



**DESSER  
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. )

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I, STUART DESSER, hereby declare as follows:

1. My name is Stuart Desser. I submit this declaration in support of plaintiffs' Motion for a Preliminary Injunction in this matter.
2. My home address is 145 East 16<sup>th</sup> Street, New York, New York, which is about two blocks from Union Square.
3. At approximately 7 pm on the last Friday of each month I go to Union Square to bear witness to, and to videotape, police conduct around and police interaction with participants of Critical Mass.

4. On the evening of March 25, 2005, I witnessed police officers effect mass arrests on 17<sup>th</sup> Street between 5<sup>th</sup> and 6<sup>th</sup> Avenues utilizing orange netting within minutes of when riders dispersed from Union Square. I believe that the police actions I witnessed were unlawful.
  
5. On the evening of April 29, 2005, I situated myself on East 17<sup>th</sup> Street at 5<sup>th</sup> Avenue shortly after 6:30 pm. At approximately 7:30 pm, I walked east along East 17<sup>th</sup> Street along the south sidewalk, past a post of perhaps ten police officers, who were among thirty police officers stationed at the intersection of East 17<sup>th</sup> Street and 5<sup>th</sup> Avenue at the time.
  
6. At approximately 7:34 pm, I observed five people on bicycles traveling west along the right-hand (north) side of East 17<sup>th</sup> Street. Approximately thirty seconds later, I observed that these five cyclists had been stopped by police officers approximately twenty-five feet east of the intersection of East 17<sup>th</sup> Street and 5<sup>th</sup> Avenue. I also observed that police officers had stretched an orange net across East 17<sup>th</sup> Street east of 5<sup>th</sup> Avenue, apparently to ensure that the five cyclists did not ride through the intersection.
  
7. I observed a police officer order the cyclists off of the street and onto the sidewalk. At approximately 7:35 pm, I heard a NYPD Captain say, "I need to speak to one of yous [sic] please, are yous [sic] all together?"

8. One of the five cyclists then appeared to volunteer to talk with him. The Captain said, "Come," and motioned with his hand to follow him. He took her aside a few feet down the block, requested her identification, and asked, "Where are you from?"

9. At approximately 7:37 pm, after the cyclist was questioned and several of the officers conferred with each other (and appeared to talk by cellular phone and/or radio with other officers), another Captain approached the group and said words to the effect of, "There's a bicycle protest going on inside the park. We thought you were part of it. We're satisfied that you're not, so you're free to go." The confused and then relieved cyclists were then directed to continue riding west, away from the park.

10. The Captain who had initially approached them joked with them, "Don't get mixed up with the Chinese delivery guys."

11. I attach a true and correct copy of a videotape showing this detention as Exhibit A to this declaration.

12. Later in the same evening, I observed NYPD officers in Union Square issue several tickets to a number of people for allegedly riding their bicycles on the sidewalk. I was informed by some of the people who were ticketed that they were told by the officers that they would be arrested and/or that their bikes would be confiscated if they spoke about their tickets to anyone with a video camera.

13. Although I do not participate in Critical Mass, I often commute by bicycle, and ride also for pleasure and recreation. However, I refrain from using a bike during periods

of the Critical Mass event out of belief that simply as a consequence of bicycling,  
lawfully and prudently or even merely standing with my bike during that period, I could  
be subject to false summons or false arrest.

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

A handwritten signature in black ink, appearing to read "Stuart Desser", is written over a solid horizontal line.

STUART DESSER

14<sup>th</sup> day of March, 2007



Exhibit A