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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, and LUKE SON)
Plaintiffs,) 07 Civ. 2448 (LAK)
- 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, and LT. JOHN DOE and CAPTAIN JANE) **PLAINTIFFS' FIRST**
DOE, New York City Police Department) **REQUEST FOR**
) **PRODUCTION OF**
) **DOCUMENTS**
Defendants.)
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Plaintiffs, by and through their undersigned attorneys, Debevoise & Plimpton LLP, hereby request that Defendants produce the documents, electronically stored information and things requested herein for examination, inspection and copying, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (“FRCP”) and Local Rule 26.3 of the Rules of the United States District Court for the Southern and Eastern Districts of New York (“Local Rules”), by delivering such documents to the offices of Debevoise & Plimpton LLP, 919 Third Avenue, New York, NY 10022, Attention: Dina Hamerman, Esq., on or before June 4, 2007, or at such other

time and place as agreed upon by the parties' counsel.

DEFINITIONS

For purposes of this First Request for Production of Documents (the "Requests"), the following instructions and definitions apply:

1. The uniform definitions and rules of construction set forth in Rule 26.3 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York are incorporated herein by reference.
2. "Applicant" means a person (including without limitation any natural person, corporation, association) that has submitted an Application to NYPD.
3. "Application" means a written or oral request to NYPD for permission or a permit to conduct an event described in a 38 Rules of the City of New York ("R.C.N.Y.") § 19-02.
4. "Application Form" means any Document used by NYPD to receive Applications, including without limitation the NYPD form "PD 637-041 (REV. 3-02)."
5. "Century" means the annual Montauk Century Bicycle Tour sponsored by the Five Borough Bicycle Club and/or the annual New York City Century Bicycle Tour sponsored by Transportation Alternatives.
6. "City" means the City of New York.
7. "Communication" means every contact of any nature, whether made orally, in writing or otherwise, from one person to another, and any evidence of such contact, including without limitation any correspondence, memoranda, notes, diaries, daily calendars, electronic mail messages, voicemail messages, "instant messages," computer files, electronic or magnetic media, or other documents concerning such contacts.
8. "Complaint" means the complaint in this action, dated March 27, 2007.
9. "Concerning" means referring to, reflecting, describing, discussing, evidencing or

constituting, in any way, directly or indirectly. Without limiting the scope of the foregoing definition, “all Documents Concerning” a particular subject matter include all documents that comprise, record, memorialize, discuss, evaluate, report on, were reviewed in connection with, or were generated as a result of that subject matter.

10. “Critical Mass” means any Group Bicycle Ride that has been identified by the participants in or advertisers of such Group Bicycle Ride, or that has been identified by the NYPD as a Critical Mass bicycle ride, including without limitation any Group Bicycle Ride originating from one or more of the following locations at approximately 7 p.m. – 8:30 p.m. on a Friday: in Manhattan, Union Square, Madison Square Park, or Tompkins Square Park; in Brooklyn, Grand Army Plaza; or the entrance to the Williamsburg Bridge.

ARTICLE I “Document” means “document” and “electronically stored information” as defined in FRCP 34(a), including, without limitation, any and all writings, personal notes, electronic mail or “e-mail,” cablegrams, telexes, facsimiles, telegrams, studies, calendars, day-timers, diaries, appointment books, agendas, minutes, notes, instructions, demands, schedules, data, notices, drafts, pamphlets, envelopes, voicemail messages, bulletins, photostats, graphs, maps, charts, sketches, diagrams, drawings, plans, specifications, blueprints, forms, manuals, contracts, agreements, appraisals, summaries or records of telephone conversations, summaries or records of personal conversations or interviews, summaries, records or minutes of meetings or conferences, lists, publications, journals, ledgers memoranda, notepads, notebooks, post cards, “post-it” notes, tabulations, analyses, evaluations, opinions or reports of consultants or experts, projections, work papers, summaries, reports, surveys, studies, logs, message slips, billing records, invoices, purchase orders, checks (front and back), confirmations, correspondence, letters, interoffice communications, brochures, advertising, packaging or promotional materials,

financial or statistical statements or compilations, balance sheets, accounting entries, tax returns, loan documents, publications, articles, books, photographs, video recordings, audio recordings, speeches, transcripts, microfiche, microfilms, films, computer programs, printouts, computer disks or diskettes, hard drives, software, and all recordings made through data processing and/or computer techniques, and the written information necessary to understand and use such materials, and all other written or graphic material of any nature whatsoever, in Defendants' possession or control. A draft or non-identical copy of a document is a separate document within the meaning of this term. A document includes all attachments, whether by staple, clip, rubber band or binding, and all appended or embedded links or files.

