

**GOSCIAK
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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07 Civ. _____

I, JOSH GOSCIAK, hereby declare as follows:

1. My name is Josh Gosciak.
2. I reside at 381 East 10th Street, New York, NY. I am a Professor in the Media and Communication Arts Department at City College, teaching media studies. I make this declaration in support of Plaintiffs' Motion for a Preliminary Injunction in this matter.
3. I have been an avid bicyclist since the 1980s. I began bicycling for rehabilitation after I was in an accident while riding in a taxi cab. I use bicycling as a means of transportation year-round.

4. I enjoy bicycling because it is convenient, economical, and better for individual health and fitness than other means of transportation. It is also a superior way to experience New York City's culture, history, and neighborhoods because of the greater interaction with one's surroundings that one has while riding a bicycle, as compared to riding in a car. Cyclists get a rich experience of the city because they observe the changes in their surroundings along the entire route. Walking can be too slow and impractical to make this experience possible, and riding in a car is too fast and confining.

5. I am a cautious cyclist. I try to ride defensively, anticipating the movement of the traffic, pedestrians, and other cyclists. I like to use bike lanes when they are available and unobstructed. In all other ways, I try to ride as any vehicle should and obey all traffic laws. This makes my rides safer and more enjoyable.

6. I find many motor vehicle drivers in New York City to be aggressive, impatient, disrespectful of cyclists, and unsafe. My impression is that many drivers feel they are entitled to the road, and that cyclists have no right to share the road with them. They often ride closely behind or alongside me and honk at me. This contrasts starkly with my experience in other cities that have made bicycling safer and more pleasant by enforcing laws and policies that support it.

7. Many drivers in New York City do not respect bike lanes and will double park or even ride in the bike lane. On one occasion, I asked a driver to move his car out of the bike lane as I rode past him. He reacted by gunning his engine and tailing closely behind

me. I escaped injury from this driver only by speeding up and riding away as quickly as possible.

8. In order to avoid accidents, I ride in the center of my lane, several feet away from the curb or from parked cars. When I pass parked cars I allow a large buffer zone to avoid being hit by an opening car door.

CLUB RIDES

9. I often ride with groups of other cyclists in order to avoid many of the dangers of cycling. Bicyclists in a group are more visible to motor vehicle drivers and are not forced to compete with cars for a safe allocation of road space. Larger groups usually feel safer to me than small groups because the protective effects of the group are amplified.

10. I have been a member of the Five Borough Bike Club ("5BBC") since its inception in the early 1990s. I have also been a member of New York Cycle Club since the 1990s. I ride regularly with both clubs. In the winter, I participate in approximately 2-3 group rides per month. In the spring, summer, and fall, I participate in approximately 4-6 group rides per month.

11. 5BBC leaders attend 5 weekly classes and a weekend trip, and are certified based on an examination. Safe group riding practices, New York State Motor Vehicle regulations, and medical procedures to be followed in the event of an accident are part of the training.

12. The 5BBC uses the point-drop-sweep system to keep cyclists together when they ride in a group. This system is part of the training provided by the Five Borough Bike Club for group ride leaders, and it has been adopted by other cycling events and clubs.

13. One leader of the group of cyclists is considered the “point.” Another leader remains as the last person in the group and acts as “sweep.” As the group turns at an intersection, one cyclist will remain in the intersection to act as “drop” and direct the other cyclists in the proper direction. This is because a group of cyclists may be divided if they lose visual contact with each other due to turns or gaps in the ride.

14. I participate in group bicycle rides in order to promote bicycling. Group rides are an effective means of asserting the right of cyclists to share the road with cars. They also send a message to drivers and pedestrians that bicycling in the city is viable and enjoyable. I especially value the opportunity to demonstrate to children who see us that bicycling in the city is possible and enjoyable.

15. I also participate in group bicycle rides because they provide opportunities for cyclists to share and discuss the unique perspective on New York City that bicycling provides. Participating in a group ride allows an individual to learn from other cyclists who have discovered and want to share neighborhoods or streets that have cultural or historical value, and to discuss these experiences. Outside of the context of group rides, it would be not only cumbersome and less interesting to share this information, but also impossible to have the same depth of discussion about the sights and experiences that

bike riding offers. These conversations cannot take place in the same way in a meeting hall or a classroom.

16. When I lead a group ride, I point out and offer commentary on interesting neighborhoods, landmarks, and streets. This frequently provokes discussions among the cyclists. For example, on one ride that I lead for the Five Borough Bicycle Club, the group rides to Staten Island and over an old Dutch street paved with Belgian cobblestones. This provides an opportunity to observe New York City history firsthand as we literally feel the cobblestones beneath our wheels—an experience that would be impossible in an automobile.

17. I have participated in New York Cycle Club's "Urban Adventure" rides, which take place in the evening and visit less familiar neighborhoods outside the city center, such as Randall's Island and parts of the Bronx and Queens that most cyclists rarely visit. Recently, I planned to lead a "Freedom Ride" to Harlem around the time of Martin Luther King, Jr. Day. The route would have included City College, Sugar Hill, Malcolm X Boulevard, and a soul food restaurant at the end. Unfortunately, it was too cold and I had to cancel the ride but hope to reschedule it for sometime in the spring. I also plan to lead "Romance Rides" to various neighborhoods and a springtime "Astronomy Ride" that will include observation of the night sky.

