

SON  
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 - )

07 Civ. \_\_\_\_\_

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, LUKE SON, hereby declare as follows:

1. I am a resident of New York City and citizen of the United States. I am a freelance writer and student of creative writing at Columbia University, New York.

2. I use my bicycle as a primary means of transportation and ride on a daily basis, either alone or with friends, from my home in Brooklyn to Tribeca and the Lower East Side. I have been a cyclist since I was a child and began riding daily when I moved to New York City in 2005. I use bike lanes when they are available and make every effort to observe the traffic rules and laws applicable to bikes.

3. I am not a formal member of any biking group, but I do participate in group bicycle rides once or twice a month, including rides organized by Time's Up! and the Century Road Club Association. Additionally I volunteer occasionally as a bicycle mechanic for Time's Up!.

4. 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, as discussed below, this principle is not always respected.

5. I am an experienced cyclist capable of traveling on City streets for sustained periods at speeds in excess of 20 miles per hour. When traveling at this speed, I make sure to stay at least 3 feet from the curbside lane of parked cars found on most City streets; this usually means that I am in a traffic shared with motor vehicles, unless there is a bike lane that is safe and available for use. I ride in the traffic lane so that I will not be hit if the occupant of a parked car suddenly opens the door into traffic (a common source of injury for bicyclists known as "dooring").

6. When I am traveling in the traffic lane in such situations, I have had motor vehicles behind me honk, tailgate, and use other dangerous and illegal methods to force me toward the curb and into the "dooring zone" so that they can pass me, even when I am traveling at speeds in excess of 20 miles per hour.

7. Incidents such as these, and many other factors, have led me to conclude that an individual cyclist proceeding alone in New York City necessarily makes a political statement about the right of bicycles to be on the road.

8. I find group rides are often more enjoyable because the group typically enjoys heightened visibility and respect from motorists than an individual cyclist does, and therefore group cyclists face less danger from motorists. In addition, group members will often alert each other to upcoming dangers, such as potholes or illegally parked or moving vehicles. Participants in group rides thus enjoy greater safety and camaraderie.

9. I have participated in more than 20 group rides and I do not recall any ride participant experiencing or causing serious injury.

10. I also believe group rides have a greater expressive impact in conveying the message that bikes are traffic just like cars. I enjoy the cheers and other expressions of support often voiced by pedestrians toward the group bicycle rides in which I participate.

11. Before I moved to New York City, I lived in Knoxville, Tennessee. In Knoxville, I participated in a monthly group bicycle ride known as "Critical Mass," in which the group has no designated leaders and follows an open route determined by the riders at the front of the group. To the best of my knowledge, the Knoxville Critical Mass rides never resulted in any serious injuries to participants, pedestrians or motorists,

and never caused serious disruptions of traffic. The Knoxville Police did not participate in any way.

12. I enjoyed the Knoxville Critical Mass Rides and when I moved to New York City in 2005, I began riding in Manhattan Critical Mass (the ride that begins at 7 pm at Union Square on the last Friday of each month). I ride in Manhattan Critical Mass almost every month. I also ride in Brooklyn Critical Mass (the ride that begins at 7 pm at Grand Army Plaza and at the base of the Williamsburg Bridge in Brooklyn on the second Friday of each month) approximately 6 times per year.

13. I enjoy the Manhattan and Brooklyn Critical Mass rides because they provide an excellent opportunity to meet other cyclists, participate in the bicycling community, explore New York City safely by bike, and to express and realize an alternative view of how surface transportation in the City could be better organized.

14. The lack of a fixed route and designated leaders for Critical Mass rides is essential to their distinctive quality. Cyclists toward the front of the ride make ad hoc decisions as to which direction to take based on which route they think will be safe or interesting, and often splinter groups result because there is no requirement or process for reaching a consensus on a single route. I tend to ride toward the front of Critical Mass rides and have witnessed these unplanned and spontaneous decisions and the splintering off of smaller groups. Since no single group is the "official" Critical Mass, all the smaller splinter groups are riding in the spirit and with the intent of Critical Mass. I do

not think I would enjoy participating in a Critical Mass group bicycle ride that followed a fixed route with designated leaders.

