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Attorneys for City and Library Defendants

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

MICHAEL E. SPREADBURY,

Plaintiff,

v.

BITTERROOT PUBLIC LIBRARY,
CITY OF HAMILTON, LEE
ENTERPRISES, INC., and BOONE
KARLBERG P.C.

Defendants.

Cause No. CV-11-064-M-DWM-JCL

**AFFIDAVIT OF WILLIAM L.
CROWLEY REGARDING
ATTORNEY'S FEES AND
DISCOVERY**

State of Montana)
 :SS
County of Missoula)

William L. Crowley, having first been duly sworn upon oath, deposes and says:

1. Affiant is an attorney licensed to practice law in the state of Montana. He is a shareholder with Boone Karlberg P.C., and he is admitted to the Bar of this Court.

2. Boone Karlberg P.C. was retained to represent Defendants Bitterroot Public Library (“BPL”), Dr. Robert Brophy (“Brophy”), Trista Smith (“Smith”), Nansu Roddy (“Roddy”), City of Hamilton (“City”), Jerry Steele (“Steele”), Steve Snavelly (“Snavelly”), Steven Brunner-Murphy (“Murphy”), Ryan Oster (“Oster”), Kenneth S. Bell (“Bell”) and Jennifer B. Lint (“Lint”) in the above-captioned action. Affiant is one of the attorneys responsible for representing these Defendants in the above-captioned action.

3. Affiant has been practicing law in Montana for over 31 years. He is familiar with hourly rates charged by lawyers of varying levels of experience and expertise in the State of Montana. His time for this case is billed at \$165.00 per hour. His experience is that this rate is substantially lower than the rates charged by lawyers of comparable experience and expertise in litigation defense work in

Montana. For example, this week, Affiant received an affidavit from an attorney with substantially similar experience which stated a rate of \$225.00 per hour.

4. Attached as Exhibit "A" is a Memorandum of Fees. It accurately lists the time and work spent in connection with the City and Library Defendants' Motion to Compel, Motion to Compel Compliance With Court Order, this Affidavit and the attached Memorandum of Fees. As reflected in the Memorandum of Fees, Exhibit A, Affiant has spent 23.2 hours on these matters.

5. Accordingly, as reflected in the Memorandum of Fees, a total of \$3,828.00 was incurred in connection with the City and Library Defendants' Motion to Compel, Motion to Compel Compliance With Court Order, this Affidavit and the Memorandum of Fees.

6. Given my familiarity with the hourly rates and costs charged by lawyers of varying levels of experience and expertise in the State of Montana, and given the character of this litigation, and the representation of political subdivisions, their instrumentalities and employees, the amount of attorney fees of \$3,828.00 for the work reflected in the Memorandum is reasonable, and the work was necessary.

7. Plaintiff's First Amended Complaint included some 20 counts addressed to the City and Library Defendants. The discovery requests served on

Plaintiff are summarized on pages 2-16 of the City and Library Defendant' Brief in Support of Motion to Compel, filed June 16, 2011. [Doc. 55.]

8. Count III of the First Amended Complaint alleged claims identifying BPL and Brophy for violations of Fourteenth Amendment procedural due process. Count VI of the First Amended Complaint alleged claims identifying BPL and Roddy for violation of First Amendment rights of free speech and to petition. Count IX of the First Amended Complaint alleged claims identifying Bell for violations of the equal protection and for a First Amendment right of peaceful assembly. Count X of the First Amended Complaint alleged claims identifying the City and Oster for violating Plaintiff's liberty rights under the Fifth and Fourteenth Amendments. Count XIV of the First Amended Complaint alleged claims identifying Murphy for violations of Plaintiff's rights under the First and Fourteenth Amendments concerning free speech and an abuse of power.

9. As to claims under 42 U.S.C. § 1983, Interrogatory No. 1 of Brophy, Roddy, Smith, Steele, Oster, Murphy, Snavelly, Bell and Lint each asked Plaintiff to identify their acts or omissions alleged to have violated Plaintiff's federal rights, including identifying the people with knowledge and the relevant documents concerning those acts or omissions.

10. As to claims under 42 U.S.C. § 1983, Brophy's Interrogatory No. 6 asks Plaintiff to identify those acts or omissions of BPL representatives alleged to have violated procedural due process.

11. Concerning claims under 42 U.S.C. § 1983, Roddy's Interrogatories Nos. 4 and 5 asked Plaintiff to describe the First Amendment rights which BPL representatives violated and to identify the acts or omissions of BPL representatives which violated Plaintiff's First Amendment rights.

