

**SHURA  
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, ELIZABETH SHURA, hereby declare as follows:

1. For the past nine years, I have worked as an art director at the Wall Street Journal. I am a resident of New York City and an avid bicyclist. I have been riding a bicycle for the past several years. I use my bicycle as my primary form of transportation, as my usual means of commuting to work.
2. I believe New York City streets would be more efficient and safe if bicycling were encouraged and bicycles and cars shared the road. As I understand it, the traffic laws state that bicyclists have an equal right to the road as motorists. Unfortunately, this principle is not always respected.

3. I have had motorists honk at or tailgate me to try to force me to the margin of the roadway so they can pass. I do not move to the margin of the roadway in these situations because that would expose me to the danger of being hit by a door flung open from a parked vehicle, or the other obstacles often found at the margin of the roadway, such as potholes, storm drains, garbage, unplowed snow or ice, and pedestrians. Inattentive motorists who are not aware of bicyclists are also a danger.

4. I find group rides are often safer because of the group enjoys more visibility, and heightened respect from motorists than an individual cyclist does. When bicyclists ride in a group they can claim enough of the road to avoid being crowded by cars. Group bicycling also allows the riders to proceed at a pace at which they are comfortable and feel safe, without the pressure from car drivers to speed up.

5. One of the reasons I bicycle is to convey the message that bikes are traffic just like cars. Group rides have a greater expressive impact in conveying this message. When participating in group rides, I have often had passersby, usually pedestrians and bicyclists but sometimes motorists, wave or cheer our group on. This leads me to believe that a group of bicyclists proceeding together in New York City sends an unmistakable message in favor of bicycling to those they encounter.

6. I have participated in Transportation Alternative's New York City Century and Time's Up!'s Bridges by the Night rides. I have also participated in Critical Mass rides

in several different cities including Brooklyn, San Francisco and Manhattan. All of these rides included 50 or more participants.

7. I have participated in approximately four Critical Mass rides in Manhattan. I first decided to participate in Critical Mass to show my support for bicyclists after the police treatment of bicyclists involved in protests against the August 2004 Republican National Convention. My first ride with Manhattan Critical Mass was in September 2004.

8. I was arrested by the police during the October 2004 Manhattan Critical Mass ride. Just before the ride began at approximately 7:00 pm, in the area around Union Square, there were approximately 80-100 police officers on scooters, one or two helicopters with spotlights, a truck labeled "mobile command unit" and paddy wagons. The police gave me and other people assembled there instructions to "leave the area."

9. At this particular Critical Mass ride, a route was agreed upon by some members of Critical Mass, at their own behest, and the New York Police Department. The Police also announced that they would arrest any rider who deviated from the agreed upon route. The Police added that if we wished to leave the ride we should pull over and walk our bikes onto the sidewalk. Despite this agreement, the Police diverted the cyclists off the agreed upon route.

10. After the ride began, the police scooters began riding alongside the bicyclists. I proceeded with the ride and I observed all traffic rules and regulations, with the exception that the mass of cyclists moved through traffic lights together— if the first hundred or so

had a green light, the entire group moved through that light even if it turned red. This approach had, in previous rides, been supported and encouraged by the police, who would block intersections in order to keep the rides moving as a single mass.

11. Without warning, the police diverted the bicyclists off the earlier agreed upon route. Thereafter, I found myself separated from the main body of bicyclists, riding in a group with approximately 20 others. At this point, I witnessed an individual in plain clothes, whom I later learned was a plain clothes police officer, drag a woman from her bicycle. I became very frightened and decided to leave the ride. Conscious of the earlier police instructions, I turned off the Avenue and pulled over; I dismounted my bike and pulled it up on the sidewalk. An officer then told me to “get back with your group” and pointed ahead of me, toward a group of 20 other bicyclists who had reached the next intersection well before me.

