

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED FOR PEACE AND JUSTICE, :  
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 Plaintiff, :  
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 :  
 vs. : **COMPLAINT**  
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 : 03 Civ.  
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 The CITY OF NEW YORK; MICHAEL :  
 BLOOMBERG, Mayor of the City of New York; :  
 and RAYMOND KELLY, Commissioner of the :  
 New York City Police Department, :  
 :  
 Defendants. :  
-----X

PRELIMINARY STATEMENT

1. This is an action to vindicate the civil rights of persons seeking to engage in peaceful political protest in New York City against the possibility of the United States going to war against Iraq. The plaintiff has planned for Saturday, February 15, 2003, a march past the United Nations and an anti-war rally featuring prominent speakers. The event, which is being coordinated with anti-war events in Europe and elsewhere around the world, is expected to attract between 50,000 and 100,000 people and perhaps more. The march is a central and necessary part of the event.

2. On February 4, 2003, the New York City Police Department informed the plaintiff that, while it would permit a stationary rally to take place in the vicinity of the United Nations, it would not permit any march to proceed anywhere in New York City in conjunction with the February 15<sup>th</sup> event. Meanwhile, the NYPD has issued and continues to issue parade permits for similarly

sized or larger marches and parades, including this year's St. Patrick's Day Parade on Fifth Avenue, which is scheduled to take place approximately one month after the plaintiff's planned event. And on at least three prior occasions, the NYPD allowed huge protest marches to proceed past the United Nations, all of which took place without meaningful problem.

3. In refusing to permit a march to take place in conjunction with the plaintiff's anti-war event, the defendants are violating the plaintiff's rights under the First Amendment to the United States Constitution. The plaintiff seeks a declaratory judgment, appropriate injunctive relief, and attorneys fees.

#### JURISDICTION AND VENUE

4. This court has subject-matter jurisdiction over the plaintiff's claims pursuant to 28 U.S.C. §§ 1331, 1343(3-4).

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) in that plaintiff's claims arise in the Southern District of New York.

6. Jurisdiction to grant declaratory judgment is conferred by 28 U.S.C. §§ 2201, 2202. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure. An award of costs and attorneys fees is authorized pursuant to 42 U.S.C. § 1988.

#### PARTIES

7. Plaintiff UNITED FOR PEACE AND JUSTICE is a coalition of local and national organizations that oppose an American war against Iraq.
8. Defendant the CITY OF NEW YORK is a municipal corporation within the State of New York.
9. Defendant MICHAEL BLOOMBERG is the Mayor of the City of New York. He is sued in his official capacity for injunctive relief.
10. Defendant RAYMOND KELLY is the Commissioner of the New York City Police Department. He is sued in his official capacity for injunctive relief.

### FACTS

11. The plaintiff United for Peace and Justice is a national campaign that brings together a broad range of organizations throughout the United States to help coordinate efforts to prevent a U.S. war on Iraq. Since October 2002 United for Peace and Justice has promoted a calendar of anti-war events. United for Peace and Justice maintains a web site ([www.unitedforpeace.org](http://www.unitedforpeace.org)) with comprehensive calendars of anti-war protests, organizing materials, links to informational web sites, and more.
12. In light of recent actions of the United States threatening war against Iraq, United for

Peace and Justice has planned a large anti-war march and rally for February 15, 2003. The planned event includes an assembly near the United Nations, a march past the United Nations on First Avenue, and a rally away from the United Nations where prominent speakers would address the crowd.

13. For decades people in New York City have paraded and marched through the public streets as a means of expressing and demonstrating their views on a wide variety of topics, ranging from ethnic pride to political protest. Marching in the streets is a time-honored tradition in our country that lies at the core of the First Amendment.

