

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FIVE BOROUGH BICYCLE CLUB, SHARON BLYTHE,  
JOSH GOSCIAK, KENNETH T. JACKSON, MADELINE  
NELSON, ELIZABETH SHURA, 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, Lt. John Doe, and Captain Jane Doe,  
New York City Police Department,

Defendants.  
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**DECLARATION OF  
JOSEPH S. CANECO IN  
OPPOSITION TO  
PLAINTIFFS'  
APPLICATION FOR A  
PRELIMINARY  
INJUNCTION**

Docket No. 07 Civ. 2448 (LAK)

**JOSEPH S. CANECO** declares under penalty of perjury pursuant to 28 U.S.C. §

1746 as follows:

1. I am a Lieutenant in the New York City Police Department (“Police Department” or “the Department”). I have been a Lieutenant since November, 1997. Since early March, 2007, I have been assigned to the Police Academy’s Tactical Training Unit. Prior to this assignment I was assigned to the Patrol Borough Manhattan South, Operations Unit. In my capacity as a Lieutenant in the Operations Unit, I was responsible for coordinating the operations (i.e. staffing of manpower) for various events within the Patrol Borough. In this capacity, I had the opportunity to observe first-hand the monthly Critical Mass bicycle rides from January 2005 through January 2007. I also coordinated bicycle processions with other organizations, including discussing the permit, route and police involvement. I am either personally familiar with the facts and circumstances set forth herein or believe them to be true based upon my review of the

records of the Police Department and/or my conversations with agents, officers, and employees of the City of New York.

2. I submit this declaration in support of the defendants' opposition to the plaintiffs' motion for a preliminary injunction enjoining the defendants' enforcement of the parade permit requirement against bicycle processions of fifty or more persons.

3. Large group bicycle rides (with approximately fifty or more cyclists) may significantly disrupt vehicular and pedestrian traffic and adversely affect public safety, unless subject to regulatory control. I have had the opportunity to observe first hand how unpermitted group bicycle rides with fifty or more cyclists that have not had a pre-arranged route and/or Police Department assistance present the City with serious public safety issues.

4. Unpermitted large group bicycle rides disrupt pedestrian and vehicular traffic, such that ordinary citizens who happen to be in the vicinity of the ride become trapped when the ride approaches. Moreover, large groups tend to try to stay together and use the entire lane, thereby making it difficult for vehicles to pass the group, without cutting into oncoming traffic. If a parade route had been provided to the Police Department in advance, as the permitting process requires, the Police Department would have been able to re-route pedestrian and vehicular traffic if necessary.

5. Large groups of cyclists also tend to be more aggressive and disregard the traffic regulations, causing a host of safety issues. I have observed during Critical Mass rides that many groups of cyclists have run red lights, traveled along roadways that are prohibited to bicycles, and traveled on one way streets or in lanes going against traffic. The cyclists' disregard from traffic signals makes it difficult for pedestrians to cross the street and for vehicular traffic to flow through the intersection, despite the fact that the pedestrians and the vehicles have the right

of way (i.e. a walk signal and a green light). In circumstances where cyclists obey the traffic signals, I have observed that when cyclists are in large groups, they are more willing to interact with vehicles, for example, by leaning on the cars. Smaller groups of cyclists tend to follow traffic regulations, and even if they do not, the impact is minimal due to the small size of the group.

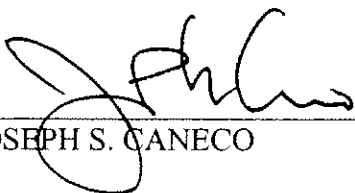
6. It is extremely difficult for the Police Department to protect public safety when large groups take to the streets for un-permitted events. This is particularly true of the Critical Mass rides which take a different route each time. Parade permits enable the Department to protect the needs of event participants and the general public. Once a permit is issued, the Department is able to assign officers to assist with the event. These officers will block off the designated event route, escort the procession through the route and re-route pedestrian and vehicular traffic as needed.

7. I am aware of circumstances in which large groups of cyclists have successfully applied for a permit. In August 2005, the bicycle advocacy group known as Transportation Alternatives submitted an application to the Police Department for a permit for portions of the September 11, 2005 New York City Century Bike Tour. The New York City Century Bike Tour is a bicycle ride which takes place each September. Participants have the option of choosing to ride on routes of various size, ranging from a fifteen mile route to a one hundred mile route. It is my understanding that during the Century Bike Tour cyclists occupy the roadway along with vehicles. Due to the increasing size of the event, in 2005 the Transportation Alternatives applied to the Police Department for assistance with the ride, and the Police Department accommodated their request by directing traffic and otherwise ensuring that the ride was safe.

8. Moreover, the permitting process does not prohibit groups from coming together to demonstrate or parade in response to a current event or issue. People have applied on short notice for permits, and I have never denied such a request for a permit based upon short notice.

9. The procedure to obtain a parade permit is simple. Applicants for parade permits anticipating less than 1000 participants and who do not intend to proceed down Fifth Avenue submit their applications to the local precinct. The Borough Command is informed of this application and will then assist in coordinating the logistics of the Police Department assistance in the parade, if required. For example, if ancillary units and additional patrol personnel are required for the parade, the Borough Command will arrange for that. The Borough Command also coordinates between precincts in the event that the parade route enters more than one precinct. If necessary, the Borough Command may speak with the organizers of the parade about the route and any other issues that may arise during the permitting process.

Dated: New York, New York  
March 28, 2007

  
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JOSEPH S. CANECO