

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

MICHAEL E. SPREADBURY,

CV 11-64-M-DWM-JCL

Plaintiff,

vs.

ORDER

BITTERROOT PUBLIC LIBRARY,
CITY OF HAMILTON,
LEE ENTERPRISES, INC.,
BOONE KARLBERG P.C.
DR. ROBERT BROPHY, TRISTA SMITH,
NANSU RODDY, JERRY STEELE,
STEVE SNAVELY, STEVEN
BRUNER-MURPHY, RYAN OSTER,
KENNETH S. BELL, and JENNIFER LINT,

Defendants.

On July 25, 2011, the Court entered an order granting the City and Library Defendants' ("Defendants") motion to compel Plaintiff Michael Spreadbury to respond to numerous discovery requests. Dkt. 68. The Court also indicated that it would, by way of separate order, set a hearing on Defendants' request for an award of expenses under Fed. R. Civ. P. 37(a)(5)(A). Dkt. 68.

Approximately two weeks later, on August 9, 2011, Defendants filed a motion under authority of Fed. R. Civ. P. 37(b)(2)(A) to compel Plaintiff to

comply with the July 25, 2011 order compelling discovery. Dkt. 82. Defendants state that, as of August 9, 2011, Plaintiff still had not responded to any of their discovery requests and “has not expressed an intention to comply with the Court’s discovery order.” Dkt. 83, at 2. Defendants ask the Court to compel Plaintiff to comply with its prior discovery order, and seek an award of attorney fees and expenses under Fed. R. Civ. P. 37(a)(5)(A). Dkt. 83, at 6.

Pursuant to Local Rule 7.1(d)(1)(B), Plaintiff’s response to Defendants’ motion to compel compliance with the prior discovery order was due on August 23, 2011. As of the date of this Order, however, Plaintiff has not filed a response brief or demonstrated compliance with the Court’s July 25, 2011, discovery order.

Fed. R. Civ. P. 37(b)(2)(A) authorizes the court in the district where an action is pending to impose sanctions on a party for failure to comply with a discovery order and enter any “just orders.” Rule 37(b)(2)(A) provides that the Court may, among other things, prohibit “the disobedient party from supporting or opposing designated claims or defenses,” or “dismiss the action or proceedings in whole or in part.”

Accordingly, and good cause appearing based on Defendants’ supporting brief and the record as a whole,

IT IS ORDERED that Defendants' motion to compel Plaintiff's compliance with this Court's July 25, 2011, discovery order is **GRANTED**. Plaintiff shall responsively answer Defendants' discovery requests on or before **September 6, 2011**. Plaintiff is cautioned that if he fails to comply with this order, the Court may dismiss his case in whole or in part, or prohibit him from supporting or opposing certain claims or allegations.

IT IS FURTHER ORDERED that a hearing on Defendants' two requests for attorney fees and expenses is set for **September 14, 2011, at 1:30 p.m.** at the Russell Smith Courthouse, 201 E. Broadway, Missoula, Montana. The hearing will address Defendants' request for an award of fees and expenses incurred in making their first motion to compel, as well as their request for fees and expenses incurred in making the pending motion.

DATED this 25th day of August, 2011.

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge