**

8 A. I don't understand what time frame.

9 **Q. If it's four to six per year, was it**
10 **just for one year or was it for two years?**

11 **Can you tell me for what time period**
12 **you coordinated four to six bicycle rides other**
13 **than critical mass bicycle rides?**

14 A. I know there's a few, a few annual
15 charity bicycle rides. That's four to six.
16 Maybe three a year total? Maybe in those three
17 years, six.

18 **Q. And the three years you're referring**
19 **to are which three years?**

20 A. I'm sorry?

21 **Q. I'm just trying to get a sense of**
22 **during which years you performed this**
23 **coordinating role with bicycle processions where**
24 **you discuss the permits, route and police**
25 **involvement.**

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1 **J. Caneco**

2 **Was it 2005 through 2007?**

3 A. No. I didn't discuss it with -- the
4 paperwork would be filed and it would go through
5 my office, but I had not sat down with the
6 organizer on some of these permitted events, no.

7 **Q. So you would review the permits for**
8 **these approximately six events?**

9 A. Over the last few years, yes.

10 **Q. Would you be responsible for**
11 **determining what, if any, NYPD personnel might**
12 **be assigned to assist or escort the event?**

13 A. Yes.

14 **Q. Do you recall any discussions you had**
15 **with organizers of any bicycle events in the**
16 **course of this work?**

17 A. No, I do not.

18 **Q. Do you recall any particular bicycle**
19 **procession in which you were involved in which**
20 **you proposed a change in the route?**

21 A. I remember specif -- there's a group
22 I met with in Union Square Park of about a dozen
23 riders. I recall something to the extent of
24 being out-of-towners and that's as close as I
25 came to actually on site meeting with a group.

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1 J. Caneco

2 **Q. Were there any circumstances you can**
3 **recall when you were reviewing an application**
4 **for a group bicycle ride permit and you had a**
5 **concern about the proposed route?**

6 A. Say that one more time?

7 **Q. In the course of reviewing permit**
8 **applications --**

9 A. Right.

10 **Q. Let me take a step back.**

11 A. Okay.

12 **Q. Have you ever reviewed a permit**
13 **application, a parade permit application, for a**
14 **group bicycle procession?**

15 A. Have I ever reviewed a parade permit
16 for a bicycle? Yes.

17 **Q. Okay. In each of -- you mentioned**
18 **that there were approximately six group bicycle**
19 **processions in which you had a role.**

20 A. Okay.

21 **Q. In each of those --**

22 A. Well, a role as reviewing?

23 **Q. Yes.**

24 A. Yes.

25 **Q. And in each of those did you get a**

1 J. Caneco

2 **written application from the group that wanted**
3 **to have the bicycle procession?**

4 A. Yes.

5 **Q. And in any of those approximately six**
6 **instances did you find that there was a route**
7 **proposed that to your mind was problematic?**

8 A. I think we adjusted one, one of the
9 routes, maybe two.

10 **Q. Can you recall any details concerning**
11 **those rides?**

12 A. No. No, I cannot.

13 **Q. Can you recall which particular**
14 **roadways were deemed potentially problematic in**
15 **those cases?**

16 A. No, I cannot.

17 **Q. And you can't recall the name of the**
18 **organization that proposed those particular**
19 **bicycle processions.**

20 A. No, I cannot.

21 **Q. And these six permit applications,**
22 **you had a role in reviewing them sometime in the**
23 **period of January 2005 through January 2007, or**
24 **was it a different period in which you reviewed**
25 **them?**

1 J. Caneco

2 A. I'm sorry. One more time.

3 **Q. During what time period did you**
4 **review these approximately six?**

5 A. During that time frame.

6 **Q. The time frame of 2005 to 2007?**

7 A. On some, yes.

8 **Q. Were any of the six parade permit**
9 **applications filed prior to August 2000? The**
10 **ones you had a role in reviewing.**

11 A. No.

12 **Q. All of them would have been**
13 **subsequent to August 2004?**

14 A. Yes.

15 **Q. Did you personally observe the**
16 **critical mass ride that was held on March 30th,**
17 **2007, that's last Friday?**

18 A. March 30th?

19 **Q. 2007.**

20 A. No, I did not.

21 **Q. Were you in the Union Square vicinity**
22 **at that time, last Friday?**

23 A. No. I'm no longer assigned to
24 operations.

25 **Q. Focusing on your statement in**

1 J. Caneco

2 **paragraph 1 of your declaration, in your**
3 **capacity as lieutenant in the Operations Unit,**
4 **Patrol Borough Manhattan South, you personally**
5 **observed firsthand the monthly critical mass**
6 **bicycle rides from January 2005 through January**
7 **2007?**

8 A. Approximately.

9 **Q. And then the sentence that follows**
10 **states that your declaration is made on the**
11 **basis of your personal knowledge, also records,**
12 **which we talked about, and then finally it says**
13 **at the end of the sentence, "...and/or my**
14 **conversations with agents, officers and**
15 **employees of the City of New York."**

16 A. Okay.

17 **Q. Can you tell me what conversations**
18 **you had with agents, officers or employees of**
19 **the City of New York in connection with**
20 **preparing this declaration?**

21 A. I don't recall any conversation.

22 **Q. So your declaration is not based on**
23 **conversations with others and what they have**
24 **observed of group bicycle rides?**

25 A. The statements I made were based on

1 J. Caneco

2 my own observations.

3 **Q. The statements in your declaration?**

4 A. The statements in the declaration,
5 yes.

6 **Q. Did you review any photographic or
7 video records of group bicycle rides in
8 connection with preparing your declaration?**

9 A. No.

10 **Q. In addition to observing these
11 Manhattan critical mass rides, can you describe
12 what your role was at these rides?**

13 MS. NEUFELD: Objection to the form.

14 **Q. Do you understand the question?**

15 A. No.

16 **Q. What did you do at these Manhattan
17 critical mass rides besides observe them, if
18 anything?**

19 A. I gave out a couple summonses one
20 time. My role as a supervisor.

21 **Q. In paragraph 1 of the declaration it
22 states, "I was responsible for coordinating the
23 operations, i.e. staffing of manpower."**

24 **So one part of your role was putting
25 in detail requests to ensure that there was**

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco

2 **sufficient staffing of manpower in connection
3 with these bicycle rides?**

4 A. Yes.

5 **Q. In addition, you were on location at
6 the bicycle rides directing the manpower that
7 had been staffed to address them?**

8 MS. NEUFELD: Objection to the form.

9 A. Say that one more time?

10 **Q. Would you also direct the NYPD
11 personnel who were assigned to cover the
12 critical mass bicycle rides?**

13 A. No.

14 **Q. Who was responsible for directing the
15 NYPD personnel at the bicycle rides?**

16 MS. NEUFELD: Objection to the form.

17 MR. VACCARO: So I understand, what's
18 the objection?

19 MS. NEUFELD: The word "directing."

20 **Q. Well, who was supervising the NYPD --**

21 A. It would depend on the highest
22 ranking supervisor on the scene.

23 **Q. Can you summarize for me the command
24 hierarchy typically at these Manhattan critical
25 mass bicycle rides?**

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco

2 A. Sometimes you would have a chief,
3 sometimes you have a full inspector, sometimes
4 you have a deputy inspector, sometimes you have
5 a captain, sometimes you have them all.

6 **Q. Can you recall any critical mass
7 bicycle ride that you attended in which you were
8 the most senior officer present?**

9 A. No.

10 **Q. Were there any critical mass bicycle
11 rides at which you personally would direct the
12 activities of subordinate officers?**

13 A. Say that one more time?

14 **Q. Were there any critical mass bicycle
15 rides that you attended at which you personally
16 directed the activities of subordinate officers?**

17 A. Of an overall ride, no.

18 **Q. Were there any critical mass rides at
19 which you attended in which in some part you
20 directed the activities of subordinate officers?**

21 A. At times when a group would splinter
22 off and if I was -- I'm quite sure that if I was
23 left there, I think I did coordinate activities.
24 I cannot recall any particular time.

25 **Q. It's my understanding that there are**

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco

2 **support units occasionally assigned to critical
3 mass bicycle rides such as the Technical
4 Assistance Response Unit or TARU.**

5 A. Okay.

6 **Q. Have you ever at any critical mass
7 bicycle ride you attended, directed or
8 coordinated the activities of TARU personnel?**

9 A. No. I have not personally
10 coordinated their activities, no.

11 **Q. Are you responsible for -- in your
12 detail -- strike that.**

13 **In connection with preparing a detail
14 request for any critical mass bicycle ride, have
15 you ever made a request that TARU personnel
16 participate?**

17 A. They have been requesting protection
18 of the police officers during arrest situations.

19 **Q. And you are the person responsible
20 for requesting their participation?**

21 A. Well, I put in the original request,
22 yes.

23 **Q. I have seen news accounts that show
24 helicopter surveillance being used in connection
25 with critical mass bicycle rides.**

TSG Reporting - Worldwide 877-702-9580

1 **J. Caneco**

2 MS. NEUFELD: Objection to the form.

3 MR. VACCARO: Okay.

4 BY MR. VACCARO:

5 **Q. My question is, have you ever been**
6 **responsible form requesting helicop --**
7 **participation by officers in helicopters at**
8 **critical mass bicycle rides?**

9 A. I'm not sure if it's been requested.

10 I know that I did not request it. If it's been
11 requested, I'm not aware of it.

12 **Q. Have you ever been responsible for**
13 **requesting the presence of undercover officers**
14 **at critical mass bicycle rides?**

15 MS. NEUFELD: Objection to the form.

16 **Q. You can answer.**

17 A. They have been requested.

18 **Q. By you?**

19 A. They go -- they're in the request,
20 yes.

21 **Q. And is there --**

22 A. The request is exactly that, it's
23 just a request.

24 **Q. And on what basis do you determine**
25 **whether or not to request?**

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1 **J. Caneco**

2 MS. NEUFELD: Objection.

3 I'm going to stop the line of
4 questioning. It's not relevant whether or
5 not there are undercover officers, whether
6 or not undercover officers have been
7 assigned or present in critical mass rides.
8 It's not within the scope of what
9 Lieutenant Caneco has testified to in his
10 declaration that was submitted to the court
11 nor in his declaration that was submitted
12 in the Time's Up case.

13 MR. VACCARO: Perhaps later there
14 will be a foundation for exploring this
15 topic but for now I'm going to move on. I
16 appreciate your objection.

17 BY MR. VACCARO:

18 **Q. You mentioned that you had made some**
19 **number of arrests in connection with critical**
20 **mass bicycle rides.**

21 **Did I understand that correctly?**

22 A. That I personally made arrests?

23 **Q. Yes.**

24 A. I have not.

25 **Q. You have not?**

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1 **J. Caneco**

2 **Have you personally issued summonses?**

3 A. Yes.

4 **Q. Can you tell me approximately how**
5 **many?**

6 A. Approximately, I don't -- three?
7 Three to five.

8 **Q. In your declaration, paragraph 3,**
9 **I'll draw your attention to the first sentence,**
10 **and it says, you make a statement there, "Large**
11 **group bicycle rides (with approximately 50 or**
12 **more cyclists)..." and then the sentence goes on**
13 **but I'd just like to stop there and ask you what**
14 **you mean by approximately 50 or more cyclists.**

15 **What led you to define large group**
16 **bicycle rides in that way?**

17 MS. NEUFELD: Objection to the form.

18 A. I think it's in the conduct of which
19 they're acting.

20 **Q. Well, you picked the number of**
21 **approximately 50 or more as your definition for**
22 **large group bicycle rides.**

23 **What was the reason that you picked**
24 **that number if you can tell me?**

25 A. Well, when you look at a group and

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco

2 depending upon their conduct, that approximately
3 50 was a number that I thought of.

4 But with hindsight, I think that
5 number is probably too large.

6 **Q. Did you consider other numbers in**
7 **deciding how to define large group bicycle rides**
8 **in your declaration?**

9 A. Say that one more time?

10 **Q. Did you consider numbers other than**
11 **approximately 50 or more when you were deciding**
12 **what would be a large group bicycle ride in your**
13 **declaration?**

14 A. Sure. I thought of a lot of numbers.

15 **Q. Which ones?**

16 A. All of them.

17 **Q. Would you include in this definition,**
18 **a group of 100 cyclists as a large group bicycle**
19 **ride?**

20 A. It can be.

21 **Q. But isn't always?**

22 A. It depends on the conduct.

23 **Q. So a 100 person bicycle ride by its**
24 **conduct may not constitute a large group bicycle**
25 **ride within the meaning of your declaration?**

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1 **J. Caneco**
 2 A. It may.
 3 **Q. It may or it may not you're's saying?**
 4 A. Yes.
 5 **Q. And would the same be true of a group**
 6 **of 200 bicyclists?**
 7 A. You're asking me my opinion?
 8 **Q. So that I understand when you use the**
 9 **phrase "large group bicycle rides," do you mean**
 10 **a group that could be as small as 50 or a group**
 11 **that could be --**
 12 A. I'm talking about specifically --
 13 you're talking about specifically critical mass
 14 bike rides, the ones that I've observed?
 15 Because those are the only ones I've observed.
 16 **Q. Okay.**
 17 A. So...
 18 **Q. We can --**
 19 A. If you want --
 20 **Q. We can limit it --**
 21 A. I can only work with what I've
 22 observed.
 23 **Q. All right.**
 24 A. So in that description of critical
 25 mass, I have not observed any of the bike rides.

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1 J. Caneco
 2 So if you want to go to the point of
 3 what I observe during critical mass bike rides
 4 and group sizes there, then let's discuss that.
 5 **Q. All right. That clarification is**
 6 **helpful.**
 7 A. Okay.
 8 **Q. Have you observed any critical mass**
 9 **bicycle rides that had approximately 50**
 10 **participants?**
 11 A. Yes.
 12 **Q. And can you tell me -- and these are**
 13 **the Manhattan critical bicycle rides that**
 14 **originated in Union square.**
 15 A. Yes.
 16 **Q. And can you tell me in what months or**
 17 **years those approximately 50 person critical**
 18 **mass bicycle rides occurred?**
 19 A. Not specifically because they
 20 splinter off. They may start off in a large
 21 group. They may go to groups of 10 to up to 50
 22 so I had the opportunity to observe all
 23 different size groups.
 24 **Q. So when you're speaking of critical**
 25 **mass bicycle rides --**

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1 **J. Caneco**
 2 A. Um-hmm.
 3 **Q. -- you would consider a splintered**
 4 **off group of 50 that was once part of a larger**
 5 **group as being its own group ride of 50?**
 6 A. Yes, I would.
 7 **Q. And the same would be true of a**
 8 **splintered off group of 10?**
 9 A. Yes.
 10 **Q. Can you describe the splintering off**
 11 **process, how that happens at a critical mass**
 12 **ride?**
 13 A. No, I cannot. It just happens.
 14 **Q. But you've observed it happen?**
 15 A. Yes.
 16 **Q. Does it happen when a traffic signal**
 17 **changes in the middle of the ride, one portion**
 18 **of the ride proceeds on where another portion of**
 19 **the ride stops?**
 20 A. I couldn't tell you.
 21 **Q. You can't describe to me any of the**
 22 **circumstances surrounding the splintering of the**
 23 **critical mass rides?**
 24 A. Rephrase what you're trying to ask
 25 me.

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1 J. Caneco
 2 **Q. I'm trying to get more details from**
 3 **you about the splintering of the critical mass**
 4 **rides.**
 5 A. I cannot tell you why they splinter
 6 off.
 7 **Q. Once they splinter off, do you**
 8 **consider it one single critical mass ride**
 9 **anymore or is it a group of, a number of**
 10 **separate rides?**
 11 A. Well, it's different rides, different
 12 processions I guess.
 13 **Q. And what makes them different is that**
 14 **they're proceeding in different directions?**
 15 A. Yes.
 16 **Q. You discussed the Transportation**
 17 **Alternatives Century Tour in your declaration.**
 18 **That's paragraph 7.**
 19 **It's the New York City Century Bike**
 20 **Tour actually is the proper title that you've**
 21 **got there.**
 22 **Would you consider that group bicycle**
 23 **ride in the same category of large group bicycle**
 24 **rides that you define in paragraph 3 of your**
 25 **declaration?**

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1 **J. Caneco**

2 A. I don't recall the route. I don't
3 recall the size of the group.

4 **Q. So the answer would be no?**

5 MS. NEUFELD: Objection to the form.

6 A. What's the question?

7 **Q. Do you consider the New York City
8 Century Bicycle Tour to be a large group bicycle
9 ride, approximately 50 or more cyclists as
10 defined in paragraph 3 of your declaration?**

11 A. I couldn't answer that question
12 unless I see -- unless I have more information.

13 **Q. Okay. Looking at paragraph 4 of your
14 declaration, you start out the sentence there
15 saying, "Unpermitted large group bicycle
16 rides..."**

17 **Just so that I understand, when you
18 use that phrase there in that sentence, you're
19 referring to a critical mass bicycle ride that
20 has approximately 50 or more cyclists?**

21 A. Not necessarily.

22 **Q. Okay. Then what are you referring
23 when you say unpermitted large bicycle rides?**

24 **I'm trying get a handle on what large
25 means in terms of an approximate number of**

1 **J. Caneco**

2 **participants in that sentence in paragraph 4.**

3 A. It depends on the conduct of the
4 group.

5 **Q. A group may be large if it engages in
6 certain conduct but not large if it engages in
7 other conduct? Is that what you're telling me?**

8 A. Rephrase that, please?

9 **Q. I understand you to say that the
10 meaning of large group bicycle ride as that
11 phrase appears in your declaration hinges on the
12 conduct of the group; is that correct?**

13 A. I think it has a big impact, yes.

14 **Q. So then is it possible that a group
15 you would consider large if it behaved in one
16 way, you would consider to be not large if it
17 behaved in another way?**

18 A. As long as it's coordinating.

19 **Q. Is your answer then to that question
20 yes?**

21 A. Rephrase the question.

22 MR. VACCARO: Can we read back the
23 question, please?

24 (Question was read back as follows:

25 "QUESTION: So then is it possible

1 **J. Caneco**

2 that a group you would consider large if it
3 behaved in one way, you would consider to
4 be not large if it behaved in another
5 way?")

6 A. I still don't understand the
7 question. I have to apologize.

8 **Q. I need to understand what large group
9 bicycle rides means when that phrase appears in
10 your declaration in order to be able to
11 understand what you're saying in your
12 declaration, and so I'm asking you whether it is
13 possible to define large group bicycle ride --**

14 A. Anything is possible.

15 **Q. If I could just finish my question.**

16 A. Sure.

17 **Q. Is it possible to give a definition
18 to the phrase "large group bicycle ride" as it
19 appears in your declaration that is based solely
20 on the number of participants in the bicycle
21 ride without respect to the conduct of the
22 individuals in the bicycle ride?**

23 MS. NEUFELD: Objection to the form.

24 A. Again, the only observations I have
25 made in my affidavit is based on observations of

1 **J. Caneco**

2 the critical mass bike rides.

3 If you can point a question in that
4 direction of something that I've observed, then
5 I'd probably better understand what you're
6 asking me.

7 **Q. We can try to approach this in a
8 different way by looking again at the first
9 sentence of paragraph 4 of your declaration.**

10 **"Unpermitted large group bicycle
11 rides disrupt pedestrian and vehicular traffic
12 such that ordinary citizens who happen to be in
13 the vicinity of the ride become trapped when the
14 ride approaches."**

15 **Now in that sentence I'm trying to
16 understand if a group of 10 bicyclists could be
17 within the meaning of the phrase "unpermitted
18 large group bicycle rides" as it appears in that
19 sentence?**

20 A. If they take what they call is
21 corking the whole street, yes. And it has
22 happened.

23 **Q. So you're saying that your first
24 sentence of paragraph 4 of your declaration --**

25 A. Um-hmm.

1 J. Caneco

2 **Q. -- is referring to a variety of**
3 **instances, including an instance in which there**
4 **were 10 bicyclists?**

5 MS. NEUFELD: Objection to the form.

6 A. Say that one more time?

7 **Q. Are you testifying that there was an**
8 **instance involving 10 group bicyclists that**
9 **falls within the definition of large group**
10 **bicycle rides as used in this first sentence of**
11 **paragraph 4?**

12 A. Well, what I'm saying is they impeded
13 traffic and displaced pedestrians, that
14 occurred, yes, that's what I'll say.

15 **Q. But are you able to give any numeric**
16 **value to the characterization "large group**
17 **bicycle ride"?**

18 A. Large. 10 blocking the whole street
19 is large, yes.

20 **Q. So when you say in paragraph 3 "large**
21 **group bicycle rides (with approximately 50 or**
22 **more cyclists)," that isn't the definition of**
23 **large group bicycle rides you're using in**
24 **paragraph 4?**

25 MS. NEUFELD: Objection to the form.

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco

2 A. Well, I used the word "approximately"
3 and I think in hindsight now thinking about
4 observing the rides, that that's probably a
5 large number. It's probably a generous number.

6 **Q. So but what is the number that you**
7 **intend to indicate when you use the phrase**
8 **"large group bicycle rides" in your declaration?**

9 MS. NEUFELD: Objection to the form.

10 A. What's the number? Ask me the
11 question again.

12 MR. VACCARO: Could you please read
13 it back.

14 (Question was read back as follows:

15 "QUESTION: But what is the number
16 that you intend to indicate when you use
17 the phrase "large group bicycle rides" in
18 your declaration?")

19 A. Again, pertaining to the critical
20 mass bike rides, I think it would depend on the
21 conduct of the ride in itself. So large could
22 be 10, large could be 50, approximately, even
23 number.

24 **Q. Would you turn to paragraph 5 of your**
25 **declaration on page 3.**

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1 J. Caneco

2 MS. NEUFELD: Finish your line of
3 questioning and I would request a break.

4 MR. VACCARO: Okay.

5 BY MR. VACCARO:

6 **Q. The last sentence reads, "Smaller**
7 **groups of cyclists tend to follow traffic**
8 **regulations, and even if they do not, the impact**
9 **is minimal due to the small size of the group."**

10 **I don't want to stop you from reading**
11 **the whole paragraph in context. It's probably**
12 **best if you read all of paragraph 5 and then we**
13 **just focus in on that last sentence, so let's**
14 **take a second and do that.**

15 A. I'm sorry? One more time.

16 **Q. If you could read through paragraph 5**
17 **and then I'll ask you a question about the last**
18 **sentence.**

19 A. All right.

20 (Witness complies.)

21 A. Okay.

22 **Q. So based on your earlier responses,**
23 **am I correct that when you use the phrase in the**
24 **sentence "smaller groups of cyclists," you're**
25 **not referring to any particular number but**

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1 J. Caneco

2 **rather to, you're characterizing the conduct of**
3 **the group of cyclists here?**

4 A. Yes.

5 **Q. So a smaller group of cyclists could**
6 **be 10 cyclists?**

7 A. Yes.

8 **Q. It could be 50 cyclists?**

9 A. Yes.

10 **Q. And it could be 100 cyclists?**

11 A. 100 is pushing it.

12 **Q. Explain why?**

13 A. All right. What happens is that they
14 tend to want to group up and when they do that,
15 they actually cork the street when they do that
16 because everybody wants to catch up.

17 If they get caught at a traffic
18 light, they tend not to want to wait. They want
19 to just ride through it to catch up to the rest
20 of the group.

21 So 100 have a tendency or a larger,
22 more than 50, again, these are all approximate
23 numbers, quick visual tend to have a, what's the
24 word I'm looking for, have an impact on
25 vehicular traffic behind them, and what happens

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1 J. Caneco
 2 when they get in a larger group like that is
 3 that they get a little bit more aggressive.
 4 They lean on cars. I think they become
 5 intimidating to the pedestrians.
 6 **Q. So there are those tendencies with**
 7 **respect to groups larger than 50?**
 8 A. I have seen groups of approximately
 9 50 ride along but without any -- without any
 10 problems for a while and then it just seems like
 11 as time goes on, observing them, they tend to
 12 break the law by riding through the red lights.
 13 **Q. Now in this last sentence of**
 14 **paragraph 5 you say, "Smaller groups of cyclists**
 15 **tend to follow traffic regulations, and even if**
 16 **they do not, the impact is minimal due to the**
 17 **small size of the group."**
 18 **So you are suggesting here the**
 19 **possibility of a small group of cyclists that do**
 20 **not follow traffic regulations, right?**
 21 A. Yes.
 22 **Q. And you're saying that the impact of**
 23 **those small groups, even when they don't follow**
 24 **traffic regulations, is minimal due to the small**
 25 **size of the group?**

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1 **J. Caneco**
 2 A. I'm saying they're not as
 3 intimidating to the pedestrians.
 4 And the impact as far as being
 5 minimal, depending on the width of the street,
 6 but it depends. I've seen them where they want
 7 to cork the street. Ten is not going to cork
 8 the whole avenue, although at times they have an
 9 impact because what they do is they create
 10 traffic sort of has to merge creating an unsafe
 11 condition with the cars. It depends on what
 12 their conduct is, what their intentions are.
 13 **Q. So it's really not a question of the**
 14 **number of individuals in the group, but rather**
 15 **what the individuals do?**
 16 A. Well, no. The larger groups, even if
 17 they -- I haven't seen a -- I have not seen a
 18 large group yet out of all of my observations,
 19 observe all the laws throughout the whole ride.
 20 **Q. And when you say "large group" in**
 21 **that sentence, you're talking approximately how**
 22 **many bicyclists?**
 23 A. Twenty-five and better.
 24 MR. VACCARO: Why don't we take a
 25 break now.

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1 J. Caneco
 2 THE VIDEOGRAPHER: The time is
 3 approximately 11:14 a.m. We are off the
 4 record.
 5 (Recess is taken.)
 6 THE VIDEOGRAPHER: The time is
 7 approximately 11:28 a.m. We are on the
 8 record.
 9 And, counsel, just so you know, we
 10 have 30 minutes left on this tape. I'll
 11 give you a five-minute warning when it's
 12 time to change.
 13 MR. VACCARO: Back on the record.
 14 Counsel for defendants indicated that there
 15 was a need to clarify the testimony.
 16 MS. NEUFELD: Yes.
 17 Lieutenant Caneco, during the break
 18 you brought to my attention two questions
 19 that counsel for the plaintiffs had asked
 20 you which you now would like to clarify
 21 your answer to; is that correct?
 22 THE WITNESS: Yes.
 23 MS. NEUFELD: Which two questions are
 24 those?
 25 THE WITNESS: About being arrested

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1 J. Caneco
 2 and being taken into custody.
 3 MS. NEUFELD: Okay. And previously
 4 you had answered that you had not been
 5 arrested and had not been taken into
 6 custody; is that correct?
 7 THE WITNESS: That's correct.
 8 MS. NEUFELD: And would you like now
 9 to change those answers?
 10 THE WITNESS: Yes.
 11 MS. NEUFELD: And how would you like
 12 to change that?
 13 THE WITNESS: Arrested and taken into
 14 custody.
 15 MS. NEUFELD: And when that did that
 16 occur?
 17 THE WITNESS: That was approximately
 18 1977.
 19 MS. NEUFELD: How old were you at the
 20 time?
 21 THE WITNESS: Eighteen.
 22 MS. NEUFELD: What did that occur --
 23 were you arrested and taken into custody
 24 prior to becoming a police officer?
 25 THE WITNESS: Yes.

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1 J. Caneco
 2 MS. NEUFELD: When you applied to the
 3 New York City Police Department to become a
 4 police officer, did you disclose that
 5 arrest to the city?
 6 THE WITNESS: Yes.
 7 MR. VACCARO: Thank you for the
 8 clarification.
 9 I don't have any further questions on
 10 that point.
 11 MS. NEUFELD: Okay. And, Lieutenant,
 12 just one other area of clarification.
 13 Earlier when counsel asked you if you
 14 had ever had your deposition taken, you
 15 said that I believe yes, you had your
 16 deposition taken two times; is that
 17 correct?
 18 THE WITNESS: Yes.
 19 MS. NEUFELD: Have you ever had a
 20 deposition taken in a room like this where
 21 you're asked questions orally and given
 22 oral --
 23 THE WITNESS: No.
 24 MS. NEUFELD: No.
 25 When you -- what did you interpret

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco
 2 the word "deposition" to mean when asked by
 3 counsel?
 4 THE WITNESS: This, what's this, a
 5 declaration?
 6 MS. NEUFELD: Plaintiffs' Exhibit 2?
 7 THE WITNESS: Yes.
 8 MS. NEUFELD: And you recall one
 9 other -- aside from Plaintiffs' Exhibit 2,
 10 you recall one other instance where you
 11 provided written testimony?
 12 THE WITNESS: Yes.
 13 MS. NEUFELD: Okay.
 14 BY MR. VACCARO:
 15 **Q. Just so that I understand then, there**
 16 **haven't been any prior instances where you've**
 17 **been questioned orally on the record the way you**
 18 **are being questioned today?**
 19 A. That's correct.
 20 **Q. I'll distribute Plaintiffs' Exhibit**
 21 **3. It's the affidavit of Lieutenant Joseph**
 22 **Caneco in the matter of City of New York, et**
 23 **al., v. Time's Up Inc., et al.**
 24 **(Plaintiff's Exhibit 3, Affidavit of**
 25 **Lieutenant Joseph Caneco in the matter of**

TSG Reporting - Worldwide 877-702-9580

1 J. Caneco
 2 **City of New York, et al., v. Time's Up**
 3 **Inc., et al., is marked for identification,**
 4 **as of this date.)**
 5 **BY MR. VACCARO:**
 6 **Q. And Lieutenant Caneco, that's your**
 7 **signature that appears on page 6 of Plaintiffs'**
 8 **Exhibit 3?**
 9 A. Yes.
 10 **Q. And this appears to be your affidavit**
 11 **in that lawsuit, City of New York v. Time's Up,**
 12 **correct?**
 13 A. Yes.
 14 **Q. According to paragraph 2 of the**
 15 **affidavit, you are making it in support of the**
 16 **city's motion for an injunction against the**
 17 **participants in critical mass bicycle rides from**
 18 **parading without a permit?**
 19 A. Rephrase it for me.
 20 **Q. Okay. I'll draw your attention to**
 21 **the first sentence of paragraph 2 of your**
 22 **affidavit which states, "I submit this affidavit**
 23 **in support of the plaintiff's motion for a**
 24 **preliminary injunction enjoining defendants and**
 25 **all other participants in critical mass bicycle**

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1 J. Caneco
 2 **rides from engaging in conduct that requires a**
 3 **permit from the police department without having**
 4 **first obtained such permit."**
 5 **And the sentence guess on but I'm**
 6 **drawing your attention to that portion.**
 7 **And my question to you is, what was**
 8 **your understanding at the time you made this**
 9 **affidavit in October of 2005 as to the size of a**
 10 **group bike ride that required a permit for**
 11 **parade from the city?**
 12 A. I'm not sure if their size was an
 13 issue at that point as important as getting the
 14 parade permit.
 15 **Q. Well, back in 2005, was it the case**
 16 **that a group of two bikes who wanted to proceed**
 17 **together required a permit from the city in**
 18 **order to do so?**
 19 A. I'm sorry?
 20 MR. VACCARO: Could we have a read
 21 back of the question, please?
 22 (Question was read back as follows:
 23 "QUESTION: Well, back in 2005, was
 24 it the case that a group of two bikes who
 25 wanted to proceed together required a

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1 J. Caneco
 2 permit from the city in order to do so?")
 3 A. I'm not aware of that.
 4 **Q. Were you aware of any numerical**
 5 **threshold in terms of the size of a group**
 6 **bicycle ride that would require the participants**
 7 **to obtain a permit from the city as of 2005?**
 8 A. When this document was drawn?
 9 **Q. Yeah.**
 10 A. No.
 11 **Q. And were you involved in observing**
 12 **and participating in police department**
 13 **activities at critical mass rides back in 2005**
 14 **when you made this affidavit, right?**
 15 A. Yes.
 16 **Q. And at that time would you**
 17 **consider -- would you have considered a group of**
 18 **10 bicyclists proceeding together without a**
 19 **permit to be parading without a permit?**
 20 A. Not if they were going up a bike path
 21 or bike lanes. If they're not going to utilize
 22 a lane of traffic.
 23 **Q. But if the bicyclists were proceeding**
 24 **in a traffic line on a roadway, then a group of**
 25 **10 bicyclists proceeding together would have**
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1 **J. Caneco**
 2 **been a parade under the rules in effect at the**
 3 **time you made this affidavit?**
 4 A. In my opinion, I would say if you
 5 were going to take a whole lane of traffic, then
 6 you would have to get a permit. That's my
 7 opinion.
 8 **Q. Did you personally issue any summons,**
 9 **summonses, for parading without a permit to**
 10 **bicyclists who were proceeding together in a**
 11 **lane of traffic?**
 12 MS. NEUFELD: Objection to the form.
 13 A. No, I have not.
 14 **Q. Can you recall the -- taking a step**
 15 **back.**
 16 **You said that you issued some number**
 17 **of summonses in connection with critical mass**
 18 **bike rides.**
 19 **Can you recall what the violations**
 20 **were for any of those summonses?**
 21 A. They were -- one specific was going
 22 the wrong way and the other few that I gave were
 23 for red light.
 24 **Q. So if a group of two bicyclists back**
 25 **in 2005 were proceeding up the middle of a**
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1 **J. Caneco**
 2 **traffic lane back in 2005, that could constitute**
 3 **parading without a permit according to your**
 4 **understanding at that time?**
 5 A. If they were going to have -- if
 6 somehow they were going to have impact on
 7 traffic, I would have to be aware of, be aware
 8 of it, I'd have to also check to see if there
 9 were any street fairs that were going to have an
 10 impact or any other events, parades that they
 11 were going to have an impact on.
 12 These two bicyclists you're talking
 13 about taking up the whole lane?
 14 **Q. Two bicyclists proceeding up the**
 15 **middle of a traffic lane on a roadway.**
 16 A. So taking up the whole lane that's
 17 reserved, that's for cars and what would their
 18 traffic flow be? How many miles per hour would
 19 they be going?
 20 **Q. Let's say they're going 10 miles an**
 21 **hour.**
 22 A. What's the miles per hour -- what's
 23 regulation in the city, 25? Would it cause
 24 cars, would it cause cars to veer off? Would it
 25 cause cars to merge I should say. That's what
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1 J. Caneco
 2 I'm getting at.
 3 **Q. Well, I can't say, but are you able**
 4 **to --**
 5 A. You're describing a situation for me.
 6 I want to, I want to better understand the...
 7 **Q. Without more, with only the facts**
 8 **that you have, two bicyclists proceeding up one**
 9 **lane of one roadway up the middle of the roadway**
 10 **and then there is just ordinary vehicular**
 11 **traffic also going on on the road but there are**
 12 **other lanes with no bicyclists in them --**
 13 MS. NEUFELD: Objection to the form.
 14 **Q. -- would that be a parade requiring a**
 15 **permit?**
 16 MS. NEUFELD: Objection to the form.
 17 A. Well, that's never been the case
 18 where anybody has made that application. I
 19 think if somebody made that application, I'd
 20 have to review it and take counsel I mean but
 21 it's never been an issue.
 22 **Q. Putting aside the situation where the**
 23 **two bicyclists request a permit, if you observe**
 24 **two bicyclists proceeding together, we're**
 25 **talking about 2005 when you made the affidavit,**
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1 **J. Caneco**
 2 **at that time were those two bicyclists**
 3 **potentially subject to summons or arrest for**
 4 **parading without a permit?**
 5 A. No.
 6 MS. NEUFELD: Objection to the form.
 7 **Q. And why not?**
 8 A. Because it has never come to my
 9 attention.
 10 **Q. What would be the number of**
 11 **bicyclists in 2005 that you would need in order**
 12 **to create a situation where a permit was**
 13 **required?**
 14 MS. NEUFELD: Objection.
 15 I direct witness not to answer. This
 16 is a legal interpretation about a law that
 17 is no longer in effect.
 18 MR. VACCARO: Well, it's a question
 19 about how he would apply the law and how he
 20 did apply the law back in 2005.
 21 MS. NEUFELD: But --
 22 MR. VACCARO: So if I rephrase the
 23 question on those -- on that basis, perhaps
 24 it will be acceptable.
 25 MS. NEUFELD: Perhaps, but it's not

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1 **J. Caneco**
 2 relevant how the witness applied the law in
 3 2005.
 4 There's a law at issue now which is
 5 the subject of this lawsuit. How he
 6 personally interpreted it or enforced it in
 7 2005 isn't relevant, and it's also a legal
 8 determination as to whether a particular
 9 enforcement action taken in 2005 was valid
 10 or not, right?
 11 And in addition, as counsel pointed
 12 out, he also said he never issued
 13 permits -- violations for parading without
 14 a permit in 2005.
 15 MR. VACCARO: Okay. I'll withdraw
 16 that question.
 17 BY MR. VACCARO:
 18 **Q. In paragraph 9 of your affirmation --**
 19 **I'm sorry, affidavit, which is Plaintiffs'**
 20 **Exhibit 3 -- I'm sorry. Withdrawn.**
 21 **If you go to paragraph 2 on page 2,**
 22 **the rest of the sentence that I didn't read**
 23 **before describing the purpose of the affidavit,**
 24 **it says, "...and specifically to supplement**
 25 **plaintiffs' prior submissions with new**

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1 **J. Caneco**
 2 **information about the conduct of the critical**
 3 **mass bicycle ride over the last several months**
 4 **and the ways in which the critical mass bicycle**
 5 **ride differs from some of the other bicycle**
 6 **rides that took place during those months."**
 7 **I just want to reconfirm that you**
 8 **have not observed any bicycle rides other than**
 9 **critical mass bike rides?**
 10 A. That's correct.
 11 **Q. So the discussion in this affidavit**
 12 **concerning other bicycle rides that are not**
 13 **critical mass rides are not based on your**
 14 **personal observation.**
 15 A. That's correct.
 16 **Q. In paragraph 9 of your affirmation,**
 17 **you discuss a group of 2 to 300 cyclists who**
 18 **left Union Square Park, I presume in connection**
 19 **with a critical mass bicycle ride?**
 20 A. Yes.
 21 **Q. And then in paragraph 10 of your**
 22 **affirmation, you refer to a group in August of**
 23 **2005 that was approximately 250 cyclists?**
 24 A. Approximately.
 25 **Q. Have you observed critical mass rides**

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1 **J. Caneco**
 2 **that at the point when they began to leave Union**
 3 **Square numbered approximately 50?**
 4 A. I don't recall. I think the lowest
 5 estimate could have been close to 100.
 6 **Q. Can you recall the largest estimate**
 7 **for a critical mass bike ride that you**
 8 **personally observed, approximately?**
 9 A. About 1,000.
 10 **Q. Can you put a time frame on that**
 11 **large ride in terms of a year in which it might**
 12 **have occurred?**
 13 A. Sometime when I was assigned.
 14 Sometime within that six months, seven months,
 15 eight months. The first year of assignment
 16 there.
 17 **Q. That wouldn't have been then in 2006.**
 18 A. No.
 19 **Q. Can you recall the largest critical**
 20 **mass ride, again, just looking at the size of**
 21 **the group just before it leaves Union Square**
 22 **Park, that you personally observed in 2006?**
 23 A. Hundreds. 3, 400.
 24 **Q. In paragraph 11 of your affidavit,**
 25 **you contrast the conduct of the critical mass**

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1 J. Caneco

2 rides that you've observed to those of smaller
3 rides that have taken place this summer without
4 a permit.

