A New Breed of Lawyers Focuses on Bicyclists' Rights

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The New York Times: A New Breed of Lawyers Focuses on Bicyclists' Rights

By J. DAVID GOODMAN
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AT the law firm Rankin & Taylor, everybody's a cyclist.

Scott Charnas, a personal-injury lawyer, has handled many cases involving New York cyclists.
One recent day, the lawyers there parsed bike-law issues, like "dooring zones" and when is it legally acceptable to ride outside a designated lane, while downstairs, each of their bikes were expertly locked to a scaffold along Broadway in TriBeCa.

The small firm is preparing to bring a class-action suit against New York City on behalf of cyclists over summons handed out for what it contends are phantom violations — bike behavior that it says is not illegal in the city. It is another sign that New York's bike fights are moving from the streets to the courtroom.

When it comes to bike law, it seems, the wheels of justice no longer grind slowly. Since a ticketing blitz early this year, cyclists in New York have faced stepped-up police enforcement of red-light and other, less-obvious rules, like having adequate lights or not riding with earphones in both ears.

Add to that a highly publicized lawsuit challenging a bike lane along Prospect Park West in Brooklyn, thrown out by a judge last week, and bike law can seem like a growing opportunity for lawyers who make bikes their business.

In addition to Rankin & Taylor, the New York bike bar includes Adam D. White, a Manhattan lawyer who regularly commutes to work by bicycle and has represented injured cyclists, and Gideon Orion Oliver, an East Village lawyer who has represented cyclists involved with the Time's Up rides that have frequently resulted in clashes with the police.

Bike rules are a surprisingly tangled area of the law. The city's myriad regulations have confused unsuspecting riders and have occasionally tripped up even the police officers responsible for enforcing them.

Cyclists have reported being ticketed for equipment violations like riding

without a bell. A bell is required by law — though an unscientific street survey indicated that, for many riders, their voices are their only warning systems. Others have been ticketed for riding without a helmet (not required for adults), and in one widely reported case, for riding with a purse hung over the handlebars. A Police Department spokesman later said the summons should not have been issued. The department did not respond to an e-mail seeking comment on the helmet violation.

Many cyclists are confused about their rights, which is where the new breed of bike lawyers comes in. One common question: are cyclists required to ride in a bike lane if one is available?

"There are 101 reasons that a cyclist might be outside of a bike lane," said Steve Vaccaro, an avid cyclist and a lawyer at Rankin & Taylor. But aside from the obvious ones — to avoid a hazard or obstruction — it's "highly contextual," he added.

For example, it is legal to leave the bike lane to make a turn, and cyclists are allowed to prepare to make a turn by getting to the appropriate side of the street. But just where one can move out of the lane — 50 yards away, or two blocks, perhaps — is not specified.

While it is a good idea to be aware of the rules, he said, a rider would still have to explain the reason in court if ticketed.

That is Peter McCormick's plan. He said he would contest in traffic court next month a ticket for running a red light in Central Park.

Bike lawyers were not optimistic about his chances. "In red-light cases, there's not a lot you can do to get a cyclist off," Roger Goldfinger, a lawyer at Rankin & Taylor, said. But he noted that cyclists should not pay the hefty surcharge, included in the total fine, that applies only to motor vehicles.

A spokesman for the New York State Department of Motor Vehicles confirmed that the fine indicated on a red-light ticket includes $80 in surcharges and fees that do not apply to bikes. Cyclists should pay only $190.

While the mundane details of traffic rules can create the most confusion, most cyclists do not need a lawyer to fight a ticket, but might need one if they are hurt by a vehicle

"For those people who think it can't happen to them — I have a file of a person it happened to," said Scott Charnas, a personal-injury lawyer who has represented many New York cyclists. He formed a relationship a decade ago with **Bob Mionske**, a West Coast bike lawyer and Bicycling Magazine columnist, who recommends Mr. Charnas to New York riders.

Mr. Charnas's current clients include a delivery cyclist severely injured by a passing car. "In that case, the rider turned away to avoid the opening door and was then hit by a car," he said. The deliveryman had a broken leg and other injuries, Mr. Charnas said, and will never be able to ride a bike again.

The accident highlights what can happen in the so-called dooring zone, the area next to a vehicle where its door could hit a passing cyclist. The lawyers at Rankin & Taylor also represent bike riders in personal-injury cases. But

suing the city to make it more cycling-friendly, they said, could help prevent such injuries and ensure that cyclists are treated equally on the road.

"It's not unrealistic to enforce traffic laws," Mr. Vaccaro said. But he contends that the police have been issuing tickets based on sections of the state's traffic law — for example, requiring riders to keep right or preventing them from riding two abreast — that he said do not apply in New York City. This is the basis of the class-action suit.

Paul J. Browne, the department's chief spokesman, disputed that tickets were handed out in error. "Police officers write summonses for observed violations," he said. "Although some cyclists are surprised to discover it, they must comply in most instances with the same rules that apply to motorists."

Regardless of how the planned suit turns out, does taking a legalistic view of cycling sap its fun?

Not for Mr. Vaccaro. He recently quit a large corporate firm after 14 years to join the firm of David Rankin and Mark C. Taylor, two former Portland, Ore., bike messengers who kept their passion for biking after moving into the law.

"I'm doing it full speed ahead," Mr. Vaccaro said of his bike work.

Mr. Rankin chimed in: "Of course, we'd all rather be outside."