12. My fellow bicyclists and I stood in the group while the police decided what to do with us. The police did not tell us their plan of action and we alternatively were told to stand with our bikes, and then to move away from them. Finally, an officer said “we need a third female.” Soon afterwards I was told that I was arrested, and grouped along with two other women that I did not know prior to my arrest that evening. I later learned that arrests are processed faster if three individuals of the same gender are processed together.

13. At the station, I was questioned about where I worked and whether I had been arrested at the RNC, but I was not provided with any information regarding the reason for my arrest. I was taken to central booking, given a desk appearance ticket, and released at approximately four o'clock in the morning. I was charged with disorderly conduct and parading without a permit. My bike was also seized and held by the police for six to eight weeks.

14. The arresting officer submitted a written statement describing the events surrounding my arrest. In this statement, the officer asserted that he had observed me riding my bicycle at the time of my arrest. However, the veracity of this statement is highly questionable. At the time that I was directed to join the group of arrestees, I had been walking my bike and was over one block away from the officer and the group of bikers that the officer was actively engaged in arresting. In court, the officer's testimony provided a more honest description of what the officer had actually witnessed; as a result, the officer contradicted his own written statement numerous times. The proceeding lasted for 25 minutes and the officer was the only party who testified. I was acquitted of the charges against me.

15. The third Manhattan Critical Mass Ride I participated in was on December 31, 2004—New Year's Eve — a few months after my arrest. To my surprise, the atmosphere was very different than the previous Manhattan rides discussed above. There was little or no police presence. Traffic police that the ride passed in the street did not try to prevent or disrupt the ride. Instead, they waved the cyclists through red lights.

16. Critical Mass is different from other group bicycle rides because it has no leader and no fixed route. The lack of fixed route is important because it fosters collective decision-making, a significant aspect of Critical Mass. Because there is no fixed route and no official leader, whoever is at the front of the line (whether by choice or by accident) may find him or herself leading the ride. This collaborative spirit is evident in the behavior of riders who work together to make the ride go more smoothly and safely. This spirit is also evident in the international nature of Critical Mass. I have never seen Critical Mass participants act in an aggressive manner toward others on the street.

17. Bicyclists participate in Critical Mass for a wide variety of reasons, but bicycling safety and a bicyclist's right to equal footing with other vehicles on the road are common themes.

18. Some bicyclists carry political signs or wear buttons while riding, and those individuals use Critical Mass or other group rides as a platform to express their own individual beliefs. Those messages, however, do not express the overall message of Critical Mass.

19. I have participated in several Brooklyn Critical Mass events that have drawn over fifty (50) riders. Like the Manhattan Critical Mass participants, the participants in the Brooklyn rides did not at anytime provide police with a predetermined route. At the Brooklyn rides, I witnessed the police behave in an entirely different manner than at Manhattan Critical Mass. The police served as facilitators of the ride and generally

engaged the riders in an amiable fashion. I believe that Brooklyn Critical Mass is safe and does not disrupt traffic.

20. I believe Brooklyn Critical Mass' logistic success is evidence that both the proposed regulations and the tactics of the NYPD at Manhattan Critical Mass are unnecessary and unwarranted measures implemented under the guise of promoting public safety. I believe the actual purpose behind the regulations is to suppress the Manhattan Critical Mass ride.

21. I no longer participate in Manhattan Critical Mass rides because of the current police tactics. I would resume my participation however if the threat of arrest and police harassment of law-abiding bicyclists ended.

22. Even though I have decided to stop regularly participating in group bicycle rides, the regulations continue to impact me. I fear that it is much too easy to unintentionally end up in a group of riders that could trigger the regulation. Based on my experience at Manhattan Critical Mass, where I was arrested without any basis other than riding a bicycle and being near others who also rode bicycles, I believe that it is entirely possible to be arrested without doing anything illegal, and the only way to be sure that I would not be arrested is to stop riding altogether.

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

  
ELIZABETH SHURA

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