5 Do you see that?

6 A. Um-hmm. Yes.

7 Q. And you're referring to the summer of
8 2005, right?

9 A. Yes.

10 Q. And at the end of paragraph 11 you
11 state that "Most, but not all of these other
12 rides had under 100 participants"?

13 A. Okay.

14 Q. Is that correct, that these other
15 rides that you're contrasting to the critical
16 mass rides, some had less than a 100, some had
17 more than 100 participants? Am I understanding
18 the last sentence of paragraph 11?

19 A. Well, I'm trying to think. When
20 these groups would splinter off, sometimes
21 they'd splinter off in larger groups of 100.
22 When they were that big, the rides were larger
23 back then in the summer.

24 Q. I may be misunderstanding paragraph
25 11 of your affidavit.

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1 J. Caneco

2 I understand it to be contrasting
3 group bicycle rides that are not critical mass
4 rides --

5 A. Okay.

6 Q. -- that have less than 100 or in some
7 cases more than 100 participants --

8 A. Right.

9 Q. -- that you're discussing that are
10 separate from critical mass rides, whether when
11 they first originate from the park or when they
12 splinter off.

13 Am I interpreting paragraph 11
14 correctly?

15 A. The best of my recollection is that
16 on the other rides that we have had that were
17 permitted, we had no feedback of any adverse
18 effect on traffic or pedestrians. That's the
19 best that I can recall.

20 Q. What did you do to investigate the
21 potential adverse effects of those other
22 non-critical mass rides in connection with
23 discussing them in your affidavit?

24 A. Well, anything of notoriety that the
25 borough command needs to know is called in and

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1 J. Caneco

2 we have like a sheet, I don't know what the
3 terminology would be in layman's term, but a
4 sheet just giving us a daily update of what's
5 going on in the city and I would review that.

6 Q. Is there a technical term for that
7 sheet, not a lay term but one that you use?

8 A. No. No. It's not one that the
9 police department devised. It's one that we
10 just improvised if you will.

11 Q. And you consulted those sheets in
12 order to determine the potential adverse effects
13 of these non-critical mass bicycle rides?

14 A. No. It was not looking specifically
15 for that, no. I just read it.

16 Q. Well, in paragraph 11 you state that,
17 "The participants in these smaller rides have
18 been generally cooperative and willing to give
19 the police department information about where
20 they intended to ride."

21 Do you see that?

22 A. Yes.

23 Q. What was your source of information
24 for that statement?

25 A. As far as the last minute ride, the

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1 J. Caneco

2 only ride that I recall is the group that I
3 mentioned earlier of about a dozen
4 out-of-towners and they basically were going to
5 tell us where they were going. That was the --
6 as far as a last minute, it's the only one that
7 I've been involved in.

8 Q. But in paragraph 11 of your affidavit
9 you discuss other rides that apparently you
10 weren't involved in and you provide information
11 about those rides, right?

12 A. Provide to who?

13 Q. Well, to whoever is reading the
14 affidavit.

15 A. Well, there's permitted events. Like
16 I said, the charity events, I can't think of any
17 of the names off the top of my head, that we
18 sort of, okay, it's a permit, here's the
19 organizer, it's a parade permit and it goes
20 through the channel. That's the extent of it.

21 Q. So you never actually gathered
22 information about non-critical mass group
23 bicycle rides other than the 12-person ride you
24 mentioned --

25 MS. NEUFELD: Objection to the form.

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1 J. Caneco
 2 **Q. -- in preparing your affidavit?**
 3 MS. NEUFELD: Objection to the form.
 4 A. What do you mean by report?
 5 **Q. I don't think I said report.**
 6 A. Okay. You said gather.
 7 **Q. Um-hmm.**
 8 A. Okay. Explain to me what you mean by
 9 gather.
 10 **Q. Well, you explained to me that you**
 11 **have not observed non-critical mass bicycle**
 12 **rides.**
 13 A. Correct.
 14 **Q. But I read in your affidavit of**
 15 **October 2005, paragraph 11, about participants**
 16 **in smaller rides which I'm interpreting to be**
 17 **non-critical mass rides.**
 18 **Am I correctly interpreting that?**
 19 A. The only thing that I could think
 20 that what I have meant here is that I reviewed
 21 it back then.
 22 I can't recall now that review
 23 application of particular numbers.
 24 **Q. So back at the time --**
 25 A. I must have had a parade permit with
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1 J. Caneco
 2 A. In operations.
 3 **Q. In operations.**
 4 A. Yes.
 5 **Q. Do you ever recall seeing a report of**
 6 **an adverse effect on traffic or safety by a**
 7 **non-critical mass bicycle ride during the period**
 8 **when you were reviewing these reports daily?**
 9 A. I don't recall seeing it, no.
 10 **Q. Continuing on in paragraph 11 --**
 11 **actually just -- the possibility I may refresh**
 12 **your recollection, I'm going to ask you about**
 13 **organizations that organize group bicycle rides,**
 14 **and I'll just see if you recall reviewing**
 15 **applications for group rides they conducted or**
 16 **in any way observing or learning about their**
 17 **group bicycle rides.**
 18 **The Five Borough Bicycle Club, have**
 19 **you ever heard of them prior to this lawsuit?**
 20 A. It sounds familiar.
 21 **Q. Can you recall learning anything**
 22 **about any of the rides organized by the Five**
 23 **Borough Bicycle Club outside of the context the**
 24 **of this lawsuit?**
 25 A. I'm not -- I'm not aware of it. I
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1 J. Caneco
 2 a smaller amount of people. I don't know. But
 3 at this point I don't recall that.
 4 **Q. Okay. In paragraph 11 of your**
 5 **affidavit you say, "The participants in these**
 6 **rides..." and I'm taking this to refer to the**
 7 **smaller rides --**
 8 A. Um-hmm.
 9 **Q. "...have been known to observe red**
 10 **light signals and ride near the side of the**
 11 **road."**
 12 **What was the source of the**
 13 **information on which you base this statement in**
 14 **your affidavit?**
 15 A. That there was no -- that sheet, when
 16 I come in, I look at the sheet of the events
 17 going on where I work, when I say work, the
 18 south of 59th Street, I didn't see anything to
 19 counter that.
 20 THE VIDEOGRAPHER: Counselor, there's
 21 five minutes left on the tape.
 22 **Q. You reviewed these sheets on a daily**
 23 **basis --**
 24 A. Yes.
 25 **Q. -- when you were a lieutenant in --**
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1 J. Caneco
 2 don't recall.
 3 **Q. How about the New York Cycle Club?**
 4 A. I might have. I'm not sure.
 5 **Q. Can you recall --**
 6 A. Some of the names, I'm not sure if
 7 they're ringing because we're hearing them now
 8 or back then. I'm not sure. There's a lot of
 9 names. I -- approximately 1,000 events a year.
 10 **Q. But you don't have a specific**
 11 **recollection of an event organized by the New**
 12 **York City -- the New York Cycle Club?**
 13 A. No.
 14 **Q. You don't have a specific**
 15 **recollection of an event organized by the Five**
 16 **Borough Bicycle Club?**
 17 A. No specific event, no.
 18 **Q. Do you have any specific recollection**
 19 **of a group bicycle ride organized by the Fast**
 20 **and Fabulous Cycle Club?**
 21 A. No.
 22 **Q. A little bit more of a distinctive**
 23 **name.**
 24 **Do you have a recollection of any**
 25 **group bicycle ride other than a critical mass**
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1 **J. Caneco**
2 **bicycle ride with which you associate the**
3 **organization Time's Up?**

4 A. The Transportation Alternatives is a
5 name that I've heard many times over, and Time's
6 Up, yes.

7 **Q. Can you recall any specific group**
8 **bicycle ride organized by Time's Up?**

9 A. Not specific, no.

10 THE VIDEOGRAPHER: Counsel, there's
11 two minutes left on tape.

12 MR. VACCARO: You know, we can switch
13 the tape.

14 THE VIDEOGRAPHER: The time is
15 approximately 11:56. We are off the
16 record.

17 This concludes Tape 1.
18 (Changing videotape.)

19 THE VIDEOGRAPHER: The time is
20 approximately 11:58 a.m. We are on the
21 record.

22 BY MR. VACCARO:

23 **Q. Continuing with your affidavit of**
24 **October 2005, Lieutenant Caneco --**

25 A. Yes.

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1 J. Caneco

2 **Q. -- in paragraph 11 you characterize**
3 **the attitude of the bicyclists in the 100 plus**
4 **or minus rides that are non-critical mass rides**
5 **with the more antagonistic attitudes of the**
6 **participants in the 200 plus person critical**
7 **mass rides?**

8 MS. NEUFELD: Objection to the form.

9 A. Well, I wouldn't know the attitude in
10 the -- other than having no, no situations
11 arise, no summonses, no, nobody hit by a car, so
12 I really wouldn't know the attitude of the
13 non-critical mass rides, only that they
14 cooperated.

15 **Q. When you say they cooperated, did you**
16 **actually go and confirm that these non-critical**
17 **mass rides that had plus or minus 100**
18 **participants actually applied for and obtained a**
19 **permit?**

20 A. Say that one more time?

21 MR. VACCARO: Could you please read
22 the question?

23 (Question was read back as follows:

24 "QUESTION: When you say they
25 cooperated, did you actually go and confirm

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1 J. Caneco
2 that these non-critical mass rides that had
3 plus or minus 100 participants actually
4 applied for and obtained a permit?")

5 A. Those are the ones that I'm talking
6 about.

7 **Q. Did you confirm that they obtained a**
8 **permit from the NYPD in order to conduct these**
9 **non-critical mass bicycle rides?**

10 A. What passes through my desk, yes,
11 that's confirming.

12 **Q. When I say "confirm" what I mean is**
13 **focusing on a specific non-critical mass group**
14 **bicycle ride that you know has occurred and**
15 **checking to see whether that group applied for**
16 **and obtained a permit for their ride from NYPD.**
17 **Did you go through that process?**

18 A. The only way I would know is if the
19 permit passed my desk.

20 **Q. And the number of permits that passed**
21 **your desk for group bicycle rides, I think we**
22 **established earlier was approximately six?**

23 A. Yes.

24 **Q. During this time frame, January 2005**
25 **through January 2007, were you aware that there**

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1 **J. Caneco**
2 **were more than six non-critical mass group**
3 **bicycle rides with roughly 100 participants**
4 **going on?**

5 A. Am I aware that there's more than
6 six?

7 **Q. Were you aware at the time that there**
8 **were more than six.**

9 MS. NEUFELD: Objection to the form.

10 A. I don't -- I only know how many
11 passed through my desk. That's it.

12 I mean you're talking about New York,
13 you're talking about Manhattan, Staten Island?
14 I don't, you know.

15 **Q. Taking place within your area of**
16 **responsibility. That's a good, that's a good**
17 **point.**

18 **Limiting to it your area of**
19 **responsibility, from the time period January**
20 **'07 -- I'm sorry, January '05 through January of**
21 **'07, were you aware that there were more group**
22 **bicycle rides of 100 or so individuals than you**
23 **were receiving permits for?**

24 MS. NEUFELD: Objection to the form.

25 A. I wouldn't know if there was.

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1 J. Caneco

2 **Q. That's your answer. That's fine.**

3 Now at the end of paragraph 11 of
4 your affidavit, you say, "In addition, in most
5 situations the other rides had under 100
6 participants, which meant that even if the
7 riders did not obey traffic regulations, the
8 disruption of regular pedestrian and vehicular
9 traffic was minimal."

10 What was the basis on which you made
11 that statement in your affidavit?

12 A. I think there was one particular ride
13 that started from the Lower East Side. I don't
14 recall the name. I know it was a small group of
15 approximately this size.

16 **Q. When you say "this size," I'm sorry
17 to interrupt, you mean approximately 100 plus or
18 minus?**

19 A. Yes.

20 And that that's what I'm basing this
21 on.

22 **Q. Okay. Can you remember anything else
23 about that ride than what you've just told us?**

24 A. It was a Saturday, Saturday or Sunday
25 morning so the impact was minimal.

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1 J. Caneco

2 **Q. And it was a ride that did not obey
3 traffic regulations?**

4 A. I didn't say that. That particular
5 group, no.

6 **Q. I'm trying to relate it to the
7 statement that appears at the end of paragraph
8 11 where you talk about rides with 100 plus or
9 minus participants even if they don't obey
10 traffic regulations, the disruption of regular
11 pedestrian vehicular traffic was minimal.**

12 **Can you specify a ride that was the
13 basis of this statement in your affidavit?**

14 A. Okay. What I meant, what I think I
15 meant here was that when they splinter off, when
16 they hold the traffic up, case in point, the one
17 group, the group I observed of 1,000, it took
18 them almost ten minutes to get out of the park
19 and they blocked Park Avenue, exiting Park
20 Avenue from 17th Street going east and then
21 north on Park. That disruption lasted for a
22 solid 10 to 15 minutes of holding traffic.

23 The groups with a smaller amount of
24 course like this, it's not going to take them
25 that long to hold up traffic until the rest of

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1 J. Caneco

2 their friends are through.

3 **Q. So what you're saying is a group of
4 100 critical mass bicyclists, even if they don't
5 obey traffic regulations, the disruption of
6 regular pedestrian and vehicular traffic is
7 minimal.**

8 MS. NEUFELD: Objection to the form.

9 A. They're not gonna hold up traffic as
10 long as 1,000 people.

11 **Q. Well, here in your affidavit you're
12 saying, you're characterizing --**

13 A. Well, it's minimal.

14 **Q. -- the disruption as minimal.**

15 A. I said minimal as opposed to maximum
16 of 1,000.

17 **Q. So with 100 riders exiting Union
18 Square Park, even if they are not obeying
19 traffic regulations, the disruption to regular
20 pedestrian and vehicular traffic is minimal.**

21 A. That's subjective to each individual
22 looking at it.

23 Some people have a lower tolerance
24 and some people have a higher tolerance of
25 being -- waiting at a red light a couple times.

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1 J. Caneco

2 **Q. But in this context you are the
3 person who's making the characterization minimal
4 in your affidavit, your sworn statement, right?**

5 A. Right.

6 **Q. And you believed that the disruption
7 caused by the 100 critical mass bicyclists was
8 minimal.**

9 MS. NEUFELD: Objection to the form.

10 A. It's minimum compared to 1,000.

11 **Q. The group of 100 bicyclists that you
12 mentioned that proceeded on a Saturday?**

13 A. Saturday or Sunday morning.

14 **Q. And originated in the Lower East
15 Side?**

16 A. Yes.

17 **Q. Do you know whether that group
18 obtained a permit?**

19 A. Yes, they did.

20 **Q. And were you responsible for
21 processing or reviewing that permit application?**

22 A. Yes.

23 **Q. And just to be sure, you don't recall
24 the name of the group that organized that ride?**

25 A. No.

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J. Caneco

J. Caneco

Q. Do you recall the destination of the group?

things that the officers will do?

A. No. I know they wanted to swing somewhere up by Central Park and down and then south. I'm not sure of their destination. Lower East Side, Central Park ring a bell.

A. Not being on the site, facilitate traffic.

Q. Do you recall whether this group of 100 was escorted by NYPD officers?

Q. Is it customary for the NYPD assigned to a permitted group bicycle ride to make contact with the leader or liaison of the group of -- that's leading the group of bicyclists?

A. I think they were. I'm not sure.

A. I think they should.

Q. But you didn't personally participate in any escort they may have had?

Q. Do you recall learning of any traffic disruption caused by the 100 person group bicycle ride that you played some role in the processing of the application for?

A. Personally?

A. That particular event? No, I don't recall.

Q. Personally.

A. No.

Q. When a parade permit is issued for a group bicycle ride, is it typical that there will be NYPD officers who escort it or facilitate it in some way?

Q. Just so I understand, you don't recall learning of any traffic disruption or you don't -- or there was no traffic disruption?

A. Yes, yes.

A. Nothing comes to mind.

Q. What are the various roles that the NYPD personnel may play at a permitted group bicycle ride?

Q. And again, just in the last sentence of paragraph 11 of your affidavit where you say "In most situations, the other rides had under 100 participants, which meant even if the riders did not obey traffic regulations, the disruption of regular pedestrian and vehicular traffic was

A. It's more traffic oriented.

Q. Can you describe specifically the

J. Caneco

J. Caneco

minimal," the rides you're describing in that sentence are groups of 100 critical mass riders and this other ride of 100 individuals that you played some role in processing the application for?

other rides it's minimal because it's coordinated, it's on a Saturday or Sunday morning so the impact is minimal.

MS. NEUFELD: Objection to the form. I just direct the witness to read the entire paragraph before answering the question.

Cooperation is always best.

(Witness reviewing exhibit.)

A. When did I sign this?

Q. Just so that I'm sure we've gotten to the basis for your statement here, can you name any specific bicycle ride other than a critical mass bicycle ride and other than the 100 person group ride originating in the Lower East Side that form the a basis for your statement in the last sentence in paragraph 11 of your affidavit?

(Witness reviewing exhibit.)

A. What was the question?

MS. NEUFELD: Objection to the form.

Q. The question was which group bicycle rides of approximately 100 participants plus or minus were the ones you were referring to in the last sentence of paragraph 11 of your affidavit.

A. Is there anything -- read it back to me one more time?

A. I think this would go either way for either event.

(Question was read back as follows:

Q. And just so -- for the record so I understand, when you say "either event," which events are you referring to?

"QUESTION: Just so that I'm sure we've gotten to the basis for your statement here, can you name any specific bicycle ride other than a critical mass bicycle ride and other than the 100 person group ride originating in the Lower East Side that form the a basis for your statement in the last sentence in paragraph 11 of your affidavit?")

A. Well, critical mass rides. When I say minimal, there is some impact and for the

1 J. Caneco

2 A. Well, the only rides that I've been
3 observing is the critical mass rides and my
4 observation is that the smaller the group, the
5 least amount of impact it has.

6 Larger group, more impact. Smaller
7 group, least impact.

8 Has an impact overall -- overall it
9 has some impact, now it's just a matter of how
10 much. That's the best I can describe for you.

11 **Q. Okay. In paragraph 12 of the**
12 **affidavit you refer to a ride this past summer,**
13 **I'm assuming that means summer of 2005 --**

14 A. Um-hmm.

15 **Q. -- of approximately 50 members of the**
16 **Freewheels group.**

17 **Do you recall what the basis was for**
18 **your statements in paragraph 12 regarding that**
19 **ride?**

20 A. I don't recall this event at this
21 time.

22 **Q. You state that you've been informed**
23 **that the Freewheels participant provided police**
24 **department with an itinerary at the start of the**
25 **ride.**

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1 J. Caneco

2 **Can you recall who might have**
3 **informed you of that?**

4 A. No.

5 **Q. When you state in the last sentence**
6 **of paragraph 11 of your affidavit that the**
7 **disruption of pedestrian and vehicular traffic**
8 **was minimal when the riders in these 100 plus or**
9 **minus rides did not obey traffic regulations,**
10 **one of the traffic regulations you're referring**
11 **to there is going through a red signal; is that**
12 **correct?**

13 A. You're assuming, Im sorry, one more
14 time?

15 **Q. Which traffic regulations are you**
16 **referring to in the last sentence of paragraph**
17 **11 of your affidavit?**

18 A. I'm sorry. I'm sorry. Yeah, one
19 more time.

20 MR. VACCARO: Could you read it back,
21 please --

22 (Question was read back as follows:

23 "QUESTION: Which traffic regulations
24 are you referring to in the last sentence
25 of paragraph 11 of your affidavit?")

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1 J. Caneco

2 A. Are you talking about the red lights
3 "In addition, the participants in each --

4 **Q. Actually I'm directing you to the**
5 **last sentence of paragraph 11 which appears on**
6 **page 5.**

7 A. "In addition...?"

8 **Q. "In addition...", yes.**

9 (Witness reviewing exhibit.)

10 A. And what was the question?

11 **Q. Which traffic regulations are**
12 **included in the phrase "traffic regulations" as**
13 **it appears in that sentence?**

14 A. I wouldn't know which ones. I mean
15 it could be an array, it could be none. I
16 don't -- I'm not sure.

17 I know there's been many summonses
18 issued whether through equipment or through VTL
19 violations.

20 **Q. Well, you refer in paragraph 11, the**
21 **earlier sentence you were looking at a moment**
22 **ago, that "The participants in these rides have**
23 **been known to observe red light signals and ride**
24 **near the side of the road."**

25 **Are those traffic regulations that**

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1 J. Caneco

2 **you were referring to in the last sentence also**
3 **of paragraph 11?**

4 A. I don't understand the line of
5 questioning.

6 **Q. Well, I'm trying to establish which**
7 **are the traffic regulations that the**
8 **participants in these group rides did not obey**
9 **in the last sentence of your affidavit,**
10 **paragraph 11, that led you to conclude that when**
11 **those traffic regulations were not obeyed, the**
12 **disruption was minimal.**

13 A. Well, it's minimal --

14 **Q. So which are the traffic regulations**
15 **you're referring to when you say riders did not**
16 **obey traffic regulations?**

17 A. Well, in the smaller groups, they
18 tend to stop at the red light.

19 **Q. So red lights are an example of a**
20 **traffic regulation in the last sentence of**
21 **paragraph 11.**

22 A. Yes.

23 MS. NEUFELD: Objection to the form.

24 A. Yes.

25 **Q. How about keeping to the left or**

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1 **J. Caneco**
2 **right of a roadway? Would that be an example of**
3 **a traffic regulation you're referring to in the**
4 **last sentence of paragraph 11?**

5 A. You mean a -- when you say that,
6 you're talking about corking the street?

7 **Q. No, just the position on which the**
8 **bicyclist proceeds along the roadway.**

9 A. I'm not sure what you mean by that.

10 **Q. Okay. Well, let's describe a**
11 **scenario where a group of 100 bicyclists plus or**
12 **minus --**

13 A. I think I described a few scenarios
14 here that we haven't gone through.

15 **Q. We'll get to them.**

16 A. Well, that gives you a pretty good
17 idea and that's the objective here.

18 Paragraph 9. Instead of having a
19 scenario, let's go to something that is fact.
20 The fact is No. 9.

21 Do you agree?

22 **Q. We'll discuss that -- we will discuss**
23 **that. We'll just have to go in the order that I**
24 **set up for the deposition.**

25 **So --**

1 **J. Caneco**

2 A. I just think it's unfair to paint a
3 scenario as opposed to what's fact.

4 **Q. Well, let me describe a scenario in**
5 **which 100 bicyclists plus or minus are**
6 **proceeding --**

7 MS. NEUFELD: Let him take care of
8 it.

9 THE WITNESS: Okay. I don't know why
10 we want to talk about scenarios when --

11 MS. NEUFELD: Well...

12 BY MR. VACCARO:

13 **Q. 100 bicyclists proceeding on a**
14 **one-way roadway curb to curb, is that something**
15 **that you've witnessed?**

16 A. A number, a particular number?

17 **Q. Approximately 100.**

18 A. I don't recall a particular number.

19 I've observed bicyclists, numerous amount of
20 bicyclists corking a street, yes.

21 **Q. When you say corking a street, you**
22 **mean the bicyclists were proceeding curb to curb**
23 **with a green signal?**

24 MS. NEUFELD: Objection to the form.

25 A. Yes.

1 **J. Caneco**
2 **Q. So your definition of corking -- why**
3 **don't you give me your definition of corking.**
4 **You may have a different one than what I might**
5 **be familiar with.**

6 A. Impeding traffic to flow at the speed
7 that's allowed, then dictating the speed.
8 Dictating the speed by going five miles an hour.

9 **Q. Is there a minimum speed limit in New**
10 **York City?**

11 MS. NEUFELD: Objection to the form.

12 A. There is a minimum speed in New York
13 City.

14 **Q. What is it?**

15 A. We talking about city roadways or we
16 talking about highways?

17 **Q. We're talking about city roadways and**
18 **specifically only those city roadways on which**
19 **bicycles are permitted.**

20 A. I'm not aware of it.

21 **Q. Is it your understanding that**
22 **bicyclists are not permitted to proceed on the**
23 **road at five miles an hour?**

24 A. Going back to what your original
25 statement was, from curb to curb, what do you

1 **J. Caneco**
2 think the impact is on traffic in New York City.

3 **Q. My question is whether there is a**
4 **traffic law or rule or regulation that prohibits**
5 **bicyclists from proceeding --**

6 A. We'd have to look.

7 **Q. Okay.**

8 A. If you want to have a break, I'll
9 find out.

10 **Q. We do. We have copies of the VTL,**
11 **the rules of the City of New York and some other**
12 **materials here, and I'm going to ask you to**
13 **identify the provision of law --**

14 A. Okay.

15 **Q. -- that prohibits bicyclists from**
16 **proceeding --**

17 MS. NEUFELD: Objection. Objection.

18 Either there is a provision of law or
19 there isn't, and either the witness knows
20 it right now as he sits here or he doesn't.
21 We're not researching this right now.

22 MR. VACCARO: It is at the witness'
23 option as to whether he wants to identify
24 the provision of law that prohibits
25 bicyclists from proceeding curb to curb now

1 J. Caneco

2 or from the materials we have available.

3 MS. NEUFELD: It's completely
4 irrelevant to what is set forth in two
5 declarations that we are here for today
6 whether or not the witness can identify by
7 looking through laws whether there's a law
8 that prohibits bicycles from proceeding
9 from curb to curb.

10 MR. VACCARO: Well, I believe it's
11 relevant because Lieutenant Caneco has
12 described activities by group bicyclists
13 that he believes are disruptive, and I
14 think that it's relevant as to whether or
15 not those activities are actually
16 prohibited or permitted by law.

17 MS. NEUFELD: You may think that
18 that's relevant and that is a legal
19 determination.

20 Whether he -- it is his opinion that
21 a group bicycle ride is disruptive, that's
22 his opinion. It doesn't matter whether the
23 law as written in the VTL allows it or it
24 doesn't. His opinion is what it is and
25 legal argument based upon that opinion is

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1 J. Caneco

2 going to be what it's going to be based on
3 what you think the law says.

4 THE WITNESS: I'll tell you what I
5 have observed.

6 MS. NEUFELD: (Signaling witness to
7 stop).

8 BY MR. VACCARO:

9 **Q. Well, I want to understand better
10 what types of group bicycle rides you believe
11 are disruptive to traffic, so I'm going to ask
12 you a series of questions about group bicycle
13 rides and ask you to explain to me why they are
14 disruptive.**

15 **We were discussing a scenario where
16 bicyclists were proceeding curb to curb --**

17 A. Okay.

18 **Q. -- on a one-way roadway.**

19 **You described that as corking; is
20 that correct?**

21 A. Yes.

22 **Q. And would that characterization of
23 corking hold even if the bicyclists were not
24 proceeding through red signals?**

25 A. Say that one more time?

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1 J. Caneco

2 **Q. If the group of curb to curb
3 bicyclists were not proceeding through red
4 signals but were stopping at red signals --**

5 A. Yes.

6 **Q. -- would you still describe as
7 corking?**

8 A. Depending based on the speed, yes.

9 **Q. At what speed would you consider the
10 bicyclists not to be corking in that scenario?**

11 A. The flow of traffic.

12 **Q. The flow of motor vehicle traffic?**

13 A. Yes.

14 **Q. So that could be as high as 25 miles
15 per hour?**

16 A. I think that's the speed limit.

17 **Q. If the bicyclists were proceeding
18 down a one-way roadway such as Broadway that has
19 three traffic lanes, and they were occupying
20 only one or two of the traffic lanes, would you
21 consider those bicyclists to be corking that
22 roadway?**

23 A. No, but I would consider it to be
24 unsafe.

25 **Q. Why?**

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1 J. Caneco

2 A. Well, in my opinion, I would like to
3 have the ride escorted, I would like to have a
4 tail vehicle with its lights on, make sure that
5 the riders are safe, flanked with maybe
6 some scooters -- a tail vehicle so a car doesn't
7 come upon them and just crash into the group,
8 with its lights on, a group of scooters, this is
9 what I would think would be safe, and a group of
10 scooters to flank them.

11 **Q. Well, does the law require that a
12 group of 25 bicyclists have a police escort of
13 the type you're describing?**

14 MS. NEUFELD: Objection to the form.

15 A. No.

16 **Q. A group of 25 bicyclists proceeding
17 in the right-hand lane, occupying the right-hand
18 lane of a three lane one-way roadway such as
19 Broadway, would they be causing a disruption if
20 they're proceeding at 10 miles an hour?**

21 A. If they stay within the one lane and
22 they flow with traffic and do not cause cars to
23 merge, is that all -- do you agree with that?

24 **Q. I'm going to ask you about the
25 merging part but with those assumptions, yes.**

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1 **J. Caneco**

2 A. Well, the impact would be extremely
3 minimal.

4 **Q. What do you mean when you say cause**
5 **cars to merge? Can you explain that?**

6 A. Well, cars, there would definitely be
7 cars behind them. Cars utilize every lane of
8 traffic in Manhattan, yes.

9 **Q. How would the bicyclists cause the**
10 **cars to merge?**

11 A. Well, let me ask you. If you had a
12 car going five miles an hour, what would you do
13 behind it? Would you merge into the next lane?

14 **Q. I'm sorry, but I have to ask the**
15 **questions.**

16 A. Okay. So what's your question?

17 **Q. My question is, how do a group of**
18 **bicyclists proceeding at five or ten miles an**
19 **hour occupying a lane of traffic cause cars**
20 **behind them to merge?**

21 A. I just explained it, described to you
22 already.

23 **Q. Don't the motorists have an option to**
24 **proceed behind the bicyclists at a safe distance**
25 **at matching the speed of the bicyclists**

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1 **J. Caneco**

2 **approximately?**

3 A. You'd have to ask that motorist. I
4 don't know.

5 **Q. You don't know if the motorist has**
6 **that option?**

7 A. You asked me if he had that option.
8 You have to ask that motorist.

9 **Q. You can't answer that question.**

10 A. If the motorist has an option?
11 Everybody has options.

12 **Q. The motorist can move into a lane of**
13 **the roadway that isn't occupied by bicyclists**
14 **and pass the bicyclists?**

15 A. Yes.

16 **Q. That's an option?**

17 A. That's merging, yes.

18 **Q. The motorist can proceed behind the**
19 **bicyclists at a safe distance.**

20 A. Yes.

21 MS. NEUFELD: Are you getting to a
22 breaking time at any point, Steve? Are you
23 getting to a breaking point at any time?

24 **Q. So that I understand it, if a**
25 **motorist takes the option of passing the**

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1 **J. Caneco**

2 **bicyclists that are occupying one lane of the**
3 **roadway, you would consider that a disruption by**
4 **the bicyclists to traffic?**

5 A. You're asking me a lot of opinions.
6 You're not asking me observations and you're
7 asking me my opinion.

8 **Q. I am.**

9 **You've expressed opinions about**
10 **the --**

11 THE WITNESS: Is this relevant? I
12 mean...

13 MS. NEUFELD: You're allowed to state
14 your opinion. Whether it's relevant or
15 not, we'll worry about that later.

16 BY MR. VACCARO:

17 **Q. I don't want to make this difficult.**
18 **I want to explain what I'm doing here.**

19 A. It's not difficult.

20 **Q. You have expressed an opinion that**
21 **certain bicycling activities --**

22 A. I have not --

23 **Q. Hold on one second.**

24 **You've expressed the view in your**
25 **declaration --**

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1 **J. Caneco**

2 A. Yeah, any of my observations.

3 **Q. -- that certain group bicycle**
4 **activities are disruptive.**

5 A. And I clearly point it out in
6 paragraph 9 and you refuse to go to that.

7 **Q. We will be going to that, Lieutenant**
8 **Caneco.**

9 A. It clearly states what my
10 observations are.

11 You want to paint scenarios that are
12 not as pointed as No. 9.

13 MR. VACCARO: I think this is a good
14 time to take a break.

15 THE VIDEOGRAPHER: The time is
16 approximately 12:33 p.m. We are off the
17 record.

18 (Recess is taken.)

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1 J. Caneco
 2 AFTERNOON SESSION
 3 (Time noted: 1:39 p.m.)
 4 THE VIDEOGRAPHER: The time is
 5 approximately 1:39 p.m. We are on the
 6 record.
 7 L.T. JOSEPH S. CANECO, resumed
 8 and testified as follows:
 9 EXAMINATION BY (Cont'd.)
 10 MR. VACCARO:
 11 **Q. Lieutenant Caneco, you mentioned that**
 12 **you reviewed daily reports that show activity**
 13 **associated with group bicycle rides or you did**
 14 **at the time you were at Patrol Borough Manhattan**
 15 **South?**
 16 MS. NEUFELD: Objection to the form.
 17 A. Not daily records, no.
 18 **Q. What was the report that you**
 19 **described reviewing during your time at Patrol**
 20 **Borough Manhattan South Operations Unit?**
 21 A. I'm not sure what you're referring
 22 to.
 23 **Q. Okay. I believe you described**
 24 **earlier that during your time in the Operations**
 25 **Unit, you would review reports that would show**
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1 **J. Caneco**
 2 **adverse impacts to traffic associated with group**
 3 **bicycle rides.**
 4 MS. NEUFELD: Objection to the form.
 5 A. I think the report I was trying to
 6 describe was a sheet of paper that was what we
 7 called the wheel that people would -- that the
 8 supervisors, preferably supervisors would call
 9 in that a need to know basis, but that was
 10 everything that occurred in the Manhattan South,
 11 not any one particular item.
 12 **Q. In the event of a critical mass**
 13 **bicycle ride at which there were arrests and/or**
 14 **summonses issued, would the arrest or summonses**
 15 **appear on that document you're calling the**
 16 **wheel?**
 17 A. No, because I was part of the borough
 18 at the time so I was there as a representative
 19 of the borough, so there was no need to call in.
 20 **Q. In your description of the conduct of**
 21 **the critical mass group bicycle riders in your**
 22 **declaration in this case, are you relying in**
 23 **part on the summonses and arrests associated**
 24 **with those rides as a basis for describing what**
 25 **happened?**
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1 **J. Caneco**
 2 MS. NEUFELD: Objection to the form.
 3 A. Not solely, no.
 4 **Q. But in part?**
 5 MS. NEUFELD: Objection to the form.
 6 A. I think they substantiate my
 7 observations.
 8 **Q. Do you recall being involved in the**
 9 **arrest of a woman named Adriane Wheeler during**
 10 **the February 2006 critical mass ride?**
 11 A. Yes.
 12 **Q. And did you -- withdrawn.**
 13 A. I'm sorry. Wasn't that a summons?
 14 **Q. Well, what's your recollection?**
 15 A. I think it was a summons.
 16 **Q. Okay. Did you issue the summons to**
 17 **Ms. Wheeler?**
 18 A. No, I did not.
 19 **Q. Did you provide a statement to the**
 20 **officer who issued the summons to Ms. Wheeler?**
 21 A. No, I did not.
 22 **Q. Are you aware that the summons issued**
 23 **to Ms. Wheeler was dismissed?**
 24 A. Yes, I was.
 25 **Q. Can you explain the circumstances**
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1 **J. Caneco**
 2 **surrounding the dismissal of that summons?**
 3 MS. NEUFELD: I object.
 4 I don't think this is within the
 5 scope of what he's here to talk about. One
 6 particular arrest isn't relevant.
 7 What's the basis for your question?
 8 MR. VACCARO: The basis is that
 9 Lieutenant Caneco explained that the
 10 summonses issued in connection with
 11 critical mass rides substantiate his views
 12 regarding those rides as stated in his
 13 declaration.
 14 MS. NEUFELD: I don't think that's
 15 been testified if you can read it back. I
 16 don't think that that was what his
 17 testimony was.
 18 MR. VACCARO: Can we go back?
 19 (Record was read back as follows:
 20 "QUESTION: In your description of
 21 the conduct of the critical mass group
 22 bicycle riders in your declaration in this
 23 case, are you relying in part on the
 24 summonses and arrests associated with those
 25 rides as a basis for describing what
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1 J. Caneco
 2 happened?
 3 "ANSWER: Not solely, no.
 4 "QUESTION: But in part?")
 5 THE REPORTER: And there was an
 6 objection by counsel and then he answered:
 7 "ANSWER: I think they substantiate
 8 my observations."
 9 THE WITNESS: So was one summons--
 10 MS. NEUFELD: Wait. Shh.
 11 I don't think that Lieutenant Caneco
 12 talks about the February '06 ride in any of
 13 his declarations.
 14 I mean my objection to the form of
 15 that question was that it was not specific
 16 to any particular observation that he made,
 17 it was a general...
 18 MR. VACCARO: Well, in his
 19 declaration in this matter, Lieutenant
 20 Caneco I don't believe refers to any
 21 specific critical mass rides. He just
 22 refers to a time period and I believe that
 23 February '06 is within that time period.
 24 This is an occasion in which a
 25 summons was issued. Lieutenant Caneco

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1 J. Caneco
 2 explained that he has some information and
 3 recollection regarding the issuing of the
 4 summons.
 5 He explained that his belief is that
 6 the summonses issued in connection with
 7 critical mass rides substantiate his views
 8 regarding the nature of the critical mass
 9 rides, so I'm attempting to explore that.
 10 THE WITNESS: I wasn't assigned to
 11 critical mass that evening.
 12 MS. NEUFELD: Shh.
 13 MR. VACCARO: So --
 14 THE WITNESS: That particular ride I
 15 was not assigned.
 16 MS. NEUFELD: Shh. There's no
 17 question right now.
 18 MR. VACCARO: Yeah.
 19 BY MR. VACCARO:
 20 **Q. Let's go back to the question can you**
 21 **describe the circumstances under which the**
 22 **summons issued to Ms. Adriane Wheeler at the**
 23 **February 2006 critical mass ride was dismissed?**
 24 MS. NEUFELD: Objection to the form.
 25 But if the witness knows, the witness

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1 J. Caneco
 2 can answer.
 3 A. All right. I'm sorry. One more
 4 time.
 5 MR. VACCARO: Could you read back the
 6 question, please?
 7 (Question was read back as follows:
 8 "QUESTION: Can you describe the
 9 circumstances under which the summons
 10 issued to Ms. Adriane Wheeler at the
 11 February 2006 critical mass ride was
 12 dismissed?")
 13 A. The officer --
 14 MS. NEUFELD: Note my objection.
 15 A. It was dismissed because the officer
 16 said he did not see the violation.
 17 **Q. Did the officer issue the summons on**
 18 **the basis of a violation you observed?**
 19 MS. NEUFELD: Objection to the form.
 20 A. I assumed we both saw it. He was
 21 standing with me and actually he said he would
 22 write the summons. Not knowing, I would have
 23 clearly written a summons.
 24 **Q. And the summons was dismissed**
 25 **ultimately because the officer who was issuing**

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1 J. Caneco
 2 **it stated that he did not observe the conduct**
 3 **constituting the violation?**
 4 MS. NEUFELD: Objection to the form.
 5 A. That's what I was -- I wasn't in the
 6 room when he gave his statement to the judge.
 7 **Q. But that's your understanding of the**
 8 **statement he gave to the judge?**
 9 A. My understanding, yes.
 10 MR. VACCARO: Okay. I'll mark as
 11 Plaintiffs' Exhibit 4, this one page.
 12 (Plaintiffs' Exhibit 4, Summons dated
 13 8/25/06 to Jacob Elijah Redding, is marked
 14 for identification, as of this date.)
 15 MR. VACCARO: It's a summons issued
 16 to Jacob Elijah Redding. Date of the
 17 offense is August 25, '06.
 18 BY MR. VACCARO:
 19 **Q. Lieutenant Caneco, do you recall**
 20 **being involved in the issuance of this summons?**
 21 A. No.
 22 **Q. You do note in the portion of this**
 23 **summons where it states "Complainant sign and**
 24 **print name/rank, affirmed under penalty of**
 25 **perjury" it says, "PO..." can't quite read the**

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1 **J. Caneco**
 2 **first name "...McRae..." and then it says.**
 3 **"Observed by Lieutenant Canec..."a bit is cut**
 4 **off.**
 5 A. Okay.
 6 **Q. Do you recall seeing this summons**
 7 **before?**
 8 A. No.
 9 **Q. Do you recall providing an officer**
 10 **McRae with information regarding a violation you**
 11 **observed?**
 12 A. Okay. Yes.
 13 **Q. And was that in connection with an**
 14 **August 2006 critical mass ride?**
 15 A. Yes.
 16 **Q. And did you ask Officer McRae to**
 17 **issue a summons to Mr. Redding on that evening?**
 18 A. I must have.
 19 **Q. And did you provide information**
 20 **regarding your observations to Officer McRae?**
 21 A. I must have.
 22 **Q. Did you ask Officer McRae whether he**
 23 **had observed any violation by Mr. Redding?**
 24 A. No, I did not.
 25 **Q. Is it an accepted practice to**

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1 **J. Caneco**
 2 **instruct officers to write violations on the**
 3 **basis of your observations?**
 4 MS. NEUFELD: Objection to the form.
 5 A. As opposed to me writing the summons?
 6 **Q. Yes.**
 7 A. There's no distinction. I can tell
 8 them to write the summons based on my
 9 observation.
 10 **Q. And would it be appropriate under**
 11 **those circumstances for the officer who's**
 12 **issuing the summons but who didn't actually**
 13 **observe the violation to indicate in parentheses**
 14 **"Observed by Lieutenant Caneco" as here?**
 15 MS. NEUFELD: Objection to the form.
 16 A. I haven't seen the summons in -- I
 17 haven't reviewed the summons in quite some time.
 18 From what I understand, the summonses
 19 have changed a few times. I really don't know.
 20 **Q. But there are other occasions in**
 21 **which you have asked officers to issue**
 22 **summonses --**
 23 A. Based on my observation, yes.
 24 **Q. And is it appropriate for an officer**
 25 **to issue a summons on the basis of such a**

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1 **J. Caneco**
 2 **request even if they personally did not observe**
 3 **the violation?**
 4 MS. NEUFELD: Objection to the form.
 5 A. That's correct.
 6 **Q. But in the case of the Adriane**
 7 **Wheeler summons, that summons was dismissed**
 8 **because the officer who issued the summons**
 9 **didn't state he observed the conduct?**
 10 MS. NEUFELD: Objection to the form.
 11 A. I was standing with the officer at
 12 the time the violation was observed as opposed
 13 to all of these other ones, and at that time it
 14 was up to the officer to make that reference to
 15 me, which he did not.
 16 **Q. In the case of these other ones you**
 17 **just mentioned, they are -- they were**
 18 **cases where --**
 19 A. They were not standing with me,
 20 correct.
 21 **Q. So they did not have independent**
 22 **personal knowledge of the violation.**
 23 A. That's correct.
 24 **Q. But they would issue the summons**
 25 **based on what you told them occurred.**

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1 **J. Caneco**
 2 A. Yes.
 3 **Q. Let's turn to a different topic.**
 4 **Lieutenant Caneco, are you aware that**
 5 **prior to August of 2004 that the police**
 6 **department allowed critical mass rides to**
 7 **proceed without obtaining a permit?**
 8 MS. NEUFELD: Objection to the form.
 9 A. I had -- I was told that they were
 10 riding with the police department's knowledge.
 11 **Q. But without permits?**
 12 A. That's correct.
 13 **Q. Who told you that?**
 14 A. I don't recall.
 15 **Q. And did you have an understanding as**
 16 **to why permits were not required at the critical**
 17 **mass rides prior to August of 2004?**
 18 MS. NEUFELD: Objection to the form.
 19 A. Say that one more time?
 20 **Q. Do you have an understanding of the**
 21 **reason why permits were not required of**
 22 **Manhattan critical mass rides prior to August of**
 23 **2004?**
 24 MS. NEUFELD: Objection to the form.
 25 A. I never inquired.

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1 J. Caneco

2 **Q. So you have no understanding?**

3 MS. NEUFELD: Objection to the form.

4 A. No understanding, no.

5 **Q. Are you aware since August 2004 the**
6 **police department has allowed critical mass**
7 **rides in Brooklyn to proceed without a permit?**

8 MS. NEUFELD: Objection to the form.

9 A. I know they ride. I don't know if
10 they had a permit or not.

11 **Q. Has anyone ever asked you about the**
12 **apparent inconsistency of allowing Brooklyn**
13 **critical mass rides to proceed without permits**
14 **on the one hand but requiring permits of**
15 **Manhattan critical mass rides on the other?**

16 MS. NEUFELD: Objection to the form.

17 A. No.

18 **Q. And do you see any inconsistency in**
19 **that?**

20 MS. NEUFELD: Objection to the form.

21 A. Do I see any inconsistency of them
22 not having a permit and Manhattan not having a
23 permit.

24 I see consistency. They both don't
25 have permits.

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1 J. Caneco

2 **Q. But in Manhattan, the police**
3 **department is obviously attempting to require**
4 **Manhattan critical mass to file and get a**
5 **permit, right?**

6 MS. NEUFELD: Objection to the form.

7 A. I know that there was dialogue in
8 trying to reach out to membership or to somebody
9 who would ride.

10 **Q. Well, you know that there have been**
11 **summonses issued to critical mass riders for**
12 **parading without a permit, right?**

13 A. Yes.

14 **Q. Are you aware of any summons or**
15 **arrest activity associated with Brooklyn**
16 **critical mass rides?**

17 A. No, I am not.

18 **Q. So my question is why is the New York**
19 **Police Department requiring Manhattan critical**
20 **mass rides to get parade permits or issuing them**
21 **summonses for failing to do, but not taking the**
22 **same approach with Brooklyn critical mass rides?**

23 MS. NEUFELD: Objection.

24 A. I don't know what the approach --

25 MS. NEUFELD: Form.

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1 J. Caneco

2 A. I don't know what the approach was in
3 Brooklyn.

4 MS. NEUFELD: Objection to form and I
5 also think that that's enough of this line
6 of questioning because there is a new law
7 now that applies, as you well know, that
8 applies to parades throughout the entire
9 city and that is what this lawsuit is
10 about.

11 Whether the police department took
12 enforcement in Manhattan or in Brooklyn
13 prior to the commencement of this lawsuit
14 is not relevant.

15 MR. VACCARO: Well, it's not the
16 commencement of the lawsuit that triggers
17 it, it's at a minimum when the new rules
18 came into effect --

19 MS. NEUFELD: Prior to -- whether the
20 police department took -- made arrests or
21 took other enforcement action for violation
22 of administrative Code Section 10:110 prior
23 to February 25th, 2007 is not relevant.

24 BY MR. VACCARO:

25 **Q. There was a Brooklyn critical mass**

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1 J. Caneco

2 **ride that was held in the second Friday of**
3 **March, 2007 under the new parade regulations.**

4 **Are you aware of any summonses or**
5 **arrest activity associated with that ride?**

6 A. No, I am not aware of it.

7 **Q. I understand that your responsibility**
8 **was not in Brooklyn but I'll ask you whether you**
9 **were aware that the Brooklyn critical mass rides**
10 **proceeded without a fixed route in the same**
11 **manner as the Manhattan critical mass rides?**

12 MS. NEUFELD: Objection to the form.

13 A. I don't know -- I don't know if they
14 were fixed or not fixed. I don't know if there
15 was any activity. I don't even know if they
16 obtained a permit.

17 I know they existed. That's the
18 extent of my knowledge of the Brooklyn critical
19 mass.

20 **Q. Okay. Turning back to your**
21 **declaration in this matter.**

22 A. Which one?

23 **Q. In this matter, which is Plaintiffs'**
24 **Exhibit 2 in the upper right.**

25 (Witness reviewing exhibit.)

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1 **J. Caneco**

2 **Q. Paragraph 4, you state, "Unpermitted,**
3 **large group bicycle rides disrupt**
4 **pedestrian/vehicular traffic such that ordinary**
5 **citizens who happen to be in the vicinity of the**
6 **ride become trapped when the ride approaches."**

7 **Do you see that?**

8 A. Yes.

9 **Q. The way this sentence is written, it**
10 **sounds to me like you're saying that**
11 **unpermitted, large group bicycle rides always**
12 **have this trapping effect.**

13 **Is that what you mean to say here?**

14 MS. NEUFELD: Objection to the form.

15 A. I can tell you one ride specifically
16 and that's the group of 1,000.

17 **Q. I understand, but my question is, do**
18 **you intend to assert in the first sentence of**
19 **paragraph 4 that all unpermitted, large group**
20 **rides disrupt pedestrian/vehicular traffic and**
21 **they have a trapping effect as you go on to**
22 **describe?**

23 MS. NEUFELD: Objection to the form.

24 A. Well, large can be subjective.

25 **Q. And that's what we're trying to**

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1 **J. Caneco**

2 **address here with these questions.**

3 **Are you saying, then, that it's not**
4 **the case that all unpermitted, large group**
5 **bicycle rides disrupt vehicular and pedestrian**
6 **traffic?**

7 A. I don't think I say that here, do I?

8 I don't know.

9 **Q. I can't answer your question. I can**
10 **only ask you to answer mine.**

11 A. I don't think that's what I meant by
12 saying all.

13 **Q. Okay. You meant some?**

14 A. Some.

15 **Q. Okay. Well, which unpermitted, large**
16 **group bicycle rides then disrupt pedestrian and**
17 **vehicular traffic and trap ordinary citizens as**
18 **you're describing here?**

19 MS. NEUFELD: Objection to the form.

20 A. The only ones I know that are
21 unpermitted are the critical mass. It's the
22 only one I have intimate knowledge of or
23 personal observation of.

24 **Q. So just so that I can interpret this**
25 **sentence properly, what you mean is that**

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1 **J. Caneco**

2 **critical mass group bicycle rides disrupt**
3 **pedestrian and vehicular traffic such that**
4 **ordinary citizens who happen to be in the**
5 **vicinity of the ride become trapped when the**
6 **ride approaches?**

7 A. That's not what I mean.

8 MS. NEUFELD: Objection to the form.

9 A. That's not what I mean.

10 **Q. Can you explain what you did mean by**
11 **this sentence?**

12 A. Large rides. That doesn't have to
13 specifically mean critical mass. Those are the
14 only ones I have personal knowledge of.

15 **Q. Well, do you have a basis for**
16 **claiming that large group rides other than**
17 **critical mass disrupt pedestrian and vehicular**
18 **traffic?**

19 A. No basis because I have no knowledge.

20 **Q. And -- okay.**

21 **With respect to critical mass rides,**
22 **you talk about a trapping of both pedestrians**
23 **and vehicular traffic.**

24 **I'd like to ask you first about**
25 **pedestrians and then we'll talk about what you**

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1 **J. Caneco**

2 **describe as the trapping of vehicular traffic.**

3 **With respect to pedestrians, if the**
4 **pedestrian is on the sidewalk and the bicyclists**
5 **are in the roadway and the bicyclists have the**
6 **right-of-way to proceed in the roadway, that is**
7 **a green signal, there's no trapping going on in**
8 **that situation, is there?**

9 MS. NEUFELD: Objection to the form.

10 A. If... Give me a better example.

11 **Q. Sorry. We've got to try to stick**
12 **with that example. It was the best that I could**
13 **come up with to start this line of questioning.**

14 MR. VACCARO: Could you read it back,
15 please?

16 (Question was read back as follows:

17 "QUESTION: With respect to critical
18 mass rides, you talk about a trapping of
19 both pedestrians and vehicular traffic.

20 I'd like to ask you first about
21 pedestrians and then we'll talk about what
22 you describe as the trapping of vehicular
23 traffic.

24 With respect to pedestrians, if the
25 pedestrian is on the sidewalk and the

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1 J. Caneco
2 bicyclists are in the roadway and the
3 bicyclists have the right-of-way to proceed
4 in the roadway, that is a green signal,
5 there's no trapping going on in that
6 situation, is there?")

7 A. Unfortunately a lot of pedestrians
8 tend to step out into traffic waiting for that
9 signal to change.

10 It would be nice if everybody waited
11 at the intersection, but they don't, so when
12 bicyclists come up, I have observed people
13 jumping back even though cars and bicyclists
14 have the right-of-way, yes.

15 **Q. Well, to your mind is that phenomenon**
16 **a reason that group bicycle -- large group**
17 **bicycle rides require a parade permit?**

18 A. If they observe the traffic signals,
19 but on cases that I've observed where they
20 don't, where people have -- a bicyclist is
21 coming right at them where they have to
22 literally jump out of the way, that presents
23 another scenario.

24 **Q. It does.**

25 A. Yes.

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1 J. Caneco

2 **Q. Is the trapping of pedestrians that**
3 **you describe in the first sentence of paragraph**
4 **4 of your declaration limited to situations**
5 **where large group bicycle rides proceed through**
6 **a red signal?**

7 A. It has happened, yes.

8 **Q. But is the trapping of pedestrians**
9 **limited to that circumstance or are there other**
10 **circumstances you're thinking of here in which**
11 **you believe pedestrians are trapped by**
12 **bicyclists?**

13 A. Right now that's all I can think of
14 right now for the moment.

15 **Q. Well, is there anything that you**
16 **would consult any document or person or**
17 **authority that would help you remember other --**

18 A. Something might come to mind later
19 on. It happens in every situation I forgot this
20 or I remembered that, so something may come to
21 mind.

22 **Q. Would taking a moment now enable you**
23 **to recall any other scenario than bicyclists**
24 **violating a red signal --**

25 A. I wish it would be that easy.

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1 J. Caneco

2 MS. NEUFELD: Objection to the form.

3 A. I wish it would be that easy that a
4 second would bring everything to mind.

5 **Q. So at present your answer to the**
6 **question under what circumstances do group**
7 **bicyclists trap pedestrians is when the group**
8 **bicyclists are proceeding through a red signal.**

9 A. You know --

10 MS. NEUFELD: Objection to the form.
11 Let him finish his question.

12 A. Okay. Finish your question.

13 **Q. I am.**

14 A. Okay. Like when you presented me
15 with this, it didn't come to my mind right away
16 and this is a classic case where the bicyclists
17 had turned around and not this -- they come up
18 onto the sidewalk because they saw the police
19 were coming and they wanted to go against
20 traffic, so they jumped up onto the sidewalk and
21 went against traffic.

22 So there is another case just, like I
23 said, that just came to mind maybe ten minutes
24 after you presented this to me. I mean one
25 moment won't make something come to mind.

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1 J. Caneco

2 **Q. Are you saying this is a scenario**
3 **you're describing in which the bicyclist is**
4 **riding their bicycle on the sidewalk or are they**
5 **proceeding walking and pushing their bicycle on**
6 **the sidewalk?**

7 MS. NEUFELD: Objection to the form.

8 A. They were jumping off and then riding
9 -- riding to jumping off at the same time.

10 **Q. So when a bicyclist rides their**
11 **bicycle on the sidewalk, they can or I should --**
12 **withdrawn.**

13 **So when a group of bicyclists ride**
14 **their bicycles on the sidewalk, they can trap**
15 **pedestrians?**

16 MS. NEUFELD: Objection to the form.

17 A. I guess they could.

18 **Q. Well, is that what you intended to**
19 **describe in the first sentence of paragraph 4?**

20 A. No.

21 **Q. I'd like to show you a videotape of a**
22 **group bicycle ride that was conducted in March,**
23 **March 18th of 2007.**

24 A. March 18th? Where was that at?

25 MS. NEUFELD: Can we have --

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1 J. Caneco
 2 A. That couldn't have been Manhattan.
 3 MS. NEUFELD: Hold on.
 4 Counsel, can you --
 5 MR. VACCARO: Before --
 6 MS. NEUFELD: Before I object, can
 7 you explain the basis for why this witness
 8 needs to see this video and be asked about
 9 this when this is not the subject of the
 10 declarations that he submitted.
 11 MR. VACCARO: Okay. The basis is as
 12 follows:
 13 Lieutenant Caneco has described the
 14 effect of what he characterizes as large
 15 group bicycle rides, which I understand him
 16 to define, at least under certain
 17 circumstances, as group bicycle rides with
 18 approximately 50 or more cyclists.
 19 He's described a trapping effect that
 20 such group bicycle rides have on pedestrian
 21 and vehicular traffic, and the videotape
 22 that I would like to show him is of a group
 23 that I'll represent and we have established
 24 was composed of 47 bicyclists that was
 25 conducted on March 18th, 2007 in Manhattan.

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1 J. Caneco
 2 I'm going to show the videotape and
 3 I'd like Lieutenant Caneco to tell me if he
 4 observes anything that he would describe as
 5 a trapping of either pedestrians or
 6 vehicles.
 7 MS. NEUFELD: In this one, just based
 8 on this one particular ride.
 9 MR. VACCARO: Yes. I want to
 10 understand what he's talking about when
 11 he's describing the trapping of pedestrians
 12 and vehicles.
 13 MS. NEUFELD: Okay. All right.
 14 THE WITNESS: Were there police on
 15 the scene?
 16 MS. GOLDBERG-CAHN: No question.
 17 MS. NEUFELD: All right. We'll see
 18 how it goes.
 19 I'll, I'll -- I note my objections to
 20 the line of questioning, but we'll see the
 21 specifics once we watch the video.
 22 MS. GOLDBERG-CAHN: Are we going to
 23 get a copy of that?
 24 (Plaintiffs' Exhibit 5, CD, marked
 25 for identification, as of this date.)

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1 J. Caneco
 2 MR. VACCARO: Yeah. It's going to be
 3 marked as No. 5 and if I'm not mistaken,
 4 it's already been submitted as Exhibit A to
 5 the Clancy supplemental declaration
 6 supporting plaintiffs' motion for a
 7 preliminary injunction.
 8 This is Second Avenue and the
 9 intersection of 39th Street I'll represent.
 10 MS. NEUFELD: So just for the basis
 11 of this line of questioning, you want the
 12 witness to assume that everything you're
 13 saying is true.
 14 MR. VACCARO: That's correct.
 15 MS. NEUFELD: We're not conceding
 16 that anything you say --
 17 MR. VACCARO: I understand.
 18 THE VIDEOGRAPHER: I'm filming him.
 19 Do you want me to film the whole -- I can
 20 get sort of a wide shot but I won't be able
 21 to get --
 22 MS. GOLDBERG-CAHN: You should get
 23 the exhibit.
 24 MR. VACCARO: If you could, please.
 25 THE VIDEOGRAPHER: Sure.

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1 J. Caneco
 2 (Videotape playing.)
 3 MR. VACCARO: Okay. Would you stop
 4 it.
 5 (Videotape stopped.)
 6 MS. NEUFELD: Did you see the whole
 7 thing?
 8 We'll play it one more time.
 9 MR. VACCARO: Let's do it one more
 10 time.
 11 (Videotape playing.)
 12 MS. NEUFELD: Where does this start?
 13 You want us to look for when they start
 14 approaching this white car?
 15 MR. VACCARO: This is the beginning
 16 of the ride from the perspective it was
 17 filmed. It's an aerial view and the
 18 ride --
 19 THE WITNESS: Tell me when it starts
 20 though.
 21 MR. VACCARO: Okay.
 22 MR. CALDON: It starts at 18:28.
 23 MS. NEUFELD: 18 minutes and 28
 24 seconds?
 25 MR. CALDON: Yes. I can fast forward

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1 J. Caneco
2 if you'd like.
3 MS. NEUFELD: And we're looking at
4 the middle of a block on Second Avenue?
5 MR. VACCARO: The end of the block
6 including the crosswalk. It's the northern
7 leg of the intersection of Second Avenue
8 and 39th Street.
9 (Videotape playing.)
10 THE WITNESS: Is that the beginning?
11 MR. VACCARO: Yes.
12 (Videotape playing.)
13 MR. VACCARO: That's the end.
14 MS. NEUFELD: So --
15 BY MR. VACCARO:
16 **Q. So my question is whether you're able**
17 **to point out to me any pedestrian or motor**
18 **vehicle that's being trapped by that group of 47**
19 **bicyclists as they proceed through that**
20 **intersection.**
21 A. No, I cannot.
22 MS. NEUFELD: Just let the record
23 note that that was a approximately
24 40-second video of a group of bicyclists
25 proceeding once the light had turned green.

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1 J. Caneco
2 You don't see the bicyclists before
3 the light turns green and then they're
4 going through one isn't section. That's
5 all that was shown.
6 Is that a fair characterization?
7 MR. VACCARO: They were proceeding
8 lawfully through a green light at an
9 intersection and all the video shows are
10 the bicyclists doing so through that one
11 intersection.
12 MS. NEUFELD: And you don't see what
13 they're doing prior to the light turning
14 green. They're not in, captured in the
15 video screen.
16 MR. VACCARO: No, they're not.
17 MS. NEUFELD: Okay.
18 MR. VACCARO: One last thing. Could
19 you reverse back to one minute 18 seconds
20 point 33?
21 MS. NEUFELD: Is that the time or is
22 that the minute, 1:19. Is that the time of
23 day?
24 MR. CALDON: That's time of day.
25 MS. NEUFELD: So this is Sunday,

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1 J. Caneco
2 March 18th at approximately 1:00 in the
3 afternoon?
4 MR. VACCARO: Yes.
5 BY MR. VACCARO:
6 **Q. Okay. The first bicyclist you note**
7 **hits at 33 seconds, 18 minutes and 33 seconds,**
8 **right?**
9 A. Yes.
10 **Q. Please note when the last bicyclist**
11 **in the ride hits the crosswalk.**
12 (Videotape still playing.)
13 A. Fifty-eight.
14 **Q. So that's approximately 25 seconds**
15 **for the group of 47 bicyclists to pass the**
16 **particular point at the beginning of the**
17 **crosswalk?**
18 MS. NEUFELD: Objection to the form.
19 A. Yes.
20 MS. NEUFELD: You're representing
21 that it's 47 bicyclists.
22 MR. VACCARO: I'm representing it's
23 47 bicyclists.
24 BY MR. VACCARO:
25 **Q. So in a scenario where bicyclists are**

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1 J. Caneco
2 **proceeding through a red light, which is not**
3 **what we just saw --**
4 A. Okay.
5 **Q. -- and preventing pedestrians who**
6 **have of a walk signal from entering the**
7 **crosswalk, in that scenario a group of**
8 **approximately 50 bicyclists would delay the**
9 **pedestrian somewhere on the order of 25 seconds?**
10 MS. NEUFELD: Objection to the form.
11 A. You see here that according to the
12 digital readout, yes.
13 **Q. Sometimes motor vehicles will proceed**
14 **through a red signal as well as occasionally**
15 **bicycles doing so, right?**
16 A. It happens.
17 **Q. And when motor vehicles proceed**
18 **through a red signal, they delay pedestrians as**
19 **well, correct?**
20 MS. NEUFELD: Objection to the form.
21 A. I hope so.
22 **Q. Occasionally motor vehicles attempt**
23 **to -- they will enter an intersection and**
24 **they're not able to clear the intersection and**
25 **they end up sort of standing there in a**

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1 **J. Caneco**
 2 **crosswalk.**
 3 **Have you ever observed that?**
 4 A. Yes.
 5 **Q. And in those situations, the delay to**
 6 **pedestrians before the vehicle clears the**
 7 **crosswalk may last an entire red, yellow, green**
 8 **signal phase; is that correct?**
 9 MS. NEUFELD: Objection to the form.
 10 A. I've never saw where that actually
 11 deterred somebody from still crossing. They
 12 would just walk behind.
 13 **Q. They may have to walk outside of the**
 14 **crosswalk though.**
 15 A. Yes.
 16 **Q. Would you describe a situation where**
 17 **a vehicle is sitting in the crosswalk because it**
 18 **didn't properly enter and clear the intersection**
 19 **as a trapping of pedestrians?**
 20 A. Where it held back pedestrians
 21 because they were in a crosswalk?
 22 **Q. Where it trapped them because the**
 23 **vehicle was in the crosswalk while the**
 24 **pedestrian had the walk signal.**
 25 MS. NEUFELD: Objection to the form.
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1 **J. Caneco**
 2 A. I've never seen that.
 3 I've seen pedestrians walk around the
 4 cars.
 5 **Q. So just to summarize from what we've**
 6 **seen, when the bicyclists remain in the roadway,**
 7 **the only scenario you see them as trapping**
 8 **pedestrians in is when they're going through a**
 9 **red light?**
 10 MS. NEUFELD: Objection to the form.
 11 A. See, well, like we discussed earlier
 12 or before, that that seems to be the only time
 13 at this moment, yes.
 14 **Q. Turning to the case of vehicles that**
 15 **are trapped by bicyclists as described in the**
 16 **first sentence of paragraph 4 of your**
 17 **declaration --**
 18 A. Right.
 19 **Q. -- you did not see in the short**
 20 **videotape we watched, any vehicles being trapped**
 21 **by that group of bicyclists I'm representing as**
 22 **47, did you?**
 23 MS. NEUFELD: Objection to the form.
 24 A. No, I did not.
 25 **Q. When bicyclists are proceeding in a**
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1 **J. Caneco**
 2 **roadway and using less than all of the available**
 3 **lanes, can you characterize the bicyclists as**
 4 **trapping?**
 5 A. Can you be more specific? You said
 6 less than?
 7 **Q. Okay. We're looking now at a still**
 8 **picture, a still of Second Avenue, and let's say**
 9 **that a group of 100 bicyclists were proceeding**
 10 **and taking the two right traffic lanes on Second**
 11 **Avenue that we're looking at now.**
 12 A. Right.
 13 **Q. That would leave one, two, three,**
 14 **traffic lanes putting aside the double-parked**
 15 **white van.**
 16 A. Yes.
 17 **Q. Let's say it would leave two traffic**
 18 **lanes.**
 19 A. Yes.
 20 **Q. In that situation would you describe**
 21 **the bicyclists as trapping any vehicles as they**
 22 **proceeded through a green signal in the**
 23 **intersection?**
 24 A. No, not as long as they're obeying
 25 the traffic laws.
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1 **J. Caneco**
 2 **Q. So the trapping of motor vehicles by**
 3 **large group bicycle rides occurs when the**
 4 **bicyclists are disobeying the motor vehicle --**
 5 **the traffic laws?**
 6 MS. NEUFELD: Objection to the form.
 7 A. You have to bear in mind too the time
 8 of day and the day of the week it is has a
 9 tremendous impact on everything.
 10 You're showing this on a Sunday
 11 afternoon. Traffic is probably at a minimal,
 12 Sunday.
 13 **Q. But is it your view that bicyclists**
 14 **proceeding lawfully are capable of trapping**
 15 **motor vehicles?**
 16 **I want to understand what you mean**
 17 **when you say trapped in this sentence.**
 18 A. They're temporarily impeded.
 19 **Q. But if the bicyclists, what if the**
 20 **bicyclists that are temporarily impeding the**
 21 **vehicular traffic are obeying all traffic laws.**
 22 MS. NEUFELD: Objection to the form.
 23 BY MR. VACCARO:
 24 **Q. Would you describe that temporary**
 25 **impeding of vehicular traffic as trapping?**
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1 **J. Caneco**
 2 A. As long as they're going with the
 3 flow of traffic and they're not trapping the
 4 cars behind them.
 5 **Q. I want to understand what you mean**
 6 **when you say "trapping the cars behind them."**
 7 A. Impeding.
 8 **Q. If the bicyclists are leaving lanes**
 9 **in which there's no vehicles, motor vehicles**
 10 **behind them can pass in those lanes, are the**
 11 **bicyclists trapping those vehicles in your view?**
 12 MS. NEUFELD: Objection to the form.
 13 A. Again, it depends on the flow of
 14 traffic because then it would create, and it's
 15 the flow what they're traveling at, I'm sorry,
 16 the flow of the bicyclists' traffic, because
 17 then it would create a -- if it was heavy
 18 volume, it would create a merge, create an
 19 unsafe condition for cars.
 20 **Q. The presence of the bicyclists in two**
 21 **out of the four free lanes would create an**
 22 **unsafe condition for the cars?**
 23 MS. NEUFELD: Objection to the form.
 24 A. No, for themselves.
 25 **Q. Why would it be unsafe?**

1 **J. Caneco**
 2 A. Well, you have a vehicle behind them
 3 who may not necessarily see them depending on
 4 the color of clothes they're wearing.
 5 **Q. Isn't it the obligation of the**
 6 **motorists behind the bicyclists to navigate**
 7 **around the bicyclists if they choose to?**
 8 MS. NEUFELD: Objection to the form.
 9 A. What happens if they don't see them?
 10 **Q. What does that have to do with**
 11 **whether the motorist is trapped?**
 12 MS. NEUFELD: Objection to the form.
 13 A. Well, if the bicyclist is going at a
 14 slow rate of speed and as an example, maybe an
 15 older motorist, they sometimes get befuddled or
 16 confused, they hit the gas instead of the brake,
 17 you know, it could happen.
 18 **Q. And that's the reason why you believe**
 19 **there needs to be a parade permitting process**
 20 **for large group bicycle rides because of events**
 21 **like that that could happen?**
 22 MS. NEUFELD: Objection to the form.
 23 A. I think it would create a safe
 24 environment, yes, or safer environment.
 25 **Q. But you're not saying that the**

1 **J. Caneco**
 2 **bicyclists are trapping the older infirm**
 3 **motorist behind them who doesn't see them, are**
 4 **you?**
 5 MS. NEUFELD: Objection to the form.
 6 A. I thought you were asking me
 7 examples.
 8 **Q. I want examples of large group**
 9 **bicycle rides trapping vehicles. I want to**
 10 **understand how you view this to occur.**
 11 A. Where they ride abreast curb to curb,
 12 or if not curb to curb, 14th Street is two
 13 lanes. It's actually three with the curb lane.
 14 I was in a position where they rode from the
 15 double yellow line to the curb creating -- and
 16 actually they came past that to oncoming traffic
 17 creating an unsafe environment.
 18 **Q. So the situation where large group**
 19 **bicycle rides trap vehicles is limited to where**
 20 **they take up all lanes going in one direction on**
 21 **a roadway?**
 22 MS. NEUFELD: Objection to the form.
 23 A. Well, that's not the only way, no.
 24 **Q. Let's try to get at it from a**
 25 **different perspective.**

1 **J. Caneco**
 2 A. Okay.
 3 **Q. Does a large group of bicycle rides**
 4 **defined as approximately 50 proceeding in a**
 5 **single lane of a roadway that has four lanes for**
 6 **traffic, trap, can it conceivably trap any motor**
 7 **vehicles as long as it proceeds lawfully?**
 8 A. So you're talking about a controlled
 9 event. I this -- you're talking about a
 10 controlled event?
 11 **Q. I'm talking about -- I'm not sure**
 12 **what you mean by controlled event.**
 13 A. Well, apparently this is controlled.
 14 It's choreographed.
 15 **Q. It's a group of 50 bicyclists**
 16 **proceeding through an intersection at a**
 17 **demonstration, a political demonstration on**
 18 **March 18th. My question is --**
 19 MS. NEUFELD: Objection to the form.
 20 **Q. -- can you conceive of a circumstance**
 21 **in which a group of approximately 50 bicyclists**
 22 **can proceed in a single lane on a roadway that**
 23 **has multiple lanes in which those bicyclists**
 24 **proceeding lawfully would trap a motor vehicle?**
 25 A. Impede, maybe not trap.

1 J. Caneco

2 **Q. Impede in the sense that they would**
3 **not be traveling as quickly as the motor**
4 **vehicles behind them would like to travel?**

5 A. In my opinion, it would create an
6 unsafe environment for that motorist now to
7 merge depending on the flow of the bicyclists.

8 THE VIDEOGRAPHER: Counsel, there's
9 five minutes left on tape.

10 BY MR. VACCARO:

11 **Q. Does the same unsafe condition occur**
12 **when there is a taxi cruising for a fare at a**
13 **low rate of speed?**

14 A. Yes.

15 **Q. When a motorist is cruising for a**
16 **curbside parking space at a low rate of speed?**

17 A. Yes.

18 **Q. Is there also an impeding of motor**
19 **vehicle traffic when a car such as the white car**
20 **shown, the right-hand side of the curb of Second**
21 **Avenue on March 18th is apparently**
22 **double-parked?**

23 A. Yes.

24 MR. VACCARO: We can change the tape.

25 THE VIDEOGRAPHER: Okay. The time is

1 J. Caneco

2 approximately 2:31 p.m.

3 We are off the record.

4 (Changing videotape.)

5 THE VIDEOGRAPHER: The time is
6 approximately 2:34 p.m. We are on the
7 record.

8 MR. VACCARO: Okay. I will put up
9 Plaintiffs' Exhibit 6 is it, which is a
10 photograph.

11 (Plaintiffs' Exhibit 6, Photograph of
12 14th Street by Union Square and University
13 Place, is marked for identification, as of
14 this date.)

15 BY MR. VACCARO:

16 **Q. Lieutenant Caneco --**

17 MS. NEUFELD: This isn't what I have.

18 THE WITNESS: Yeah, that's it.

19 MS. NEUFELD: It's not what I have.

20 MR. VACCARO: Ah, okay. You have a
21 separate picture.

22 THE WITNESS: Oh, yeah. That's
23 right, you do.

24 BY MR. VACCARO:

25 **Q. So Lieutenant Caneco, you were just**

1 J. Caneco

2 **describing group bicycle activity you had seen**
3 **on 14th Street.**

4 A. Yes.

5 **Q. And this is a picture of 14th Street**
6 **by Union Square and University Place.**

7 **Do you recognize the location?**

8 A. From the sign, yes.

9 MS. NEUFELD: Do you recognize this
10 as 14th Street?

11 THE WITNESS: I think it looks like
12 any other street other than the sign. I'm
13 assuming that perpendicular is 14th Street.

14 BY MR. VACCARO:

15 **Q. Do you see the building to the left?**

16 A. Yeah. The building looks familiar,
17 yes.

18 **Q. Does that identify to you the**
19 **location as being 14th Street and University**
20 **Place?**

21 A. It looks -- absolutely I can't say
22 positive it is, no, I cannot. It looks
23 familiar.

24 **Q. I'll represent to you that it's 14th**
25 **Street.**

1 J. Caneco

2 MS. NEUFELD: For the purposes of
3 this, we'll accept your representation.

4 A. All right.

5 **Q. Okay. And we're facing eastbound**
6 **along what we've agreed to call 14th Street.**

7 A. That's correct.

8 **Q. The purpose of this photograph is to**
9 **demonstrate the parking lane that you mentioned**
10 **is on 14th Street along with the two traffic**
11 **lanes that proceed eastbound.**

12 A. Okay.

13 **Q. And you see --**

14 MS. NEUFELD: Objection.

15 What are you pointing to?

16 BY MR. VACCARO:

17 **Q. And you see that there is a white car**
18 **in the parking lane, correct?**

19 A. Yes.

20 **Q. There's also two taxicabs who appear**
21 **to be in the southernmost traffic lanes**
22 **eastbound?**

23 A. Yes.

24 **Q. And then to the left of the taxicabs**
25 **in the next eastbound traffic lane over is a**

1 **J. Caneco**
 2 **bus.**
 3 A. Yes.
 4 **Q. Now a bicyclist proceeding eastbound**
 5 **on 14th Street is going to occupy the center of**
 6 **the southernmost traffic lane; isn't that**
 7 **correct?**
 8 MS. NEUFELD: Objection to the form.
 9 A. Maybe he'll occupy the other lane. I
 10 don't know.
 11 You're telling me he's going to?
 12 **Q. No. I'm asking you whether there's**
 13 **any way for the bicyclist to proceed in the**
 14 **southernmost eastbound lane of 14th Street here**
 15 **without occupying the entire lane.**
 16 MS. NEUFELD: Objection to the form.
 17 A. Say that one more time. What are you
 18 telling me now?
 19 MR. VACCARO: Could you read back the
 20 question?
 21 (Record was read back as follows:
 22 "QUESTION: Now a bicyclist
 23 proceeding eastbound on 14th Street is
 24 going to occupy the center of the
 25 southernmost traffic lane; isn't that
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1 J. Caneco
 2 correct?
 3 MS. NEUFELD: Objection to the form.
 4 "ANSWER: Maybe he'll occupy the
 5 other lane. I don't know.
 6 You're telling me he's going to?
 7 "QUESTION: No. I'm asking you
 8 whether there's any way for the bicyclist
 9 to proceed in the southernmost eastbound
 10 lane of 14th Street here without occupying
 11 the entire lane.")
 12 A. I need to understand what you're
 13 actually asking me.
 14 **Q. Okay.**
 15 A. You're proposing something that I
 16 don't understand.
 17 **Q. Are you familiar with the rule for**
 18 **bicyclists in New York City that they are to**
 19 **proceed at least three feet out from the line of**
 20 **parked cars on a roadway that they're proceeding**
 21 **on?**
 22 A. No, I am not aware of it.
 23 MR. VACCARO: Let's mark this as
 24 Exhibit 7.
 25 I'm afraid I have only one copy.
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1 J. Caneco
 2 It's the New York City Cycling Map 2006.
 3 MS. NEUFELD: Can we get a copy made?
 4 MR. VACCARO: Sure. They're free.
 5 I'll send you a copy.
 6 MS. GOLDBERG-CAHN: 2006 you said?
 7 MR. VACCARO: 2006.
 8 (Plaintiff's Exhibit 7, 2006 New York
 9 City Cycling Map, is marked for
 10 identification, as of this date.)
 11 BY MR. VACCARO:
 12 **Q. And I'll draw your attention to the**
 13 **safety notes towards the bottom.**
 14 A. Who put this out?
 15 **Q. You can see on the other side if you**
 16 **flip the map over.**
 17 (Witness complies.)
 18 A. Is this a private vendor who put this
 19 out or --
 20 **Q. New York City Cycling Map. It says**
 21 **City of New York, Department of City Planning,**
 22 **Department of Transportation and Department of**
 23 **Parks & Recreation.**
 24 A. So it's a city map, yeah.
 25 **Q. And the portion that I wanted to draw**
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1 **J. Caneco**
 2 **your attention to is on the other side, "Safety**
 3 **Tips."**
 4 **Could you please read the caption and**
 5 **text beneath it, Lieutenant Caneco?**
 6 MS. NEUFELD: I'm just going to
 7 object to this line of questioning. The
 8 document speaks for itself. The witness
 9 doesn't need to read it and...
 10 BY MR. VACCARO:
 11 **Q. Would you agree with me, Lieutenant**
 12 **Caneco, that this map advises bicyclists to**
 13 **proceed at least three feet out from the line of**
 14 **parked cars in a roadway?**
 15 MS. NEUFELD: Objection to the form.
 16 The document speaks for itself.
 17 MR. VACCARO: How can we discuss it
 18 if we don't know what it says.
 19 MS. NEUFELD: I don't think it's
 20 relevant to discuss the document.
 21 A. You asked me if I was aware of it and
 22 I told you no.
 23 Now you bring it to my attention that
 24 it is. Okay.
 25 **Q. So this is the first time you've --**
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1 **J. Caneco**

2 MS. NEUFELD: Actually --

3 A. Is this a recommendation?

4 MS. NEUFELD: Hold on. I withdraw my
5 objection.

6 I'd like the witness to read in what
7 it says.

8 MR. VACCARO: Okay.

9 A. "Beware of car doors. Be wary of
10 parked cars. Motorists can unexpectedly open
11 doors. Be particularly careful if I you [sic]
12 -- if I you see?"

