

**SIMONS
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.)
----- x

07 Civ. _____

- I, Dani Simons, hereby declare as follows:
1. My name is Dani Simons.
 2. I have worked for Transportation Alternatives (“T.A.”) for two and a half years – first as the Director of Events and Membership and then, as of about a year ago, as the Deputy Director for Communications and Development.
 3. T.A. is an advocacy organization that “seeks to change New York City’s transportation priorities to encourage and increase non-polluting, quiet, city-friendly travel.” One of the modes of transportation that T.A. encourages is bicycling.

4. T.A.'s bicycling advocacy includes advocating for more bike lanes and greenways and other measures to make New York City's streets safer for bicyclists. T.A. estimates that 120,000 people ride bicycles every day in New York City.

5. As part of its bicycling advocacy, T.A. promotes and organizes group bicycle rides. New or less experienced bicyclists feel safer and more comfortable bicycling in a group, because of the assistance the group gives to members in navigating roadway hazards, and the heightened visibility of the group to motorists. In addition, beginning bicyclists are often attracted to the ethos and values typically shared among more experienced bicyclists. For all these reasons, group bicycling is a key and necessary component to promoting bicycling generally.

6. T.A. organizes or co-sponsors three large rides each year to promote bicycling. A one-day special event allows people to come out and try bicycling in a supportive environment. We hope that from that experience, people will make bicycling a part of their daily routine and/or participate in the many group rides conducted by bicycling clubs and organizations in New York City each weekend.

7. The primary group bicycle ride organized by T.A. is the annual NYC Century Bike Tour (the "Century"). The Century raises awareness about the benefits of bicycling and Transportation Alternative's policy agenda; provides a group cycling experience for new and experienced bicyclists alike; and raises funds for T.A.'s programs and activities.

8. The Century has been held since September 1990. The first Century attracted approximately 200 riders. Since 1993 the ride has consistently attracted over 1,000 bicyclists. T.A. supplies approximately 100 to 200 volunteer safety marshals for the Century. Marshals are experienced bicyclists whose role is to ensure a safe and smooth ride for participants. In addition to the safety marshals, there are about 200 to 300 other volunteers to help with registration and other administrative work.

9. The Century normally takes place annually on the first Sunday after Labor Day. The ride begins in Central Park in Manhattan and proceeds through Brooklyn, Queens, and the Bronx before concluding back in Central Park.

10. From 1995 through 2004 (except for 1997), the Century route began with a southbound ride down 5th Avenue. In 1997, T.A. decided that, after seven years of virtually the same route through the boroughs – Manhattan to Brooklyn to Queens to the Bronx - it was time to try something different. T.A. reversed the ride so that it went from Central Park to the Bronx and then through Queens and Brooklyn and then back to Central Park. Based on rider comments, it was determined that this new route was not successful and the ride went back to the pre-1997 route.

11. The records of the Century rides before 1999 do not specify whether T.A. worked with the police in preparation for the ride. For at least the period of 1999 through 2004 T.A. advised the New York Police Department (“NYPD”) of the Century and its route. T.A. sent a letter with the route to each precinct that the ride went through and asked

officers in those precincts to help facilitate the ride. NYPD did not ask T.A. to apply for a permit in connection with these Century rides, and T.A. did not do so.

12. At the 2004 and earlier Century rides, some NYPD personnel typically were present, and would provide assistance to the ride at various points, such as at the start and finish of the ride and at the access and egress points of the Brooklyn Bridge. The officers did not cork intersections or streets. There were no problems with the police. Their interaction with the ride ranged from neutral to helpful.

13. The Century ride is safe and has never resulted in life threatening injury. Over the years, there have been some minor injuries among the thousands of riders that participate, but T.A. has arranged for Emergency Medical Rescue of New York City services at rest stops.

14. The Century generally does not disrupt vehicular traffic or obstruct roadways. A minor disruption occurs at the start of the ride at 110th Street as riders merge with the traffic as they leave Central Park, but T.A. starts the riders off in waves to minimize this disruption. Participants are encouraged to respect all traffic rules and share the road with motorists, and with very few exceptions they do. I am not aware of any complaints that Century participants violated applicable traffic laws or caused significant inconvenience to motorists.

15. T.A. educates the riders about following the rules of the road. T.A. posts information about traffic rules on its website which is heavily-visited. T.A. also puts

together a "Ride Guide" with two pages of "Rules of the Road" which is mailed to bicyclists who pre-register and is handed out to riders who register same day. In addition, T.A. makes frequent announcements at the start of the ride, encouraging riders to follow all rules, including stopping at red lights and staying to the right.

