

**MCGLINCY
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. _____

I, HUGH JAMES MCGLINCY, hereby declare as follows:

1. My name is Hugh James McGlincy.
2. I am an attorney duly licensed to practice law in the State of New York.
3. I reside at 245 East 37th Street, New York NY 10016.
4. In the autumn of 2003 I began participating in Critical Mass rides in Manhattan. I have participated in these rides regularly since then.

5. Because of the national and international character of the ride, I feel I am part of a broader movement. New York Critical Mass rides often include visitors from other cities and nations.

6. In or about August 2004, monthly Critical Mass rides began in Brooklyn. I have been riding in Brooklyn Critical Mass most months since September 2004.

7. Approximately twenty or thirty riders participated in the September 2004 ride, leaving from Grand Army Plaza and riding together through various neighborhoods in Brooklyn. There was no police response.

8. The following month, on October 8, 2004, I again joined a group of cyclists at Grand Army Plaza. We were greeted by a large contingent of New York police officers in vans and on motorcycles.

9. After a short while, the group of cyclists began to ride through Prospect Park, eventually exiting the park at the opposite end. The police followed the group into and out of the park.

10. The ride then made its way along the Ocean Parkway service lane. On Ocean Parkway several NYPD vans full of officers and several squad cars proceeded along the parkway parallel to the group. The cyclists were accompanied by approximately two dozen officers on motorcycles.

11. I exchanged comments with two of the officers about how mild an evening it was and they agreed.
12. The ride eventually turned off Ocean Parkway and split up.
13. On December 10, 2004, I once again joined fellow cyclists at Grand Army Plaza for Critical Mass in Brooklyn. We were again greeted by a large police presence at the Plaza.
14. Shortly thereafter, I rode around Grand Army Plaza and headed down Flatbush Avenue with approximately twenty cyclists. We were accompanied by a squad of police officers on motorcycles followed by two police vans and a couple of sedans. One of the sedans was occupied by an officer whom I would later learn was one Deputy Inspector Harris and another commander.
15. The police officers facilitated our ride by blocking traffic for us as we made our way along Brooklyn streets.
16. The front of the ride stopped at red lights and the riders following the front were directed by officers to go through red lights in order for the "mass" to stay together. This had the effect of keeping the ride moving quickly and minimizing any traffic disruptions.
17. At one point in the group's effort to reach Fort Greene Park, the "mass" rode into a dead end.
18. The NYPD blocked traffic so we could make a U-turn.

19. Apparently, no one in the ride knew how to get to Fort Greene Park.

20. Rather sheepishly and with some embarrassment and not sure what to expect I asked the officers in the sedan how we might get to Fort Greene Park. The commanders suggested that the best route would be to turn on Myrtle Avenue, and they held up traffic so that we could do so.

21. At Fort Greene Park we met another group of cyclists and with much hooting and hollering we made another U-turn and became one larger "mass."

22. The police blocked traffic so that we could form one group, and then proceeded to follow us until the ride ended sometime later that evening.

23. On August 12, 2005 I arrived at Grand Army Plaza for that month's Brooklyn Critical Mass ride. There was a much larger group of cyclists present than usual and a slightly smaller group of police officers.

24. Deputy Inspector Harris approached a group of cyclists that I was standing with. His cordial greeting was returned by all.

25. Deputy Inspector Harris inquired as to where the group would be riding that evening. There was no immediate response forthcoming so I said that we were not sure.

26. The skies were threatening and there had been a forecast of rain so I asked the Inspector if he thought we would get the ride in without rain. He assured us that we had several hours and not to worry.

27. With that we began to get ready to ride and he moved away to his vehicle, all of us in good spirits.

28. On that evening, the Brooklyn Critical Mass was accompanied by several police officers as well as a squad of officers on motorcycles. The ride of approximately fifty cyclists moved out of Grand Army Plaza and eventually met up with approximately forty cyclists in downtown Brooklyn.

29. At this point, I was riding in front of the "mass" and the riders were attempting to figure out where we wanted to go. A Sergeant on a motorcycle, who had been driving next to us for most of the ride, asked us where we wanted to go and said for us to tell him where we wanted to go and he would help.

30. One cyclist suggested that we go to Park Slope but we were concerned whether we could negotiate the vehicle traffic around the Brooklyn and Manhattan Bridges.

31. The Sergeant overhearing this said that was no problem and sped off down the street ahead of us. He then proceeded onto Tillary Street where he stopped in the middle of the street. The Sergeant then held up the cars at the lights and directed us through so that we could make the turn.

32. The "mass" turned onto the street and headed to Brooklyn Heights while the Sergeant and other officers help us the motorized traffic.

33. This allowed the ride to move through this crowded, often hazardous, intersection quickly and safely and without incident.

34. Many of the cyclists thanked the officers and waved as they turned and rode toward Brooklyn Heights.

35. I have seen similar facilitation of the Brooklyn Critical Mass ride by police officers on numerous other occasions.

36. I usually speak with the police officers before the ride begins. Our conversations are amicable. Some of the same officers come to every ride and I feel that the cyclists generally have a cooperative and cordial relationship with these officers.

37. Although the police officers often ask where the ride is going, I never tell them our route or our destination. Like all Critical Mass rides, the Brooklyn ride has no fixed route and decisions about where to ride are made *ad hoc* as the ride progresses. The police officers who monitor Brooklyn Critical Mass are aware of this, and they do not seem surprised when I do not tell them our route or destination, and they do not insist on having this information.

38. The Brooklyn Critical Mass ride as it exists now and is described above is reminiscent of the Critical Mass rides in Manhattan before the NYPD took an aggressive and adversarial approach to the rides.

39. The Brooklyn Critical Mass ride is largely welcomed by passers by, as evidenced by the waves and applause of onlookers as the “mass” passes through Brooklyn’s diverse neighborhoods.

40. The Brooklyn cyclists move quickly through the streets causing minimal delays to motorists.

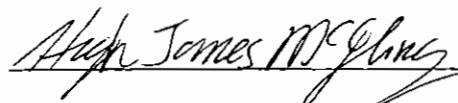
41. The atmosphere between bike riders and police is non-confrontational, and even friendly.


42. The event is a positive “happening” largely due to the understanding reached between the Brooklyn NYPD, particularly the Park Slope precinct, and the cyclists.

43. The number of cyclists in the Brooklyn Critical Mass ride varies based on the weather and exceeds 50 cyclists several times per year. On at least one occasion, the ride had close to 100 cyclists.

44. Notwithstanding the aggressive, repressive stance of police officers in Manhattan, the Brooklyn Critical Mass ride has demonstrated that such bicycle events can accommodate the needs of New York’s bike riders, pedestrians, residents, drivers, and police.

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


HUGH JAMES MCGLINCY

 day of March, 2007