13 MS. NEUFELD: A typo.

14 A. "...if a you see a motorist in the
15 car. Ride in a straight line at least three
16 feet away from parked cars."

17 **Q. So this is a statement by the
18 Department of Transportation and other city
19 agencies to cyclists that they should ride in a
20 straight line at least three feet away from the
21 line of parked cars?**

22 MS. NEUFELD: Objection to the form.

23 A. A recommendation?

24 **Q. (Counsel nods affirmatively).
25 It's a statement.**

1 **J. Caneco**

2 MS. NEUFELD: Objection to the form.

3 A. I think the statement -- okay. It's
4 printed here. Yes, it's printed.

5 **Q. Is this the first you've learned of
6 that statement made by the Department of
7 Transportation --**

8 A. Yes.

9 **Q. -- viewed as a recommendation to
10 bicyclists --**

11 MS. NEUFELD: Objection --

12 **Q. -- from the Department of
13 Transportation --**

14 MS. NEUFELD: Objection to form.

15 **Q. -- that they ride in a straight line
16 at least three feet out from parked cars? Do
17 you agree or disagree with that recommendation?**

18 MS. NEUFELD: First objection to the
19 form.

20 Go ahead.

21 A. If I was riding my bicycle, I'd ride
22 at the curb.

23 **Q. What if there's a line of parked cars
24 such as we see on the picture of 14th Street?**

25 A. For my own safety, I'd ride as tight

1 J. Caneco

2 as I can and I would observe any motorist's head
3 in between that car. Just be wary if somebody
4 opened the doors.

5 **Q. I'll represent to you that the yellow
6 tape you see in the roadway in the picture
7 indicates three feet out from the edge of the
8 white parked car into the southernmost eastbound
9 traffic line 14th Street.**

10 A. Okay.

11 **Q. You're saying that your view
12 personally is that you would ride a bicycle
13 within that three-foot zone?**

14 A. Well, most lanes in New York City are
15 11 feet. That car I don't think is any wider
16 than 4 feet, so I couldn't see any reason why
17 that car and that bicycle couldn't stay together
18 parked at the curb lane in my opinion.

19 **Q. On 14th Street, which we're looking
20 at, do you see room for a bicyclist to proceed
21 in between the cab which is proceeding in the
22 southernmost eastbound lane and the white car in
23 the parking lane?**

24 A. You can't see how far those wheels
25 are to the curb. That car could be sticking out

1 J. Caneco

2 a couple feet. So I think that's a bad
3 representation.

4 **Q. However far the white car is sticking
5 out, though, this map advises bicyclists to
6 stick out three feet more, right?**

7 A. From my experiences, the lanes in New
8 York City are 11 feet. That car is no wider
9 than 4 feet.

10 **Q. But the map tells the bicyclist to
11 stay at least three feet into traffic from the
12 parked cars, right?**

13 A. It doesn't say into traffic, no.

14 **Q. Well, what does it say?
15 (Witness reviewing exhibit.)**

16 A. Now you're pointing to another
17 scenario?

18 **Q. No. I made a mistake.**

19 A. Be wary of parked cars?

20 **Q. Yes.**

21 A. "Be wary of parked cars. Motorists
22 can unexpectedly open doors. Be particularly
23 careful if you see a motorist in the car. Ride
24 in a straight line at least three feet away from
25 parked cars."

1 J. Caneco
 2 It doesn't say riding in traffic.
 3 **Q. Well --**
 4 A. That's what you said.
 5 **Q. I did.**
 6 A. Okay.
 7 **Q. So which direction is three feet away**
 8 **from the parked car?**
 9 A. I think that's a bad representation.
 10 New York City streets, the lanes are 11 feet
 11 wide. I know that from planning a lot of
 12 events. That Maxima is no more than 4 feet
 13 wide.
 14 **Q. So this parking lane is not 11 feet**
 15 **wide. Is that what you're saying?**
 16 A. I think that picture is a bad
 17 representation of what you're asking me.
 18 **Q. Well, this picture is a picture of**
 19 **14th Street. I'm asking you to assume and it in**
 20 **fact is true.**
 21 **Critical mass rides occur originating**
 22 **from Union Square park, correct?**
 23 A. Rides critical mass originate from
 24 Union Square park, yes.
 25 **Q. And occasionally critical mass**

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1 **J. Caneco**
 2 **bicyclists have proceeded on 14th Street near**
 3 **Union Square, correct?**
 4 A. Mostly westbound, yes.
 5 **Q. And you described a situation in**
 6 **which critical mass bicyclists were proceeding**
 7 **on 14th Street and you observed them, right?**
 8 A. Utilizing both lanes, yes.
 9 **Q. And this is 14th Street and it**
 10 **depicts the zone of the roadway that lies three**
 11 **feet out from the parked car, correct?**
 12 MS. NEUFELD: Objection to the form.
 13 A. You know what though, if you actually
 14 look, that three feet comes out to that -- may
 15 I?
 16 If you were to follow this line -- if
 17 you look at this straight down, it does come to
 18 here (indicating.) That's why this is a bad
 19 representation that you're showing me here.
 20 **Q. You're saying you don't believe that**
 21 **the end of the yellow tape indicates three feet**
 22 **out from the parked car?**
 23 A. I didn't say that.
 24 **Q. Okay. Does the end of -- well -- so**
 25 **your view is that a bicyclist can proceed in**

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1 **J. Caneco**
 2 **between the parked car and the taxis in the**
 3 **traffic lane in this picture safely sharing the**
 4 **traffic lane with the taxis?**
 5 A. I personally wouldn't ride there. I
 6 personally would not ride there. I use the bike
 7 path on the FDR.
 8 **Q. If a bicyclist wanted to proceed down**
 9 **14th Street, wouldn't the safest thing for them**
 10 **to do be to proceed in the middle of the**
 11 **southernmost eastbound lane?**
 12 MS. NEUFELD: Objection to the form.
 13 A. Well, above that Maxima there is no
 14 traffic. There is nothing else parked there at
 15 that curb.
 16 **Q. A bicyclist proceeding eastbound on**
 17 **14th Street at this spot that's depicted in the**
 18 **photograph, wouldn't the safest way for the**
 19 **bicyclist to proceed be to ride in the middle of**
 20 **the southernmost traffic lane on the eastbound**
 21 **portion of 14th Street?**
 22 MS. NEUFELD: Objection to the form.
 23 A. Well, that's your opinion.
 24 My opinion would be to come up to
 25 that bumper and wait till I could safely pass

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1 J. Caneco
 2 and get back into that other lane.
 3 **Q. And are you aware of the traffic**
 4 **rules that apply to this situation?**
 5 MS. NEUFELD: Objection to the form.
 6 **Q. For bicyclists?**
 7 A. This recommendation?
 8 **Q. Any traffic rules.**
 9 **Are bicyclists required to come up to**
 10 **the bumper and stop the way you described?**
 11 MS. NEUFELD: Objection to the form.
 12 A. You're talking about safety though,
 13 one's personal safety.
 14 **Q. Are bicyclists permitted under law to**
 15 **proceed up the middle of the traffic lane in**
 16 **this situation?**
 17 MS. NEUFELD: Objection to the form.
 18 A. Yes, they are.
 19 **Q. And if they are proceeding up the**
 20 **middle of that traffic lane, the cars behind**
 21 **them, would you consider them to be trapped?**
 22 A. If they're peddling at two miles,
 23 three miles an hour, yes.
 24 **Q. And at what speed would the bicyclist**
 25 **have to move in order for them not to be**

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1 **J. Caneco**
 2 **trapping the motorists behind them?**
 3 A. They have to go with the flow of
 4 traffic.
 5 **Q. Is it your view that a bicyclist**
 6 **proceeding at two to three miles an hour is not**
 7 **going with the flow of traffic?**
 8 A. That's correct.
 9 **Q. And why is that?**
 10 A. Because the flow of traffic in
 11 Manhattan is faster than two to three miles an
 12 hour, the normal flow of traffic, barring any --
 13 certain conditions, whatever the conditions.
 14 **Q. Aren't bicyclists permitted to**
 15 **proceed at a speed appropriate to them,**
 16 **including as low as two or three miles per hour**
 17 **lawfully?**
 18 MS. NEUFELD: Objection to the form.
 19 A. I don't know that.
 20 **Q. You don't know one way or the other?**
 21 A. No, I don't know that.
 22 **Q. Well, are you saying they're not**
 23 **permitted to proceed at a speed of two to three**
 24 **miles per hour?**
 25 MS. NEUFELD: Objection to the form.
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1 **J. Caneco**
 2 A. I think the traffic has to flow. I
 3 don't -- I know that certain roadways, to be
 4 honest, I'm not sure with the city regulations,
 5 but I know state regulations if you're on
 6 certain highways, you have to go -- there's a
 7 certain minimum speed. I don't know if there's
 8 a minimum speed for the city. I'm not aware of
 9 it.
 10 **Q. So it may be that it's lawful for a**
 11 **bicycle to proceed in the middle of a traffic**
 12 **lane at two to three miles per hour in New York**
 13 **City streets?**
 14 A. It might be lawful.
 15 **Q. Now sticking with this picture of**
 16 **14th Street, let's say that there's a group of**
 17 **approximately 100 bicyclists that are proceeding**
 18 **and occupying both eastbound traffic lanes on**
 19 **14th Street.**
 20 A. Okay.
 21 **Q. There is a motorist behind them that**
 22 **wants to pass them.**
 23 A. What is the speed of the bicyclist?
 24 **Q. I think 10 miles an hour is probably**
 25 **a more appropriate. Say 10 miles an hour.**
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1 **J. Caneco**
 2 A. All right.
 3 **Q. Under those circumstances, is it a**
 4 **possibility that those vehicles behind the**
 5 **bicyclist you would see as being trapped by**
 6 **them?**
 7 MS. NEUFELD: Objection to the form.
 8 A. Would I see that as being trapped?
 9 Possibly not.
 10 **Q. What if the motorist decided to pass**
 11 **the bicyclist by crossing over the double yellow**
 12 **in the middle of 14th Street into oncoming**
 13 **traffic in order to pass them.**
 14 **Would that be safe?**
 15 A. Passenger cars or emergency -- or
 16 police cars?
 17 **Q. A passenger car.**
 18 A. It would be unsafe.
 19 **Q. Your answer is yes, it would be**
 20 **unsafe?**
 21 A. Yes.
 22 **Q. Would it be lawful?**
 23 A. No, it would be unlawful.
 24 **Q. In paragraph 4 of your declaration,**
 25 **you describe a scenario where large groups tend**
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1 **J. Caneco**
 2 **to try to stay together and use the entire lane,**
 3 **thereby making it difficult for vehicles to pass**
 4 **the group without cutting into oncoming traffic.**
 5 **Do you see that?**
 6 A. Yes.
 7 **Q. If a vehicle tries to pass a group of**
 8 **bicyclists on a two-way roadway like 14th Street**
 9 **by crossing the double yellow and cutting into**
 10 **traffic, is that a traffic disruption that's**
 11 **caused by the bicyclist in your view?**
 12 A. No.
 13 **Q. In the absence of a police escort or**
 14 **a police presence directing traffic, wouldn't**
 15 **the appropriate thing for the motorist in that**
 16 **situation to do would be to proceed behind the**
 17 **bicyclists until they had an opportunity to**
 18 **safely pass?**
 19 MS. NEUFELD: Objection to the form.
 20 A. Yes.
 21 **Q. Would it be lawful for a group of 100**
 22 **bicyclists to proceed eastbound on 14th**
 23 **occupying both eastbound lanes on 14th Street at**
 24 **a speed of 10 miles per hour?**
 25 MS. NEUFELD: Objection to the form.
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1 J. Caneco
 2 A. It could be.
 3 **Q. Under what circumstances would it be**
 4 **unlawful for the bicyclists to do so?**
 5 A. If they're -- tend to break any other
 6 violations by crossing lanes without signaling.
 7 **Q. Anything else?**
 8 A. And observing all the traffic regular
 9 stop signs and the red lights.
 10 **Q. Anything else?**
 11 A. None that come to mind right now.
 12 **Q. The first sentence of paragraph 4 of**
 13 **your declaration in this case from 2007, you say**
 14 **that, "Large group bicycle rides disrupt**
 15 **pedestrian and vehicular traffic," right?**
 16 A. Yes.
 17 **Q. And as you use it here in this**
 18 **paragraph, are you referring to bicycle rides of**
 19 **approximately 50 or more cyclists?**
 20 A. It could be 25 or more. It depends
 21 on the conduct.
 22 **Q. Turning to your affidavit, which is**
 23 **marked as Plaintiffs' Exhibit 3, paragraph 11 on**
 24 **page 5, you describe, "Rides that in most**
 25 **situations had under 100 participants, which**
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1 J. Caneco
 2 **meant that even if the riders did not obey**
 3 **traffic regulations, the disruption of regular**
 4 **pedestrian and vehicular traffic was minimal."**
 5 **Do you see that?**
 6 A. Yes.
 7 **Q. So in 2005, you believe that a group**
 8 **of 100 plus or minus bicyclists could proceed**
 9 **without obeying traffic regulations and still**
 10 **cause only a minimal disruption of regular**
 11 **pedestrian and vehicular traffic, right?**
 12 MS. NEUFELD: Objection to the form.
 13 A. A large group.
 14 **Q. Well, it says 100.**
 15 A. If I've identified 100 at that time,
 16 maybe that's what I believed.
 17 **Q. Has your belief changed?**
 18 A. Yes.
 19 **Q. On what basis?**
 20 A. I think that the number, my personal
 21 belief the number should be somewhere in the
 22 vicinity of 20s, in the 20s.
 23 **Q. What is the basis of your change in**
 24 **view from 2005 when you believed that a bicycle**
 25 **ride of approximately 100 participants that**
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1 J. Caneco
 2 **didn't obey traffic regulations caused a minimal**
 3 **disruption of regular pedestrian and vehicular**
 4 **traffic to your --**
 5 MS. NEUFELD: Objection.
 6 MR. VACCARO: Let me finish the
 7 question.
 8 MS. NEUFELD: I'm sorry.
 9 **Q. -- to your current view that a group**
 10 **of approximately 25 --**
 11 A. Okay.
 12 **Q. -- is disruptive?**
 13 MS. NEUFELD: Objection.
 14 A. Back then the rides were larger so
 15 the smaller groups that appeared to be 100,
 16 seemed minimal or -- as far as minimal in my
 17 eyes.
 18 Now that the groups are smaller and
 19 the splinter groups are smaller, they're causing
 20 the same -- they still almost have the same
 21 impact. A smaller microcosm of what was
 22 happening, but yet it's still happening. The
 23 50s are still causing. So maybe somewhere
 24 around a dozen to 25.
 25 **Q. And groups that small are disruptive**
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1 J. Caneco
 2 **to traffic inherently?**
 3 MS. NEUFELD: Objection to the form.
 4 A. I don't know that.
 5 **Q. What makes them disruptive to**
 6 **traffic, groups as small as a dozen?**
 7 A. I guess it would depend who's with
 8 them at that time. I don't know.
 9 **Q. Well, what could a group of 12**
 10 **bicyclists do that would be disruptive to**
 11 **traffic?**
 12 A. What would they do that would be?
 13 **Q. (Counsel nods affirmatively).**
 14 A. Stop their bikes, hold till the last
 15 rider gets through depending on how -- whether
 16 they're riding as a cohesive group. I don't
 17 know.
 18 **Q. Would a group of 12 bicyclists**
 19 **proceeding lawfully disrupt traffic?**
 20 A. No. I don't believe so, no.
 21 **Q. Would a group of 25 bicyclists**
 22 **proceeding lawfully disrupt traffic?**
 23 A. I don't believe so.
 24 **Q. In fact in 2005 you said a group of**
 25 **approximately 100 bicyclists, even if they**
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1 **J. Caneco**
 2 **didn't obey traffic regulations, would create**
 3 **only minimal disruption of traffic.**
 4 **Isn't that what you said in your**
 5 **sworn statement?**
 6 MS. NEUFELD: Objection to the form.
 7 A. I think minimal is what I believed.
 8 It might be subjective or it might be different
 9 to somebody else's opinion. It might be major,
 10 it may be monumental. I don't...
 11 **Q. But you said that a group of 100**
 12 **bicyclists proceeding without obeying the law --**
 13 A. Did I say approximately or I
 14 identified 100?
 15 **Q. You identified 100.**
 16 A. Under 100.
 17 **Q. "In addition, in most situations the**
 18 **other rides had under 100," so in some cases**
 19 **they had over 100 so I'm saying approximately**
 20 **100.**
 21 A. I think larger groups, that's the
 22 best I could describe it. If I put a number in
 23 there, I think I made a mistake. I think I
 24 meant larger groups.
 25 **Q. You meant larger groups than 100 in**
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1 **J. Caneco**
 2 **this sentence?**
 3 A. Groups that their conduct is not --
 4 they don't have good conduct on the street.
 5 **Q. And yet of such groups, you said that**
 6 **even when they didn't obey traffic regulations,**
 7 **the disruption of regular pedestrian and**
 8 **vehicular traffic was minimal, right?**
 9 MS. NEUFELD: Objection --
 10 **Q. That was your sworn statement.**
 11 MS. NEUFELD: Objection to the form
 12 to the form.
 13 A. Okay.
 14 MS. NEUFELD: Mischaracterizes the
 15 statement.
 16 **Q. And now your sworn statement is that**
 17 **groups as small as 12 --**
 18 A. No, I didn't say 12.
 19 **Q. -- are a disruption to traffic?**
 20 A. That's my opinion now.
 21 **Q. Okay.**
 22 A. Can they be? Yes.
 23 **Q. If they violate the law?**
 24 A. If they violate the law, yes, and if
 25 they don't violate the law by, unfortunately I
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1 **J. Caneco**
 2 don't know the regulations about minimum speed,
 3 yes.
 4 **Q. So 12 bicyclists -- I just want to**
 5 **make sure you --**
 6 A. You have to identify the time of day.
 7 Are we talking about 6:00 on a Sunday morning
 8 where it should have no impact or are we talking
 9 about 6:00 on a Friday night where theaters are,
 10 midtown Manhattan, and the theaters are starting
 11 to -- the theater crowd is coming for the
 12 theaters and what, the crowd is coming to have
 13 dinner before the theater? I mean, you know,
 14 you're not painting that scenario for me so --
 15 **Q. Let me -- okay. Let me give you a**
 16 **scenario.**
 17 **One of the plaintiffs in this suit is**
 18 **Kenneth Jackson, a professor at Columbia**
 19 **University who leads his students on bike tours**
 20 **of New York City once a year on a week night --**
 21 A. Okay.
 22 **Q. -- after midnight.**
 23 A. All right.
 24 **Q. And my question to you is, after**
 25 **midnight on 5th Avenue between 40th Street and**
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1 **J. Caneco**
 2 **22nd Street, would Professor Jackson's group of**
 3 **approximately 200 to 300 bicyclists create a**
 4 **disruption of traffic?**
 5 MS. NEUFELD: Objection to the form.
 6 A. They may not be disrupting traffic
 7 but I think they're creating an unsafe
 8 environment for themselves.
 9 **Q. How?**
 10 A. Traffic has a tendency to pick up
 11 speed in the later hours like the time you're
 12 describing, putting them at risk.
 13 **Q. Speed in excess of 25 miles an hour?**
 14 A. At times.
 15 Well, maybe I'm... Strike that.
 16 **Q. But there really isn't any traffic**
 17 **for the group to disrupt at that time of**
 18 **night --**
 19 MS. NEUFELD: Objection to the form.
 20 **Q. -- in that section of Manhattan, is**
 21 **there?**
 22 MS. NEUFELD: Objection to the form.
 23 A. I don't see it at this point, no.
 24 **Q. I'll represent to you that the Five**
 25 **Borough Bicycle Club, which is another of the**
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1 **J. Caneco**
 2 **plaintiffs in this suit, conducts more than 90**
 3 **percent of its rides on Saturdays and Sundays.**
 4 A. What time of day?
 5 **Q. They typically begin between 9 a.m.**
 6 **to 10 a.m. and the rides will finish sometime**
 7 **after noon.**
 8 A. What part of the year?
 9 **Q. They go year-round.**
 10 A. Okay.
 11 **Q. So groups of bicyclists in the range**
 12 **of 40 to 60 participants at those days of the**
 13 **week year-round and at those times proceeding in**
 14 **a law-abiding manner, single file or two**
 15 **abreast.**
 16 A. Okay.
 17 **Q. Assuming what I've told you about**
 18 **their rides are true, do you -- would you -- do**
 19 **you think those rides are disruptive of**
 20 **vehicular or pedestrian traffic?**
 21 MS. NEUFELD: Objection to the form.
 22 A. My personal opinion?
 23 **Q. Yes.**
 24 A. They can be. I don't know what
 25 intersections we're talking about.
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1 **J. Caneco**
 2 Are they going through Staten Island
 3 which would have no impact?
 4 I don't know. I don't know the route
 5 you're describing.
 6 **Q. They have different routes virtually**
 7 **every ride they use.**
 8 A. Is there a reason why they use
 9 different routes?
 10 **Q. To make the rides interesting.**
 11 A. Okay. All right.
 12 **Q. Is there any reason -- how do you,**
 13 **how do you believe that law-abiding groups of**
 14 **bicyclists between 40 and 60 of them, proceeding**
 15 **single file or two abreast on city streets could**
 16 **cause a traffic disruption?**
 17 A. You'd have to describe other behavior
 18 with that.
 19 **Q. What I'm looking for you --**
 20 A. Is it possible? It is possible.
 21 **Q. Okay. How? Describe to me a**
 22 **possible scenario for those bicyclists**
 23 **consistent with them being abiding by the law**
 24 **and proceeding single file or two abreast.**
 25 A. And stopping at all the lights?
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1 **J. Caneco**
 2 **Q. Being completely law abiding as you**
 3 **understand the state of the law.**
 4 A. Well, the way you describe it, I
 5 don't see any situation now that would be
 6 unlawful.
 7 **Q. Can you see any situation that would**
 8 **be disruptive?**
 9 A. Not if they keep with the flow of
 10 traffic, which I'm taking for granted they are.
 11 They have a mission, a five borough
 12 bike ride. They have to get to a certain point
 13 by a certain -- maybe not by a certain time, but
 14 is this a race or is this a --
 15 **Q. It's not a race. It's a group that**
 16 **may go to visit a museum somewhere or a park or**
 17 **just go to visit an attraction.**
 18 A. They have a destination?
 19 **Q. They have a destination, they have a**
 20 **route, they have in most cases a cue sheet that**
 21 **shows them where to turn.**
 22 A. I don't see -- if they went with the
 23 flow of traffic, didn't break the laws, that's
 24 fine.
 25 **Q. They would not be disrupting, right?**
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1 **J. Caneco**
 2 A. That's correct, they would not
 3 disrupt.
 4 **Q. And they wouldn't present any unusual**
 5 **safety hazard either, would they?**
 6 MS. NEUFELD: Objection to the form.
 7 A. I can't -- nothing comes to mind at
 8 this time.
 9 **Q. Paragraph 5 of your declaration. I**
 10 **knew we'd get there eventually.**
 11 A. It's nine.
 12 **Q. No, that's your affidavit. We're**
 13 **looking at your declaration now, Plaintiffs'**
 14 **Exhibit 2.**
 15 (Witness reviewing exhibit.)
 16 **Q. Paragraph 5 you describe -- you say.**
 17 **"Large groups of cyclists also tend to be more**
 18 **aggressive and to disregard the traffic**
 19 **regulations causing a host of safety issues."**
 20 **Do you see that?**
 21 A. Yes. I think that should have been
 22 incorporated with the next sentence.
 23 **Q. Okay. Just sticking for a moment**
 24 **with bicycle rides that we're assuming are not**
 25 **disregarding traffic regulations but rather**
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1 **J. Caneco**
 2 **observing all traffic regulations.**
 3 A. Yes.
 4 **Q. Are there a host of safety issues**
 5 **created by large groups of cyclists who proceed**
 6 **in that manner?**
 7 A. As long as they're keeping with the
 8 flow of traffic and they have all the equipment
 9 and they observe all the traffic regulations, I
 10 don't see any problem.
 11 **Q. The next sentence you describe some**
 12 **of what you've seen at the critical mass rides,**
 13 **including traveling along roadways that are**
 14 **prohibited to bicycles.**
 15 **Now that's something you personally**
 16 **observed?**
 17 A. I think I was -- well, I was confused
 18 as opposed to the roadways with the marked
 19 bicyclist lanes.
 20 **Q. So when you refer to traveling along**
 21 **roadways that are prohibited to bicycles, what**
 22 **you're referring to is bicyclists who proceed on**
 23 **a roadway that has a bicycle lane but the**
 24 **bicyclist isn't in the bicycle lane?**
 25 A. Yes.

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1 **J. Caneco**
 2 **Q. Okay. And then you talk about**
 3 **traveling on one-way streets or in lanes going**
 4 **against traffic.**
 5 **Is that something you personally**
 6 **observed at critical mass bicycle rides?**
 7 A. Yes.
 8 **Q. Have you observed that activity at**
 9 **critical mass bicycle rides in or after March of**
 10 **2006?**
 11 A. Yes.
 12 **Q. On what occasion?**
 13 A. I can't recall the specific month,
 14 no.
 15 **Q. Well. How do you know that it**
 16 **occurred after March of 2006?**
 17 A. Because it occurred each and every
 18 ride that I was present at. I never watched a
 19 through and through lawful ride. I say lawful,
 20 without many violations.
 21 **Q. Okay. Have you ever observed**
 22 **traffic, motor vehicle traffic, at a given**
 23 **intersection for as long as a half an hour?**
 24 A. No.
 25 **Q. Fifteen minutes?**

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1 **J. Caneco**
 2 A. Have I ever in my lifetime?
 3 **Q. Um-hmm.**
 4 A. I'm sorry. I've been at
 5 intersections more than that time, yes.
 6 **Q. In New York City?**
 7 A. Manhattan?
 8 **Q. Sure.**
 9 A. No, I worked in other boroughs.
 10 **Q. Okay. I just wanted to know if you**
 11 **had ever observed as many as several hundred**
 12 **vehicles proceeding through an intersection**
 13 **without observing violations of traffic rules.**
 14 A. Without ob -- I've sat at an
 15 intersection for a half hour and observed
 16 everything okay. Is that -- I mean --
 17 **Q. Without any violations of traffic**
 18 **rules.**
 19 A. Without any violations, yes.
 20 **Q. Okay. You state in paragraph 6 of**
 21 **your declaration that, "It's extremely difficult**
 22 **for the police department to protect public**
 23 **safety when large groups take to the streets for**
 24 **unpermitted events."**
 25 **Do you see that?**

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1 **J. Caneco**
 2 A. Yes.
 3 **Q. Are you aware of any serious injuries**
 4 **that have occurred as a result of large group**
 5 **bicycle rides that are unpermitted?**
 6 A. We had a couple scooters that have
 7 gone down during these events, a couple
 8 bicyclists that got entangled. I don't know
 9 if -- you said serious. I don't know to what
 10 extent their injuries were, but there were
 11 injuries, yes.
 12 **Q. In the case with the two officers**
 13 **mounted on scooters, isn't it true that those**
 14 **two officers collided with each other?**
 15 MS. NEUFELD: Objection to the form.
 16 A. I'm not sure.
 17 **Q. You don't know whether the collision**
 18 **involving those scooters involved a bicycle or**
 19 **not?**
 20 A. That's correct.
 21 **Q. And can you describe the nature of**
 22 **any injuries to bicyclists that occurred when**
 23 **one or more bicyclists collided with each other?**
 24 MS. NEUFELD: Objection to the form.
 25 A. Can I describe their injuries?

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1 J. Caneco

2 Q. I'm trying to -- I asked you if there
3 were any serious injuries and you weren't
4 sure --

5 A. Serious I don't -- you know, I
6 don't -- I'm not sure of the extent of the
7 injuries. There were injuries, yes.

8 Q. But you're not able to provide any
9 additional detailed information about the nature
10 of the injuries.

11 A. No.

12 Q. Or their severity.

13 A. Correct.

14 MR. VACCARO: That's Plaintiffs' 8.
15 (Plaintiffs' Exhibit 8, Report on
16 bicyclist fatalities and serious injuries
17 for the 10-year period 1996 to 2005, is
18 marked for identification, as of this
19 date.)

20 BY MR. VACCARO:

21 Q. Lieutenant Caneco, have you ever seen
22 this document before?

23 A. No, I have not.

24 Q. You see, however, if you flip to the
25 third page, which is labeled page 1 at the

1 J. Caneco

2 bottom, that it's issued by Raymond Kelly, The
3 Commissioner of Police, along with the
4 commissioner of other city agencies?

5 A. Yes, I see that.

6 Q. I'll represent to you that this
7 report on serious -- on bicyclist fatalities and
8 serious injuries for the 10-year period 1996 to
9 2005 makes no mention of any fatalities or
10 serious injuries arising from group bicycle
11 rides.

12 MS. NEUFELD: Objection to the form.

13 Do you want him to read this --

14 MR. VACCARO: No, no. I'm just
15 saying I'm making a representation to him
16 that this report that covers ten years
17 worth of bicyclists fatalities and serious
18 injuries doesn't mention group bicycle
19 rides.

20 MS. NEUFELD: That's your
21 statement --

22 MR. VACCARO: And my -- fine. And my
23 question to Lieutenant Caneco is:

24 BY MR. VACCARO:

25 Q. Is that representation inconsistent

1 J. Caneco

2 with your understanding of the safety or hazards
3 of group bicycle rides?

4 A. It could be a flaw in the way they
5 did their recording, their record keeping. I
6 mean it might have been an oversight on, on --
7 maybe somebody did not think of they should put
8 that as one of the statistics in there. I don't
9 know.

10 Q. But you're not aware of any
11 fatalities or serious injuries resulting from
12 large group bicycle rides?

13 A. No, I am not aware.

14 Q. Again I'll represent to you that the
15 Five Borough Bicycle Club, a plaintiff in this
16 suit, applied for and received a permit to
17 conduct a group bicycle ride on February 25th,
18 2007.

19 And my question to you is, do you
20 have any knowledge of that permit or of that
21 bicycle ride?

22 A. No, I, I left the borough probably
23 that day, somewhere within that described week,
24 so I'm not aware of it, no.

25 Q. Would it be standard practice for

1 J. Caneco

2 some representative of the NYPD to go to the
3 formation area of an event that was permitted as
4 a parade and make contact with a representative
5 of the organizer of the event?

6 A. They should.

7 Q. Are you aware of any situations in
8 which a parade permit has been issued and no
9 such contact has been made?

10 A. I'm not aware.

11 Q. Can you think of any reason why in a
12 situation where a parade permit has been issued
13 for an event that a representative of NYPD would
14 not visit the formation area for the parade and
15 make contact with the organizer or their
16 representative?

17 A. The only time that it might happen if
18 it's an annual, it's going on -- they met with
19 the organizers prior to the event and certain --
20 everything has been ironed out.

21 Q. And in your experience has that ever
22 occurred?

23 A. I can't identify any particular one.

24 Q. You mention in paragraph 7 of your
25 declaration that you're aware of circumstances

1 **J. Caneco**
 2 **in which large groups of cyclists have**
 3 **successfully applied for a permit.**
 4 **You see that, right?**
 5 A. Yes.
 6 **Q. What is the source of your**
 7 **information for the discussion of the New York**
 8 **Century Bike Tour that appears in paragraph 7?**
 9 A. I'm not sure.
 10 **Q. You made this declaration on March**
 11 **28th, 2007, right?**
 12 A. Right. Um-hmm.
 13 **Q. That was approximately a week ago?**
 14 A. Right.
 15 **Q. You can't recall the source of your**
 16 **information regarding the -- that's set forth**
 17 **here in paragraph 7?**
 18 A. No.
 19 **Q. Have you ever observed the New York**
 20 **City Century Bike Tour?**
 21 A. No.
 22 **Q. Do you believe the statement set**
 23 **forth in paragraph 7 to be true?**
 24 A. I -- yes.
 25 **Q. And in fact you swore to their truth**

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1 **J. Caneco**
 2 **a week ago, correct?**
 3 A. Yes. That's what I believed.
 4 **Q. Well, what is the basis for believing**
 5 **what's in paragraph 7 to be true?**
 6 MS. NEUFELD: Objection to the form.
 7 A. A conversation I must have had that's
 8 ringing in here. I don't -- I don't know.
 9 **Q. And you can't provide any other**
 10 **details concerning that conversation?**
 11 A. No.
 12 **Q. Is it possible you reviewed any**
 13 **documents from which you gathered this**
 14 **information?**
 15 A. It's possible.
 16 **Q. Can you recall any such documents at**
 17 **this time?**
 18 A. No.
 19 **Q. Would it surprise you if you were to**
 20 **learn that the New York City Century Bike Tour**
 21 **has had over 1,000 participants each year since**
 22 **1993?**
 23 MS. NEUFELD: Objection.
 24 A. Would it shock me?
 25 **Q. Would it surprise you?**

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1 **J. Caneco**
 2 MS. NEUFELD: Objection.
 3 A. It went off successful.
 4 **Q. Do you know whether the New York City**
 5 **Century Bike Tour had a permit from the NYPD to**
 6 **conduct its ride prior to 2005?**
 7 A. I'm not sure.
 8 **Q. Well, reading paragraph 7 of your**
 9 **declaration, it states that, "Due to the**
 10 **increasing size of the event in 2005, the**
 11 **Transportation Alternatives applied to the**
 12 **police department for assistance with the ride,"**
 13 **and it goes on.**
 14 **Can I infer from here that your**
 15 **understanding is that prior to 2005 this**
 16 **particular bicycle ride was not issued a permit?**
 17 A. I'm not sure.
 18 **Q. Were you aware -- strike that.**
 19 **Did you have responsibilities for**
 20 **parades prior to August 2004?**
 21 A. Well, I was assigned in May of '04,
 22 so I had responsibility for some parades, yes.
 23 **Q. Do you recall learning in September**
 24 **of 2004 that a 1,000 person bicycle ride known**
 25 **as the New York City Century was being conducted**

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1 **J. Caneco**
 2 **without a permit?**
 3 A. No, I'm not aware of that.
 4 **Q. If you had learned in September of**
 5 **2004 that the New York City Century was being**
 6 **conducted with 1,000 participants and no permit,**
 7 **what would you have done?**
 8 A. I think there was a learning curve.
 9 It's actually still learning in my position.
 10 It's a very arduous task being the operations
 11 coordinator. Back then I could probably say
 12 that I would not know -- I would have had to
 13 seek counsel somewhere if it was without a
 14 permit.
 15 **Q. Because it was not clear to you at**
 16 **that time that a 1,000 person bicycle ride**
 17 **required a permit?**
 18 MS. NEUFELD: Objection to the form.
 19 A. I think I was still learning the
 20 ropes at that time. We had the R&C as to -- had
 21 the -- from May until the R&C, I was very busy
 22 handling a lot of -- coordinating a lot of
 23 events for that.
 24 **Q. So the answer is it was not clear to**
 25 **you whether a 1,000 person group bicycle ride in**

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1 **J. Caneco**
 2 **September of 2004 required a permit?**
 3 MS. NEUFELD: Objection to the form.
 4 A. I wasn't aware. If they did, they
 5 did not have a permit. In case they rode. Like
 6 you're informing me they rode.
 7 **Q. Um-hmm.**
 8 A. Okay. I'm not aware. First off I'm
 9 not aware of it.
 10 **Q. And then the other question is,**
 11 **assume there was a 1,000 person group bicycle**
 12 **ride in September 2004.**
 13 **Was your understanding back in**
 14 **September of 2004 that such a group bicycle ride**
 15 **required a permit?**
 16 **Yes, no or you don't -- you wouldn't**
 17 **have known whether it required a permit?**
 18 A. At that time, no, I wouldn't have
 19 been aware.
 20 **Q. You wouldn't have --**
 21 A. I was still learning my position at
 22 that time.
 23 **Q. You state in paragraph 7 that it's**
 24 **your understanding that during the Century Bike**
 25 **Tour, cyclists occupied the roadway along with**

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1 **J. Caneco**
 2 **vehicles.**
 3 A. Okay.
 4 **Q. Why is that detail significant?**
 5 A. I don't know this to be -- I remember
 6 somebody telling me. I don't recall the
 7 circumstances of it.
 8 **Q. Well, does this suggest that the**
 9 **Century Bike Tour is not disruptive to traffic?**
 10 A. May, may not. I don't know.
 11 **Q. Do you recall discussing the Century**
 12 **Bike Tour with a Lieutenant McGovern?**
 13 A. I'm not sure.
 14 **Q. Within the last week?**
 15 **If I change the question and say have**
 16 **you discussed the Century Bike Tour with**
 17 **Lieutenant McGovern within the last let's say**
 18 **two weeks, can you answer that question?**
 19 A. I don't recall talking to him about
 20 it.
 21 **Q. You are familiar with a Lieutenant**
 22 **McGovern?**
 23 A. Yes.
 24 **Q. Okay. He's involved in the parade**
 25 **permit process?**

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1 **J. Caneco**
 2 A. No.
 3 **Q. There may be more than one?**
 4 A. No. I'm --
 5 **Q. No?**
 6 A. No.
 7 **Q. Okay.**
 8 A. When you say in the process, no.
 9 **Q. Okay. In paragraph 9 of your**
 10 **declaration you say that the procedure to obtain**
 11 **a parade permit is simple, right?**
 12 **You see that, right?**
 13 A. Yes.
 14 **Q. Okay. I'd like to show you the NYPD**
 15 **website which we're going to mark as Plaintiffs'**
 16 **Exhibit 9.**
 17 **(Plaintiffs' Exhibit 9, CD, is marked**
 18 **for identification, as of this date.)**
 19 **BY MR. VACCARO:**
 20 **Q. Have you ever on your own examined**
 21 **the section of the NYPD website that talks about**
 22 **applying for a parade permit?**
 23 A. No.
 24 **Q. Okay. These are saved pages.**
 25 **Have you ever looked at the NYPD**

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1 **J. Caneco**
 2 **Frequently Asked Questions page on the Internet?**
 3 A. No.
 4 **Q. Okay. If you could just click on the**
 5 **parade permit choice.**
 6 **Have you ever examined this portion**
 7 **of the NYPD website where it states that, "The**
 8 **following instructions are provided for the**
 9 **completion of a parade permit application:**
 10 **"1. Complete all captions and abide**
 11 **by all notes on application.**
 12 **"2. Prepare three copies of**
 13 **application with original signatures. One copy**
 14 **must be notarized.**
 15 **"3. Forward completed applications**
 16 **to New York City Police Department, Office of**
 17 **the Chief of Department, Investigation Review**
 18 **Section, One Police Plaza."**
 19 **Have you observed this section of the**
 20 **NYPD website before today?**
 21 A. No.
 22 **Q. You state in your declaration at**
 23 **paragraph 9 that, "Applicants for parade permits**
 24 **anticipating less than 1,000 participants who do**
 25 **not intend to proceed down 5th Avenue submit**

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1 **J. Caneco**
 2 **their applications to the local precinct,"**
 3 **right?**
 4 A. Yes.
 5 **Q. And that's your understanding of the**
 6 **proper procedure for submitting applications?**
 7 A. Yes.
 8 **Q. Does what we're looking at now inform**
 9 **an applicant for a parade permit that if their**
 10 **event is anticipated to draw less than 1,000 and**
 11 **does not involve a procession down 5th Avenue,**
 12 **that they are to submit their application to the**
 13 **local precinct?**
 14 A. It does not say that there, no.
 15 MS. NEUFELD: Objection.
 16 I just note that there are things
 17 that you can click on. I don't know what
 18 they say if you click on.
 19 BY MR. VACCARO:
 20 **Q. You want to click on the thing that**
 21 **says, "Click here for parade permit"?**
 22 **(Witness complies.)**
 23 A. There's also a phone number down
 24 below if you have questions.
 25 **Q. Right.**

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1 **J. Caneco**
 2 **So if the applicant has questions,**
 3 **they can call.**
 4 A. "For inquires regarding the
 5 application process, call. "
 6 **Q. But the instructions are clear that**
 7 **all forwarded -- all applications are to be**
 8 **forwarded to --**
 9 A. Where they get forwarded to, no,
 10 they're not on there.
 11 **Q. They tell you to forward it to One**
 12 **Police Plaza, right?**
 13 A. I'm sorry. You're right. Forward it
 14 to One Police Plaza.
 15 MR. VACCARO: Okay. I'm going to
 16 wrap up soon.
 17 You want to take a break?
 18 THE VIDEOGRAPHER: The time is
 19 approximately 3:33, excuse me, 3:34 p.m.
 20 We are off the record.
 21 (Recess is taken.)
 22 THE VIDEOGRAPHER: The time is
 23 approximately 3:42. We are on the record.
 24 BY MR. VACCARO:
 25 **Q. Lieutenant Caneco, you mentioned that**

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1 **J. Caneco**
 2 **in all of the critical mass bicycle rides you've**
 3 **observed, you can't recall seeing one in which**
 4 **there was -- there were no traffic rules**
 5 **violated?**
 6 A. A complete ride from the beginning to
 7 the end, correct.
 8 **Q. However --**
 9 A. That includes all splinter groups
 10 within the ride.
 11 **Q. However, you have observed splinter**
 12 **groups from critical mass rides that have**
 13 **proceeded in a lawful manner?**
 14 A. For a time.
 15 **Q. When you observe unlawful conduct**
 16 **amongst a group of critical mass bicyclists, how**
 17 **are you able to determine whether the unlawful**
 18 **conduct you're observing is, is being undertaken**
 19 **by critical mass bicyclists as compared to**
 20 **undercover NYPD officers?**
 21 MS. NEUFELD: Objection to the form.
 22 A. Say that again?
 23 **Q. How can you tell when you observe**
 24 **unlawful conduct at a critical mass bicycle ride**
 25 **that it's a civilian as compared to an**

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1 **J. Caneco**
 2 **undercover NYPD officer?**
 3 MS. NEUFELD: Objection. We've never
 4 established that there are undercover
 5 officers.
 6 MR. VACCARO: We did. He testified
 7 earlier that undercover officers have been
 8 assigned to critical mass bicycle rides.
 9 MS. NEUFELD: He hasn't stated that
 10 they participate in the ride and it's not
 11 appropriate to discuss whether undercovers
 12 participate in the ride.
 13 MR. VACCARO: Well, I think it is
 14 appropriate because Lieutenant Caneco has
 15 testified that he has observed this
 16 unlawful conduct at these critical mass
 17 bicycle rides, but my question is whether
 18 he knows and can say with certainty whether
 19 he was observing civilian bicyclists or
 20 whether he was observing undercover NYPD
 21 officers.
 22 MS. NEUFELD: Well, why don't you ask
 23 him if he's seen civilians participating in
 24 critical mass rides disobey traffic
 25 regulations.