18. Group riding is a unifying force for bicyclists. I feel a sense of solidarity when riding with a group, aware that the other cyclists will help me if I need it.

19. I have interacted with pedestrians and car drivers during many group rides. Pedestrians often cheer us on, which usually leads me to respond, "Come join us!" When the group is stopped at an intersection or to take a break, people ask us questions about bicycling and I explain to them why we ride. These consistent reactions I receive when bicycling with a group leads me to believe that group bicycling has an unmistakable expressive impact as a statement in favor of bicycling.

20. Group riding also allows novice cyclists to practice riding in city traffic while learning bicycling skills from more experienced cyclists. It provides novice riders a degree of protection from the aggressive and unsafe behavior that so many car drivers display toward cyclists.

21. I frequently bicycle with my daughter, who is nine years old. Bicycling with my daughter enables me to share with her my values and beliefs about transportation and New York City. It allows me to bond with my daughter and to show her New York City as I like to experience it. Bicycling provides a wonderful opportunity for parents and children to bond. However, bicycling can be dangerous for children due to the aggressive nature of the traffic in New York City. Group riding provides an opportunity for families to ride together safely, even with children.

LARGE GROUP RIDES

22. I first rode in Manhattan Critical Mass in 2003. I decided to participate because riding with a large group offered a safe way for my daughter to bicycle at night, and I consider bicycling in the city at night to be a unique and valuable experience that I

wanted to share with her. It was a safe and worthwhile cycling experience, and my daughter and I rode in Critical Mass frequently over the next year.

23. I often saw other parents with their children at Critical Mass. Critical Mass was especially important for families who wanted to bicycle together and were wary of doing so without a large group. It was a free, educational, healthy family event.

24. Before August 2004, there was minimal police presence at Manhattan Critical Mass.

25. After August 2004, when I heard that the police were arresting Critical Mass participants, I decided to continue riding in Critical Mass in order to help demonstrate that the ride was a safe event that involved a diverse group of participants who were interested in cycling, not causing trouble or disrupting traffic.

26. To the best of my recollection, the first time I joined the ride after hearing of the August 2004 arrests was in October 2004. I brought my daughter, who joined me on a tandem bicycle. My experience of this ride was peaceful along most of the route. Then, suddenly, police blocked off the street in front and behind the group of cyclists we were traveling with. There had been no warning from the police that the ride was illegal or that cyclists would be subject to arrest. In order to avoid an interaction with the police, my daughter and I turned off the street into a parking lot. Once away from the group, the police officers did not pursue us and we rode home in heavy Friday night traffic, which for my daughter was harrowing.

27. My daughter and I rode in one more Critical Mass ride after our experience in October 2004. On this occasion, the police began to arrest cyclists almost immediately after the ride began. We left and went home disappointed.

28. As a result of what my daughter and I witnessed on our last two Critical Mass rides, we have stopped riding in Critical Mass. My daughter no longer wishes to participate in the ride now that it is confrontational and much less fun. Because I enjoy riding in the evening with groups of cyclists, I have attempted to organize other Friday evening rides as alternatives to Critical Mass that do not entail the threat of ticketing or arrest.

29. Critical Mass participants may encourage each other to use safety equipment like lights and bells, to follow applicable traffic rules, and to maintain a cohesive group. However, an individual cyclist does not have the authority to control the route that the group takes. The route is spontaneous and based on the inclinations of the "point" riders at the front.

30. As noted, I participate in and lead rides organized by the New York Cycle Club. Most NYCC rides depart on Saturday or Sunday morning at approximately 9 am from the Central Park Boathouse, and other locations as posted. Since several clubs and racing groups use the Boathouse as a meeting point, and sometimes several different rides organized by one or more club will proceed together along the Central Park Loop road, exit the park together, and even travel for some distance together before disaggregating


and heading their separate ways. The bicyclists in each group do not wear distinctive clothing or otherwise distinguish themselves from those in the other groups. As a result, it is extremely common for several rides proceeding together in this manner to present the appearance of a single “recognizable group” of 50 or more bicyclists, even if the component groups each number well under 50 participants.

31. As a volunteer leader of group rides, the new parade permit rules would require me to spend significant time applying for permits for the rides that I lead or else face the potential arrest of myself and those that ride with me, if we number fifty or greater. If I join a group ride that another person organizes, I face possible arrest for parading without a permit. The rules will make it difficult or impossible for me to continue participating in larger group bicycle rides, depriving me of a unique and valuable means of experiencing and sharing New York City’s culture and history.

32. I have taken the 5BBC training course described above and have served as a volunteer ride leader with 5BBC and the New York Cycle Club since 2006. I have led approximately 6 rides with these clubs. I am also a volunteer marshal with the Tour de Brooklyn, Tour de Bronx, Transportation Alternatives Century Ride, Bike New York, the North Fork Long Island ride, and the Twin Lights Ride to Sandy Hook, New Jersey. Many of these rides, such as the Tour de Brooklyn, Tour de Bronx, Transportation Alternatives Century Ride, Five Borough Bike Tour, the 5BBC Montauk Century Tour, and Critical Mass in Brooklyn and Manhattan, regularly draw more than 50 participants.

I have never seen a bicyclist-motor vehicle collision caused or experienced by a group member on a group ride that I have led, marshaled or rode with.

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



JOSH GOSCIAK

22 day of March, 2007