

**CAPLICKI
DECLARATION**

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.

07 Civ. _____

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I, KEVIN CAPLICKI, hereby declare as follows:

1. My name is Kevin Caplicki.
2. I reside at 1011 Bedford Ave, Apartment 3, Brooklyn 11205.
3. I sell vegetables at the Union Square farmer's market.
4. I have participated in Critical Mass rides in various cities for seven years. For the first five to six years of my participation, I rode in most of the Manhattan Critical Mass rides -- only missing rides when I was out of town. Since my arrest during

the April 2005 Manhattan Critical Mass ride, I do not participate as frequently, though I still attend to watch.

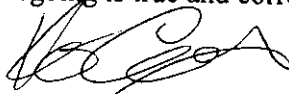
5. Before the August 2004 ride, I never saw anyone arrested or ticketed during a Critical Mass ride, despite the fact that the rides often drew hundreds to thousands of riders. Prior to the August 2004 ride, police were present at some rides but only to facilitate the rides. The police sometimes blocked intersections to allow the group to move through together even after the light turned red. On other occasions the police watched Critical Mass participants block the intersections and did not interfere. During and after the August 2004 ride, the police interaction with the ride changed. During the August 2004 ride I saw the police arrest a lot of bicyclists toward the end of the Critical Mass ride.
6. Before the April 2005 Manhattan Critical Mass ride, there was a "And Still We Speak" free speech rally at the south end of Union Square. During the rally there were altercations between some of the attendees and Assistant Police Chief Bruce Smolka. He aggressively grabbed and arrested a girl for sitting on her bike on the sidewalk. I was across the street but could see the commotion. I also saw a friend of mine detained in a similar manner. After seeing these interactions, I was nervous about the ride but I participated anyway.
7. There were a few hundred people riding in the Critical Mass ride that night. The ride that night went uptown near Grand Central Station where members of the

New York Police Department on scooters began interfering with the ride and blocking off streets in order to detain people. The police tactics felt very aggressive and I was not comfortable being on the ride any longer. The group split up and I headed downtown with a group of about seven to ten people. It was 9:30 PM and I considered the Critical Mass ride to be over. I was going downtown to meet my girlfriend for dinner.

8. My friend Brandon Neubauer was riding in the small group with me. He was filming as we rode. As we got to Second Avenue, we saw an unmarked police Jeep following us and an occupant in the Jeep was filming us. We were riding in the bike lane and as far as I could tell no one was violating any traffic rules or interfering with traffic in any way. We were simply riding along with the traffic.
9. Brandon dropped back behind the Jeep to film it. I stayed back with him so that he would not be riding alone. At about 4th or 3rd Street I began hearing police sirens. When we reached Second Street, we got off of our bikes and walked to the sidewalk at the corner of Second and Second. I took Brandon's bike and was going to lock it up when I saw a female officer come out of a police car and run toward Brandon. After she and another officer detained Brandon, she approached me and detained me as I was at the bike rack about to lock up my bike. That is when he stopped video taping.

10. I was given a Desk Appearance Ticket that night and then I was released. At my arraignment I learned that I was charged with Disorderly Conduct and Parading without a Permit. The charges were dismissed pursuant to C.P.L. § 30.30.
11. I worked with a film editor to put the footage Brandon took on the April 2005 ride together with the Technical Assistance Response Unit (TARU) video footage that we received in discovery while my charges were pending. The video can be seen at <http://youtube.com/watch?v=2HzsSqk3XJE> and is attached as Exhibit A. The video accurately reflects the events of that night as I experienced them.
12. I have seen undercover officers on almost every ride I participated in between October 2004 and April 2005 when I stopped participated so regularly.

I declare under penalty of perjury that the foregoing is true and correct.



KEVIN CAPLICKI

16th day of March, 2007



Exhibit A