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1 J. Caneco
 2 BY MR. VACCARO:
 3 **Q. Have you observed civilians in**
 4 **critical mass rides disobeying traffic rules?**
 5 A. Yes.
 6 **Q. And how do you know that they're**
 7 **civilians and not undercover NYPD officers?**
 8 A. I don't.
 9 MR. VACCARO: Nothing further.
 10 MS. NEUFELD: That's it? You're
 11 done? 45 minutes?
 12 MR. VACCARO: I just didn't know how
 13 far we were going to get, but that's all I
 14 needed.
 15 MS. NEUFELD: Had I thought, I would
 16 have taken my break more -- I would have
 17 worked through my break had I not thought
 18 you needed 45 minutes.
 19 THE VIDEOGRAPHER: Do you want to go
 20 off the record?
 21 MS. GOLDBERG-CAHN: Yes.
 22 THE VIDEOGRAPHER: The time is
 23 approximately 3:45 p.m. We are off the
 24 record.
 25 (Recess is taken.)

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1 J. Caneco
 2 THE VIDEOGRAPHER: The time is
 3 approximately 3:57 p.m. We are on the
 4 record.
 5 EXAMINATION BY
 6 MS. NEUFELD:
 7 **Q. Lieutenant Caneco, I have a few**
 8 **follow-up questions for you.**
 9 **First, turning your attention to your**
 10 **discussion of the wheel earlier.**
 11 **Do you recall that?**
 12 A. Yes.
 13 **Q. Can you describe for me, please, a**
 14 **little bit more detail about what the wheel is?**
 15 A. At the borough command we have a
 16 person who mans the phones 24 hours and that
 17 person is in charge of receiving information
 18 that the borough command should be made aware
 19 of.
 20 **Q. Now when you say "borough command,"**
 21 **do you mean Patrol Borough Manhattan South?**
 22 A. Yes.
 23 **Q. And what is Patrol Borough Manhattan**
 24 **South?**
 25 A. It's the parent command of all the

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1 J. Caneco
 2 precincts, which are 10 of them, south of
 3 Central Park down to the Battery, water to
 4 water.
 5 **Q. So it's 59th Street, in Manhattan,**
 6 **59th Street from river to river?**
 7 A. Correct.
 8 **Q. 59th and south river to river?**
 9 A. Yes.
 10 **Q. So it's the borough that oversees the**
 11 **precinct.**
 12 A. Right.
 13 **Q. And is it itself a police precinct?**
 14 A. No, it is not.
 15 **Q. So how does information get**
 16 **transmitted to the wheel?**
 17 A. Well, depending upon the information,
 18 it's a need to know for the borough command and
 19 of course the chief of the command, chief of the
 20 borough to have.
 21 Preferably we like to have
 22 supervisors call up the wheel with information
 23 that he may need to know at times. That person
 24 will take down information and sometimes some of
 25 that information gets screened to go to the

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1 J. Caneco
 2 chief and/or the borough, the operations office.
 3 **Q. So are you saying that a supervisor**
 4 **at a police precinct within Patrol Borough**
 5 **Manhattan South will make a telephone call to**
 6 **the wheel?**
 7 A. Yes.
 8 **Q. And how does a supervisor determine**
 9 **that a call to the wheel is necessary?**
 10 A. He makes a -- there are certain times
 11 it's required and there's other times where he
 12 thinks it might be in our best interest to have
 13 that information.
 14 **Q. So the supervisor uses his judgment**
 15 **to determine what does the chief or the Patrol**
 16 **Borough need to know?**
 17 A. Yes.
 18 MR. VACCARO: Objection to form.
 19 BY MS. NEUFELD:
 20 **Q. In your position as lieutenant in**
 21 **Patrol Borough Manhattan South, did you have**
 22 **occasion to review the information contained in**
 23 **the wheel report?**
 24 A. At times, yes.
 25 **Q. Approximately how many times each**

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1 J. Caneco

2 week?

3 A. A few.

4 **Q. Can you give me a couple of examples**
5 **of the type of information you recall seeing in**
6 **a typical wheel report?**

7 A. Major index crimes, a robbery,
8 homicide, of that nature. Pop-up demonstrations
9 that might occur, results of a demonstration
10 that was planned that we sort of may be numbers
11 on or any incidents that have arisen from that
12 event.

13 **Q. Would the wheel report contain**
14 **information about things taking place anywhere**
15 **other than Manhattan south of 59th Street?**

16 A. No.

17 **Q. Let me now turn your attention to**
18 **testimony you gave earlier regarding the details**
19 **of how you prepared what was marked as**
20 **Plaintiffs' Exhibit 3, which is the affidavit**
21 **that you authored in the City of New York versus**
22 **the Time's Up.**

23 **If I recall correctly, you testified**
24 **earlier that you don't now today recall exactly**
25 **how you prepared this declaration; is that**

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1 J. Caneco

2 correct?

3 MR. VACCARO: Objection to form.

4 BY MS. NEUFELD:

5 **Q. Well, what did you -- do you recall**
6 **now sitting here today how you prepared this**
7 **declaration which has been marked as Plaintiffs'**
8 **Exhibit 3?**

9 A. From firsthand observations and from
10 talking with other people.

11 **Q. So if your affidavit, Plaintiffs'**
12 **Exhibit 3, indicates -- well, do you have any**
13 **reason sitting here today to believe that at the**
14 **time you authored this declaration the**
15 **information contained in the declaration was not**
16 **correct?**

17 MR. VACCARO: Objection to form.

18 A. Everything here that I stated was
19 whether it was told to me or I was made aware of
20 it or personal observation.

21 **Q. Lieutenant Caneco, I'd like to refer**
22 **your attention to paragraph 13 of Exhibit 3.**
23 **(Witness reviewing exhibit.)**

24 **Q. Can you read that paragraph for me?**

25 A. "Violation should be noted that in

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1 J. Caneco

2 August the bicycle advocacy group known as --

3 **Q. You can read it to yourself. I'm**
4 **sorry.**

5 **(Witness reviewing exhibit.)**

6 A. Okay.

7 **Q. Have you read that paragraph?**

8 A. Yes.

9 **Q. Now I'd like you to read paragraph 7.**

10 MR. VACCARO: Of the same document?

11 **Q. I'm sorry. Contained in Plaintiffs'**
12 **Exhibit 2.**

13 **(Witness reviewing exhibit.)**

14 **Q. Does paragraph 7 contain -- in**
15 **Plaintiffs' Exhibit 2 reference the same event**
16 **that is discussed in paragraph 13 of Plaintiffs'**
17 **Exhibit 3?**

18 A. It seems that way, yes. Yes.

19 **Q. Do you recall at the time in October**
20 **of 2005, October of 2005 when you authored**
21 **Plaintiffs' Exhibit 3, whether you had any**
22 **conversations with someone regarding the**
23 **information contained in paragraph 13 of that**
24 **document?**

25 MR. VACCARO: Objection to form.

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1 J. Caneco

2 A. Yes.

3 **Q. What do you recall?**

4 A. Not much.

5 **Q. This paragraph was written based**
6 **upon -- you didn't make that up, right?**

7 MR. VACCARO: Objection to form.

8 A. That's correct. I was informed.

9 **Q. Well...**

10 **And you have no reason to believe now**
11 **that what's contained there now is not true,**
12 **correct?**

13 A. That's correct.

14 **Q. And do you have any reason the**
15 **believe that what's contained in paragraph 7 of**
16 **Plaintiffs' Exhibit 2 is not true?**

17 A. That's correct.

18 **Q. During the course of this deposition,**
19 **you testified that the only bicycle rides you've**
20 **observed are critical mass bicycle rides,**
21 **correct?**

22 A. That's true.

23 **Q. Is it possible that a bicycle ride**
24 **other than a critical mass bicycle ride could**
25 **disrupt pedestrian or vehicular traffic?**

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1 **J. Caneco**
 2 MR. VACCARO: Objection to form.
 3 A. Yes.
 4 **Q. Lieutenant, are you aware that the**
 5 **city has clarified its parade regulations to**
 6 **make clear that groups of 50 or more bikes that**
 7 **want to proceed together are required to obtain**
 8 **a permit from the police department?**
 9 MR. VACCARO: Objection.
 10 Counsel --
 11 A. Yes.
 12 MR. VACCARO: Counsel, I'll just say
 13 that I understand this is redirect and for
 14 foundation, you know, it's appropriate to
 15 bring the witness to the point where you
 16 need to bring him, but there's been a lot
 17 of leading questions here even on the
 18 payoff question so let's...
 19 MS. NEUFELD: Leading is appropriate
 20 in cross-examining a witness.
 21 MR. VACCARO: You're not
 22 cross-examining Lieutenant Caneco.
 23 MS. GOLDBERG-CAHN: I understand that
 24 we are.
 25 MS. NEUFELD: It's our understanding
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1 J. Caneco
 2 that we are.
 3 MR. VACCARO: I disagree. I'll just
 4 have to make my record.
 5 BY MS. NEUFELD:
 6 **Q. Lieutenant, do you know what the --**
 7 **that there is a -- that there are rules in the**
 8 **city which regulate parades?**
 9 A. Yes.
 10 **Q. When did you first become aware of**
 11 **those rules?**
 12 A. The new rules?
 13 **Q. Rules in general.**
 14 A. Shortly after taking a position in
 15 the Operations Unit.
 16 **Q. Has it ever -- did it at some point**
 17 **come to your attention that the rules were**
 18 **amended by the city?**
 19 A. Yes.
 20 **Q. Are you aware of the substance of any**
 21 **of those amendments?**
 22 A. Yes, I am.
 23 **Q. What are you aware of?**
 24 A. That the amount 50 participants or
 25 more require a parade permit.
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1 J. Caneco
 2 **Q. Do you recall testifying earlier that**
 3 **a group of 100 cyclists could proceed together**
 4 **lawfully on a city street in response to one of**
 5 **counsel's questions?**
 6 A. Yes.
 7 **Q. Is that -- was that an accurate**
 8 **statement?**
 9 **Is there anything you would like to**
 10 **clarify about that statement?**
 11 A. Well, that would be unlawful now.
 12 **Q. For what reason?**
 13 A. Would not have a parade permit.
 14 **Q. Does the parade -- is there any**
 15 **interaction between the parade permit**
 16 **requirement and traffic laws?**
 17 MR. VACCARO: Objection to form.
 18 A. I'm sorry?
 19 **Q. If a group of 100 cyclists, is it**
 20 **your understanding that a group of 100 cyclists**
 21 **that wishes to proceed together on the city**
 22 **streets and obey all traffic laws is required to**
 23 **obtain a parade permit?**
 24 MR. VACCARO: Objection to form.
 25 A. Yes.
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1 J. Caneco
 2 MS. NEUFELD: I have no further
 3 questions.
 4 MR. VACCARO: A couple of brief
 5 questions on a recross.
 6 FURTHER EXAMINATION
 7 BY MR. VACCARO:
 8 **Q. The wheel report --**
 9 A. Yes.
 10 **Q. -- do you ever recall seeing in the**
 11 **wheel report information regarding activity at**
 12 **critical mass rides?**
 13 A. No.
 14 **Q. But you have seen information**
 15 **regarding political demonstrations?**
 16 A. Yes.
 17 **Q. You mentioned that in preparing your**
 18 **affidavit executed October 2005, that you talked**
 19 **to other people in order to prepare it?**
 20 A. Yes.
 21 **Q. Are you able to recall now any of the**
 22 **individuals who you spoke with in preparing that**
 23 **affidavit?**
 24 A. Uh, I -- yes.
 25 **Q. Who are they?**
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1 **J. Caneco**
 2 A. Lieutenant McGovern.
 3 **Q. And what do you recall was your**
 4 **conversation with Lieutenant McGovern?**
 5 A. Briefly about the, one of those
 6 bicycle rides, the Century Bike Tour?
 7 But I can't provide you with any
 8 other details. I don't recall any other
 9 details.
 10 **Q. But your understanding today is that**
 11 **Lieutenant McGovern was the source of the**
 12 **information regarding the New York City Century**
 13 **Bike Tour that appears in your affidavit?**
 14 A. I don't know if he was the source,
 15 but I recall -- put them both together. I don't
 16 know what -- I'm sorry. I'm trying to help you.
 17 **Q. I appreciate it.**
 18 A. You know.
 19 **Q. If your answer is you can't say one**
 20 **way or the other, that's a fine answer.**
 21 A. I can't say.
 22 MR. VACCARO: I have nothing further.
 23 MS. NEUFELD: I just have one
 24 clarifying question.
 25 FURTHER EXAMINATION
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1 J. Caneco
 2 BY MS. NEUFELD:
 3 **Q. Lieutenant, is there any reason why**
 4 **information on a critical mass bicycle ride**
 5 **might not appear in a wheel report?**
 6 A. It wouldn't appear because I was
 7 present representing the borough so there would
 8 be no need to inform the person on the
 9 switchboard of the event. I would be that
 10 correspondence between myself and say the chief
 11 and/or my unit, the Operations Unit.
 12 MS. NEUFELD: I have nothing further.
 13 MR. VACCARO: One second.
 14 FURTHER EXAMINATION
 15 BY MR. VACCARO:
 16 **Q. During your direct examination,**
 17 **counsel asked you whether it's possible for**
 18 **bicycle rides other than critical mass rides to**
 19 **proceed in an unlawful manner.**
 20 A. Yes.
 21 **Q. And you stated that yes, it was**
 22 **possible?**
 23 A. Without a permit, yes.
 24 **Q. Have you, based on your own personal**
 25 **observations, ever observed a bicycle ride other**
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1 **J. Caneco**
 2 **than a critical mass ride proceeding in an**
 3 **unlawful manner?**
 4 A. I haven't observed any other ride
 5 other than the last Friday of every month
 6 called critical mass.
 7 MR. VACCARO: Nothing more.
 8 THE VIDEOGRAPHER: The time is
 9 approximately 4:15 p.m. We are off the
 10 record.
 11 (Time noted: 4:15 p.m.)
 12
 13
 14 _____
 15 **LIEUTENANT JOSEPH S. CANECO**
 16
 17 Subscribed and sworn to before me
 18 this day of 2007.
 19
 20 _____
 21
 22
 23
 24
 25
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1
 2 **C E R T I F I C A T E**
 3
 4 STATE OF NEW YORK)
 5) ss.:
 6 COUNTY OF QUEENS)
 7
 8 I, ANNETTE ARLEQUIN, a Notary Public
 9 within and for the State of New York, do
 10 hereby certify:
 11 That LIEUTENANT JOSEPH S. CANECO, the
 12 witness whose deposition is hereinbefore
 13 set forth, was duly sworn by me and that
 14 such deposition is a true record of the
 15 testimony given by such witness.
 16 I further certify that I am not
 17 related to any of the parties to this
 18 action by blood or marriage; and that I am
 19 in no way interested in the outcome of this
 20 matter.
 21 IN WITNESS WHEREOF, I have hereunto
 22 set my hand this 6th day of April, 2007.
 23
 24 -----
 25 **ANNETTE ARLEQUIN, CCR, RPR**
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15
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17
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19
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23
24
25

INDEX

Witness	Page
LIEUTENANT JOSEPH S. CANECO	
MR. VACCARO	9, 205,
	207
MS. NEUFELD	195,206

INDEX OF EXHIBITS

Description	Page
Exhibit 1, Notice of Deposition	6
Plaintiffs' Exhibit 2, Declaration of Joseph Caneco	13
Plaintiff's Exhibit 3, Affidavit of Lieutenant Joseph Caneco in the matter of City of New York, et al, v. Time's Up Inc., et al.	55
Plaintiffs' Exhibit 4, Summons dated 8/25/06 to Jacob Elijah Redding	109
Plaintiffs' Exhibit 5, CD	
Plaintiffs' Exhibit 6, Photograph of 14th Street by Union Square and University Place	143
Plaintiff's Exhibit 7, 2006 New York City Cycling Map	148
Plaintiffs' Exhibit 8, Report on bicyclist fatalities and serious injuries for the 10-year period 1996 to 2005	178
Plaintiffs' Exhibit 9, CD	188
TSG Reporting - Worldwide	877-702-9580

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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ERRATA SHEET FOR THE TRANSCRIPT OF:
CASE NAME: FIVE BBC v. CITY OF NEW YORK
DATE: APRIL 5, 2007
DEPONENT: LIEUTENANT JOSEPH S. CANECO

Pg.	Ln.	Now Reads	Should Read	Reason
7	—	—	—	—
8	—	—	—	—
9	—	—	—	—
10	—	—	—	—
11	—	—	—	—
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14	—	—	—	—
15	—	—	—	—
16	—	—	—	—

LIEUTENANT JOSEPH S. CANECO
SUBSCRIBED AND SWORN BEFORE ME
THIS ____ DAY OF _____ 2007.

(Notary Public)
MY COMMISSION EXPIRES: _____
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A				
abide (1) 189:10	administer (1) 4:13	4:2,6,10 145:6	anymore (1) 41:9	approximately (70) 5:10 8:16 9:14 15:22
abiding (2) 171:23 172:2	administrative (1) 116:22	Ah (1) 143:20	apologize (1) 44:7	15:25 18:10 25:8
able (11) 8:21 10:4 44:10 46:15 61:3 128:20 130:16 133:24 178:8 192:17 205:21	admonish (1) 20:23	ahead (1) 151:20	apparent (1) 114:12	26:18 27:5 28:4
abreast (4) 140:11 170:15 171:15 171:24	Adriane (4) 104:9 107:22 108:10 112:6	al (6) 55:23,23 56:2,3 210:15,15	apparently (3) 69:9 141:13 142:21	29:8 36:4,6,11,14
absence (1) 161:13	adverse (5) 67:17,21 68:12 72:6 103:2	alleged (1) 21:9	appear (4) 103:15 145:20 207:5 207:6	36:21 37:2,11 39:9
absolutely (1) 144:21	advises (2) 149:12 153:5	allow (1) 10:2	appeared (1) 164:15	39:17 42:9,20 46:21
academy (3) 19:5,15,16	advocacy (1) 200:2	allowed (4) 92:7 100:13 113:6 114:6	appearing (1) 5:20	47:2,22 50:8 51:21
accept (1) 145:3	aerial (1) 129:17	allowing (1) 114:12	appears (11) 43:11 44:9,19 45:18 56:7,10 79:7 88:5 88:13 182:8 206:13	52:3,7 53:17 64:23
acceptable (1) 62:24	affidavit (49) 12:12,14 13:5 44:25 55:21,24 56:10,15 56:22,22 57:9 58:14 59:3 61:25 63:19,23 64:11 65:24 66:25 67:23 69:8,14 70:2 70:14 71:5,14 74:23 78:4,11 79:13 80:11 81:4 83:21 84:18 85:12,25 86:12 87:6 87:17,25 89:9 162:22 173:12 198:20 199:11 205:18,23 206:13 210:14	allows (1) 94:23	applicant (2) 190:9 191:2	64:24 65:3,8 73:9
accepted (1) 110:25	affirmations (2) 12:5,8	Alternatives (3) 41:17 74:4 184:11	applicants (1) 189:23	74:15,20 76:22
accommodate (1) 11:4	affirmation (3) 63:18 64:16,22	amended (1) 203:18	application (15) 26:3,13,13 27:2 61:18 61:19 70:23 81:21 83:13 84:5 189:9,11 189:13 190:12 191:5	78:15,17 84:16
accounts (1) 33:23	affirmatively (2) 150:24 165:13	amendments (1) 203:21	applications (8) 26:8 27:21 28:9 72:15 189:15 190:2,6 191:7	86:15 91:17 99:2
accurate (1) 204:7	affirmed (1) 109:24	amount (5) 71:2 79:23 86:5 91:19 203:24	applied (8) 54:2 63:2 75:18 76:4 76:15 180:16 182:3 184:11	101:16 102:5
accurately (1) 7:24	afraid (1) 147:25	and/or (4) 29:13 103:13 197:2 207:11	applicant (2) 190:9 191:2	126:18 130:23
acting (1) 36:19	afternoon (2) 132:3 137:11	Annette (5) 1:24 2:12 5:14 209:8 209:25	applicants (1) 189:23	132:2,14 133:8
action (4) 20:16 63:9 116:21 209:18	agencies (2) 150:19 179:4	annual (5) 16:5,7,9 24:14 181:18	application (15) 26:3,13,13 27:2 61:18 61:19 70:23 81:21 83:13 84:5 189:9,11 189:13 190:12 191:5	141:4,21 143:2,6
activities (11) 32:12,16,20,23 33:8 33:10 58:13 94:12 94:15 100:21 101:4	agents (3) 14:14 29:14,18	answer (23) 10:3,3,13 34:16 42:4 42:11 43:19 52:21 62:15 78:2 99:9 106:3,7 108:2 119:9 119:10 124:5 147:4 160:19 185:24 187:18 206:19,20	applicant (2) 190:9 191:2	159:17 162:19
activity (7) 102:12 115:15 117:5 117:15 144:2 175:8 205:11	aggressive (2) 50:3 173:18	answered (2) 53:4 106:6	applicants (1) 189:23	163:25 164:10
actual (1) 13:4	ago (5) 13:17 21:6 88:22 182:13 183:2	answering (1) 84:9	applicant (2) 190:9 191:2	165:25 166:13,19
addition (8) 30:10 31:5 63:11 78:4 88:3,7,8 166:17	agree (4) 90:21 97:23 149:11 151:17	answers (1) 53:9	applicant (2) 190:9 191:2	169:3 182:13
additional (1) 178:9	agreed (4)	antagonistic (1) 75:5	applicant (2) 190:9 191:2	191:19,23 194:23 195:3 197:25 208:9
address (5) 7:20 11:10,12 31:7 119:2		anticipated (1) 190:10	applicant (2) 190:9 191:2	
adjusted (1) 27:8		anticipating (1) 189:24	applicant (2) 190:9 191:2	

126:8 149:21 178:2 189:2 207:17 asking (13) 14:19 38:7 44:12 45:6 100:5,6,7 140:6 146:12 147:7,13 154:17,19 assert (1) 118:18 assigned (18) 17:3,7 18:8,9,14,17 19:20 25:12 28:23 31:11 33:2 35:7 65:13 83:5 107:10 107:15 184:21 193:8 assignment (4) 18:5,11 20:4 65:15 assignments (1) 18:6 assigns (1) 16:22 assist (1) 25:12 assistance (2) 33:4 184:12 associate (1) 74:2 associated (6) 102:13 103:2,23 105:24 115:15 117:5 association (1) 5:15 assume (3) 128:12 154:19 186:11 assumed (1) 108:20 assuming (6) 9:8 86:13 87:13 144:13 170:17 173:24 assumptions (1) 97:25 attempt (1) 133:22 attempting (2) 107:9 115:3 attendance (1) 5:22 attended (4) 32:7,15,19 33:7 attention (16) 7:14 14:8,16 22:21 36:9 52:18 56:20 57:6 62:9 148:12 149:2,23 195:9 198:17 199:22 203:17	attitude (3) 75:3,9,12 attitudes (1) 75:5 attorneys (3) 3:5,14 4:3 attraction (1) 172:17 August (11) 28:9,13 64:22 109:17 110:14 113:5,17,22 114:5 184:20 200:2 author (2) 12:7,10 authored (3) 198:21 199:14 200:20 authority (1) 123:17 authorized (1) 4:12 available (3) 8:3 94:2 136:2 avenue (15) 2:10 3:6 5:9 51:8 79:19,20 128:8 130:4,7 136:8,11 142:21 168:25 189:25 190:11 aware (42) 22:13 34:11 58:3,4 60:7,7 72:25 76:25 77:5,7,21 92:20 104:22 113:4 114:5 115:14 117:4,6,9 147:22 149:21 157:3 159:8 177:3 180:10,13,24 181:7 181:10,25 184:18 185:3 186:4,8,9,19 195:18 199:19 202:4 203:10,20,23 a.m (8) 2:5 5:10 8:16 52:3,7 74:20 170:5,6	122:13 131:19 134:20 146:19,21 157:2 164:14 185:11 186:13 background (1) 17:20 bad (4) 153:2 154:9,16 155:18 barring (2) 8:22 158:12 base (1) 71:13 based (17) 13:23 14:12 29:22,25 44:19,25 48:22 64:13 94:25 95:2 96:8 111:8,23 112:25 127:7 201:5 207:24 basically (1) 69:4 basing (1) 78:20 basis (28) 8:25 29:11 34:24 62:23 71:23 78:10 79:13 85:7,11,18,23 86:17 103:9,24 105:7,8,25 108:18 111:3,25 120:15,19 126:7,11 128:10 163:19,23 183:4 Battery (1) 196:3 BBC (1) 211:3 bear (1) 137:7 becoming (1) 53:24 befuddled (1) 139:15 began (1) 65:2 beginning (4) 129:15 130:10 132:16 192:6 begins (1) 14:8 behaved (4) 43:15,17 44:3,4 behavior (1) 171:17 belief (3) 107:5 163:17,21 believe (19) 8:20 14:11 54:15 94:10 95:10 102:23	106:20,22 123:11 139:18 155:20 163:7 165:20,23 171:13 182:22 199:13 201:10,15 believed (5) 81:6 163:16,24 166:7 183:3 believes (1) 94:13 believing (1) 183:4 bell (1) 82:7 beneath (1) 149:5 best (8) 48:12 67:15,19 85:5 86:10 121:12 166:22 197:12 better (5) 45:5 51:23 61:6 95:9 121:10 Beware (1) 150:9 bicycle (198) 1:4 5:5 15:5,9,13,19 15:20,23 16:6,13,23 17:3,8 21:10,21,25 22:11,17 23:3,4,8 23:11,15,20,22 24:2 24:12,13,15,23 25:15,18 26:4,14,16 26:18 27:3,19 29:6 29:24 30:7 31:3,6 31:12,15,25 32:7,10 32:14 33:3,7,14,25 34:8,14 35:20 36:11 36:16,22 37:7,12,18 37:23,24 38:9 39:9 39:13,18,25 41:22 41:23 42:8,8,15,19 42:23 43:10 44:9,13 44:18,20,22 45:10 45:18 46:10,17,21 46:23 47:8,17 56:17 56:25 58:6 64:3,4,5 64:8,12,19 67:3 68:13 69:23 70:11 72:7,13,17,18,23 73:16,19,25 74:2,8 76:9,14,21 77:3,22 82:17,23 83:6,12 84:15 85:8,9,20,21 94:21 95:10,12 101:3 102:13 103:3 103:13,21 105:22 118:3,11 119:5,16 120:2 122:16,17	123:5 125:4,5,11,22 126:15,17,20 137:3 139:20 140:9,19 141:3 144:2 151:21 152:12,17 159:11 162:14,18 163:24 169:25 173:24 174:23,24 175:6,9 177:5,18 179:10,18 180:3,12,15,17,21 184:16,24 185:16 185:25 186:11,14 192:2,24 193:8,17 200:2 201:19,20,23 201:24 206:6 207:4 207:18,25 bicycles (6) 92:19 94:8 125:14 133:15 174:14,21 bicycling (1) 100:21 bicyclist (28) 90:8 122:20 125:3,10 132:6,10 139:13 146:4,13,22 147:8 152:20 153:10 155:25 156:8,16,19 157:24 158:5 159:23 160:5,11 161:11 174:19,24 178:16 179:7 210:23 bicyclists (129) 38:6 45:16 46:4,8 51:22 58:18,23,25 59:10,24 60:12,14 61:8,12,23,24 62:2 62:11 75:3 80:4 81:7,11 83:8 90:11 91:5,13,19,20,22 92:22 93:5,15,25 94:12 95:16,23 96:3 96:10,17,21 97:12 97:16 98:9,18,24,25 99:13,14,19 100:2,4 121:4,5 122:2,3,12 122:13 123:12,23 124:7,8,16 125:13 126:24 130:19,24 131:2,10 132:15,21 132:23,25 133:8 135:6,15,21,25 136:3,9,21 137:4,13 137:19,20 138:8,11 138:16,20 139:6,7 140:2 141:15,21,23 142:7 147:18 149:12 151:10 153:5 155:2,6 157:6
---	--	--	--	---

B**B (1)**

210:9

back (43)

26:10 43:22,24 47:13
47:14 52:13 57:15
57:21,22,23 58:13
59:15,24 60:2 62:20
66:23 70:21,24 73:8
75:23 85:14,16
87:20,22 92:24
105:15,18,19
107:20 108:5,7
117:20 121:14,16

157:9,14 158:14 159:17 161:8,17,22 162:4 163:8 165:10 165:18,21,25 166:12 168:4 169:3 170:11 171:14,22 174:22 177:8,22,23 179:17 192:16,19 193:19	172:23 191:17 194:16,17 breaking (2) 99:22,23 Brendan (2) 3:10 5:24 brief (1) 205:4 Briefly (1) 206:5 bring (5) 11:24 124:4 149:23 202:15,16 Broadway (2) 96:18 97:19 Brooklyn (12) 22:11,14 114:7,12 115:15,22 116:3,12 116:25 117:8,9,18 brought (1) 52:18 building (2) 144:15,16 bumper (2) 156:25 157:10 Bureau (1) 20:6 bus (1) 146:2 business (4) 8:7,22 11:10,12 busy (1) 185:21	7:1,8 8:1,19 9:1,4 10:1,18 11:1,11,14 12:1 13:1,8,11,15 14:1 15:1 16:1 17:1 17:20 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 35:9 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1,17 53:1 54:1 55:1,22,25 56:1,6 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 74:24 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1,11 95:1 96:1 97:1 98:1 99:1 100:1 101:1,8 102:1 102:11 103:1 104:1 105:1,9 106:1,11,20 106:25 107:1 108:1 109:1,19 110:1 111:1,14 112:1 113:1,4 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1,13 127:1,3 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1,16,25 144:1 145:1 146:1 147:1 148:1 149:1,5 149:12 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 178:21 179:1,23 180:1 181:1 182:1 183:1 184:1 185:1	186:1 187:1 188:1 189:1 190:1 191:1 191:25 192:1 193:1 193:14 194:1 195:1 195:7 196:1 197:1 198:1 199:1,21 200:1 201:1 202:1 202:22 203:1 204:1 205:1 206:1 207:1 208:1,14 209:11 210:4,13,14 211:5 211:19 capable (1) 137:14 capacity (5) 22:16,23,24,25 29:3 captain (2) 1:12 32:5 caption (1) 149:4 captions (1) 189:10 captured (1) 131:14 car (23) 75:11 97:6 98:12 129:14 142:19,19 145:17 150:9,15 152:3,8,15,17,22,25 153:4,8,23 154:8 155:11,22 156:2 160:17 care (1) 91:7 careful (2) 150:11 153:23 cars (33) 50:4 51:11 60:17,24 60:24,25 97:22 98:5 98:6,7,7,10,19 122:13 135:4 138:4 138:6,19,22 147:20 149:14 150:10,16 150:21 151:16,23 153:12,19,21,25 157:20 160:15,16 case (18) 9:22 35:12 57:15,24 61:17 79:16 103:22 105:23 112:6,16 119:4 124:16,22 135:14 162:13 177:12 186:5 211:3 cases (6) 27:15 67:7 112:18 122:19 166:18 172:20 catch (2) 49:16,19	category (1) 41:23 caught (1) 49:17 cause (9) 60:23,24,25 97:22 98:4,9,19 163:10 171:16 caused (4) 81:7 83:11 161:11 164:2 causing (4) 97:19 164:19,23 173:19 CCR (2) 1:24 209:25 CCRB (1) 21:11 CD (4) 127:24 188:17 210:18 210:25 center (2) 146:5,24 Central (3) 82:5,7 196:3 Century (15) 41:17,19 42:8 182:8 182:20 183:20 184:5,25 185:5 186:24 187:9,11,16 206:6,12 certain (13) 43:6 100:21 101:3 126:16 158:13 159:3,6,7 172:12,13 172:13 181:19 197:10 certainty (1) 193:18 Certified (1) 2:12 certify (2) 209:10,16 change (8) 25:20 52:12 53:9,12 122:9 142:24 163:23 187:15 changed (2) 111:19 163:17 changes (1) 40:17 Changing (2) 74:18 143:4 channel (1) 69:20 characterization (4) 46:16 81:3 95:22 131:6
	C			
big (2) 43:13 66:22 bike (25) 38:14,25 39:3 41:19 45:2 47:20 57:10 58:20,21 59:18 64:9 65:7 156:6 168:19 172:12 182:8,20 183:20 184:5 186:24 187:9,12,16 206:6,13 bikes (4) 57:16,24 165:14 202:6 bit (7) 9:18 10:19 20:3 50:3 73:22 110:3 195:14 blind (1) 10:16 block (2) 130:4,5 blocked (1) 79:19 blocking (1) 46:18 blood (1) 209:18 BLYTHE (1) 1:5 Board (1) 20:25 borough (32) 1:4,11 5:5 18:5,8,11 29:4 67:25 72:18,23 73:16 102:14,20 103:17,19 169:25 172:11 180:15,22 195:15,18,20,21,23 196:10,18,20 197:2 197:4,16,21 207:7 boroughs (1) 176:9 bottom (3) 14:8 148:13 179:2 brake (1) 139:16 break (12) 10:25 48:3 50:12 51:25 52:17 93:8 101:14 162:5	C (7) 3:2 6:9,9 102:7,7 209:2,2 cab (1) 152:21 CALDON (4) 3:10 129:22,25 131:24 Caldron (1) 5:24 call (12) 14:21 19:3,14 45:20 103:8,19 145:6 191:3,5 196:22 197:5,9 called (4) 6:9 67:25 103:7 208:6 calling (1) 103:15 Canec (1) 110:3 Caneco (253) 1:17 2:9 5:4,21 6:16			

