

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, DANIEL LIEBERMAN, hereby declare as follows:

1. I am a resident of New York City. I make this declaration in my capacity as an Executive Board Member, Day Trips Coordinator, and ride leader for the Five Borough Bicycle Club ("5BBC").

2. I have been a regular bicyclist since the 1970s. I use my bicycle as a primary means of transportation to commute to work and run errands. I also frequently ride for pleasure, alone, with friends, and in organized group rides. I have led approximately 250 or more group rides for 5BBC and other organizations.

3. I have been a member of 5BBC since approximately 1994 and am currently the Day Trips Coordinator. (In a separate capacity I also serve on the advisory board of Bike New York, the organization that runs the annual Five Borough Bicycle Tour.) Day trips are rides of 25 to 80 or more miles in length that generally take place at least in part within New York City and can be completed in one day. 5BBC also offers multi-day weekend bicycling trips, which generally occur outside New York City and are coordinated by a different 5BBC officer, as well as special events such as our Montauk Century Ride.

4. 5BBC's policy is that participants in 5BBC group rides should use all reasonable efforts to obey applicable traffic rules and otherwise ride safely. Most 5BBC rides proceed single file or two abreast, and 5BBC ride leaders generally use the "point-drop-sweep" method to keep their group together. In this method, one leader (the "point") leads the ride; another leader (the "sweep") rides at the rear to ensure no one is lost; and the remaining riders take turns as "drop" by dismounting at intersections where the ride turns and waiting alongside the road to help guide those behind them. In addition, the point may call periodic "compression stops" so that the stragglers at the end of the group can catch up and eliminate significant gaps that may have opened between group members.

5. The club advocates the cause of group bicycling in various ways. I testified at the public hearing on an earlier version of the NYPD's parade rules on November 27, 2006. The club publishes a bimonthly newsletter, the Bicycletter, which

articulates the club's views on issues affecting bicyclists. We hold periodic discussion forums, in which public officials have come to exchange views with the club's membership. The Bicycletter and our forums are funded from the club's general revenues, which includes membership dues and net revenues from the Montauk Century Ride.

6. As Day Trips Coordinator I assess the rides planned by the volunteer day trip leaders and schedule the rides onto the club's calendar. 5BBC has no regular paid staff, and I receive no compensation for my work for the club.

7. 5BBC has day trips every weekend and occasionally on weekdays. Weekend rides generally start before noon, and are roughly evenly split between Saturdays and Sundays. The club conducts approximately 250 or more rides each year.

8. As Day Trips Coordinator I am aware of the group rides organized by other bicycle clubs in New York City, such as the New York Cycle Club, Fast and Fabulous, the Weekday Cyclists, the Major Taylor Cycling Club and others. I am in contact with the group ride coordinators at these other clubs through meetings of the New York Bike Coalition (an association of New York City bicycling clubs and advocacy/organizations) and otherwise. I estimate that all New York City cycling clubs together (including 5BBC) conduct approximately 1000 group bicycle rides each year.

9. 5BBC calls itself "New York's friendliest bike club," and the club does several things to make itself accessible to the broadest possible spectrum of New

Yorkers. All of the club's rides are open to the public at no charge, and the starting place and time of each ride is listed on the public accessible pages of our website. We educate novice bicyclists and ensure the safety of our rides by conducting a group equipment safety check at the beginning of each ride. Day trip leaders use methods during the ride to ensure no rider gets left behind. Because of these features in our day trips program, the club gets a wide variety of bicyclists with varying abilities. I am personally aware of members of SBBC who joined our club and began regular cycling specifically because of the safe group environment we provide on our rides.

10. It is impossible to predict the number of participants that will show up for a particular day trip. The club does not pre-register participants. In addition other riders may join the ride along the way, after we have started out on the route.

11. It is possible to make a rough guess at the size of future SBBC rides, based on the size of such rides in the past. In the past 3 years, SBBC has conducted 32 day trips that drew 30 or more, participants, and 5 day trips that drew 50 or more participants. Based on this history, I estimate that SBBC will have between two and three day trips that will exceed 50 participants over the next 12 months. There is no way to tell which rides will exceed 50 participants in advance.

12. The Club's premier special event ride, the annual Montauk Century ride, is probably the oldest annual group ride in New York City, and has been in existence since 1964. The Montauk Century typically attracts one thousand or more riders. Ride

participants have a choice of 65, 100, and 145 mile routes. Those choosing the longest route start at Penn Station and bicycle all the way to Montauk in one day. Last year approximately 700 participants chose the 145 mile route, proceeding from Penn Station through New York City until they reach the Nassau County border, and then on to Montauk.

13. The Montauk Century Ride is different than a day trip, where the group leaves together. Riders arrive at Penn Station starting at 5 am to register, and then begin riding after registration, without waiting until all riders have arrived. The configuration of Montauk Century participants on the roadway is in the nature of a series of sub-groups and individuals that may be divided by a mile or more. Riders in these the sub-groups generally proceed single file or two abreast. The sub-groups divide and combine with each other and individuals over the course of their 145 mile journey. A sub-group might include 50 bicyclists at any given time.

14. To my knowledge, before the current changes to the Parade Regulations, no formal permits were requested for any of the regular 5BBC rides including the Montauk Century Ride.

15. The permit requirement would be a serious obstacle for 5BBC. Based on the information set forth in the Declaration of Edward DeFreitas, the permit application process appears time-consuming and burdensome. I could not obtain the permits as my time is already committed to other aspects and responsibilities of the club. There are

leaders in our club who would stop organizing rides if they were required to go through the permit process for each one.

16. I do not believe the obstacles presented by the permit process can be avoided by changing how 5BBC's day trip program is run. Imposing a pre-registration requirement for day trips would create an unmanageable administrative burden on me and/or the day trip leaders. Pre-registration would also likely reduce overall participation, because people prefer to decide spontaneously based on weather and other factors whether or not to attend a ride. If 5BBC were to impose a cap on its day trips of 49 participants, we would have to turn some people away and if word of this spread it could lead some people to simply not go to our rides, particularly if they were running a bit late, for fear of being turned away. Splitting up large rides is not a satisfactory solution, either, because there may not be two pairs of leaders available to serve as point and sweep on each ride, and because the participants will be able to enjoy the company of all other participants only if the group stays together.

17. In addition to the burdensomeness of the permit process, I understand that the new NYPD rules impose route restrictions on groups of 50 or more. I personally led a "Freezer Burn" ride in which the final leg of the route ran down 5th Avenue alongside Central Park. A "cue sheet" showing the route is attached as Exhibit A.

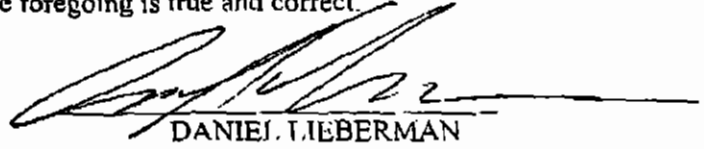
18. Although the "Freezer Burn" ride did not draw 50 participants, I lead other rides and any one of them might on a particularly nice day draw 50 participants. Like

most 5BBC rides, participants in the rides I lead generally proceed single file or two abreast and we do not disrupt traffic. I know of no reason why I should be prohibited from leading rides on 5th Avenue.

19. I also understand that under the NYPD parade rules, group bicycle rides of 50 or more may be prohibited from proceeding on roadways that are “ordinarily subject to great traffic or congestion” and are “chiefly of a business or mercantile character” on Saturdays. This prohibition is potentially very serious for 5BBC because roughly half our rides occur on Saturdays. I am unaware of a list provided by the NYPD or any other city agency that identifies roadways fitting this description. Using my personal interpretation of this definition, there are a number of roadways often used for 5BBC rides that might fit within the definition.

20. Because almost every one of our rides could potentially exceed 50 participants, and there is no way to know which ones will, compliance with the route restrictions would force 5BBC leaders to modify many of their routes, adding further to the burden imposed by the parade rules.

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



DANIEL T. LIEBERMAN

26 day of March, 2007

Freezer Burn!

Arthur Avenue

Saturday, January 6th, 2007

5BBC

Ride leaders *Danny Lieberman & John Chiarella*

-30 Miles






Turn	Street
Start	Bridgemarket
R	First Avenue
Ahead	Willis Avenue Bridge
L	Willis Ave
L	Bruckner Blvd
Rest Stop	Dunkin Donuts
L	St Anns Ave
R	East 140th St
L	Jackson Ave
R	East 149th St
L	Prospect Ave (bike lane)
Ahead	Crotona Ave
L	East 187th St
L	Arthur Ave

LUNCH STOP

Ahead	Arthur Ave
R	East 184th St
L	3rd Ave
L	East 180th St
R	Crotona Ave
Ahead	Prospect Ave
R	East 149th St
L	Jackson Ave
R	East 138th St
Ahead	Madison Ave Bridge
L	5th Ave
R	West 124th St
L	Mt Morris Park West
L	West 120th St
R	5th Ave

Ride Ends at Grand Army Plaza

bold: caution at intersection
 BL Bear Left
 QL Quick Left

 SUBWAY nearby ---  DELI location
 X cross at intersection --  cobblestones
 VIEWS ---  RESTROOMS

→ explore street or pier
 BR Bear Right
 QR Quick Right