15. Manhattan Critical Mass rides typically attract more than 50 riders, except during particularly cold or rainy evenings. Brooklyn Critical Mass rides typically attract 30-60 riders, depending upon weather conditions.

16. I have never ridden in a group I felt was too large to be manageable, or posed a safety threat. During my first ride with Critical Mass there was approximately 800 riders, and the largest Manhattan Critical Mass ride I witnessed, in the summer of 2006, included approximately 1200 participants.

17. Critical Mass participants may encourage each other to ride safely and follow applicable traffic rules, but there is no single leader with responsibility to do so, and there is no ride organizer with putative authority to ask a disorderly participant to leave the ride.

18. I think cyclists participating in Critical Mass try to follow traffic rules and avoid being ticketed and arrested. I have not committed any traffic violations or broken any other laws on Critical Mass rides (unless instances in which NYPD officers have directed me through red lights at intersections in order to facilitate the ride are considered), and with very few exceptions the riders around me similarly followed the law. On occasion, I have found myself not at the front but in the middle of a Critical

Mass ride. In those cases, I have not committed any traffic violations, and those with me generally did not do so either.

19. Manhattan Critical Mass participants have also corked intersections. However since February 2006 participants have, through concerted effort, dramatically reduced this practice in order to minimize tensions with police. During the summer of 2006, when some Manhattan Critical Mass rides drew approximately 1,000 or more participants, I did not observe any corking and most participants, even those in the middle of the mass, stopped at red lights to allow intersecting traffic to proceed.

20. I heard about arrests at Critical Mass rides for a time before I actually witnessed police arrests myself during the January 2006 ride. During that ride a contingent of scooter police were riding alongside a small group of 25 cyclists, including myself. All the riders were following traffic rules and stopping for red lights. While the ride was proceeding southbound on Third Avenue just south of 14th Street, the group of scooter mounted officers accelerated northbound in the southbound lane. Once all of the scooters had accelerated beyond the bicyclists, they then suddenly and without warning swerved into the middle of the lane in front of the group of bicyclists, seemingly to create a barrier across the southbound lane of Third Avenue so that that the bicyclists could not pass. While executing this maneuver, two of the scooters collided after one of them made an abrupt 90-degree turn, and both officers were thrown from their scooters. This maneuver was not only dangerous to the officers but created a hazardous condition for the cyclists as well.

21. I witnessed this collision and recognized the possibility that one of the officers might have been injured. I am an Emergency Medical Technician licensed by the State of Tennessee, Nationally Registered, and I dismounted from my bike in order to provide emergency medical assistance to one of the officers. To my knowledge, Police arrested 4 riders at the scene, but did not arrest me while or after I provided assistance to the injured officer.

22. It is my belief that following the January 2006 Manhattan Critical Mass ride in which the officers were injured, there was a significant escalation in aggressive and hostile conduct among the NYPD officers assigned to police the ride. I have observed NYPD officers use the unsafe "moving line" scooter maneuver described above repeatedly, and I have also seen them use SUVs to wall off the cyclists. I have personally witnessed SUVs driven into the immediate path of a group of cyclists, and watched as police officers fling open the vehicle door without warning to grab and arrest cyclists.

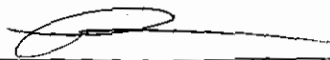
23. I myself have never been arrested for participating in Critical Mass, but have received a ticket for proceeding through a red light during a Critical Mass ride at the end of the summer of 2006. At the time I received the ticket, I was stopped at the red light and had not proceeded through that light or any other red light. An officer pulled up behind me and issued me a ticket. The judge dismissed the case.

24. The police are present at the Brooklyn Critical mass rides as well, but they interact in a very different manner with that ride than with the Manhattan Critical Mass

ride. At Brooklyn Critical Mass I have witnessed the police escorting cyclists and participating in “corking” off other traffic to help cyclists through intersections. The atmosphere of these rides is leisurely and pleasant, and the police interaction is friendly and cooperative.

25. I consider it a duty to ride in Critical Mass in order to protect the rights of all bicyclists and promote bicycling. I am not dissuaded by ticketing, however I may reconsider if police arrests of cyclists become more frequent.

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



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LUKE SON

13 day of March, 2007