

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x
FIVE BOROUGH BICYCLE CLUB, SHARON BLYTHE,
JOSH GOSCIAK, KENNETH T. JACKSON, MADELINE
NELSON, ELIZABETH SHURA, and LUKE SON

Plaintiffs,

-against-

THE CITY OF NEW YORK, RAYMOND KELLY, Police
Commissioner of the New York City Police Department,
JAMES TULLER, Commanding Officer, Patrol Borough
Manhattan South, and LT. JOHN DOE and CAPTAIN
JANE DOE, New York City Police Department

Defendants.
----- x

**DEFENDANTS'
RESPONSES AND
OBJECTIONS TO
PLAINTIFFS'
SECOND SET OF
INTERROGATORIES**

Index No. 07 Civ. 2448
(LAK)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP") and Local
Rule 33.3 of the Civil Rules for the Southern District of New York, Defendants respond and
object to plaintiffs' Second Set of Interrogatories as follows:

INTERROGATORY NO. 7:

Describe in detail the NYPD's use of electronic surveillance and/or
Undercover NYPD Personnel to surveil or investigate Group Bicycle Rides, including
without limitation by identifying the Group Bicycle Rides that have been subject to such
surveillance or investigation, the NYPD Individuals responsible for assigning or supervising
NYPD Individuals engaging in such surveillance or investigation, the duties and
responsibilities of NYPD Individuals engaging in such surveillance or investigation, and the
number of Undercover NYPD Individuals that have attended each Group Bicycle Ride.

OBJECTION TO INTERROGATORY NO. 7:

Defendants object to this interrogatory on the grounds that it is vague, overbroad based on plaintiffs' expansive definition of "undercover", beyond the scope of Judge Lewis A. Kaplan's Order dated November 27, 2007, and requests information which is not relevant or reasonably calculated to lead to the discovery of admissible evidence, and seeks information protected from disclosure by the law enforcement privilege.

Subject to, and without waiving these objections, Defendants respond that the New York City Police Department's Technical Assistance Response Unit ("TARU") videotaped some Critical Mass rides in Manhattan. TARU's presence was requested by a ranking officer of the Manhattan South Patrol Borough. The duties and responsibility of TARU was to videotape where illegal activity was observed or where such activity was believed to be imminent. The following is a list of dates on which TARU made video recordings of some portion of Critical Mass bicycle rides, together with the NYPD individual responsible for those that videotaped: July 30, 2004; August 27, 2004; September 24, 2004; October 29, 2004; November 26, 2004; December 31, 2004; January 28, 2005; February 25, 2005; March 25, 2005; April 29, 2005; May 27, 2005; June 24, 2005; July 29, 2005; August 26, 2005; September 30, 2005; December 30, 2005; January 27, 2006; February 24, 2006; May 26, 2006; June 30, 2006; July 28, 2006; August 25, 2006; October 27, 2006; November 24, 2006; January 26, 2007; February 23, 2007; March 30, 2007; April 27, 2007; May 25, 2007; June 29, 2007; July 27, 2007; August 31, 2007; September 28, 2007; October 26, 2007; November 30, 2007; and December 28, 2007.

Defendants further respond that to the extent the NYPD utilized plainclothes and undercover officers during certain Critical Mass rides in Manhattan, disclosure of information regarding such a use of undercover/plainclothes officers, including, but not limited to, the dates

of Critical Mass rides on which such officers were assigned, and the identity, duties, and activities of the officers, is protected from disclosure by the law enforcement privilege.

INTERROGATORY NO. 8:

Identify each summons issued by NYPD for any of the following violations:

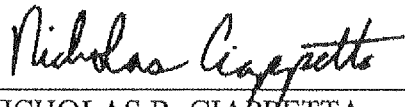
Failure of bicyclist to use designated bicycle lane or path; failure of bicyclists to proceed in single file or two abreast; failure of bicyclist to ride at the left or right hand side of the roadway; failure of bicyclist to be equipped with lights or reflective devices; failure of bicyclist to be equipped with bell or horn; failure to stop for steady red signal; failure to stop for stop sign; parading without a permit; bicycling on the sidewalk.

OBJECTION TO INTERROGATORY NO. 8:

Defendants object to this interrogatory on the grounds that it is overbroad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and seeks information that is protected from disclosure by state law. Defendants further object to this interrogatory on the ground that it violates Local Rule 33.3(b). Subject to, and without waiving these objections, pursuant to FRCP 33(d) and Local Rule 33.1, defendants will make available summonses that may be responsive to plaintiffs' request.

Dated: New York, New York
February 1, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 5-182
New York, New York 10007
(212) 788-0708

By: 

NICHOLAS R. CIAPPETTA
Assistant Corporation Counsel

TO: STEVE VACCARO
DEBEVOISE & PLIMPTON LLP
Attorneys for Plaintiff
919 Third Avenue
New York, New York 10022

VERIFICATION

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

NICHOLAS R. CIAPPETTA, being duly sworn, says that he has been duly designated as Assistant Corporation Counsel of The City of New York, and as such that he is an officer of The City of New York in the within action. That the foregoing Defendants' Responses and Objections to Plaintiffs' Second Set of Interrogatories are true to his knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true. Deponent further says that the reason why this verification is not made by The City of New York is that it is a corporation; that the grounds of his belief as to all matters not therein stated upon his knowledge are as follows: Information obtained from the books and records of the Law Department and other departments of the city government and from statements made to him by certain officers or agents of The City of New York.

Nicholas Ciappetta

NICHOLAS R. CIAPPETTA

Sworn to before me this
1st day of February, 2008.

Ave Maria Brennan

NOTARY

AVE MARIA BRENNAN
NOTARY PUBLIC, State of New York
018017-2-4527182
Qualified in Kings County
Certificate filed in New York County
Commission Expires July 31, 2008.

200