14. Marching past the United Nations is an essential part of the plaintiff's anti-war event. For the last twelve years (since the Gulf War), the United Nations has been responsible for monitoring activity in Iraq. The weapons inspections currently taking place in Iraq are being undertaken by United Nations personnel, and the next inspections report to the UN's Security Council is scheduled for February 14, the day before the plaintiff's planned event. The United States is actively seeking the UN's support for American military action against Iraq, and as part of that effort Secretary of State Colin Powell is scheduled to make a presentation to the Security Council on February 5 (the date this complaint is being filed). Given all this, it is an essential part of the plaintiff's event to demonstrate to the UN mass public opposition to the efforts of the United States.

15. Though a central part of the February 15 event is to convey a message to the United

Nations about opposition to any war against Iraq, the United Nations is not a target of protest, and the event organizers expect the procession in front of the UN to be entirely orderly and peaceful.

16. The New York Civil Liberties (NYCLU), which is counsel for the plaintiff, frequently represents groups seeking to hold political rallies and marches in New York City. As a result of this representation, the NYCLU has had extensive dealings with high-level NYPD officials about the issuance of permits for such events and about the policing of such events.

17. On Wednesday, January 22, 2003, the NYCLU informed a high-level official of the NYPD's Legal Bureau about the plaintiff's planned anti-war event scheduled for February 15. The NYCLU specifically informed the official that the group wished to assemble near the United Nations; to march past the UN on First Avenue, across 42<sup>nd</sup> Street to Sixth Avenue, and up Sixth Avenue to near Central Park; and then to stage a rally at a suitable location near Central Park. Counsel further informed the NYPD official that the plaintiff expected between 50,000 and 100,000 participants, and perhaps more. At the conclusion of the conversation, counsel asked for an immediate meeting with the NYPD to discuss the planned event, as is customary in circumstances such as this.

18. The NYCLU repeated its request for a meeting with the NYPD on Thursday, January 23; Friday, January 24; and Monday, January 27. On Tuesday, January 28, the NYCLU spoke with the head of the NYPD's Legal Bureau and then sent by facsimile to that official a letter detailing

the plaintiff's request for a parade permit as originally conveyed in the phone conversation that took place on January 22.

19. Late in the day of January 28, the NYPD informed the NYCLU that the Department would not issue a permit for the march requested by the plaintiff. The NYCLU promptly informed the Department that the plaintiff would consider changing the route of the proposed march or changing other aspects of the planned event to address any reasonable concerns the NYPD had about the march. At the conclusion of this conversation, the NYCLU asked the Department to propose alternatives that would be satisfactory to the NYPD, which the Department routinely does in circumstances such as these.

20. On Wednesday, January 29, the NYPD informed the NYCLU that it would not allow the plaintiff to conduct any march in conjunction with the February 15 anti-war event, regardless of the route of the event and regardless of any other aspect of the planned event. The reason given for the denial was congestion and related concerns arising out of a march.

21. Following receipt of the NYPD's decision on Wednesday, January 29, the plaintiff, through counsel, informed the City that it intended to file suit in this matter. The Office of Corporation Counsel then notified plaintiff's counsel that it and the NYPD wished to meet with the plaintiff to discuss possible march options, and plaintiff's counsel agreed not to file suit pending that meeting.

22. A meeting took place on Thursday, January 30 with high-level officials from the NYPD

and the Office of Corporation Counsel at which the NYPD informed United for Peace and Justice that it would consider allowing a march to take place in the vicinity of the United Nations.

Though the parties discussed various march routes and various assembly and rally areas, the NYPD officials at the meeting informed the plaintiff that they had no authority to offer any route or assembly area and first would have to consult with higher level NYPD officials before being able to agree to any march. The plaintiff requested a meeting the following day, but NYPD officials stated that they would not be able to meet again until Monday, February 3. The plaintiff agreed to refrain from proceeding with litigation pending that meeting.

23. On Friday, January 31, 2003, a senior member of the Office of Corporation Counsel informed plaintiff's counsel that the City wished to postpone the February 3 meeting to Tuesday, February 4 because Mayor Michael Bloomberg needed to be part of the decision-making process but would not be available to do so until Monday afternoon at the earliest. The plaintiff agreed to postpone the meeting and agreed further to refrain from proceeding with litigation pending the February 4 meeting.

