



# Relax, I'm a professional

## *Understanding bicycling experts' biases in the context of urban riding's evolution*



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The plaintiff's lawyer sat in the conference room, hoping the expert would eventually answer her question. "I've been doing this for over forty years," explained the bicycle expert in a condescending way, barely omitting a "little lady" at the end. "And during that time we've trained vehicular cyclists to..." The expert droned on. Nope. He was not going to answer the question posed.

### Do I need a bicycle expert?

An expert is not always necessary, but the more complicated the incident and the more significant the damages, the more important a bicycle expert becomes. Having a trained professional who can explain the expectations for cyclists and why your client was complying with them can be helpful.

So are all bicycle experts the same? No. There can be a huge variance based simply on the timing of their own experiences.

### Vehicular bicycling

In the 1970's, an approach known as vehicular cycling gained prominence. Vehicular cycling is the theory that bicyclists should use roads as if cyclists are cars (with some modifications). Riders are taught to ride with confidence and "take the lane" when necessary. This provides cushion to avoid incidents; say for example: getting doored (brought to a sudden and painful stop when a parked car's door is opened without warning in the rider's path – a violation of California Veh. Code, § 22517.)

### Vehicular bicycling experts

So, vehicular cycling is good, right? Yes and No. An orthodox vehicular cycling advocate would tell you that a bicyclist is perfectly safe on long, wide, suburban roads with three lanes going in the same direction, at 35 miles per hour, and that bicycle funding is better spent on cycling education instead of roadway modification.

Stereotypically, that expert would be a white male in his sixties. He would carry a low-digit League of American Bicyclists Cycling Instructor number, and wistfully remember it as the League of American Wheelmen. This is not derision – the efforts of these types, in part, laid the groundwork for mainstream adoption of cycling commuters. Many such experts have kept current. But chances are the one hired by the defense is stuck in a zealous vehicular cycling mode, because that approach may help minimize the value of the plaintiff's case.

### "Eight to Eighty" bicycling experts

Times are changing. Crowded cities are adopting bicycling as a mainstream transit solution. With adoption came a shift to an Eight to Eighty model. This theory asserts that roads should be designed so cyclists from age eight to eighty feel safe. This necessarily means changes to vehicular cycling – bikes aren't simply slower, narrow cars. They are road users who deserve their own space. The Eight to Eighty advocate, stereotypically in her (or his) twenties to thirties, lives in a busy metropolitan area, has an urban planning background, and is involved in urban policy directly or through advocacy.

### Cycling plans

When evaluating experts, one must also consider cycling plans. Many localities have developed plans recently. Some fall under regional active transportation plans. Active transportation refers to public transit, walking, and bicycling – transit methods that require more than sitting behind a car's steering wheel. Other cycling plans may encompass a county or region, rather than just a city.

Many of these plans were developed by consultants in concert with community involvement. The plans tend to be ambitious – so ambitious that the adopters have been unable to meet their own goals. That's grist for a dangerous conditions case.

Where do you find the plans? Start with Google. Many are posted online. You can then hone in with Sunshine Act requests or a visit to the traffic engineering department.

### No clear-liability bike cases

Say your case is a clear-liability bike-versus-car incident with plenty of insurance. Why bother with experts or research? First – there are no clear-liability bike cases! Anti-cyclist biases run deep, even in bike havens like San Francisco. The general public doesn't remember the thousands of law-abiding cyclists. They remember the helmetless dude blowing through a stop sign, one hand gripping a third wave coffee, the other extending a middle finger salute. (That's not me. I drink Peets – meaning I, too, like the vehicular cyclist expert, am a relic.)

Traffic research also helps identify dangerous conditions. Cycling counts – traffic studies counting the numbers of road riders – are great when taking defendant depositions. When there are 30 riders per hour, it helps defeat the "I didn't expect the cyclist" argument. They also help demonstrate that cycling on that road is common, expected, and mainstream.



## Outro

Returning to our plaintiff's lawyer's deposition. "You are familiar with the city's bicycle master plan, right?" she asked. "You came across that in your very thorough research into this incident?" The bobbing Adam's apple answered her question. "I'll take that as a no. Well, I've brought some copies and want to direct you to page 32." The rest of the deposition did not go very well for the expert.

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