16. Between the 2004 and 2005 Century rides, T.A. representatives met with the Department of Transportation ("DOT"), as they do every year, to give them the annual Operation Hazard I.D. Report, which is a list of anything on the Century route that could knock a rider off of his or her bike. While I was at the DOT, I saw Evan Korn, the Assistant Commissioner for Special Events who informed me that I should get a parade permit for the 2005 Century or their office would not be able to work with T.A. the next year. He told me to contact NYPD Lieutenant Terry McGovern about the permit.

17. I called Lt. McGovern and he referred me to the Parade Permit application. I filled out the application. It took about an hour to fill out the application and then I had it notarized. The process of preparing the Century route in written form to attach to the application was complicated and took a few days. After I submitted the application to the Parade Permit Office, Lt. McGovern called me to set up a time to meet to discuss the application. We met in August of 2005. During the meeting, the police officers requested that we change the route so that the ride no longer goes down 5th Avenue because no new parades are allowed to go down that street. We complied, which meant adding miles to the tour and spending time researching a new route that would be safe and enjoyable for participants. It took me fifteen to twenty hours to plan a new route.

18. Participants were very disappointed about not going down 5th Avenue that year. Riding down 5th Avenue on a quiet Sunday morning was a highlight of the ride for many. After the ride we received many complaints about the change, including: “bring us back down 5th avenue-the loop this year was not fun.” “Elimiante [sic] the west side route downtown in Manhattan that is awful. Go back to the straight down 5th Ave route.” “change [sic] the downtown route to 5th Ave. the mileage stated was not mileage ridden. . . different [sic] return than over Tri-boro... awkward and tricky...”

19. The 5th Avenue route was preferable to the new route for a few reasons. First, the 5th Avenue route has far fewer turns and therefore far fewer turning conflicts. Any time you make a turn there is a chance that a car will cut you off in some way or that riders will get lost. Second, , the portion of 5th Avenue along Central Park is a very quiet calm way to begin the ride that allows people who might be apprehensive at first to gradually adjust to bicycling in the City. Third, there is less commercial traffic along central park, which makes it safer for bicyclists.

20. The police presence and participation for the 2005 Century seemed to be the same as it had been in previous years. The only notable difference was that the police provided an escort to the riders at the start of the ride. They did not, however, do this for the 2006 ride. Otherwise, the 2005 Century was exactly the same as the previous years in terms of police presence.

21. During the 2006 Century, I was contacted by the Century safety marshals who informed me that police officers in Flushing Meadows Corona Park in Queens were telling participants that they could not take the designated lap around the Unisphere because of the US Open. The lap was part of the route and it was specifically included in the permit application. This diversion was confusing to riders and some got lost. The Unisphere is a beautiful part of the ride and a culturally significant experience that people look forward to. I called the precinct to ask that the ride be allowed to proceed as permitted; I was told that there was no way to communicate with the officers that were doing this, so there was no way to stop them. T.A. plans to keep this in the route for the 2007 Century and hopes that there will not be a similar interference. The US Open coincides with the Century every year.

22. T.A., along with the Brooklyn Borough President's Office, also organizes the annual Tour de Brooklyn ride, which began in 2005. The ride attracts over 1000 riders each year. T.A. has never been asked to get a permit for the Tour de Brooklyn. Before the ride, T.A. representatives meet with the police to go over the route. The first year, the police asked us to change the route because they were concerned about conflicts with beach traffic. Last year, the police approved the route as proposed.

23. T.A. also co-sponsors the Tour de Bronx with the Bronx Borough President's Office. This ride has taken place for about 15 years and generally attracts about 3000 riders. T.A. does not obtain a permit for this ride and has not been asked to do so but the Bronx Borough President's Office may.

24. There are many clubs and organizations devoted to promoting group bicycling in New York City. These organizations sponsor approximately 1000 group rides each year. A number of these rides draw 50 or more participants.

25. Although a handful of the larger group rides such as the Century have preregistration, allowing ride organizers to estimate in advance the number of participants, most group rides in New York City do not have preregistration. Even at the Century, registration the day of the event is permitted.

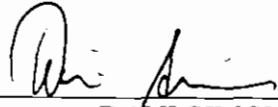
26. Requiring preregistration would likely reduce participation in group bicycle rides. Often bicyclists do not have the information they need to decide whether to participate in a ride, such as information concerning weather conditions on the day of the ride. If forced to decide whether to commit to a group ride several days before due to a preregistration requirement, many bicyclists would simply choose not to commit to the ride.

27. Without preregistration, organizers of group bicycle rides in New York City do not know the number of participants until the ride begins. Fortuitous good weather can result in a ride significantly larger than expected.

28. As I understand it, organizers of group bicycle rides in New York City are required under the recently amended 38 RCNY 19-02 to either obtain a permit for any ride that might draw as many as 50 participants, or face the risk of being prosecuted for

having a “parade” without a permit or turning participants away to keep the group under
50.

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



DANI SIMONS

15th day of March, 2007