24. On Tuesday, February 4, at a 3:00 p.m. meeting attended by high-level officials of the NYPD and of the Office of Corporation Counsel, the City informed the plaintiff that the NYPD would not permit any march to take place in conjunction with the February 15 event. The only option offered by the City was a stationary rally on First Avenue north of 47<sup>th</sup> Street and in Dag Hammarskjöld Plaza (which abuts 47<sup>th</sup> Street between First Avenue and Second Avenue). The only reason given for the decision was a concern about the NYPD resources required to police a

march.

25. The NYPD routinely issues permits for marches in midtown Manhattan that are similar in size to the plaintiff's planned event and in some instances far larger. For instance, the annual St. Patrick's Day parade, which is scheduled to take place approximately one month after the plaintiff's event, closes Fifth Avenue for thirty to forty blocks above 42<sup>nd</sup> Street for most of the day. For the June 2002 Puerto Rican Day Parade, the NYPD closed Fifth Avenue between 44<sup>th</sup> Street and 86<sup>th</sup> Street; for the August 2002 Dominican Day Parade, the NYPD closed Sixth Avenue from 39<sup>th</sup> Street to 58<sup>th</sup> Street; for the September 2002 Labor Day Parade the NYPD closed Fifth Avenue between 44<sup>th</sup> Street and 72<sup>nd</sup> Street; for the October 2002 Columbus Day Parade, the NYPD closed Fifth Avenue from 44<sup>th</sup> Street to 79<sup>th</sup> Street; and for the November 2002 Thanksgiving Day Parade, the NYPD closed Broadway from 59<sup>th</sup> Street to 34<sup>th</sup> Street (as well as Central Park West from 59<sup>th</sup> Street to 77<sup>th</sup> Street). In addition to closing down large stretches of midtown avenues for these parades, the NYPD closes numerous blocks near the beginning of the parades to allow tens of thousands of participants to assemble in anticipation of joining the parades. Upon information and belief, many of these events draw hundreds of thousands of participants and spectators.

26. On at least three prior occasions the City has permitted huge marches to take place on First Avenue past the United Nations. On June 26, 1994, the NYPD permitted a march of approximately 100,000 supporters of gay and lesbian rights to parade up First Avenue directly in front of the United Nations as part of the 25<sup>th</sup> Anniversary of the Stonewall Rebellion; that march



included a mile-long flag that marchers carried up First Avenue past the UN. On June 11, 1988, the NYPD permitted a march that the police estimated to include 60,000 persons and organizers estimated to include 200,000 people to proceed on First Avenue past the UN in support of nuclear disarmament. Finally, on June 12, 1982, the NYPD permitted a march that involved 250,000 people to proceed past the United Nations on First Avenue, again in support of nuclear disarmament. All three of these First Avenue marches past the UN were peaceful and orderly.

27. The defendants' actions have been taken under color of law.

#### CAUSE OF ACTION

28. The defendants' actions violate the First Amendment of the United States Constitution and 42 U.S.C. § 1983.

WHEREFORE, the plaintiff requests that this court:

- (1) Assume jurisdiction over this matter;
- (2) Issue a declaratory judgment that the defendants' actions violate the First Amendment of the United States Constitution;
- (3) Issue injunctive relief enjoining the defendants from preventing the plaintiff from conducting a peaceful march on First Avenue past the United Nations as part of its February 15, 2003, anti-war event, subject to reasonable restrictions;
- (4) Award the plaintiff attorneys' fees; and
- (5) Grant any other relief the court deems appropriate.

Respectfully submitted,

NEW YORK CIVIL LIBERTIES UNION  
FOUNDATION, by

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Counsel for the Plaintiff

Dated: February 5, 2003  
New York, N.Y.