11. "Group Bicycle Ride" or "Group Bicycling" means a group of two or more persons proceeding together with bicycles in a public place, whether riding or walking their bicycles, including without limitation any Critical Mass, Century, or Jackson Tour.

12. "Jackson Tour" means the annual Group Bicycle Ride led by Professor Kenneth T. Jackson.

13. "NYPD" means the New York City Police Department, including its officers, supervisors, commanders, units, employees, and agents, or any one of them; and any person or persons(s) acting at the direction of such officers, supervisors, commanders, units, employees, or agents, regardless of the presence or absence of any employment, consulting, or other contractual relationship between NYPD and any such person or persons.

14. "Parade Rules" means any one or all of the following: (a) NYCAC § 10-110; (b) 38 RCNY §§ 19-01 through 19-04; (c) NYPD Administrative Guide Procedure No. 321-14 (eff. 06/01/2005); (d) any other written NYPD policy or procedure that purports to establish rules or guidelines for NYPD's investigation, surveillance, or management of Group Bicycle Rides or

other formal or informal public processions of people, bicycles or vehicles (including without limitation any prior or future version(s) of the foregoing provisions of law, polic(ies) or procedure(s) that were in effect during the time period to which a Request applies).

15. The following rules of construction apply to the Requests, to the extent necessary to make the scope of responsive Documents inclusive rather than exclusive: (a) the singular of any word includes the plural and the plural includes the singular; (b) “and” and “or” shall be construed conjunctively or disjunctively; (c) “all” means “any and all” and “any” means “any and all”; (d) the future, past and present tense of a verb used in a Request includes each of the other tenses; and (e) if a Request identifies a natural person other than an NYPD Lieutenant or Deputy Chief, that the Request shall be construed to also identify any predecessor- or successor-in-office of such person during the time period to which the Request applies.

TIME PERIOD

16. The Documents requested are those created during, or referring to or relating to, the period of January 1, 2004 through the date of production, except that to the extent any Request seeks any Documents Concerning any Group Bicycle Ride, the subset of such Documents that are responsive to such Request Concerning any Critical Mass, Century or Jackson Tour are requested for the period of January 1, 2000 to the present..

17. Each Request is continuing in nature to the fullest extent permitted by the FRCP, and any Document responsive to a Request that is obtained or discovered after the Defendants’ initial production of Documents in response to the Requests shall be promptly produced.

18. Notwithstanding the continuing nature of Defendants’ obligations under the Requests, Defendants are requested to advise Plaintiffs in writing when Defendants’ initial production in response to the Requests is complete.

INSTRUCTIONS

19. In producing Documents pursuant to the Requests, Defendants are required to furnish all documents in their possession, custody or control that are known or available to them, regardless of whether those documents are possessed by any Defendant or by any of their agents, attorneys, investigators, representatives, consultants or employees. In locating and identifying Documents responsive to the Requests, Defendants must conduct a reasonably diligent search of Documents in their possession or that are available to them, as well as of Documents in the possession of or available to their attorneys, consultants, investigators, and other agents or representatives (including without limitation paper records, computerized records, electronic mail records and voice-mail records).

20. For each Document or part thereof responsive to a Request that is not produced because it has been destroyed, discarded or otherwise disposed of, or under a claim of privilege, work product, or any other claim of protection against disclosure, Defendants are requested to furnish a list setting forth as to each such document or redacted portion thereof the following information (to the extent applicable and available): (a) the nature of the document, e.g., letter, memorandum, telegram, etc.; (b) the name, address, occupation, title and business affiliation of each person who prepared, received, viewed and has or has had possession, custody or control of the document; (c) the date of the document; (d) a description of the subject matter of the document; (e) a statement of the basis upon which the claim of privilege, work product, or any other claim of protection against disclosure privilege or work product claim is made; (f) the particular Request(s) of this request that call(s) for the production of the Document; (g) the date of destruction or other disposition; (h) a statement of the reasons for destruction or other disposition; and (i) the name address, occupation, title and business affiliation of each person who authorized destruction or other disposition.