characterize (2) 75:2 136:3	210:15,21 211:3	177:14,23	conceivably (1) 141:6	171:23
characterizes (1) 126:14	Citywide (1) 18:14	Collins (2) 3:22 5:11	conceive (1) 141:20	constitute (2) 37:24 60:2
characterizing (2) 49:2 80:12	city's (1) 56:16	collision (1) 177:17	concern (1) 26:5	constituting (1) 109:3
charge (1) 195:17	Civil (1) 6:23	color (1) 139:4	concerning (3) 27:10 64:12 183:10	consult (1) 123:16
charity (2) 24:15 69:16	civilian (3) 20:25 192:25 193:19	Columbia (1) 168:18	conclude (1) 89:10	consulted (1) 68:11
check (1) 60:8	civilians (3) 193:23 194:3,7	come (16) 23:24 62:8 71:16 97:7	concludes (1) 74:17	contact (4) 83:7 181:4,9,15
checking (1) 76:15	Civ.2488 (1) 1:7	121:13 122:12	condition (4) 51:11 138:19,22	contain (3) 15:16 198:13 200:14
chief (7) 32:2 189:17 196:19	claiming (1) 120:16	123:18,20 124:15	142:11	contained (6) 197:22 199:15 200:11
196:19 197:2,15	Clancy (1) 128:5	156:24 157:9	conditions (2) 158:13,13	200:23 201:11,15
207:10	clarification (4) 7:13 39:5 54:8,12	162:11 203:17	conduct (29) 36:18 37:2,22,24 43:3	context (3) 48:11 72:23 81:2
choice (1) 189:5	clarifications (1) 7:25	7:13 83:19 155:14	43:6,7,12 44:21	Continuing (2) 72:10 74:23
choose (1) 139:7	clarified (2) 7:15 202:5	173:7	47:21 49:2 51:12	contrast (1) 65:25
choreographed (1) 141:14	clarify (4) 10:11 52:15,20	comfort (1) 10:25	57:2 64:2 65:25	contrasting (2) 66:15 67:2
chronological (1) 18:4	204:10	comfortable (1) 11:3	76:8 103:20 105:21	Control (1) 20:5
Church (1) 3:15	clarifying (1) 206:24	coming (4) 122:21 124:19 168:11	109:2 112:9 162:21	controlled (4) 141:8,10,12,13
circumstance (2) 123:9 141:20	classic (1) 124:16	168:12	167:3,4 180:17	Cont'd (1) 102:9
circumstances (15) 8:23 14:11 26:2 40:22	clear (6) 133:24 134:18 185:15	command (8) 31:23 67:25 195:15	184:6 192:15,18,24	conversation (4) 29:21 183:7,10 206:4
104:25 107:21	185:24 191:6 202:6	195:18,20,25	193:16	conversations (5) 14:13 29:14,17,23
108:9 111:11	clearly (4) 10:2 101:5,9 108:23	196:18,19	conducted (5) 72:15 125:22 126:25	200:22
123:10 124:6	clears (1) 134:6	Commanding (1) 1:11	184:25 185:6	conducts (1) 170:2
126:17 160:3 162:3	Clerk (2) 3:9,10	commencement (2) 116:13,16	confer (1) 8:9	conferring (1) 8:18
181:25 187:7	clerks (1) 5:22	COMMISSION (1) 211:25	confirm (4) 75:16,25 76:7,12	confirming (1) 76:11
citizens (4) 45:12 118:5 119:17	click (5) 189:4 190:17,18,20	commissioner (3) 1:10 179:3,4	confirming (1) 76:11	confused (2) 139:16 174:17
120:4	190:21	compared (3) 81:10 192:19,25	confused (2) 139:16 174:17	connection (19) 12:22 13:2 15:4,8,13
city (64) 1:9,10,12 3:12 5:6	close (5) 8:6,21 10:16 25:24	Complainant (1) 109:23	confer (1) 8:9	16:12 17:16 29:19
14:14 29:15,19	65:5	complaint (5) 20:25 21:7,8,12,14	conferring (1) 8:18	30:8 31:2 33:13,24
41:19 42:7 54:3,5	clothes (1) 139:4	complete (2) 189:10 192:6	confirm (4) 75:16,25 76:7,12	35:19 59:17 64:18
55:22 56:2,11 57:11	Club (10) 1:4 5:5 72:18,23 73:3	completed (1) 189:15	confirming (1) 76:11	67:22 105:10 107:6
57:17 58:2,7 60:23	73:12,16,20 169:25	completely (2) 94:3 172:2	confused (2) 139:16 174:17	110:13
68:5 73:12 92:10,13	Code (1) 116:22	completion (1) 189:9	connection (19) 12:22 13:2 15:4,8,13	16:12 17:16 29:19
92:15,17,18 93:2,11	cohesive (1) 165:16	complies (3) 48:20 148:17 190:22	30:8 31:2 33:13,24	30:8 31:2 33:13,24
116:9 147:18 148:2	collided (2)	composed (1) 126:24	35:19 59:17 64:18	35:19 59:17 64:18
148:9,20,21,21,24		conceding (1) 128:15	67:22 105:10 107:6	67:22 105:10 107:6
150:18 152:14			110:13	110:13
153:8 154:10 159:4			consider (16) 37:6,10 40:3 41:8,22	considered (1) 58:17
159:8,13 168:20			42:7 43:15,16 44:2	consistency (1) 114:24
171:15 176:6 179:4			44:3 58:17 96:9,21	consistent (1)
182:20 183:20			96:23 100:3 157:21	
184:4,25 185:5			considered (1) 58:17	
189:16 198:21			considered (1) 58:17	
202:5 203:8,18			consistency (1) 114:24	
204:4,21 206:12			consistent (1)	

cork (3) 49:15 51:7,7	31:11	133:7 134:2,7,14,17 134:21,23	109:12 210:16	145:9
corking (11) 45:21 90:6 91:20,21 92:2,3 95:19,23 96:7,10,21	covered (1) 17:8	cross-examining (2) 202:20,22	day (10) 131:23,24 137:8,8 168:6 170:4 180:23 208:18 209:22 211:21	demonstration (3) 141:17,17 198:9
Corporation (3) 3:13 6:3,6	covers (1) 179:16	crowd (2) 168:11,12	days (1) 170:12	demonstrations (2) 198:8 205:15
correct (45) 9:8 13:25 21:23 43:12 48:23 52:21 53:6,7 54:17 55:19 56:12 64:10,15 66:14 70:13 87:12 95:20 112:5,20,23 113:12 128:14 133:19 134:8 145:7,18 146:7 147:2 154:22 155:3,11 158:8 173:2 177:20 178:13 183:2 192:7 196:7 199:2,16 201:8,12,13,17,21	create (11) 51:9 62:12 138:14,17 138:18,18,21 139:23 142:5 166:2 169:3	cruising (2) 142:12,15	Debevoise (5) 2:10 3:4 5:7,19,23	department (35) 1:10,12 3:12 14:13,18 16:12,22 17:2,7,22 17:25 18:7 54:3 57:3 58:12 68:9,19 86:24 113:6 114:6 115:3,19 116:11,20 148:21,22,22 150:18 151:6,12 176:22 184:12 189:16,17 202:8
corrections (3) 7:20 8:6,21	created (1) 174:5	cue (1) 172:20	December (3) 18:25 19:9,9	department's (1) 113:10
correctly (4) 35:21 67:14 70:18 198:23	creating (4) 51:10 140:15,17 169:7	curb (25) 91:14,14,22,22 92:25 92:25 93:25,25 94:9 94:9 95:16,16 96:2 96:2 140:11,11,12 140:12,13,15 142:20 151:22 152:18,25 156:15	decided (1) 160:10	depend (3) 31:21 47:20 165:7
correspondence (1) 207:10	Crime (1) 18:15	curbside (1) 142:16	deciding (2) 37:7,11	depending (7) 37:2 51:5 96:8 139:3 142:7 165:15 196:17
counsel (23) 3:13 5:16 6:21 7:6 8:9 11:17 52:9,14,19 54:13 55:3 61:20 63:11 74:10 106:6 126:4 142:8 150:24 165:13 185:13 202:10,12 207:17	crimes (1) 198:7	current (1) 164:9	declaration (60) 13:8,10,22 14:4,20 17:17 21:20 22:20 29:2,10,20,22 30:3 30:4,8,21 35:10,11 36:8 37:8,13,25 41:17,25 42:10,14 43:11 44:10,12,19 45:9,24 47:8,18,25 55:5 100:25 103:22 105:13,22 106:19 117:21 123:4 128:5 135:17 160:24 162:13 173:9,13 176:21 181:25 182:10 184:9 188:10 189:22 198:25 199:7,14,15 210:12	deponds (6) 37:22 43:3 51:6,11 138:13 162:20
Counselor (1) 71:20	critical (121) 21:21 22:7,10,13,18 23:2 24:2,13 28:16 29:5 30:11,17 31:12 31:24 32:6,10,14,18 33:2,6,14,25 34:8 34:14 35:7,19 38:13 38:24 39:3,8,13,17 39:24 40:11,23 41:3 41:8 42:19 45:2 47:19 56:17,25 58:13 59:17 64:2,4 64:9,13,19,25 65:7 65:19,25 66:15 67:3 67:10 73:25 75:6 80:4 81:7 84:3,24 85:8,20 86:3 103:12 103:21 104:10 105:11,21 106:21 107:7,8,11,23 108:11 110:14 113:6,16,22 114:6 114:13,15 115:4,11 115:16,19,22 116:25 117:9,11,18 119:21 120:2,13,17 120:21 121:17 154:21,23,25 155:6 174:12 175:6,9 192:2,12,16,19,24 193:8,16,24 194:4 201:20,24 205:12 207:4,18 208:2,6	curve (1) 185:8	declarations (3) 94:5 106:13 126:10	depicted (1) 156:17
counsel's (3) 6:3,6 204:5	crossing (4) 134:11 160:11 161:9 162:6	custody (5) 20:13 53:2,6,14,23	deemed (1) 27:14	depicts (1) 155:10
counter (1) 71:19	crosswalk (10) 130:6 132:11,17	customary (1) 83:5	defendant (1) 20:7	DEPONENT (1) 211:5
COUNTY (1) 209:6		cut (1) 110:3	defendants (6) 1:13 3:14 6:4,4 52:14 56:24	deposition (24) 1:15 2:8 4:11 5:4,8,21 6:4,15,18,22 7:9 11:2,14 12:22 22:6 54:14,16,20 55:2 90:24 201:18 209:12,14 210:11
couple (7) 30:19 80:25 153:2 177:6,7 198:4 205:4		cutting (2) 161:4,9	defendants (6) 1:13 3:14 6:4,4 52:14 56:24	depositions (4) 9:12,15 12:5,8
course (6) 9:19 25:16 26:7 79:24 196:19 201:18		Cycle (3) 73:3,12,20	defending (1) 6:4	deputy (1) 32:4
court (14) 1:2 2:11,12 4:15 5:6 5:14 6:25 7:3,13,16 9:19,21,24 35:10		Cycling (4) 148:2,9,20 210:21	define (5) 36:15 37:7 41:24 44:13 126:16	describe (33) 20:3 21:3 30:11 40:10 40:21 82:25 86:10 90:10 91:4 96:6 103:6 107:21 108:8 118:22 121:2,22 123:3 125:19 127:4 134:16 136:20 137:24 160:25 162:24 166:22 171:17,21 172:4 173:16 174:11 177:21,25 195:13
courtroom (2) 9:12,13		cyclists (27) 36:12,14 37:18 42:9 42:20 46:22 48:7,24 49:3,5,6,8,10 50:14 50:19 64:17,23 126:18 150:19 162:19 173:17 174:5 182:2 186:25 204:3,19,20	definition (7) 36:21 37:17 44:17 46:9,22 92:2,3	described (12) 90:13 94:12 95:19
cover (1)		dated (2)	demonstrate (1)	
		D		
		D (2) 210:2,9		
		daily (5) 68:4 71:22 72:8 102:12,17		
		date (11) 6:19 13:12 56:4 109:14,16 127:25 143:14 148:10 178:19 188:18 211:4		

98:21 102:19,23 126:13,19 135:15 155:5 157:10 180:23	168:13 direct (5) 31:10 32:11 62:15 84:8 207:16	disrupting (2) 169:6 172:25 disruption (24) 78:8 79:10,21 80:5,14 80:19 81:6 83:11,17 83:18,24 87:7 89:12 97:19 100:3 161:10 163:3,10 164:3 166:3 167:7,19 169:4 171:16	duly (2) 6:10 209:13	63:9 116:12,21 Enforcing (1) 20:5 engages (2) 43:5,6 engaging (1) 57:2 enjoining (1) 56:24 ensure (1) 30:25 entangled (1) 177:8 enter (2) 133:23 134:18 entering (1) 133:6 entire (6) 84:9 116:8 134:7 146:15 147:11 161:2 environment (5) 139:24,24 140:17 142:6 169:8 Environmental (1) 20:5 equipment (2) 88:18 174:8 ERRATA (1) 211:2 escort (5) 25:12 82:12,18 97:12 161:13 escorted (2) 82:9 97:3 ESQ (3) 3:8,17,18 establish (1) 89:6 established (3) 76:22 126:23 193:4 estimate (3) 23:25 65:5,6 et (6) 55:22,23 56:2,3 210:15,15 evening (2) 107:11 110:17 event (22) 7:24 25:12 73:11,15 73:17 83:14 84:20 84:22 86:20 103:12 141:9,10,12 181:3,5 181:13,19 184:10 190:10 198:12 200:15 207:9 events (14) 25:6,8,15 60:10 69:15
describing (13) 23:19 61:5 63:23 84:2 97:13 103:24 105:25 119:18 125:3 127:11 144:2 169:12 171:5 description (4) 38:24 103:20 105:20 210:10 desire (1) 7:3 desk (4) 76:10,19,21 77:11 destination (4) 82:2,6 172:18,19 detail (17) 14:21,22 15:11,18 16:4,10,20,21,25 17:9,16 23:18 30:25 33:12,13 187:4 195:14 detailed (2) 15:23 178:9 details (6) 27:10 41:2 183:10 198:18 206:8,9 determination (2) 63:8 94:19 determine (5) 34:24 68:12 192:17 197:8,15 determining (1) 25:11 deterred (1) 134:11 devised (1) 68:9 dialogue (1) 115:7 dictating (2) 92:7,8 different (16) 15:19,22 17:8 27:24 39:23 41:11,11,13 41:14 45:8 92:4 113:3 140:25 166:8 171:6,9 differs (1) 64:5 difficult (4) 100:17,19 161:3 176:21 digital (1) 133:12 dinner (1)	directed (3) 32:16,20 33:7 directing (5) 31:6,14,19 88:4 161:14 direction (3) 45:4 140:20 154:7 directions (1) 41:14 disagree (2) 151:17 203:3 disciplinary (2) 20:16,20 disclose (1) 54:4 discuss (11) 8:11 24:24 25:3 39:4 64:17 69:9 90:22,22 149:17,20 193:11 discussed (4) 41:16 135:11 187:16 200:16 discussing (5) 23:5 67:9,23 95:15 187:11 discussion (3) 64:11 182:7 195:10 discussions (1) 25:14 dismissal (1) 105:2 dismissed (6) 104:23 107:23 108:12 108:15,24 112:7 disobey (1) 193:24 disobeying (2) 137:4 194:4 dispense (1) 7:7 displaced (1) 46:13 disposition (2) 20:22 21:17 disregard (1) 173:18 disregarding (1) 173:25 disrupt (13) 45:11 118:3,20 119:5 119:16 120:2,17 162:14 165:19,22 169:17 173:3 201:25	distance (2) 98:24 99:19 distinction (1) 111:7 distinctive (1) 73:22 distribute (2) 13:6 55:20 distributing (1) 6:14 DISTRICT (2) 1:2,3 document (9) 58:8 103:15 123:16 149:8,16,20 178:22 200:10,24 documents (9) 11:21,24 12:3,18,21 13:16 17:15 183:13 183:16 Doe (2) 1:12,12 doing (4) 100:18 131:10,13 133:15 doors (4) 150:9,11 152:4 153:22 double (3) 140:15 160:11 161:9 double-parked (2) 136:14 142:22 dozen (4) 25:22 69:3 164:24 165:6 draw (7) 14:7 22:21 36:9 56:20 148:12,25 190:10 drawing (2) 13:4 57:6 drawn (1) 58:8 due (4) 48:9 50:16,24 184:9	E (13) 3:2,2 6:9,9 102:2,2,7 102:7 209:2,2 210:2 210:9,9 earlier (12) 48:22 54:13 69:3 76:22 88:21 102:24 135:11 193:7 195:10 198:18,24 204:2 east (6) 78:13 79:20 81:14 82:7 85:10,22 eastbound (16) 145:5,11,22,25 146:4 146:14,23 147:9 152:8,22 156:11,16 156:20 159:18 161:22,23 easy (2) 123:25 124:3 edge (1) 152:7 effect (10) 4:14 59:2 62:17 67:18 72:6 116:18 118:12 118:21 126:14,19 effects (2) 67:21 68:12 eight (1) 65:15 Eighteen (1) 53:21 either (8) 14:9 84:19,20,22 93:18,19 127:5 173:5 Elijah (3) 109:13,16 210:17 ELIZABETH (1) 1:6 else's (1) 166:9 emergency (1) 160:15 employees (3) 14:14 29:15,18 employment (1) 20:15 enable (2) 10:13 123:22 enforced (1) 63:6 enforcement (3)	

69:16 71:16 73:9 84:23 139:20 154:12 176:24 177:7 185:23 eventually (1) 173:10 everybody (3) 49:16 99:11 122:10 evidence (2) 7:4 9:21 exactly (2) 34:22 198:24 examination (7) 9:2 102:9 195:5 205:6 206:25 207:14,16 examined (3) 6:11 188:20 189:6 example (5) 89:19 90:2 121:10,12 139:14 examples (3) 140:7,8 198:4 excess (1) 169:13 excuse (1) 191:19 executed (1) 205:18 exhibit (54) 6:14,17 13:7,10,13,20 55:6,9,20,24 56:8 63:20 84:11,13 88:9 109:11,12 117:24 117:25 127:24 128:4,23 143:9,11 147:24 148:8 153:15 162:23 173:14,15 178:15 188:16,17 198:20 199:8,12,22,23 200:5,12,13,15,17 200:21 201:16 210:11,12,14,16,18 210:19,21,22,25 existed (1) 117:17 exiting (2) 79:19 80:17 expeditiously (1) 7:5 experience (1) 181:21 experiences (1) 153:7 EXPIRES (1) 211:25 explain (8) 49:12 70:8 95:13 98:5 100:18 104:25	120:10 126:7 explained (5) 70:10 98:21 105:9 107:2,5 explore (1) 107:9 exploring (1) 35:14 expressed (3) 100:9,20,24 extent (5) 25:23 69:20 117:18 177:10 178:6 extremely (2) 98:2 176:21 eyes (1) 164:17	F	F (3) 102:2 209:2 210:9 Fabulous (1) 73:20 facilitate (3) 23:21 82:19 83:3 facing (1) 145:5 fact (7) 7:19 90:19,20 91:3 154:20 165:24 182:25 facts (2) 14:10 61:7 failing (1) 115:21 fair (1) 131:6 fairs (1) 60:9 falls (1) 46:9 familiar (7) 14:10 72:20 92:5 144:16,23 147:17 187:21 far (7) 51:4 68:25 69:6 152:24 153:4 164:16 194:13 fare (1) 142:12 fast (2) 73:19 129:25 faster (1) 158:11 fatalities (6) 178:16 179:7,9,17 180:11 210:23	FDR (1) 156:7 February (7) 104:10 106:12,23 107:23 108:11 116:23 180:17 Federal (1) 6:23 feedback (1) 67:17 feet (21) 147:19 149:13 150:16 150:20 151:16 152:7,15,16 153:2,6 153:8,9,11,24 154:7 154:10,12,14 155:11,14,21 Field (1) 19:4 fielded (1) 16:12 Fifteen (1) 175:25 Fifty-eight (1) 132:13 file (4) 115:4 170:14 171:15 171:24 filed (2) 25:4 28:9 filing (1) 4:4 film (1) 128:19 filmed (1) 129:17 filming (1) 128:18 final (1) 8:2 finally (1) 29:12 find (2) 27:6 93:9 fine (5) 7:17 78:2 172:24 179:22 206:20 finish (6) 44:15 48:2 124:11,12 164:6 170:6 first (26) 14:9 18:17 21:5 36:9 45:8,23 46:10 56:21 57:4 65:15 67:11 110:2 118:18 120:24 121:20 123:3 125:19 132:6 135:16 149:25 151:5,18 162:12	186:8 195:9 203:10 firsthand (3) 23:2 29:5 199:9 five (16) 1:4 5:5 36:7 71:21 72:18,22 73:15 92:8 92:23 98:12,18 142:9 169:24 172:11 180:15 211:3 five-minute (1) 52:11 fixed (3) 117:10,14,14 flank (1) 97:10 flanked (1) 97:5 flaw (1) 180:4 flip (2) 148:16 178:24 flow (18) 60:18 92:6 96:11,12 97:22 138:3,13,15 138:16 142:7 158:3 158:7,10,12 159:2 172:9,23 174:8 focus (1) 48:13 focusing (3) 14:16 28:25 76:13 follow (5) 48:7 50:15,20,23 155:16 following (1) 189:8 follows (14) 6:12 29:9 43:24 47:14 57:22 75:23 85:16 87:22 102:8 105:19 108:7 121:16 126:12 146:21 follow-up (1) 195:8 force (1) 4:13 forgot (1) 123:19 form (126) 4:7 16:18 30:13 31:8 31:16 34:2,6,15 36:17 42:5 44:23 46:5,25 47:9 59:12 61:13,16 62:6 69:25 70:3 75:8 77:9,24 80:8 81:9 84:7 85:11,13,23 89:23 91:24 92:11 97:14	102:16 103:4 104:2 104:5 106:14 107:24 108:19 109:4 111:4,15 112:4,10 113:8,18 113:24 114:3,8,16 114:20 115:6,25 116:4 117:12 118:14,23 119:19 120:8 121:9 124:2 124:10 125:7,16 132:18 133:10,20 134:9,25 135:10,23 137:6,22 138:12,23 139:8,12,22 140:5 140:22 141:19 146:8,16 147:3 149:15 150:22 151:2,14,19 155:12 156:12,22 157:5,11 157:17 158:18,25 160:7 161:19,25 163:12 165:3 166:6 167:11,12 169:5,19 169:22 170:21 173:6 177:15,24 179:12 183:6 185:18 186:3 192:21 197:18 199:3,17 200:25 201:7 202:2 204:17 204:24 formation (2) 181:3,14 forth (5) 14:11 94:4 182:16,23 209:13 forward (4) 129:25 189:15 191:11 191:13 forwarded (3) 191:7,8,9 foundation (2) 35:14 202:14 four (9) 15:25 24:4,5,6,9,12 24:15 138:21 141:5 frame (7) 19:19 24:7,8 28:5,6 65:10 76:24 free (2) 138:21 148:4 Freewheels (2) 86:16,23 Frequently (1) 189:2 Friday (6) 22:2 28:17,22 117:2 168:9 208:5
---	--	----------	---	--	--	---

friends (1) 80:2	going (55) 7:22 35:3,15 51:7 58:20,21 59:5,21 60:5,6,9,11,19,20 61:11 68:5 69:4,5 71:17 72:12 77:4 79:20,24 87:11 92:8 92:24 93:12 95:2,2 95:11 97:24 98:12 101:7 121:7 122:5 127:2,22 128:2 131:4 135:8 138:2 139:13 140:20 146:5,11,24 147:6 149:6 158:7 171:2 175:3 181:18 188:15 191:15 194:13	51:18,20 57:10,16 57:24 58:5,17,24 59:24 64:17,22 65:21 67:3 69:2,22 72:13,15,17 73:19 73:25 74:7 76:13,15 76:21 77:2,21 78:14 79:5,17,17 80:3 81:11,17,24 82:3,8 82:17,22 83:6,7,8 83:11 84:15 85:10 85:22 86:4,6,7,16 89:8 90:11 94:12,21 95:10,12 96:2 97:7 97:8,9,12,16 98:17 101:3 102:13 103:2 103:21 105:21 118:3,11,16,19 119:4,16 120:2,16 122:16,16 123:5 124:6,7 125:13,22 126:15,17,20,22 130:18,24 132:15 133:7 135:21 136:9 137:3 139:20 140:8 140:18 141:3,15,21 144:2 159:16 161:4 161:7,21 162:14 163:7,13 164:9 165:9,16,18,21,24 166:11 169:2,17 172:15 177:4 179:10,18 180:3,12 180:17 185:25 186:11,14 192:16 200:2 204:3,19,20	42:24 handling (1) 185:22 happen (8) 40:14,16 45:12 118:5 120:4 139:17,21 181:17 happened (4) 45:22 103:25 106:2 123:7 happening (2) 164:22,22 happens (7) 40:11,13 49:13,25 123:19 133:16 139:9 hazard (1) 173:5 hazards (1) 180:2 head (3) 10:7 69:17 152:2 heard (2) 72:19 74:5 hearing (2) 7:2 73:7 heavy (1) 138:17 held (6) 2:9 5:8 7:2 28:16 117:2 134:20 helicop (1) 34:6 helicopter (1) 33:24 helicopters (1) 34:7 help (4) 9:17 11:2 123:17 206:16 helpful (1) 39:6 hereinbefore (1) 209:12 hereunto (1) 209:21 he'll (2) 146:9 147:4 hierarchy (1) 31:24 high (1) 96:14 higher (1) 80:24 highest (1) 31:21 highways (2) 92:16 159:6	hindsight (2) 37:4 47:3 hinges (1) 43:11 hit (2) 75:11 139:16 hits (2) 132:7,11 hold (8) 79:16,25 80:9 95:23 100:23 126:3 150:4 165:14 holding (1) 79:22 homicide (1) 198:8 honest (1) 159:4 hope (1) 133:21 host (2) 173:19 174:4 hour (21) 60:18,21,22 92:8,23 96:15 97:20 98:12 98:19 157:23 158:6 158:12,16,24 159:12,24,25 161:24 169:13 175:23 176:15 hours (2) 169:11 195:16 hundred (1) 176:11 Hundreds (1) 65:23
G				
gas (1) 139:16 gather (2) 70:6,9 gathered (2) 69:21 183:13 general (3) 20:6 106:17 203:13 generally (3) 17:11,13 68:18 generous (1) 47:5 gesture (1) 10:8 getting (4) 57:13 61:2 99:21,23 give (10) 10:6 17:5 44:17 46:15 52:11 68:18 92:3 121:10 168:15 198:4 given (4) 9:9 54:21 175:22 209:15 gives (1) 90:16 giving (1) 68:4 go (30) 6:20 8:10 9:16,18 11:2 25:4 34:19 39:2,21 63:21 75:16 75:25 76:17 84:19 90:19,23 101:6 105:18 107:20 118:21 124:19 151:20 158:3 159:6 170:9 172:16,17 181:2 194:19 196:25 goes (5) 36:12 50:11 69:19 127:18 184:13	Goldberg (1) 6:6 GOLDBERG-CAH... 3:18 127:16,22 128:22 148:6 194:21 202:23 gonna (1) 80:9 good (7) 9:4,5 77:16,16 90:16 101:13 167:4 GOSCIAK (1) 1:5 gotten (2) 85:6,18 grabbed (1) 21:9 granted (1) 172:10 green (9) 91:23 121:7 122:4 130:25 131:3,8,14 134:7 136:22 ground (1) 9:17 group (204) 15:5,9,13,19 16:6,13 16:23 17:3,8 21:25 25:21,25 26:4,14,18 27:2 29:24 30:7 32:21 36:11,15,22 36:25 37:7,12,18,18 37:24 38:5,9,10,10 39:4,21 40:4,5,5,8 41:9,22,23 42:3,8 42:15 43:4,5,10,12 43:14 44:2,8,13,18 45:10,16,18 46:8,9 46:16,21,23 47:8,17 48:9 49:3,5,14,20 50:2,17,19,25 51:14	groups (35) 39:21,23 48:7,24 50:7 50:8,14,23 51:16 66:20,21 79:23 84:3 89:17 160:25 164:15,18,19,25 165:6 166:21,24,25 167:3,5,17 170:11 171:13 173:17 174:5 176:23 182:2 192:9,12 202:6 guess (4) 41:12 57:5 125:17 165:7	h (3) 6:9 102:7 210:9 half (2) 175:23 176:15 hand (2) 114:14 209:22 handle (1)	
H				
			I	
			idea (2) 17:6 90:17 identification (9) 6:18 13:12 56:3 109:14 127:25 143:13 148:10 178:18 188:18 identified (3) 163:15 166:14,15 identify (9) 14:19 16:21 17:2 93:13,23 94:6 144:18 168:6 181:23 identity (1) 16:11 Im (1) 87:13 impact (24) 43:13 48:8 49:24	

50:16,22 51:4,9 60:6,10,11 78:25 84:25 85:4 86:5,6,7 86:8,9 93:2 98:2 137:9 164:21 168:8 171:3	infirm (1) 140:2 inform (2) 190:8 207:8 information (31) 15:15 42:12 64:2 68:19,23 69:10,22 71:13 107:2 110:10 110:19 178:9 182:7 182:16 183:14 195:17 196:15,17 196:22,24,25 197:13,22 198:5,14 199:15 200:23 205:11,14 206:12 207:4 informed (3) 86:22 87:3 201:8 informing (1) 186:6 inherently (1) 165:2 injunction (3) 56:16,24 128:7 injuries (15) 177:3,10,11,22,25 178:3,7,10,16 179:8,10,18 180:11 210:23 inquired (1) 113:25 inquires (1) 191:4 inspector (2) 32:3,4 instance (3) 46:3,8 55:10 instances (3) 27:6 46:3 55:16 instruct (1) 111:2 instructions (2) 189:8 191:6 intend (4) 47:7,16 118:18 189:25 intended (2) 68:20 125:18 intentions (1) 51:12 interaction (1) 204:15 interest (1) 197:12 interested (1) 209:19 interesting (1) 171:10	Internet (1) 189:2 interpret (2) 54:25 119:24 interpretation (1) 62:16 interpreted (1) 63:6 interpreting (3) 67:13 70:16,18 interrupt (1) 78:17 intersection (14) 122:11 128:9 130:7 130:20 131:9,11 133:23,24 134:18 136:23 141:16 175:23 176:12,15 intersections (2) 170:25 176:5 intimate (1) 119:22 intimidating (2) 50:5 51:3 introduce (1) 5:16 investigate (1) 67:20 Investigation (1) 189:17 involve (1) 190:11 involved (9) 20:4 25:19 58:11 69:7 69:10 104:8 109:20 177:18 187:24 involvement (2) 23:6 24:25 involving (2) 46:8 177:18 ironed (1) 181:20 irrelevant (1) 94:4 Island (2) 77:13 171:2 issuance (1) 109:20 issue (11) 7:20 57:13 59:8 61:21 63:4 104:16 108:17 110:17 111:21,25 112:24 issued (20) 36:2 59:16 63:12 82:16 88:18 103:14 104:20,22 105:10 106:25 107:6,22	108:10 109:15 112:8 115:11 179:2 181:8,12 184:16 issues (3) 20:6 173:19 174:4 issuing (4) 107:3 108:25 111:12 115:20 item (1) 103:11 itinerary (1) 86:24 i.e (1) 30:23	156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 Jackson (2) 1:5 168:18 Jackson's (1) 169:2 Jacob (3) 109:13,16 210:17 JAMES (1) 1:11 Jane (1) 1:12 January (15) 18:2 19:12 21:22,23 23:3,3 27:23,23 29:6,6 76:24,25 77:19,20,20 JOB (1) 1:25 John (1) 1:12 join (1) 5:25 Joseph (15) 1:17 2:9 6:15 11:11 13:8,11 55:21,25 208:14 209:11 210:4,13,14 211:5 211:19 JOSH (1) 1:5 judge (2) 109:6,8 judgment (1) 197:14 July (2) 19:7,12 jump (1) 122:22 jumped (1) 124:20 jumping (3) 122:13 125:8,9
J				
J (204)				
6:9 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1,7 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1				

K	LAK (1) 1:7	166:12 167:23,24 167:25 171:23 172:2,3	let's (16) 8:7 39:4 48:13 60:20 90:10,19 107:20 113:3 129:9 136:8 136:17 140:24 147:23 159:16 187:17 202:18	155:16
Katherine (2) 3:9 5:23	lane (46) 58:22 59:5,11 60:2,13 60:15,16 61:9 97:17 97:18,18,21 98:7,13 98:19 99:12 100:2 140:13 141:5,22 145:9,18,25 146:6,9 146:14,15,25 147:5 147:10,11 152:18 152:22,23 154:14 156:3,4,11,20 157:2 157:15,20 159:12 161:2 174:23,24	lawful (7) 159:10,14 160:22 161:21 175:19,19 192:13	liaison (1) 83:7	literally (1) 122:22
keep (1) 172:9	lanes (26) 58:21 61:12 96:19,20 136:3,10,14,18 138:8,10,21 140:13 140:20 141:5,23 145:11,21 152:14 153:7 154:10 155:8 159:18 161:23 162:6 174:19 175:3	lawfully (8) 131:8 137:14 141:7 141:24 158:17 165:19,22 204:4	lies (1) 155:10	little (5) 10:19 20:3 50:3 73:22 195:14
keeping (3) 89:25 174:7 180:5	large (66) 36:10,15,22 37:5,7,12 37:18,24 38:9 39:20 41:23 42:8,15,23,24 43:5,6,10,15,16 44:2,4,8,13,18 45:10,18 46:9,16,18 46:19,20,23 47:5,8 47:17,21,22 51:18 51:20 65:11 118:3 118:11,19,24 119:4 119:15 120:12,16 122:16 123:5 126:14 137:3 139:20 140:8,18 141:3 160:25 162:14 163:13 173:17 174:5 176:23 177:4 180:12 182:2	laws (9) 20:6 51:19 94:7 136:25 137:5,21 172:23 204:16,22	lieutenant (65) 1:17 2:8 5:4,21 7:8 8:19 9:4 10:18 11:14 13:15 17:20 17:21 18:16,18 22:16,24 29:3 35:9 52:17 54:11 55:21 55:25 56:6 71:25 74:24 94:11 101:7 102:11 105:9 106:11,19,25 109:19 110:3 111:14 113:4 126:13 127:3 143:16,25 149:5,11 178:21 179:23 187:12,17,21 191:25 193:14 195:7 197:20 199:21 202:4,22 203:6 206:2,4,11 207:3 208:14 209:11 210:4,14 211:5,19	LLP (3) 2:10 3:4 5:19
Kelly (2) 1:10 179:2	larger (12) 40:4 49:21 50:2,7 51:16 66:21,22 86:6 164:14 166:21,24 166:25	lawsuit (8) 20:8 56:11 63:5 72:19 72:24 116:9,13,16	lifetime (1) 176:2	Ln (1) 211:6
Kenneth (2) 1:5 168:18	lasted (1) 79:21	law-abiding (2) 170:14 171:13	light (12) 49:18 59:23 71:10 80:25 88:23 89:18 130:25 131:3,8,13 133:2 135:9	local (2) 190:2,13
knew (1) 173:10	law (28) 3:9,10,12 5:22 50:12 62:16,19,20 63:2,4 93:4,13,18,24 94:7 94:16,23 95:3 97:11 116:6 157:14	lay (1) 68:7	limits (7) 50:12 88:2 89:19 97:4 97:8 162:9 171:25	location (3) 31:5 144:7,19
know (88) 8:4 11:4 12:6,7 21:15 21:18 24:14 34:10 52:9 67:25 68:2 71:2 74:12 75:9,12 76:14,18 77:10,14 77:25 78:14 81:17 82:4 88:14,17 91:9 99:4,5 103:9 111:19 114:9,9 115:7,10,24 116:2,7 117:13,13 117:14,15,17 119:8 119:20 124:9 139:17 146:10 147:5 149:18 154:11 155:13 158:19,20,21 159:3 159:5,7 165:4,8,17 168:2,13 170:24 171:4,4 175:15 176:10 177:8,9,17 178:5 180:9 183:8 184:4 185:12 187:5 187:10 190:17 194:6,12 196:18,23 197:16 202:14 203:6 206:14,16,18	learn (1) 183:20	layman's (1) 68:3	lie (1) 109:19 110:3 111:14 113:4 126:13 127:3 143:16,25 149:5,11 178:21 179:23 187:12,17,21 191:25 193:14 195:7 197:20 199:21 202:4,22 203:6 206:2,4,11 207:3 208:14 209:11 210:4,14 211:5,19	long (11) 17:21,24 21:6 43:18 79:25 80:10 136:24 138:2 141:7 174:7 175:23
knowing (1) 108:22	largest (2) 65:6,19	leader (1) 83:7	lifetime (1) 176:2	longer (2) 28:23 62:17
knowledge (9) 13:24 29:11 112:22 113:10 117:18 119:22 120:14,19 180:20	lasted (1) 79:21	leading (3) 83:8 202:17,19	light (12) 49:18 59:23 71:10 80:25 88:23 89:18 130:25 131:3,8,13 133:2 135:9	look (6) 36:25 71:16 93:6 129:13 155:14,17
known (5) 71:9 88:23 184:24 186:17 200:2	law (28) 3:9,10,12 5:22 50:12 62:16,19,20 63:2,4 93:4,13,18,24 94:7 94:16,23 95:3 97:11 116:6 157:14	leads (1) 168:19	lifetime (1) 176:2	looked (1) 188:25
knows (3) 93:19 107:25 193:18	learn (1) 183:20	lean (1) 50:4	light (12) 49:18 59:23 71:10 80:25 88:23 89:18 130:25 131:3,8,13 133:2 135:9	looking (15) 42:13 45:8 49:24 65:20 68:14 80:22 88:21 94:7 130:3 136:7,11 152:19 171:19 173:13 190:8
L		learned (2) 151:5 185:4	lifetime (1) 176:2	looks (4) 144:11,16,21,22
L (2) 6:9 102:7		learning (9) 72:16,21 83:10,17 184:23 185:8,9,19 186:21	light (12) 49:18 59:23 71:10 80:25 88:23 89:18 130:25 131:3,8,13 133:2 135:9	lot (8) 37:14 73:8 100:5 122:7 154:11 185:22,22 202:16
labeled (2) 5:3 178:25		leave (3) 65:2 136:13,17	light (12) 49:18 59:23 71:10 80:25 88:23 89:18 130:25 131:3,8,13 133:2 135:9	low (3) 142:13,16 158:16
		leaves (1) 65:21	lights (7) 50:12 88:2 89:19 97:4 97:8 162:9 171:25	lower (6) 78:13 80:23 81:14 82:7 85:10,22
		leaving (1) 138:8	limit (3) 38:20 92:9 96:16	lowest (1) 65:4
		led (2) 36:15 89:10	limited (3) 123:4,9 140:19	Lt (1) 1:12
		left (10) 32:23 52:10 64:18 71:21 74:11 89:25 142:9 144:15 145:24 180:22	limiting (1) 77:18	LUKE (1) 1:6
		leg (1) 130:7	line (20) 35:3 48:2 58:24 89:4 116:5 121:13 127:20 128:11 140:15 147:19 149:7,13 150:15,20 150:21 151:15,23 152:9 153:24	M
		legal (6) 3:22 5:12 62:16 63:7 94:18,25		MADLINE (1) 1:5
				major (2) 166:9 198:7
				making (4) 56:15 81:3 161:3

179:15 Manhattan (36) 1:11 18:5,9 19:20 22:7,18 29:4 30:11 30:16 31:24 39:13 77:13 98:8 102:14 102:20 103:10 113:22 114:15,22 115:2,4,19 116:12 117:11 126:2,25 158:11 168:10 169:20 176:7 195:21,23 196:5 197:5,21 198:15 manner (6) 117:11 170:14 174:6 192:13 207:19 208:3 manpower (3) 30:23 31:2,6 mans (1) 195:16 map (9) 148:2,9,16,20,24 149:12 153:5,10 210:21 March (14) 7:2 28:16,18 117:3 125:22,23,24 126:25 132:2 141:18 142:21 175:9,16 182:10 mark (3) 109:10 147:23 188:15 marked (14) 6:18 13:11 56:3 109:13 127:24 128:3 143:13 148:9 162:23 174:18 178:18 188:17 198:19 199:7 marriage (1) 209:18 mass (133) 21:21 22:7,11,14,18 23:2 24:2,13 28:16 29:5 30:11,17 31:12 31:25 32:6,10,14,18 33:3,6,14,25 34:8 34:14 35:7,20 38:13 38:25 39:3,8,18,25 40:11,23 41:3,8 42:19 45:2 47:20 56:17,25 58:13 59:17 64:3,4,9,13 64:19,25 65:7,20,25 66:16 67:3,10,22 68:13 69:22 70:11 70:17 72:7 73:25	75:4,7,13,17 76:2,9 76:13 77:2 80:4 81:7 84:3,24 85:9 85:20 86:3 103:12 103:21 104:10 105:11,21 106:21 107:7,8,11,23 108:11 110:14 113:6,17,22 114:6 114:13,15 115:4,11 115:16,20,22 116:25 117:9,11,19 119:21 120:2,13,17 120:21 121:18 154:21,23,25 155:6 174:12 175:6,9 192:2,12,16,19,24 193:8,16,24 194:4 201:20,24 205:12 207:4,18 208:2,6 matching (1) 98:25 materials (2) 93:12 94:2 matter (14) 5:5 6:25 7:4 9:7 13:9 55:22,25 86:9 94:22 106:19 117:21,23 209:20 210:14 Maxima (2) 154:12 156:13 maximum (1) 80:15 McGovern (6) 187:12,17,22 206:2,4 206:11 McRae (5) 110:2,10,16,20,22 mean (31) 12:9 36:14 38:9 55:2 61:20 70:4,8 76:12 77:12 78:17 88:14 90:5,9 91:22 98:4 100:12 106:14 118:13 119:25 120:7,9,10,13 124:24 137:16 138:5 141:12 168:13 176:16 180:6 195:21 meaning (3) 37:25 43:10 45:17 means (3) 42:25 44:9 86:13 meant (10) 70:20 78:6 79:14,15 83:23 119:11,13 163:2 166:24,25 meeting (4)	11:19,22 13:16 25:25 meetings (1) 12:25 members (1) 86:15 membership (1) 115:8 mention (3) 179:9,18 181:24 mentioned (13) 13:17 16:20 19:19 26:17 35:18 69:3,24 81:12 102:11 112:17 145:9 191:25 205:17 merge (9) 51:10 60:25 97:23 98:5,10,13,20 138:18 142:7 merging (2) 97:25 99:17 met (3) 11:17 25:22 181:18 Michelle (2) 3:18 6:5 microcosm (1) 164:21 middle (12) 22:22 40:17 59:25 60:15 61:9 130:4 156:10,19 157:15 157:20 159:11 160:12 midnight (2) 168:22,25 midtown (1) 168:10 mike (1) 10:19 miles (20) 60:18,20,22 92:8,23 96:14 97:20 98:12 98:18 157:22,23 158:6,11,16,24 159:12,24,25 161:24 169:13 mind (13) 23:24 27:7 83:19 122:15 123:18,21 124:4,15,23,25 137:7 162:11 173:7 mine (1) 119:10 minimal (31) 48:9 50:16,24 51:5 78:9,25 79:11 80:7 80:13,14,15,20 81:3 81:8 84:2,25 85:2,4 87:8 89:12,13 98:3	137:11 163:4,10 164:2,16,16 166:3,7 167:8 minimum (7) 81:10 92:9,12 116:17 159:7,8 168:2 minus (10) 75:4,17 76:3 78:18 79:9 84:17 87:9 90:12 91:5 163:8 minute (4) 68:25 69:6 131:19,22 minutes (12) 52:10 71:21 74:11 79:18,22 124:23 129:23 132:7 142:9 175:25 194:11,18 Mischaracterizes (1) 167:14 mission (1) 172:11 mistake (2) 153:18 166:23 mistaken (1) 128:3 misunderstanding (1) 66:24 moment (7) 13:17 88:21 123:14 123:22 124:25 135:13 173:23 month (3) 22:3 175:13 208:5 monthly (5) 16:2,5,7 23:2 29:5 months (8) 18:18 19:5 39:16 64:3 64:6 65:14,14,15 monumental (1) 166:10 morning (7) 8:3 9:4,5 78:25 81:13 85:4 168:7 motion (3) 56:16,23 128:6 motor (14) 96:12 130:17 133:13 133:17,22 137:2,4 137:15 138:9 141:6 141:24 142:3,18 175:22 motorist (17) 99:3,5,8,10,12,18,25 139:11,15 140:3 142:6,15 150:14 153:23 159:21 160:10 161:15 motorists (5) 98:23 139:6 150:10	153:21 158:2 motorist's (1) 152:2 mounted (1) 177:13 move (3) 35:15 99:12 157:25 multiple (1) 141:23 museum (1) 172:16 <hr/> N <hr/> N (8) 3:2 6:9 102:2,2,2,7 210:2,9 name (14) 5:11 11:9,11 12:11 23:22 27:17 73:23 74:5 78:14 81:24 85:7,19 110:2 211:3 named (1) 104:9 names (3) 69:17 73:6,9 name/rank (1) 109:24 natural (1) 10:9 nature (10) 12:19 20:18,19 21:3,7 21:8 107:8 177:21 178:9 198:8 navigate (1) 139:6 near (3) 71:10 88:24 155:2 necessarily (2) 42:21 139:3 necessary (2) 7:12 197:9 need (16) 7:7,21,25 10:24 44:8 52:15 62:11 103:9 103:19 147:12 149:9 196:18,23 197:16 202:16 207:8 needed (2) 194:14,18 needs (4) 7:15 67:25 126:8 139:19 NELSON (1) 1:6 Neufeld (210) 3:17 6:2,2 7:11 8:18 16:18 30:13 31:8,16
--	---	---	---	---

31:19 34:2,15 35:2 36:17 42:5 44:23 46:5,25 47:9 48:2 52:16,23 53:3,8,11 53:15,19,22 54:2,11 54:19,24 55:6,8,13 59:12 61:13,16 62:6 62:14,21,25 69:25 70:3 75:8 77:9,24 80:8 81:9 84:7 85:13 89:23 91:7,11 91:24 92:11 93:17 94:3,17 95:6 97:14 99:21 100:13 102:16 103:4 104:2 104:5 105:3,14 106:10 107:12,16 107:24 108:14,19 109:4 111:4,15 112:4,10 113:8,18 113:24 114:3,8,16 114:20 115:6,23,25 116:4,19 117:12 118:14,23 119:19 120:8 121:9 124:2 124:10 125:7,16,25 126:3,6 127:7,13,17 128:10,15 129:6,12 129:23 130:3,14,22 131:12,17,21,25 132:18,20 133:10 133:20 134:9,25 135:10,23 137:6,22 138:12,23 139:8,12 139:22 140:5,22 141:19 143:17,19 144:9 145:2,14 146:8,16 147:3 148:3 149:6,15,19 150:2,4,13,22 151:2 151:11,14,18 155:12 156:12,22 157:5,11,17 158:18 158:25 160:7 161:19,25 163:12 164:5,8,13 165:3 166:6 167:9,11,14 169:5,19,22 170:21 173:6 177:15,24 179:12,20 183:6,23 184:2 185:18 186:3 190:15 192:21 193:3,9,22 194:10 194:15 195:6 197:19 199:4 202:19,25 203:5 205:2 206:23 207:2 207:12 210:7 never (10)	61:17,21 62:8 63:12 69:21 113:25 134:10 135:2 175:18 193:3 new (68) 1:3,9,10,12,18,18 2:11,11,14 3:7,7,12 3:16,16 5:6,9,9 7:10 14:15 17:25 18:6 29:15,19 41:19 42:7 54:3 55:22 56:2,11 63:25 73:3,11,12 77:12 92:9,12 93:2 93:11 115:18 116:6 116:17 117:3 147:18 148:2,8,20 148:21 152:14 153:7 154:10 159:12 168:20 176:6 182:7,19 183:20 184:4,25 185:5 189:16 198:21 203:12 206:12 209:4,9 210:15,21 211:3 news (1) 33:23 nice (1) 122:10 night (3) 168:9,20 169:18 nine (1) 173:11 nod (1) 10:7 nods (2) 150:24 165:13 non-attorneys (1) 11:18 non-critical (13) 67:22 68:13 69:22 70:11,17 72:7 75:4 75:13,16 76:2,9,13 77:2 noon (1) 170:7 normal (1) 158:12 north (1) 79:21 northern (1) 130:6 notarized (1) 189:14 notary (5) 2:14 6:11 7:9 209:8 211:24 note (7) 108:14 109:22 127:19	130:23 132:6,10 190:16 noted (3) 102:3 199:25 208:11 notes (2) 148:13 189:11 Notice (3) 6:15,17 210:11 notoriety (1) 67:24 November (2) 17:23 18:21 NSU (2) 19:14,14 number (30) 15:19 16:11 17:2 23:25 35:19 36:20 36:24 37:3,5 41:9 42:25 44:20 47:5,5 47:6,10,15,23 48:25 51:14 59:16 62:10 76:20 91:16,16,18 163:20,21 166:22 190:23 numbered (1) 65:3 numbers (7) 17:6 37:6,10,14 49:23 70:23 198:10 numeric (1) 46:15 numerical (1) 58:4 numerous (1) 91:19 NYPD (23) 22:17 25:11 31:10,15 31:20 76:8,16 82:9 82:18,22 83:5 181:2 181:13 184:5 188:14,21,25 189:7 189:20 192:20 193:2,20 194:7	obeying (5) 80:18 136:24 137:21 163:9 166:12 object (3) 105:3 126:6 149:7 objection (140) 16:18 30:13 31:8,16 31:18 34:2,15 35:2 35:16 36:17 42:5 44:23 46:5,25 47:9 59:12 61:13,16 62:6 62:14 69:25 70:3 75:8 77:9,24 80:8 81:9 84:7 85:13 89:23 91:24 92:11 93:17,17 97:14 102:16 103:4 104:2 104:5 106:6,14 107:24 108:14,19 109:4 111:4,15 112:4,10 113:8,18 113:24 114:3,8,16 114:20 115:6,23 116:4 117:12 118:14,23 119:19 120:8 121:9 124:2 124:10 125:7,16 132:18 133:10,20 134:9,25 135:10,23 137:6,22 138:12,23 139:8,12,22 140:5 140:22 141:19 145:14 146:8,16 147:3 149:15 150:5 150:22 151:2,11,14 151:18 155:12 156:12,22 157:5,11 157:17 158:18,25 160:7 161:19,25 163:12 164:5,13 165:3 166:6 167:9 167:11 169:5,19,22 170:21 173:6 177:15,24 179:12 183:6,23 184:2 185:18 186:3 190:15 192:21 193:3 197:18 199:3 199:17 200:25 201:7 202:2,9 204:17,24 objections (2) 4:7 127:19 objective (1) 90:17 obligation (1) 139:5 observation (7) 64:14 86:4 106:16	111:9,23 119:23 199:20 observations (13) 30:2 44:24,25 51:18 100:6 101:2,10 104:7 106:8 110:20 111:3 199:9 207:25 observe (19) 23:2,10,14 28:15 30:17 39:3,22 51:19 61:23 71:9 88:23 109:2 111:13 112:2 122:18 152:2 174:9 192:15,23 observed (47) 21:21 22:10,17 29:5 29:24 38:14,15,22 38:25 39:8 40:14 45:4 64:8,25 65:8 65:22 66:2 70:11 79:17 91:19 95:5 108:18 110:3,11,23 111:14 112:9,12 122:12,19 134:3 155:7 174:16 175:6 175:8,21 176:11,15 182:19 189:19 192:3,11 193:15 194:3 201:20 207:25 208:4 observes (1) 127:4 observing (12) 30:10 47:4 50:11 58:11 72:16 86:3 162:8 174:2 176:13 192:18 193:19,20 obtain (5) 15:8 58:7 188:10 202:7 204:23 obtained (7) 57:4 75:18 76:4,7,16 81:18 117:16 obtaining (1) 113:7 obviously (1) 115:3 occasion (3) 106:24 175:12 197:22 occasionally (4) 33:2 133:14,22 154:25 occasions (1) 111:20 occupied (2) 99:13 186:25 occupy (4) 146:5,9,24 147:4 occupying (8)
---	---	---	---	---

O

O (8)
6:9,9 102:2,2,2,7,7
210:9
oath (1)
4:13
ob (1)
176:14
obey (13)
78:7 79:2,9 80:5
83:24 87:9 89:8,16
163:2 164:2 166:2
167:6 204:22
obeyed (1)
89:11

96:19 97:17 98:19 100:2 146:15 147:10 159:18 161:23 occur (6) 53:16,22 140:10 142:11 154:21 198:9 occurred (11) 39:18 46:14 65:12 76:14 103:10 112:25 175:16,17 177:4,22 181:22 occurs (1) 137:3 October (10) 18:11,14,23 19:2 57:9 70:15 74:24 200:19 200:20 205:18 offense (1) 109:17 office (6) 3:13 6:3,7 25:5 189:16 197:2 officer (20) 1:11 4:12 32:8 53:24 54:4 104:20 108:13 108:15,17,25 110:9 110:16,20,22 111:11,24 112:8,11 112:14 193:2 officers (24) 14:14 19:4 29:14,18 32:12,16,20 33:18 34:7,13 35:5,6 82:9 82:18 83:2 111:2,21 177:12,14 192:20 193:5,7,21 194:7 offices (1) 2:9 Oh (4) 10:15,17 20:2 143:22 okay (100) 9:23 12:11,18,24 13:6 14:7 20:2 22:5,9 23:14 26:11,17,20 29:16 33:5 34:3 38:16 39:7 42:13,22 48:4,21 53:3 54:11 55:13 56:20 63:15 66:13 67:5 69:18 70:6,8 71:4 78:22 79:14 86:11 90:10 91:9 93:7,14 95:17 98:16 102:23 104:16 109:10 110:5,12 117:20 119:13,15 120:20 124:12,14 126:11	127:13 129:3,21 131:17 132:6 133:4 136:7 141:2 142:25 143:8,20 145:5,12 147:14 149:24 150:8 151:3 152:10 154:6 155:24 159:20 164:11 167:13,21 168:15 168:21 170:10,16 171:11,21 173:23 175:2,21 176:10,16 176:20 186:8 187:3 187:24 188:7,9,14 188:24 189:4 191:15 200:6 old (1) 53:19 older (2) 139:15 140:2 once (5) 40:4 41:7 127:21 130:25 168:20 oncoming (3) 140:16 160:12 161:4 ones (12) 16:2 28:10 37:15 38:14,15 76:5 84:17 88:14 112:13,16 119:20 120:14 one's (1) 157:13 one-way (5) 91:14 95:18 96:18 97:18 175:3 open (2) 150:10 153:22 opened (1) 152:4 operations (14) 18:9,12 22:24 28:24 29:3 30:23 72:2,3 102:20,24 185:10 197:2 203:15 207:11 opinion (18) 38:7 59:4,7 94:20,22 94:24,25 97:2 100:7 100:14,20 142:5 152:18 156:23,24 166:9 167:20 170:22 opinions (2) 100:5,9 opportunity (3) 22:25 39:22 161:17 opposed (6) 10:7 80:15 91:3 111:5 112:12 174:18	option (7) 93:23 98:23 99:6,7,10 99:16,25 options (1) 99:11 oral (1) 54:22 orally (2) 54:21 55:17 order (14) 2:11 6:24 18:4 44:10 57:18 58:2 62:11 68:12 76:8 90:23 133:9 157:25 160:13 205:19 ordinary (5) 45:12 61:10 118:4 119:17 120:4 organization (2) 27:18 74:3 organizations (7) 23:5,9,12,16,20,23 72:13 organize (1) 72:13 organized (6) 72:22 73:11,15,19 74:8 81:24 organizer (4) 25:6 69:19 181:5,15 organizers (2) 25:15 181:19 oriented (1) 82:24 original (3) 33:21 92:24 189:13 originate (5) 22:2,11,14 67:11 154:23 originated (2) 39:14 81:14 originating (3) 85:10,22 154:21 outcome (1) 209:19 outside (2) 72:23 134:13 out-of-towners (2) 25:24 69:4 overall (4) 17:25 32:17 86:8,8 oversees (1) 196:10 oversight (1) 180:6 ooo (1) 4:17	<hr/> P <hr/> P (4) 3:2,2 6:9 102:7 page (14) 13:20,20 14:9 47:25 56:7 63:21 88:6 109:11 162:24 178:25,25 189:2 210:3,10 pages (1) 188:24 paint (2) 91:2 101:11 painting (1) 168:14 paper (1) 103:6 paperwork (2) 23:21 25:4 parade (32) 26:13,15 28:8 57:11 57:14 59:2 61:14 69:19 70:25 82:16 115:20 117:3 122:17 139:19 181:4,8,12,14 187:24 188:11,22 189:5,9,23 190:9,21 202:5 203:25 204:13,14,15,23 parades (5) 60:10 116:8 184:20 184:22 203:8 parading (7) 56:18 58:19 59:9 60:3 62:4 63:13 115:12 paragraph (88) 13:22 22:20,22 29:2 30:21 36:8 41:18,24 42:10,13 43:2 45:9 45:24 46:11,20,24 47:24 48:11,12,16 50:14 56:14,21 63:18,21 64:16,21 65:24 66:10,18,24 67:13 68:16 69:8 70:15 71:4 72:10 75:2 78:3 79:7 83:21 84:9,18 85:12 85:24 86:11,18 87:6 87:16,25 88:5,20 89:3,10,21 90:4,18 101:6 118:2,19 123:3 125:19 135:16 160:24 162:12,18,23 173:9 173:16 176:20 181:24 182:8,17,23	183:5 184:8 186:23 188:9 189:23 199:22,24 200:7,9 200:14,16,23 201:5 201:15 parent (1) 195:25 parentheses (1) 111:13 park (15) 25:22 64:18 65:22 67:11 79:18,19,19 79:21 80:18 82:5,7 154:22,24 172:16 196:3 parked (18) 147:20 149:14 150:10 150:16,21 151:16 151:23 152:8,18 153:12,19,21,25 154:8 155:11,22 156:2,14 parking (6) 20:20 142:16 145:9 145:18 152:23 154:14 Parks (1) 148:23 part (10) 30:24 32:19 40:4 97:25 103:17,23 104:4 105:23 106:4 170:8 participant (1) 86:23 participants (30) 39:10 43:2 44:20 56:17,25 58:6 66:12 66:17 67:7 68:17 70:15 71:5 75:6,18 76:3 77:3 78:6 79:9 83:23 84:16 88:3,22 89:8 162:25 163:25 170:12 183:21 185:6 189:24 203:24 participate (4) 33:16 82:11 193:10 193:12 participated (1) 13:3 participating (2) 58:12 193:23 participation (2) 33:20 34:7 particular (23) 16:13,22 23:22 25:18 27:13,18 32:24 48:25 63:8 70:23
---	--	---	---	---

78:12 79:4 83:14 91:16,18 103:11 105:6 106:16 107:14 127:8 132:16 181:23 184:16	21:15 people (9) 71:2 80:10,23,24 103:7 122:12,20 199:10 205:19	185:16,25 186:11 195:16,17 196:23 207:8	20:8 180:15 plaintiffs (45) 1:7 3:5 5:20 6:14,17 9:7 13:7,10,20 52:19 55:6,9,20 56:7 63:19,25 109:11,12 117:23 127:24 128:6 143:9 143:11 162:23 168:17 170:2 173:13 178:14,15 188:15,17 198:20 199:7,11 200:11,15 200:16,21 201:16 210:12,16,18,19,22 210:25	63:11 101:12 pointing (2) 145:15 153:16 police (47) 1:10,10,12 11:12 14:13,18 16:12,22 17:2,6,22,25 18:7 23:6 24:24 33:18 53:24 54:3,4 57:3 58:12 68:9,19 86:23 97:12 113:5,10 114:6 115:2,19 116:11,20 124:18 127:14 160:16 161:13,14 176:22 179:3 184:12 189:16,18 191:12 191:14 196:13 197:4 202:8
particularly (2) 150:11 153:22	percent (1) 170:3	personal (11) 13:24 29:11 64:14 112:22 119:23 120:14 157:13 163:20 170:22 199:20 207:24	plaintiff's (5) 55:24 56:23 148:8 210:14,21	political (2) 141:17 205:15
parties (2) 4:4 209:17	perfectly (2) 7:18,23	personally (22) 14:10 21:21 28:15 29:4 32:11,15 33:9 35:22 36:2 59:8 63:6 65:8,22 82:11 82:13,14 112:2 152:12 156:5,6 174:15 175:5	planned (1) 198:10	Pop-up (1) 198:8
pass (10) 99:14 132:15 138:10 156:25 159:22 160:10,13 161:3,7 161:18	performed (1) 24:22	personnel (16) 14:24 15:2,4,8,12,17 16:11,21 17:3,7 25:11 31:11,15 33:8 33:15 82:22	planning (2) 148:21 154:11	portion (8) 14:17 40:17,18 57:6 109:22 148:25 156:21 189:6
passed (3) 76:19,20 77:11	period (12) 21:22 24:11 27:23,24 28:3 72:7 77:19 106:22,23 178:17 179:8 210:23	perspective (2) 129:16 140:25	plaque (1) 20:21	position (6) 90:7 140:14 185:9 186:21 197:20 203:14
passenger (2) 160:15,17	perjury (1) 109:25	pertaining (2) 12:24 47:19	play (2) 82:22 129:8	playing (5) 129:2,11 130:9,12 132:12
passes (1) 76:10	permit (75) 23:6 26:4,7,12,13,15 27:21 28:8 56:18 57:3,4,10,14,17 58:2,7,19,19 59:6,9 60:3 61:15,23 62:4 62:12 63:14 66:4 69:18,19 70:25 75:19 76:4,8,16,19 81:18,21 82:16 113:7 114:7,10,22 114:23 115:5,12 117:16 122:17 180:16,20 181:8,12 182:3 184:5,16 185:2,6,14,17 186:2 186:5,15,17 187:25 188:11,22 189:5,9 190:9,21 202:8 203:25 204:13,15 204:23 207:23	phenomenon (1) 122:15	Plaza (4) 11:12 189:18 191:12 191:14	positive (1) 144:22
passing (1) 99:25	permits (13) 24:24 25:7 63:13 76:20 77:23 113:11 113:16,21 114:13 114:14,25 115:20 189:23	photograph (5) 143:10,11 145:8 156:18 210:19	please (18) 5:16 10:11,19 11:3,9 18:3 43:8,23 47:12 57:21 75:21 87:21 108:6 121:15 128:24 132:10 149:4 195:13	possibly (1) 160:9
path (2) 58:20 156:7	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	photographic (1) 30:6	Plimpton (5) 2:10 3:4 5:7,19,23	potential (2) 67:21 68:12
patrol (12) 1:11 18:5,20,23 29:4 102:14,19 195:21 195:23 197:4,15,21	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	phrase (10) 38:9 42:18 43:11 44:9 44:18 45:17 47:7,17 48:23 88:12	plus (11) 75:3,6,17 76:3 78:17 79:8 84:16 87:8 90:11 91:5 163:8	potentially (2) 27:14 62:3
payoff (1) 202:18	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	pick (1) 169:10	PO (1) 109:25	practice (2) 110:25 180:25
Peddler (1) 20:2	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	picked (2) 36:20,23	point (18) 39:2 45:3 54:10 57:13 65:2 71:3 77:17 79:16 99:22,23 101:5 130:17 131:20 132:16 169:23 172:12 202:15 203:16	precinct (10) 18:17,20,23 19:10,12 190:2,13 196:11,13 197:4
peddling (4) 18:10 19:23,25 157:22	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	picture (10) 136:8 143:21 144:5 151:24 152:6 154:16,18,18 156:3 159:15	pointed (2)	precincts (1) 196:2
pedestrian (24) 45:11 78:8 79:11 80:6 80:20 83:25 87:7 119:5,16 120:3,17 121:4,25 126:20 130:17 133:9 134:24 162:15 163:4,11 164:3 167:7 170:20 201:25	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	place (8) 64:6 66:3 77:15 143:13 144:6,20 198:14 210:20		preferably (2) 103:8 196:21
pedestrians (25) 46:13 50:5 51:3 67:18 120:22,25 121:3,19 121:21,24 122:7 123:2,8,11 124:7 125:15 127:5,11 133:5,18 134:6,19 134:20 135:3,8	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3	plaintiff (2)		preliminaries (1) 6:21
pedestrian/vehicula... 118:4,20	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3			preliminary (2)
penalty (2) 19:20 109:24	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3			
pending (1)	permitted (12) 25:6 67:17 69:15 82:22 83:6 92:19,22 94:16 157:14 158:14,23 181:3			

56:24 128:7	145:11 146:13	proposed (4)	105:20 106:4,15	reading (3)
prepare (3)	147:9,19 149:13	25:20 26:5 27:7,18	107:17,20 108:6,7,8	48:10 69:13 184:8
11:13 189:12 205:19	152:20 155:25	proposing (1)	115:18 118:17	readout (1)
prepared (3)	156:8,10,19 157:15	147:15	119:9 121:16,17	133:12
198:19,25 199:6	158:15,23 159:11	protect (1)	124:6,11,12 127:16	reads (3)
preparing (9)	161:16,22 163:8	176:22	130:16 141:18	14:9 48:6 211:6
14:4,20 17:17 29:20	174:5,22 189:25	protection (1)	146:20,22 147:7	really (4)
30:8 33:13 70:2	202:7 204:3,21	33:17	164:7 168:24	51:13 75:12 111:19
205:17,22	207:19	provide (8)	179:23 180:19	169:16
presence (3)	proceeded (5)	23:18 69:10,12	186:10 187:15,18	reask (1)
34:13 138:20 161:14	81:12 117:10 136:22	104:19 110:19	193:17 202:18	14:6
present (8)	155:2 192:13	178:8 183:9 206:7	206:24	reason (16)
3:20 11:19 32:8 35:7	proceeding (52)	provided (4)	questioned (2)	11:6,8 36:23 113:21
124:5 173:4 175:18	13:2 41:14 58:18,23	15:12 55:11 86:23	55:17,18	122:16 139:18
207:7	58:25 59:10,25	189:8	questioning (8)	152:16 171:8,12
presented (2)	60:14 61:8,24 91:6	providing (2)	35:4 48:3 89:5 116:6	181:11 199:13
124:14,24	91:13,22 93:5,16,25	8:5 110:9	121:13 127:20	201:10,14 204:12
presents (1)	94:8 95:16,24 96:3	provision (3)	128:11 149:7	207:3 211:6
122:22	96:17 97:16,20	93:13,18,24	questions (16)	recall (71)
presume (1)	98:18 124:8 125:5	public (5)	17:19 52:18,23 54:9	12:23 17:14,14 25:14
64:18	130:25 131:7 133:2	2:14 6:11 176:22	54:21 95:12 98:15	25:18,23 26:3 27:10
pretty (1)	135:25 136:9	209:8 211:24	119:2 189:2 190:24	27:13,17 29:21 32:6
90:16	137:14 141:4,16,24	purpose (2)	191:2 195:8 202:17	32:24 42:2,3 55:8
preventing (1)	146:4,23 147:20	63:23 145:8	204:5 205:3,5	55:10 59:14,19 65:4
133:5	152:21 155:6	purposes (2)	quick (1)	65:6,19 67:19 69:2
previously (2)	156:16 157:19	22:5 145:2	49:23	70:22 71:3 72:5,9
9:9 53:3	158:6 159:17	pursuant (3)	quickly (1)	72:14,21 73:2,5
print (1)	165:19,22 166:12	2:11 6:23,24	142:3	74:7 78:14 81:23
109:24	170:13 171:14,24	pushing (2)	quite (3)	82:2,8 83:10,15,17
printed (2)	176:12 208:2	49:11 125:5	32:22 109:25 111:17	86:17,20 87:2 91:18
151:4,4	proceedings (4)	put (9)		104:8 109:19 110:6
prior (22)	5:1 6:1 20:25 21:4	10:19 33:21 65:10	R	110:9 113:14
18:13,16,19,22,25	proceeds (3)	143:8 148:14,18	R (4)	123:23 175:13
19:6 28:9 53:24	40:18 90:8 141:7	166:22 180:7	3:2,17 102:2 209:2	182:15 183:16
55:16 63:25 72:19	process (6)	206:15	race (2)	184:23 187:6,11,19
113:5,17,22 116:13	40:11 76:17 139:19	putting (4)	172:14,15	192:3 195:11 198:5
116:19,22 131:13	187:25 188:8 191:5	30:24 61:22 136:14	range (2)	198:23,24 199:5
181:19 184:6,15,20	processing (3)	169:12	17:6 170:11	200:19 201:3 204:2
private (1)	81:21 83:13 84:5	p.m (10)	ranking (1)	205:10,21 206:3,8
148:18	procession (4)	101:16 102:3,5 143:2	31:22	206:15
probably (9)	25:19 26:14 27:3	143:6 191:19	rate (3)	receipt (1)
37:5 45:5 47:4,5	190:11	194:23 195:3 208:9	139:14 142:13,16	8:3
48:11 137:11	processions (9)	208:11	Raymond (2)	received (1)
159:24 180:22	23:4,8,11,15,20 24:23		1:9 179:2	180:16
185:11	26:19 27:19 41:12		reach (1)	receiving (2)
problem (1)	Professional (1)		115:8	77:23 195:17
174:10	2:13	Q	read (37)	Recess (4)
problematic (2)	professor (2)	QUEENS (1)	23:7 43:22,24 47:12	52:5 101:18 191:21
27:7,14	168:18 169:2	209:6	47:14 48:12,16	194:25
problems (1)	prohibited (3)	question (75)	57:20,22 63:22	recognize (3)
50:10	94:16 174:14,21	4:8 10:4,10 30:14	68:15 70:14 75:21	7:14 144:7,9
procedure (3)	prohibits (4)	34:5 42:6,11 43:19	75:23 84:8 85:14,16	recollection (8)
6:24 188:10 190:6	93:4,15,24 94:8	43:21,23,24,25 44:7	87:20,22 105:15,19	67:15 72:12 73:11,15
proceed (40)	promoted (1)	44:15 45:3 47:11,14	108:5,7 109:25	73:18,24 104:14
8:25 57:16,25 92:22	19:7	47:15 48:17 51:13	121:14,16 146:19	107:3
98:24 99:18 113:7	proper (2)	57:7,21,22,23 62:18	146:21 149:4,9	recommendation (5)
114:7,13 121:6	41:20 190:6	62:23 63:16 75:22	150:6 179:13	150:3,23 151:9,17
122:3 123:5 130:19	properly (2)	75:23,24 84:10,14	199:24 200:3,7,9	157:7
133:13,17 141:22	119:25 134:18	84:15 85:16,17	211:6	reconfirm (1)
		87:22,23 88:10 93:3		
		98:16,17 99:9 105:7		

reconfirm (1) 64:7	191:4 198:18 200:22 205:11,15 206:12	72:8 102:12,25	responsibility (4) 77:16,19 117:7 184:22	107:14,23 108:11 110:14 114:9 115:9 117:2,5 118:6,6,15 120:5,6 125:13,22 127:8 129:16,18 132:11 140:11 150:15,19 151:15 151:21,25 152:12 153:23 156:5,6,19 163:25 171:7 172:12 175:18,19 180:17,21 184:6,12 184:16,24 185:16 185:25 186:12,14 192:6,10,24 193:10 193:12 201:23,24 207:4,25 208:2,4
record (29) 6:25 8:11,13,14,17 11:10 52:4,8,13 55:17 74:16,21 84:21 101:17 102:6 105:19 130:22 143:3,7 146:21 180:5 191:20,23 194:20,24 195:4 203:4 208:10 209:14	Registered (1) 2:13 regular (10) 78:8 79:10 80:6,19 83:25 162:8 163:3 163:10 164:3 167:7 regulate (1) 203:8 regulation (4) 60:23 89:20 90:3 93:4 regulations (36) 48:8 50:15,20,24 78:7 79:3,10 80:5,19 83:24 87:9,10,15,23 88:11,12,25 89:7,11 89:14,16 117:3 159:4,5 163:3,9 164:2 166:2 167:6 168:2 173:19,25 174:2,9 193:25 202:5	represent (8) 9:6 126:23 128:9 144:24 152:5 169:24 179:6 180:14 representation (7) 145:3 153:3 154:9,17 155:19 179:15,25 representative (5) 103:18 181:2,4,13,16 representing (4) 132:20,22 135:21 207:7 request (16) 7:6 10:14 14:21,22,24 33:14,15,21 34:10 34:19,22,23,25 48:3 61:23 112:2 requested (3) 34:9,11,17 requesting (4) 33:17,20 34:6,13 requests (15) 14:25 15:4,7,11,17,18 15:20,24 16:4,10,21 16:25 17:9,16 30:25 require (5) 58:6 97:11 115:3 122:17 203:25 required (14) 57:10,17,25 62:13 113:16,21 157:9 185:17 186:2,15,17 197:11 202:7 204:22 requirement (1) 204:16 requires (1) 57:2 requiring (3) 61:14 114:14 115:19 researching (1) 93:21 reserved (2) 4:8 60:17 resolved (2) 21:14,16 respect (7) 16:6 44:21 50:7 120:21 121:3,17,24 respective (1) 4:4 response (3) 10:8 33:4 204:4 responses (2) 10:7 48:22 responsibilities (1) 184:19	result (1) 177:4 resulting (1) 180:11 results (1) 198:9 resumed (1) 102:7 reverse (2) 18:3 131:19 review (15) 8:4 11:21 13:24 14:12 14:18 20:25 25:7 28:4 30:6 61:20 68:5 70:22 102:25 189:17 197:22 reviewed (15) 12:4,12,22 14:4,20 15:2 17:16 26:12,15 27:24 70:20 71:22 102:12 111:17 183:12 reviewing (19) 13:13 26:3,7,22 27:22 28:10 72:8,14 81:21 84:11,13 88:9 102:19 117:25 153:15 173:15 199:23 200:5,13 ride (134) 15:20 17:3 26:4 28:16 32:7,17 33:7,14 37:12,19,23,25 40:5 40:12,17,18,19 41:8 41:23 42:9,19 43:10 44:13,18,21,22 45:13,14 46:17 47:21 49:19 50:9 51:19 57:10 58:6 64:3,5,19 65:7,11 65:20 68:20,25 69:2 69:23 71:10 72:7 73:19,25 74:2,8 76:14,16 78:12,23 79:2,12 81:24 82:17 82:23 83:6,12 84:4 85:8,9,10,20,21,22 86:12,19,25 88:23 94:21 97:3 103:13 104:10 106:12	rest (3) 49:19 63:22 79:25 result (1) 177:4 resulting (1) 180:11 results (1) 198:9 resumed (1) 102:7 reverse (2) 18:3 131:19 review (15) 8:4 11:21 13:24 14:12 14:18 20:25 25:7 28:4 30:6 61:20 68:5 70:22 102:25 189:17 197:22 reviewed (15) 12:4,12,22 14:4,20 15:2 17:16 26:12,15 27:24 70:20 71:22 102:12 111:17 183:12 reviewing (19) 13:13 26:3,7,22 27:22 28:10 72:8,14 81:21 84:11,13 88:9 102:19 117:25 153:15 173:15 199:23 200:5,13 ride (134) 15:20 17:3 26:4 28:16 32:7,17 33:7,14 37:12,19,23,25 40:5 40:12,17,18,19 41:8 41:23 42:9,19 43:10 44:13,18,21,22 45:13,14 46:17 47:21 49:19 50:9 51:19 57:10 58:6 64:3,5,19 65:7,11 65:20 68:20,25 69:2 69:23 71:10 72:7 73:19,25 74:2,8 76:14,16 78:12,23 79:2,12 81:24 82:17 82:23 83:6,12 84:4 85:8,9,10,20,21,22 86:12,19,25 88:23 94:21 97:3 103:13 104:10 106:12
recording (1) 180:5 records (8) 13:25 14:3,12,18,19 29:11 30:7 102:17 Recreation (1) 148:23 recross (1) 205:5 red (21) 50:12 59:23 71:9 80:25 87:11 88:2,23 89:18,19 95:24 96:3 96:4 123:6,24 124:8 133:2,14,18 134:7 135:9 162:9 Redding (5) 109:13,16 110:17,23 210:17 redirect (1) 202:13 refer (7) 22:6 64:22 71:6 86:12 88:20 174:20 199:21 reference (2) 112:14 200:15 referred (1) 23:16 referring (19) 12:8 22:23 24:18 42:19,22 46:2 48:25 66:7 84:17,23 87:10 87:16,24 89:2,15 90:3 102:21 162:18 174:22 refers (3) 14:17 106:20,22 refresh (1) 72:11 refuse (1) 101:6 regarding (15) 8:19 23:8 86:18 105:12 107:3,8 110:10,20 182:16	relate (2) 15:18 79:6 related (3) 15:24 20:16 209:17 relevant (12) 35:4 63:2,7 94:11,14 94:18 100:11,14 105:6 116:14,23 149:20 relying (2) 103:22 105:23 remain (1) 135:6 remember (4) 25:21 78:22 123:17 187:5 remembered (1) 123:20 rephrase (7) 14:5 16:15 40:24 43:8 43:21 56:19 62:22 report (15) 70:4,5 72:5 102:18 103:5 178:15 179:7 179:16 197:23 198:6,13 205:8,11 207:5 210:22 Reported (1) 1:24 reporter (7) 2:13,13 5:14 7:22 9:19,24 106:5 Reporting (2) 5:12,15 reports (3)	72:8 102:12,25 represent (8) 9:6 126:23 128:9 144:24 152:5 169:24 179:6 180:14 representation (7) 145:3 153:3 154:9,17 155:19 179:15,25 representative (5) 103:18 181:2,4,13,16 representing (4) 132:20,22 135:21 207:7 request (16) 7:6 10:14 14:21,22,24 33:14,15,21 34:10 34:19,22,23,25 48:3 61:23 112:2 requested (3) 34:9,11,17 requesting (4) 33:17,20 34:6,13 requests (15) 14:25 15:4,7,11,17,18 15:20,24 16:4,10,21 16:25 17:9,16 30:25 require (5) 58:6 97:11 115:3 122:17 203:25 required (14) 57:10,17,25 62:13 113:16,21 157:9 185:17 186:2,15,17 197:11 202:7 204:22 requirement (1) 204:16 requires (1) 57:2 requiring (3) 61:14 114:14 115:19 researching (1) 93:21 reserved (2) 4:8 60:17 resolved (2) 21:14,16 respect (7) 16:6 44:21 50:7 120:21 121:3,17,24 respective (1) 4:4 response (3) 10:8 33:4 204:4 responses (2) 10:7 48:22 responsibilities (1) 184:19	107:14,23 108:11 110:14 114:9 115:9 117:2,5 118:6,6,15 120:5,6 125:13,22 127:8 129:16,18 132:11 140:11 150:15,19 151:15 151:21,25 152:12 153:23 156:5,6,19 163:25 171:7 172:12 175:18,19 180:17,21 184:6,12 184:16,24 185:16 185:25 186:12,14 192:6,10,24 193:10 193:12 201:23,24 207:4,25 208:2,4 rider (1) 165:15 riders (12) 25:23 78:7 80:17 83:23 84:3 87:8 89:15 97:5 103:21 105:22 115:11 163:2 rides (207) 15:5,9,13,19,23 16:6 16:13,23 17:8 21:22 21:25 22:7,11,14,17 22:18 23:3,23 24:2 24:2,12,13,15 27:11 29:6,24 30:7,11,12 30:17 31:3,6,12,15 31:25 32:11,15,18 33:3,25 34:8,14 35:7,20 36:11,16,22 37:7 38:9,14,25 39:3,9,13,18,25 40:23 41:4,10,11,24 42:16,23 44:9 45:2 45:11,18 46:10,21 46:23 47:4,8,17,20 56:17 57:2 58:13 59:18 64:6,8,9,12 64:13,25 66:2,3,12 66:15,16,22 67:3,4 67:10,16,22 68:13 68:17 69:9,11,23 70:12,16,17 71:6,7 72:13,15,17,22 75:4 75:4,7,13,17 76:2,9 76:21 77:3,22 78:5 79:8 83:22 84:2,16 84:24 85:2 86:2,3 87:9 88:22 89:8 95:10,13 102:13 103:3,24 105:11,12 105:25 106:21 107:7,9 113:6,17,22	

