



THE CITY OF NEW YORK
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May 23, 2007

Steve Vaccaro
Debevoise & Plimpton LLP
919 Third Avenue
New York, NY 10022

Re: Five Borough Bicycle Club, et al. v. City of New York, et al., 07 civ 2448

Dear Mr. Vaccaro:

Enclosed please find Defendants' first request for documents. I have also emailed a copy of the requests to Dina Hamerman. Thank you.

Sincerely yours,

A handwritten signature in cursive script that reads "Melanie V. Sadok".

Melanie V. Sadok
Assistant Corporation Counsel

Enclosure

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.

**DEFENDANTS' FIRST
REQUEST FOR
DOCUMENTS**

07 Civ. 2448 (LAK)

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PLEASE TAKE NOTICE that pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure and Rules 26.3 and 33.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, defendants, by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, demand that plaintiffs respond to the requests to produce documents for inspection and copying. Plaintiffs must serve their answers within thirty (30) days after service of these document requests.

INSTRUCTIONS FOR RESPONSES

A. Plaintiffs are to produce the documents requested, or a true, complete and legible copy thereof, at the office of the undersigned if the documents are in the possession, custody or control of plaintiffs or plaintiffs' attorneys. Plaintiffs are to provide the undersigned with an appropriate release if the documents requested are not in such possession, custody or control. The documents produced in response to this request shall be (1) organized and

designated to correspond to the categories in the requests, or (2) produced in a form that accurately reflects how they are maintained by plaintiffs in the normal course of business.

B. In addition to the definitions set forth in Local Rule 26.3, the following definitions shall apply:

1. "Plaintiffs" shall mean the plaintiffs in this action and their members, agents, employees, attorneys, representatives and all other persons under their authority or control, or acting or purporting to act on their behalf. Although Plaintiffs will be referred to collectively, each request applies to each plaintiff independent of others as well as collectively.

2. A "bike ride" or "bicycle ride" shall mean any 5BBC bicycle event, any Critical Mass event, Kenneth T. Jackson's nighttime bicycle tour of New York City, and any group of fifty or more bicyclists proceeding together in the City of New York from January 1, 2004 forward.

3. A "document" shall mean all writings, personal notes, electronic mail or "email," text messages, cablegrams, telexes, electronically stored information, facsimiles, telegrams, hand held two-way radio or walky-talky transmissions, cellular phones transmissions, studies, calendars, day-timers, diaries, appointment books, agendas, minutes, notes, instructions, demands, schedules, data, notices, drafts, pamphlets, envelopes, voicemail messages, bulletins, photostats, graphs, maps, charts, sketches, drawings, plans, specifications, blueprints, forms, manuals, contracts, agreements, appraisals, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries, records or minutes of meetings or conferences, lists, publications, journals, ledgers, memoranda, notepads,

notebooks, post cards, “post-it” notes, tabulations, analyses, evaluations, opinions or report of consultants or experts, projections, work papers, summaries, reports, surveys, studies, logs, message slips, billing records, invoices, purchase orders, checks (front and back), confirmations, correspondence, letters, interoffice communications, brochures, advertising, packaging or promotional materials, financial or statistical statements or compilations, balance sheets, accounting entries, tax returns, loan documents, publications, articles, books, photographs, video recordings, audio recordings, speeches, transcripts, microfiche, microfilms, films, computer programs, printout, computer disks or diskettes, hard drives, software, and all recording made through data processing and/or computer techniques, and the written information necessary to understand and use such materials, and all other written or graphic material of any nature whatsoever, in Plaintiffs’ possession or control. A draft or non-identical copy of a document is a separate document within the meaning of this term. A document includes all attachments, whether by staple, clip, rubber band or binding, and all appended or embedded links or files.

4. “Participate in” means organize, promote, lead, ride a bicycle, or have any involvement with the event(s) described in the Document Request, whether directly or indirectly.

5. “Communication” means every contact of any nature, whether made orally, in writing or otherwise, from one person to another, and any evidence of such contact, including without limitation any correspondence, memoranda, notes, diaries, text messages, hand held two-way radio or walky-talky transmissions, cellular phone transmissions daily calendars, electronic mail messages, voicemail messages,

“instant messages,” computer files, electronic or magnetic media, or other documents concerning such contacts.

6. “Complaint” means the complaint in this action, dated March 27, 2007.

7. “Concerning” means referring to, reflecting, related to, describing, discussing, evidencing or constituting, in any way, directly or indirectly. Without limiting the scope of the foregoing definition, “documents concerning” a particular subject matter include all documents that comprise, record, memorialize, discuss, evaluate, report on, were reviewed in connection with, or were generated as a result of that subject matter.

8. “Application” means a written or oral request for approval, permission or a permit for a bike ride.

9. “Critical Mass” means any event or bicycle ride that has been identified by the participants in or advertiser of such event or bicycle ride, or that has been identified by the City of New York as a Critical Mass event or bicycle ride, including without limitation any event or bicycle ride occurring at or originating from one or more of the following locations at approximately 7 P.M. to 8:30 P.M. on a Friday: in Manhattan, Union Square Park, Madison Square Park, or Tompkins Square Park; in Brooklyn, Grand Army Plaza, or the entrance of the Williamsburg Bridge.

C. If you object to any document request or part thereof on any claim of privilege, provide the information required by Local Rule 26.2.

D. In the event that any document requested herein is not in your possession, custody or control, please specify what disposition was made of it and who has possession,

custody or control of the document. In the event that any document requested herein has been destroyed, please specify the date of destruction, manner of destruction, the reason for destruction, the person authorizing destruction, person destroying the document, and the custodian of the document on the date and at the time of destruction.

E. These document requests shall be deemed to continue beyond the date the plaintiffs serve their responses upon the defendants' attorney. If any plaintiffs or anyone representing any plaintiffs in anyway receives or acquires information after plaintiffs have served their response, plaintiffs must add this information to their responses to these requests to produce documents by sending it to the defendants' attorney.

F. The documents and communications requested are those created during, or referring to or relating to, the period of January 1, 2004 through the date of production.

DOCUMENT REQUESTS

1. Produce all documents and communications concerning the advertisement, registration, application, organization and implementation of bike rides Plaintiffs may organize or participate in New York City. These documents should include, but are not limited to the designated routes for bike rides, the calendars of bike rides that have been held and or will be held by Plaintiffs or that Plaintiffs may participate in, and photographs and videos of bike rides.

2. Produce all documents and communications concerning the training or preparation of the leaders of bike rides that Plaintiffs may organize, lead or participate in in any capacity.

3. Produce all documents and communications that Plaintiffs may have provided to participants of bike rides or that Plaintiffs may have received during bike rides.

4. Produce all documents and communications, including photographs and videos, concerning civil or criminal charges or arrests that Plaintiffs may have been subject to or witnessed during any bike ride, including but not limited to summonses, desk appearance tickets and notices of violation.

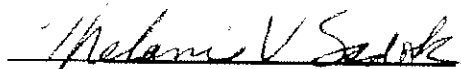
5. Produce all documents and communications concerning permission, approvals or permits applied for or obtained by Plaintiffs when organizing or participating in bike rides, including permission, approvals or permits granted by the City of New York as well as other localities and municipalities, and including but not limited to applications submitted to the City of New York pursuant to 38 RCNY § 19-02(a), as amended effective February 25, 2007.

6. Produce all documents and communications related to the Complaint's fifth cause of action.

7. Produce all documents and communications concerning the Complaint's sixth cause of action.

Dated: New York, New York
May 23, 2007

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007

By: 
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