21. Defendants shall produce the responsive Documents as they have been kept in the usual course of business or shall organize and label them to correspond with the enumerated Requests. Defendants are requested to assign a unique consecutive number to each page of the responsive Documents and to identify by prefix letter the person or entity that maintains control, custody or possession of each Document in the usual course of business. To the extent Defendants produce copies of Documents rather than originals, they are requested to retain the originals for inspection by counsel for the plaintiffs. Documents attached to each other should be produced as originally attached, except that for purposes of copying, each “Post-it” or other adhesive note obscuring a page of a Document should be removed, copied consecutively with the page to which it was attached, and then re-attached in its previous position. If with respect to any category there are no responsive Documents, the Defendants shall so state in writing.

DOCUMENT REQUESTS

1. All Documents Concerning Group Bicycling, including without limitation the effect of Group Bicycling on traffic or on public health, safety, or convenience.
2. All Documents constituting the Parade Rules.
3. All Documents Concerning any proposed and/or actual amendment to the Parade Rules, including but not limited to any Document received, generated, reviewed or sent in connection with the drafting, revision, intra-agency and inter-agency review and comment, approval, public hearing, and promulgation of any such amendment.
4. All Documents Concerning, constituting or used in connection with any Application, including without limitation any (a) Communication between or among NYPD, any Applicant and/or any other City agenc(ies) or representative of such agenc(ies) Concerning any Application Document; and (b) any Document Concerning the granting by the NYPD of a waiver or other informal permission to conduct any event described in 38 R.C.N.Y. § 19-02.

5. All Documents Concerning the purpose for, or the rationale, intent, interpretation, application, or enforcement of, the Parade Rules or any portion thereof.

6. All Documents Concerning any summons issued or arrest made pursuant to the Parade Rules.

7. All Documents Concerning NYPD's interaction with, or investigation or observation of, any Group Bicycle Ride, including without limitation all Documents Concerning:

(a) NYPD's escorting of any Group Bicycle Ride;

(b) NYPD's blocking or directing vehicular or pedestrian traffic in connection with any Group Bicycle Ride;

(c) NYPD's investigation or surveillance of any Group Bicycle Ride or of any person or organization believed to be an organizer or advertiser of any Group Bicycle Ride;

(d) NYPD's Communications with respect to any Group Bicycle Ride, such as use of sound trucks, leaflets or radio or video transmissions by NYPD personnel;

(e) NYPD's use of netting, fencing or other materials to contain or direct any Group Bicycle Ride or to contain or detain any participant in any Group Bicycle Ride;

(f) NYPD's use of motor vehicles to pursue, contain, or direct participants in any Group Bicycle Ride;

(g) NYPD's issuing of a summons in connection with any Group Bicycle Ride;

(h) NYPD's arrest of any person in connection with any Group Bicycle Ride; and

(i) any log sheets, activity log forms, log books, memo books, maps, duty rosters, assignments sheets, descriptions of vehicles used, and identifications of NYPD personnel assigned to or involved with any Group Bicycle Ride.

8. All Communications Concerning any Group Bicycle Ride, or the proposed or

actual amendment of the Parade Rules, that took place between any two or more of the following persons (without regard to whether any other person also took part in any such Communication): Mayor Michael R. Bloomberg (“Bloomberg”), Deputy Mayor Daniel L. Doctoroff (“Doctoroff”), Deputy Mayor Edward Skyler (“Sklyer”), Deputy Mayor Carol A. Robles-Roman (“Robles-Roman”), NYPD Commissioner Raymond Kelly (“Kelly”), former Commanding Officer Bruce Smolka (“Smolka”), Deputy Chief Stephen Paragallo (“Paragallo”), Disorder Control Unit Chief Thomas Graham (“Graham”), Lieutenant Daniel Albano (“Albano”), Lieutenant Joseph Caneco (“Caneco”), or Lieutenant Sam Centamore (“Centamore”).

9. All Documents referring to any Group Bicycle Ride, or to the proposed or actual amendment of the Parade Rules, that were generated or prepared by or on behalf of any of the following persons: Bloomberg, Doctoroff, Skyler, Robles-Roman, Kelly, Smolka, Tuller, Paragallo, Graham, Albano, Centamore, or Caneco.

10. All Documents Concerning any Group Bicycle Ride, or the proposed or actual amendment of the Parade Rules, that were received or reviewed by any of the following persons: Kelly, Smolka, Paragallo, Graham, Albano, Centamore, or Caneco.

11. All Documents Concerning undercover or electronic surveillance of any Group Bicycle Ride that were generated, received, reviewed or prepared by or on behalf of any of the following persons: Bloomberg, Doctoroff, Skyler, Robles-Roman, Kelly, Smolka, Paragallo, Graham, Albano, Centamore, or Caneco.

Dated: May 4, 2007, New York, New York

BY: DEBEVOISE & PLIMPTON LLP

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