114:7,13,15 115:16 115:20,22 117:9,11 118:3,11,20 119:5 119:16 120:2,12,16 120:21 121:18 122:17 123:5 125:10 126:15,17 126:20 137:3 139:20 140:9,19 141:3 154:21,23 162:14,18,24 164:14 166:18 170:3,6,18,19 171:10 173:24 174:12 175:6,9 177:5 179:11,19 180:3,12 192:2,12 193:8,17,24 194:4 201:19,20 205:12 206:6 207:18,18	road (4) 61:11 71:11 88:24 92:23 roadway (29) 58:24 60:15 61:9,9 90:2,8 91:14 95:18 96:18,22 97:18 99:13 100:3 121:5,6 122:2,4 135:6 136:2 140:21 141:5,22 147:20 149:14 152:6 155:10 161:8 174:23 186:25 roadways (8) 27:14 92:15,17,18 159:3 174:13,18,21 robbery (1) 198:7 rode (3) 140:14 186:5,6 role (11) 24:3,23 26:19,22 27:22 28:10 30:12 30:20,24 83:12 84:5 roles (1) 82:21 room (5) 5:24 11:2 54:20 109:6 152:20 ropes (1) 185:20 roughly (1) 77:3 route (9) 23:6 24:24 25:20 26:5 27:6 42:2 117:10 171:4 172:20 routes (3) 27:9 171:6,9 RPR (2) 1:24 209:25 rule (3) 7:6 93:4 147:17 rules (16) 6:23 9:17 59:2 93:11 116:17 157:4,8 176:13,18 192:4 194:4 203:7,11,12 203:13,17 R&C (2) 185:20,21	97:5,9 98:24 99:19 139:23 160:14 safely (3) 156:3,25 161:18 safer (1) 139:24 safest (2) 156:9,18 safety (11) 72:6 148:13 149:2 151:25 157:12,13 173:5,19 174:4 176:23 180:2 sat (2) 25:5 176:14 Saturday (5) 78:24,24 81:12,13 85:3 Saturdays (1) 170:3 saved (1) 188:24 saw (4) 108:20 124:18 133:3 134:10 saying (22) 38:3 42:15 44:11 45:23 46:12 50:22 51:2 80:3,12 118:10 119:3,12 125:2 128:13 139:25 152:11 154:15 155:20 158:22 166:19 179:15 197:3 says (12) 22:23 29:12 36:10 63:24 95:3 109:25 110:2 148:20 149:18 150:7 163:14 190:21 scenario (17) 90:11,19 91:3,4 95:15 96:10 122:23 123:23 125:2 132:25 133:7 135:7 153:17 160:25 168:14,16 171:22 scenarios (3) 90:13 91:10 101:11 scene (2) 31:22 127:15 schedule (1) 8:19 scooters (6) 97:6,8,10 177:6,13,18 scope (2) 35:8 105:5 screen (1)	131:15 screened (1) 196:25 sealing (1) 4:5 second (12) 23:7 48:14 100:23 117:2 124:4 128:8 130:4,7 136:8,10 142:20 207:13 seconds (6) 129:24 131:19 132:7 132:7,14 133:9 section (6) 116:22 131:4 169:20 188:21 189:18,19 see (52) 42:12 60:8 66:5 68:21 71:18 72:14 76:15 108:16 114:18,21 114:24 118:7 126:8 127:17,20 129:6 131:2,12 133:11 135:7,11,19 139:3,9 140:3 144:15 145:13,17 148:15 150:12,14 151:24 152:6,16,20,24 153:23 160:5,8 161:5 163:5 169:23 172:5,7,22 173:20 174:10 176:25 178:24 179:5 182:4 188:12 seeing (6) 72:5,9 110:6 192:3 198:5 205:10 seek (1) 185:13 seen (14) 33:23 50:8 51:6,17,17 111:16 135:2,3,6 144:2 174:12 178:21 193:23 205:14 send (1) 148:5 senior (1) 32:8 sense (3) 10:12 24:21 142:2 sent (1) 7:16 sentence (53) 14:7,17 22:22 23:7 29:9,13 36:9,12 42:14,18 43:2 45:9 45:15,19,24 46:10 48:6,13,18,24 50:13	51:21 56:21 57:5 63:22 66:18 83:20 84:3,18 85:12,24 87:5,16,24 88:5,13 88:21 89:2,9,20 90:4 118:9,18 119:25 120:11 123:3 125:19 135:16 137:17 162:12 167:2 173:22 174:11 separate (3) 41:10 67:10 143:21 September (5) 184:23 185:4 186:2 186:12,14 sergeant (5) 18:19,23 19:2,7,9 series (1) 95:12 serious (11) 177:3,9 178:3,5,16 179:7,8,10,17 180:11 210:23 set (7) 14:11 90:24 94:4 182:16,22 209:13 209:22 setting (2) 9:12,13 seven (1) 65:14 severity (1) 178:12 sharing (1) 156:3 SHARON (1) 1:5 sheet (8) 68:2,4,7 71:15,16 103:6 172:20 211:2 sheets (2) 68:11 71:22 Sheryl (2) 3:17 6:2 Shh (3) 106:10 107:12,16 shock (1) 183:24 short (1) 135:19 Shortly (1) 203:14 shot (1) 128:20 show (7) 33:23 102:12,25 125:21 126:22 127:2 188:14
riding (8) 50:12 113:10 125:4,8 125:9 151:21 154:2 165:16 right (63) 8:24 9:11,16 10:21 16:8 19:17 26:9 38:23 39:5 48:19 49:13 50:20 58:14 63:10 66:8 67:8 69:11 81:4,5 90:2 93:20,21 107:17 108:3 115:5,12 117:24 122:21 123:13,14 124:15 127:13,17 132:8 133:15 135:18 136:10,12 143:23 145:4 153:6,12 155:7 160:2 162:11 162:15 163:11 167:8 168:23 171:11 172:25 182:4,11,12,14 188:11,12 190:3,25 191:12,13 196:12 201:6 right-hand (3) 97:17,17 142:20 right-of-way (3) 121:6 122:3,14 ring (1) 82:7 ringing (2) 73:7 183:8 risk (1) 169:12 river (4) 196:6,6,8,8	S S (17) 1:17 2:9 3:2 6:9,9,15 102:2,2,2,7,7 208:14 209:11 210:4,9 211:5,19 safe (6)			

showing (2) 137:10 155:19	134:16 136:20 140:18 155:5 157:4	164:8 176:4 191:13 200:4,11 204:18 206:16	79:15 164:19 192:9 192:11	86:18
shown (2) 131:5 142:20	157:16 161:16 172:5,7 181:12	sort (6) 9:17 51:10 69:18 128:20 133:25 198:10	splintered (2) 40:3,8	Staten (2) 77:13 171:2
shows (2) 131:9 172:21	situations (9) 33:18 75:10 78:5 83:22 123:4 134:5 162:25 166:17 181:7	source (6) 68:23 71:12 182:6,15 206:11,14	splintering (3) 40:10,22 41:3	states (9) 1:2 13:23 29:10 30:22 56:22 101:9 109:23 184:9 189:7
SHURA (1) 1:6	size (12) 39:23 42:3 48:9 50:17 50:25 57:9,12 58:5 65:20 78:15,16 184:10	south (17) 1:11 18:5,10 19:20 29:4 71:18 82:6 102:15,20 103:10 195:21,24 196:2,8 197:5,21 198:15	spoke (1) 205:22	statistics (1) 180:8
sic (1) 150:11	sizes (1) 39:4	SOUTHERN (1) 1:3	spot (1) 156:17	stay (4) 97:21 152:17 153:11 161:2
side (10) 71:10 78:13 81:15 82:7 85:10,23 88:24 142:20 148:15 149:2	slow (1) 139:14	southernmost (9) 145:21 146:6,14,25 147:9 152:8,22 156:11,20	square (14) 22:2 25:22 28:21 39:14 64:18 65:3,21 80:18 143:12 144:6 154:22,24 155:3 210:19	step (3) 26:10 59:14 122:8
sidewalk (8) 121:4,25 124:18,20 125:4,6,11,14	slowly (1) 10:2	space (1) 142:16	ss (1) 209:5	Stephanie (2) 3:22 5:11
sign (4) 84:12 109:23 144:8 144:12	small (10) 38:10 48:9 50:17,19 50:23,24 78:14 164:25 165:6 167:17	speak (1) 10:2	staffed (1) 31:7	Steve (4) 3:8 5:18 9:6 99:22
signal (15) 40:16 87:11 91:23 121:7 122:4,9 123:6 123:24 124:8 133:6 133:14,18 134:8,24 136:22	smaller (17) 48:6,24 49:5 50:14 66:2 68:17 70:16 71:2,7 79:23 86:4,6 89:17 164:15,18,19 164:21	speaking (1) 39:24	staffing (2) 30:23 31:2	stick (2) 121:11 153:6
signaling (2) 95:6 162:6	smoothly (2) 9:18 11:3	speaks (2) 149:8,16	standard (1) 180:25	sticking (4) 152:25 153:4 159:15 173:23
signals (6) 71:10 88:23 95:24 96:4,4 122:18	solely (3) 44:19 104:3 106:3	specialist (2) 3:22 5:13	standing (4) 108:21 112:11,19 133:25	stipulate (2) 7:7 8:5
signature (3) 7:8 13:19 56:7	solid (1) 79:22	specif (1) 25:21	start (7) 5:2 39:20 42:14 86:24 121:13 129:12,13	STIPULATED (3) 4:2,6,10
signatures (1) 189:13	somebody (7) 61:19 115:8 134:11 152:3 166:9 180:7 187:6	specific (14) 59:21 73:10,14,17,18 74:7,9 76:13 85:8 85:19 106:15,21 136:5 175:13	started (1) 78:13	stipulation (1) 7:11
signed (3) 4:12,14 12:15	SON (1) 1:6	specifically (9) 38:12,13 39:19 63:24 68:14 82:25 92:18 118:15 120:13	starting (2) 18:4 168:10	stop (9) 35:3 36:13 48:10 89:18 95:7 129:3 157:10 162:9 165:14
significant (1) 187:4	soon (1) 191:16	specif (1) 25:21	starts (2) 129:19,22	stopped (1) 129:5
signs (1) 162:9	sorry (28) 16:14 18:21 19:8,24 23:13 24:20 28:2 48:15 57:19 63:19 63:20 77:20 78:16 87:13,18,18 98:14 104:13 108:3 121:11 138:15	speed (22) 92:6,7,8,9,12 96:8,9 96:16 98:25 139:14 142:13,16 157:24 158:15,23 159:7,8 159:23 161:24 168:2 169:11,13	state (19) 2:14 7:10 11:9 21:20 22:21 66:11 68:16 86:22 87:5 100:13 112:9 118:2 159:5 172:3 176:20 186:23 189:22 209:4,9	stopping (2) 96:4 171:25
similar (1) 22:8	soon (1) 191:16	specifics (1) 127:21	statement (28) 28:25 36:10 68:24 71:13 78:11 79:7,13 81:4 85:7,11,19,24 92:25 104:19 109:6 109:8 150:17,25 151:3,6 166:5 167:10,15,16 179:21 182:22 204:8,10	stops (1) 40:19
simple (1) 188:11	SON (1) 1:6	specify (1) 79:12	standing (4) 108:21 112:11,19 133:25	straight (5) 150:15,20 151:15 153:24 155:17
single (6) 41:8 141:5,22 170:14 171:15,24	soon (1) 191:16	speed (22) 92:6,7,8,9,12 96:8,9 96:16 98:25 139:14 142:13,16 157:24 158:15,23 159:7,8 159:23 161:24 168:2 169:11,13	started (1) 78:13	street (53) 3:15 18:15 45:21 46:18 49:15 51:5,7 60:9 71:18 79:20 90:6 91:20,21 128:9 130:8 140:12 143:12 144:3,5,10 144:12,13,19,25 145:6,10 146:5,14 146:23 147:10 151:24 152:9,19 154:19 155:2,7,9 156:9,17,21 159:16 159:19 160:12 161:8,23 167:4 168:25 169:2 196:5
site (2) 25:25 83:3	soon (1) 191:16	splinter (11) 32:21 39:20 41:5,7 66:20,21 67:12	state (19) 2:14 7:10 11:9 21:20 22:21 66:11 68:16 86:22 87:5 100:13 112:9 118:2 159:5 172:3 176:20 186:23 189:22 209:4,9	
sits (1) 93:20	soon (1) 191:16		statements (5) 13:23 29:25 30:3,4	
sitting (3) 134:17 199:6,13				
situation (16) 61:5,22 62:12 121:8 122:6 123:19				

196:6 198:15 204:4 210:19	112:7,8,24 115:14 210:16	211:20	29:17 36:4,24 39:12 39:16 40:20 41:5 69:5 95:4 111:7 118:15 127:3 129:19 191:11 192:23	156:9 161:15 190:20
streets (6) 154:10 159:13 171:15 175:3 176:23 204:22	summonses (18) 30:19 36:2 59:9,17,20 75:11 88:17 103:14 103:14,23 105:10 105:24 107:6 111:18,22 115:11 115:21 117:4	T	telling (6) 23:9 43:7 146:11,18 147:6 187:6	things (3) 83:2 190:16 198:14
strike (3) 33:12 169:15 184:18	Sunday (7) 78:24 81:13 85:3 131:25 137:10,12 168:7	T (7) 1:5 6:9 102:2,7 209:2 209:2 210:9	tells (1) 153:10	think (67) 9:17 21:16 27:8 32:23 36:18 37:4 43:13 47:3,20 50:4 61:19 65:4 66:19 69:16 70:5,19 76:21 78:12 79:14 82:10 83:9 84:19 90:13 91:2 93:2 94:14,17 95:3 96:16 97:9 101:13 103:5 104:6,15 105:4,14,16 106:7 106:11 116:5 119:7 119:11 123:13 139:23 144:11 149:19 151:3 152:15 153:2 154:9 154:16 159:2,24 163:20 166:7,21,23 166:23 169:7 170:19 173:21 174:17 180:7 181:11 185:8,19 193:13
students (1) 168:19	Sundays (1) 170:3	tail (2) 97:4,6	temporarily (2) 137:18,20	time (98)
subject (4) 20:24 62:3 63:5 126:9	supervising (1) 31:20	take (15) 9:25 10:4 26:10 45:20 48:14 51:24 59:5 61:20 79:24 91:7 101:14 140:20 176:23 191:17 196:24	temporary (1) 137:24	
subjective (3) 80:21 118:24 166:8	supervisor (5) 30:20 31:22 197:3,8 197:14	taken (18) 6:22 7:4 20:12,16 52:5 53:2,5,13,23 54:14,16,20 63:9 66:3 101:18 191:21 194:16,25	ten (7) 17:11 19:5 51:7 79:18 98:18 124:23 179:16	
submissions (1) 63:25	supervisors (3) 103:8,8 196:22	takes (1) 99:25	tend (11) 48:7 49:14,18,23 50:11,15 89:18 122:8 160:25 162:5 173:17	
submit (3) 56:22 189:25 190:12	supplement (1) 63:24	talk (8) 79:8 91:10 105:5 120:22,25 121:18 121:21 175:2	tendencies (1) 50:6	
submitted (4) 35:10,11 126:10 128:4	supplemental (1) 128:5	talked (2) 29:12 205:18	tendency (2) 49:21 169:10	
submitting (1) 190:6	support (3) 33:2 56:15,23	talking (23) 38:12,13 51:21 60:12 61:25 76:5 77:12,13 88:2 90:6 92:15,16 92:17 127:10 141:8 141:9,11 157:12 168:7,8 170:25 187:19 199:10	term (3) 68:3,6,7	thinking (2) 47:3 123:10
subordinate (3) 32:12,16,20	supporting (1) 128:6	talks (2) 106:12 188:21	terminology (3) 12:6 22:8 68:3	thinks (1) 197:12
Subscribed (2) 208:17 211:20	sure (33) 7:22 16:16 21:19 32:22 34:9 37:14 44:16 57:12 73:4,6 73:8 81:23 82:6,10 85:6,17 88:16 90:9 97:4 102:21 128:25 141:11 148:4 159:4 168:5 176:8 177:16 178:4,6 182:9 184:7 184:17 187:13	tape (10) 5:3 52:10 71:21 74:11 74:13,17 142:9,24 152:6 155:21	terms (4) 23:18 42:25 58:5 65:11	third (4) 2:10 3:6 5:9 178:25
subsequent (1) 28:13	surprise (2) 183:19,25	tasks (2) 106:12 188:21	testified (8) 6:11 35:9 102:8 105:15 193:6,15 198:23 201:19	thought (5) 37:3,14 140:6 194:15 194:17
substance (1) 203:20	surrounding (2) 40:22 105:2	TARU (3) 33:4,8,15	testify (1) 11:7	three (30) 24:16,16,18,19 36:6,7 96:19 97:18 136:13 140:13 147:19 149:13 150:15,20 151:16 152:7 153:6 153:11,24 154:7 155:10,14,21 157:23 158:6,11,16 158:23 159:12 189:12
substantiate (4) 104:6 105:11 106:7 107:7	surveillance (1) 33:24	task (1) 185:10	testifying (2) 46:7 204:2	three-foot (1) 152:13
successful (1) 184:3	swing (1) 82:4	taxi (1) 142:12	testimony (8) 9:9,18,20 52:15 55:11 105:17 198:18 209:15	threshold (1) 58:5
successfully (1) 182:3	switch (1) 74:12	taxicabs (2) 145:20,24	text (1) 149:5	Thursday (1) 1:19
sufficient (1) 31:2	switchboard (1) 207:9	taxis (2) 156:2,4	Thank (3) 10:22 19:17 54:7	tight (1) 151:25
suggest (1) 187:8	swore (1) 182:25	technical (2) 33:3 68:6	theater (2) 168:11,13	till (2) 156:25 165:14
suggesting (1) 50:18	sworn (11) 4:11,14 6:10 9:9 81:4 166:5 167:10,16 208:17 209:13	telephone (1) 197:5	theaters (3) 168:9,10,12	
suit (3) 168:17 170:2 180:16		tell (19) 12:3 14:3,22 24:11	they'd (1) 66:21	
summarize (3) 18:6 31:23 135:5			thing (6) 70:19 129:7 131:18	
summer (5) 66:3,7,23 86:12,13				
summons (35) 59:8 62:3 104:13,15 104:16,20,22 105:2 106:9,25 107:4,22 108:9,17,22,23,24 109:12,15,20,23 110:6,17 111:5,8,12 111:16,17,25 112:7				

4:9 8:12,15 16:14 17:10 19:19 24:7,8 24:11 26:6 28:2,3,5 28:6,22 30:20 31:9 32:13,24 37:9 46:6 48:15 50:11 52:2,6 52:12 53:20 57:8 58:16 59:3 60:4 62:2 65:10 70:24 74:14,19 75:20 76:24 77:7,19 85:15 86:21 87:14,19 95:25 99:22,23 101:14,15 102:3,4 102:14,19,24 103:18 106:22,23 108:4 111:17 112:12,13 113:19 125:9 129:8,10 131:21,22,24 135:12 137:7 142:25 143:5 146:17 149:25 163:15 165:8 168:6 169:11,17 170:4 172:13 173:8 176:5 181:17 183:17 185:16,20 186:18 186:22 191:18,22 192:14 194:22 195:2 199:14 200:19 208:8,11	tomorrow (1) 8:3 top (1) 69:17 topic (2) 35:15 113:3 total (2) 17:2 24:16 Tour (13) 41:17,20 42:8 182:8 182:20 183:20 184:5 186:25 187:9 187:12,16 206:6,13 tours (1) 168:19 traffic (170) 40:16 45:11 46:13 48:7 49:17,25 50:15 50:20,24 51:10 58:22,24 59:5,11 60:2,7,15,18 61:11 67:18 72:6 78:7,9 79:3,10,11,16,22,25 80:5,6,9,19,20 82:24 83:4,10,17,18 83:24,25 87:7,9,10 87:15,23 88:11,12 88:25 89:7,11,14,16 89:20 90:3 92:6 93:2,4 95:11 96:11 96:12,19,20 97:22 98:8,19 100:4 103:2 118:4,20 119:6,17 120:3,18,23 121:2 121:19,23 122:8,18 124:20,21 126:21 136:10,14,17,25 137:5,11,21,21,25 138:3,14,16 140:16 141:6 142:19 145:10,21,25 146:6 146:25 152:9 153:11,13 154:2 156:3,4,14,20 157:3 157:8,15,20 158:4,7 158:10,12 159:2,11 159:18 160:13 161:4,10,10,14 162:8,15 163:3,4,9 163:11 164:2,4 165:2,6,11,19,22 166:2,3 167:6,8,19 169:4,6,10,16 170:20 171:16 172:10,23 173:18 173:25 174:2,8,9 175:4,22,22 176:13 176:17 187:9 192:4 193:24 194:4	201:25 204:16,22 training (3) 19:2,4,14 transcribe (1) 7:23 transcribing (1) 9:20 transcript (6) 7:9,16 8:2,6 9:20 211:2 transmitted (1) 196:16 Transportation (7) 41:16 74:4 148:22 150:18 151:7,13 184:11 trap (8) 119:17 124:7 125:14 140:19 141:6,6,24 141:25 trapped (13) 45:13 118:6 120:5 123:11 130:18 134:22 135:15,20 137:17 139:11 157:21 160:5,8 trapping (26) 118:12,21 120:22 121:2,7,18,22 122:5 123:2,8 126:19 127:5,11 134:19 135:7 136:4,21 137:2,14,25 138:3,6 138:11 140:2,9 158:2 travel (1) 142:4 traveling (5) 138:15 142:3 174:13 174:20 175:3 tremendous (1) 137:9 trial (1) 4:9 tries (1) 161:7 triggers (1) 116:16 true (13) 14:12 38:5 40:7 128:13 154:20 170:18 177:13 182:23 183:5 201:11,16,22 209:14 truth (1) 182:25 truthfully (1) 11:7	try (8) 10:11 11:4 14:6 22:6 45:7 121:11 140:24 161:2 trying (13) 24:21 40:24 41:2 42:24 45:15 66:19 79:6 89:6 103:5 115:8 118:25 178:2 206:16 TSG (2) 5:11,15 Tuesday (2) 8:7,22 TULLER (1) 1:11 turn (4) 47:24 113:3 172:21 198:17 turned (2) 124:17 130:25 turning (5) 117:20 131:13 135:14 162:22 195:9 turns (1) 131:3 Twenty-five (1) 51:23 two (40) 5:22 9:15 12:5,18 24:10 27:9 52:18,23 54:16 57:16,24 59:24 60:12,14 61:8 61:23,24 62:2 74:11 94:4 96:20 136:10 136:13,17 138:20 140:12 145:10,20 157:22 158:6,11,16 158:23 159:12 170:14 171:15,24 177:12,14 187:18 two-way (1) 161:8 type (2) 97:13 198:5 types (1) 95:10 typical (2) 82:17 198:6 typically (2) 31:24 170:5 typo (1) 150:13 <hr/> U <hr/> Uh (1) 205:24 ultimately (1) 108:25	Um-hmm (9) 40:2 45:25 66:6 70:7 71:8 86:14 176:3 182:12 186:7 undercover (9) 34:13 35:5,6 192:20 193:2,4,7,20 194:7 undercovers (1) 193:11 understand (38) 10:10 12:9,13 14:5 24:8 30:14 31:17 35:21 38:8 42:17 43:9 44:6,8,11 45:5 45:16 55:15 61:6 67:2 83:16 84:22 89:4 95:9 99:24 111:18 117:7 118:17 126:15 127:10 128:17 137:16 138:5 140:10 147:12,16 172:3 202:13,23 understandable (1) 7:19 understanding (19) 32:25 57:8 60:4 66:17 92:21 109:7,9 113:15,20 114:2,4 180:2 184:15 186:13,24 190:5 202:25 204:20 206:10 undertaken (1) 192:18 unexpectedly (2) 150:10 153:22 unfair (1) 91:2 unforeseen (1) 8:23 unfortunately (2) 122:7 167:25 Union (14) 22:2 25:22 28:21 39:14 64:18 65:2,21 80:17 143:12 144:6 154:22,24 155:3 210:19 unit (14) 18:10,15 19:3,14,21 19:23 22:25 29:3 33:4 102:20,25 203:15 207:11,11 UNITED (1) 1:2 units (1) 33:2 University (5)
--	--	---	---	---

143:12 144:6,19 168:19 210:20 unlawful (10) 160:23 162:4 172:6 192:15,17,24 193:16 204:11 207:19 208:3 unpermitted (12) 42:15,23 45:10,17 118:2,11,19 119:4 119:15,21 176:24 177:5 unsafe (11) 51:10 96:24 138:19 138:22,25 140:17 142:6,11 160:18,20 169:7 unusual (1) 173:4 update (1) 68:4 upper (1) 117:24 use (11) 38:8 42:18 47:7,16 48:23 68:7 156:6 161:2 162:17 171:7 171:8 uses (1) 197:14 utilize (2) 58:21 98:7 Utilizing (1) 155:8	129:3,9,15,21 130:5 130:11,13,15 131:7 131:16,18 132:4,5 132:22,24 137:23 142:10,24 143:8,15 143:20,24 144:14 145:16 146:19 147:23 148:4,7,11 149:10,17 150:8 164:6 178:14,20 179:14,22,24 188:19 190:19 191:15,24 193:6,13 194:2,9,12 197:18 199:3,17 200:10,25 201:7 202:2,9,12,21 203:3 204:17,24 205:4,7 206:22 207:13,15 208:7 210:5 valid (1) 63:9 value (1) 46:16 van (1) 136:15 variety (1) 46:2 various (1) 82:21 veer (1) 60:24 vehicle (13) 96:12 97:4,6 130:18 134:6,17,23 137:4 139:2 141:24 142:19 161:7 175:22 vehicles (21) 127:6,12 133:13,17 133:22 135:14,20 136:21 137:2,15 138:9,9,11 140:9,19 141:7 142:4 160:4 161:3 176:12 187:2 vehicular (27) 45:11 49:25 61:10 78:8 79:11 80:6,20 83:25 87:7 119:5,17 120:3,17,23 121:2 121:19,22 126:21 137:21,25 162:15 163:4,11 164:3 167:8 170:20 201:25 vending (1) 20:6 vendor (1) 148:18	verbal (1) 10:7 versus (2) 5:5 198:21 vicinity (5) 28:21 45:13 118:5 120:5 163:22 video (8) 3:22 5:12 30:7 126:8 127:21 130:24 131:9,15 VIDEOGRAPHER... 5:2 8:12,15 10:22 52:2,6 71:20 74:10 74:14,19 101:15 102:4 128:18,25 142:8,25 143:5 191:18,22 194:19 194:22 195:2 208:8 videotape (13) 5:3 74:18 125:21 126:21 127:2 129:2 129:5,11 130:9,12 132:12 135:20 143:4 Videotaped (2) 1:15 2:8 view (11) 100:24 129:17 137:13 138:11 140:10 152:11 155:25 158:5 161:11 163:24 164:9 viewed (2) 13:16 151:9 views (2) 105:11 107:7 violate (3) 167:23,24,25 violated (1) 192:5 violating (1) 123:24 violation (11) 108:16,18 109:3 110:10,23 111:13 112:3,12,22 116:21 199:25 violations (9) 59:19 63:13 88:19 111:2 162:6 175:20 176:13,17,19 virtually (1) 171:6 visit (3) 172:16,17 181:14 visual (1) 49:23 volume (1)	138:18 VTL (3) 88:18 93:10 94:23 <hr/> W <hr/> wait (3) 49:18 106:10 156:25 waited (1) 122:10 waiting (2) 80:25 122:8 waived (1) 4:5 walk (5) 133:6 134:12,13,24 135:3 walking (1) 125:5 want (30) 38:19 39:2 48:10 49:14,18,18 51:6 61:6,6 64:7 91:10 93:8 95:9 100:17,18 101:11 127:9 128:11,19 129:13 137:16 138:5 140:8 140:9 168:4 179:13 190:20 191:17 194:19 202:7 wanted (8) 27:2 57:16,25 82:4 124:19 148:25 156:8 176:10 wants (3) 49:16 93:23 159:22 warning (1) 52:11 wary (4) 150:9 152:3 153:19 153:21 wasn't (4) 104:13 107:10 109:5 186:4 watch (1) 127:21 watched (2) 135:20 175:18 water (2) 196:3,4 way (26) 10:12 36:16 43:16,17 44:3,5 45:8 55:17 59:22 72:16 76:18 82:19 84:19 118:9 122:22 140:23 146:13 147:8 156:18 157:10 158:20 172:4 180:4 200:18 206:20	209:19 ways (1) 64:4 wearing (1) 139:4 website (4) 188:15,21 189:7,20 week (9) 8:8 137:8 168:20 170:13 180:23 182:13 183:2 187:14 198:2 weeks (1) 187:18 welcome (1) 19:18 went (3) 124:21 172:22 184:3 weren't (2) 69:10 178:3 westbound (1) 155:4 we'll (12) 8:20 11:4 90:15,22,23 100:15 120:25 121:21 127:17,20 129:8 145:3 we're (16) 61:24 73:7 92:17 93:21 118:25 128:15 130:3 136:7 136:11 145:5 152:19 170:25 173:12,24 188:15 190:8 we've (7) 7:25 85:6,18 121:11 135:5 145:6 193:3 wheel (14) 103:7,16 195:10,14 196:16,22 197:6,9 197:23 198:6,13 205:8,11 207:5 Wheeler (7) 104:9,17,20,23 107:22 108:10 112:7 wheels (1) 152:24 WHEREOF (1) 209:21 white (7) 129:14 136:15 142:19 145:17 152:8,22 153:4 wide (4) 128:20 154:11,13,15 wider (2) 152:15 153:8
--	---	---	--	--

width (1) 51:5	7:12 108:22 111:2,8	<hr/> Z <hr/>	77:22 78:5,17 79:8	154:19 155:2,7,9
willing (2) 8:5 68:18	writing (1) 111:5	zone (2) 152:13 155:10	80:4,17 81:7,11	156:9,17,21 159:16
wish (2) 123:25 124:3	written (7) 14:25 27:2 55:11 94:23 108:23 118:9 201:5	<hr/> 0 <hr/>	82:9 83:11,23 84:3 84:4,16 85:9,21 87:8 90:11 91:5,13 91:17 136:9 159:17 161:21 162:25 163:8,14,15,25 164:15 165:25 166:11,14,15,16,18 166:19,20,25 204:3 204:19,20	159:19 160:12 161:8,22,23 210:19
wishes (1) 204:21	wrong (1) 59:22	<hr/> 1 <hr/>	10007-2601 (1) 3:16	143 (1) 210:19
withdraw (2) 63:15 150:4	<hr/> X <hr/>	1 (11) 5:3 6:14,17 13:22 22:20 29:2 30:21 74:17 178:25 189:10 210:11	10022 (1) 3:7	148 (1) 210:21
withdrawn (3) 63:20 104:12 125:12	X (3) 210:2,9,9	1,000 (15) 65:9 73:9 79:17 80:10 80:16 81:10 118:16 183:21 184:24 185:6,16,25 186:11 189:24 190:10	109 (1) 210:16	15 (1) 79:22
witness (61) 6:10 8:9 10:21 13:13 48:20 52:22,25 53:7 53:10,13,17,21,25 54:6,18,23 55:4,7 55:12 62:15 63:2 84:8,11,13 88:9 91:9 93:19,22 94:6 95:4,6 100:11 106:9 107:10,14,25,25 117:25 126:7 127:14 128:12 129:19 130:10 143:18,22 144:11 148:17 149:8 150:6 153:15 173:15 190:22 199:23 200:5,13 202:15,20 209:12,15,21 210:3	<hr/> Y <hr/>	10 (19) 39:21 40:8 45:16 46:4 46:8,18 47:22 49:6 58:18,25 60:20 64:21 79:22 97:20 159:24,25 161:24 170:6 196:2	11 (31) 65:24 66:10,18,25 67:13 68:16 69:8 70:15 71:4 72:10 75:2 78:3 79:8 83:21 84:18 85:12 85:25 87:6,17,25 88:5,20 89:3,10,21 90:4 152:15 153:8 154:10,14 162:23	16 (1) 16:3
witnessed (1) 91:15	yeah (10) 16:8 58:9 87:18 101:2 107:18 128:2 143:18,22 144:16 148:24	10th (1) 8:22	11:14 (1) 52:3	17th (1) 79:20
woman (1) 104:9	year (13) 15:25 24:4,5,6,9,10 24:16 65:11,15 73:9 168:20 170:8 183:21	10-year (3) 178:17 179:8 210:23	11:28 (1) 52:7	178 (1) 210:22
word (5) 10:5 31:19 47:2 49:24 55:2	years (8) 24:10,17,18,19,22 25:9 39:17 179:16	10:110 (1) 116:22	11:56 (1) 74:15	18 (4) 16:3 129:23 131:19 132:7
Worden (2) 3:9 5:23	year-and-a-half (1) 19:11	10:12 (2) 2:5 5:10	11:58 (1) 74:20	18th (6) 125:23,24 126:25 132:2 141:18 142:21
work (5) 23:23 25:16 38:21 71:17,17	year-round (2) 170:9,13	10:16 (1) 8:12	11025 (1) 1:25	18:28 (1) 129:22
worked (3) 19:11 176:9 194:17	yellow (6) 134:7 140:15 152:5 155:21 160:11 161:9	10:17 (1) 8:16	1125 (1) 1:25	188 (1) 210:25
worry (1) 100:15	York (63) 1:3,9,10,12,18,18 2:11,11,15 3:7,7,12 3:16,16 5:6,9,9 7:10 14:15 17:25 18:7 29:15,19 41:19 42:7 54:3 55:22 56:2,11 73:3,12,12 77:12 92:10,12 93:2,11 115:18 147:18 148:2,8,20,21 152:14 153:8 154:10 159:12 168:20 176:6 182:7 182:19 183:20 184:4,25 185:5 189:16 198:21 206:12 209:4,9 210:15,21 211:3	100 (59) 3:15 37:18,23 49:10 49:11,21 65:5 66:12 66:16,17,21 67:6,7 75:3,17 76:3 77:3	11:28 (1) 52:7	195,206 (1) 210:7
worth (1) 179:17	Y (3) 210:2,9,9	10th (1) 8:22	11:56 (1) 74:15	1977 (1) 53:18
wouldn't (14) 65:17 75:9,12 77:25 88:14 156:5,9,18 161:14 173:4 186:16,18,20 207:6	year-and-a-half (1) 19:11	10:110 (1) 116:22	11:58 (1) 74:20	1993 (1) 183:22
wrap (1) 191:16	year-round (2) 170:9,13	10:110 (1) 116:22	11025 (1) 1:25	1996 (3) 178:17 179:8 210:23
wrapped (1) 7:5	yellow (6) 134:7 140:15 152:5 155:21 160:11 161:9	10:12 (2) 2:5 5:10	1125 (1) 1:25	2 (17) 13:7,10,20 55:6,9 56:14,21 63:21,21 64:17 117:24 173:14 189:12 200:12,15 201:16 210:12
write (4)	you're's (1) 38:3	10:16 (1) 8:12	11025 (1) 1:25	2:31 (1) 143:2

<p>2005 (38) 21:22 23:3 25:2 27:23 28:6 29:6 57:9,15 57:23 58:7,13 59:25 60:2 61:25 62:11,20 63:3,7,9,14 64:23 66:8 70:15 74:24 76:24 86:13 163:7 163:24 165:24 178:17 179:9 184:6 184:10,15 200:20 200:20 205:18 210:24</p> <p>2006 (13) 65:17,22 104:10 107:23 108:11 110:14 148:2,6,7,8 175:10,16 210:21</p> <p>2007 (23) 1:19 2:4 7:2 21:23 23:4 25:2 27:23 28:6,17,19 29:7 76:25 116:23 117:3 125:23 126:25 162:13 180:18 182:11 208:18 209:22 211:4,21</p> <p>205 (1) 210:5</p> <p>207 (1) 210:6</p> <p>22nd (1) 169:2</p> <p>24 (1) 195:16</p> <p>25 (12) 60:23 96:14 97:12,16 109:17 132:14 133:9 162:20 164:10,24 165:21 169:13</p> <p>25th (2) 116:23 180:17</p> <p>250 (1) 64:23</p> <p>28 (1) 129:23</p> <p>28th (1) 182:11</p> <p>29th (1) 7:2</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 (19) 36:8 41:24 42:10 46:20 47:25 55:21 55:24 56:8 63:20 65:23 162:23 189:15 198:20</p>	<p>199:8,12,22 200:17 200:21 210:14</p> <p>3:33 (1) 191:19</p> <p>3:34 (1) 191:19</p> <p>3:42 (1) 191:23</p> <p>3:45 (1) 194:23</p> <p>3:57 (1) 195:3</p> <p>30 (1) 52:10</p> <p>30th (2) 28:16,18</p> <p>300 (2) 64:17 169:3</p> <p>33 (3) 131:20 132:7,7</p> <p>39th (2) 128:9 130:8</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 (20) 13:20 42:13 43:2 45:9 45:24 46:11,24 109:11,12 118:2,19 123:4 125:19 135:16 152:16 153:9 154:12 160:24 162:12 210:16</p> <p>4:15 (2) 208:9,11</p> <p>40 (2) 170:12 171:14</p> <p>40th (1) 168:25</p> <p>40-second (1) 130:24</p> <p>400 (1) 65:23</p> <p>45 (2) 194:11,18</p> <p>47 (6) 126:24 130:18 132:15 132:21,23 135:22</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 (14) 1:19 2:4 47:24 48:12 48:16 50:14 88:6 127:24 128:3 162:24 173:9,16 210:18 211:4</p> <p>5th (5) 5:10 18:22 168:25</p>	<p>189:25 190:11</p> <p>50 (31) 17:13,14 36:11,14,21 37:3,11 38:10 39:9 39:17,21 40:4,5 42:9,20 46:21 47:22 49:8,22 50:7,9 65:3 86:15 126:18 133:8 141:4,15,21 162:19 202:6 203:24</p> <p>50s (1) 164:23</p> <p>55 (1) 210:14</p> <p>59th (5) 71:18 196:5,6,8 198:15</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 (6) 56:7 143:9,11 176:20 210:11,19</p> <p>6th (2) 19:10 209:22</p> <p>6:00 (2) 168:7,9</p> <p>60 (2) 170:12 171:14</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 (14) 41:18 147:24 148:8 181:24 182:8,17,23 183:5 184:8 186:23 200:9,14 201:15 210:21</p> <p>70 (1) 19:11</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 (3) 178:14,15 210:22</p> <p>8/25/06 (2) 109:13 210:17</p> <p>83 (1) 18:2</p> <p>84 (1) 19:12</p> <p>85 (2) 19:7,12</p> <p>89 (4) 18:25 19:8,8,9</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 (13) 63:18 64:16 90:18,20 101:6,12 170:5 188:9,16,17 189:23</p>	<p>210:5,25</p> <p>9th (1) 18:17</p> <p>90 (3) 18:24 19:2 170:2</p> <p>919 (3) 2:10 3:6 5:8</p> <p>94 (2) 18:21,24</p> <p>97 (3) 17:23 18:20,21</p> <p>98 (1) 18:13</p>
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