12. Concerning claims under 42 U.S.C. § 1983, the City's Interrogatory No. 1 and BPL's Interrogatory No. 1 asked Plaintiff to describe the policies, customs or practices of the City and BPL alleged to have violated Plaintiff's federal rights, including identifying the rights violated, people with knowledge of the violations and relevant documents.

13. Concerning claims under 42 U.S.C. § 1983, Oster's Interrogatory No. 4 and Bell's Interrogatory No. 6 ask Plaintiff to identify the policies or customs of Oster and Bell alleged to have violated Plaintiff's federal rights.

14. Concerning alleged violations of state constitutional rights, the City's Interrogatory No. 2 asks Plaintiff to identify the state constitutional rights violated by City representatives including a description of how the rights were violated.

15. Concerning alleged violations of state constitutional rights, Interrogatory No. 2 of Brophy, Roddy, Smith, Steele, Oster, Murphy, Snavelly, Bell and Murphy each asked Plaintiff to identify their acts, omissions or statements alleged to have violated Plaintiff's state constitutional rights, including identifying the rights violated, people with knowledge of the violations and relevant documents.

16. Concerning Plaintiff's conspiracy allegations, Interrogatory No. 3 of Brophy, Roddy, Smith, Steele, Oster, Murphy, Snavelly, Bell and Lint, each ask plaintiff to identify the facts supporting an allegation these people conspired to harm Plaintiff, including identifying the names of the members of the conspiracy and the people with knowledge about the conspiracy and the relevant documents.

17. Count VII of the First Amended Complaint alleges malicious prosecution by BPL and the City. Bell's Interrogatories Nos. 4 and 5 ask Plaintiff to identify the court and cause number of those criminal proceedings against Plaintiff in which probable cause was missing and those judicial proceedings alleged to be malicious prosecution.

18. Counts I and XI-XIII of the First Amended Complaint allege negligence claims identifying BPL, Brophy, the City, Bell, Snavelly and Murphy. Brophy's Interrogatory No. 4 asked Plaintiff to identify the acts or omissions of

BPL representatives alleged to be negligence. Interrogatory No. 4 of Murphy and Snavely asked Plaintiff to identify their acts or omissions alleged to be negligence. Bell's Interrogatory No. 7 and Lint's Interrogatory No. 4 asked Plaintiff to identify their negligent acts, omissions or statements.

19. Count II of the First Amended Complaint alleges a claim of abuse of process identifying Brophy and BPL. Brophy's Interrogatory No. 5 asks Plaintiff to identify the acts or omissions of BPL representatives alleged to be abuse of process.

20. Counts IV and XVII of the First Amended Complaint allege defamation claims identifying Brophy, BPL and the City. Brophy's Interrogatory No. 7 and the City's Interrogatory No. 7 ask Plaintiff to identify those statements or publications of BPL representatives and the City alleged to be defamation.

21. Count V of the First Amended Complaint alleges a claim of misrepresentation identifying Brophy and BPL. Brophy's Interrogatory No. 8 asks Plaintiff to identify those statements or representations of BPL's representatives alleged to be misrepresentations.

22. Counts XX and XXI of the First Amended Complaint allege claims of intentional and negligent infliction of emotional distress against all Defendants. Lint Interrogatory No. 5, Roddy Interrogatory No. 6 and Bell Interrogatory No. 8

ask Plaintiff to identify the acts or omissions of Lint, Roddy and Bell alleged to be negligent or intentional infliction of emotional distress. The City's Interrogatory No. 8 asks Plaintiff to identify those acts or omissions of City representatives alleged to be negligent or intentional infliction of emotional distress. BPL's Interrogatory No. 2 asks Plaintiff to identify the names of the BPL representatives who damaged or injured Plaintiff, including identifying their acts or omissions, people with knowledge and relevant documents.

23. Count VIII of the First Amended Complaint alleges a claim of tortious interference with prospective economic advantage. City Interrogatory No. 5 asks Plaintiff to identify the acts or omissions of each Defendant alleged to be tortious interference with prospective economic advantage.

24. Page 29 of Plaintiff's First Amended Complaint seeks \$8,210,000 in compensatory damages. Oster's Interrogatory No. 5 asks Plaintiff to identify the nature and amount of compensatory damages sought by Plaintiff.

25. Page 29 of Plaintiff's First Amended Complaint seeks \$2,200,000 in damages for lost earnings. Brophy's Interrogatory No. 9 asks Plaintiff to identify the facts supporting an award of lost earnings, including the identity of people with knowledge and relevant documents. Brophy's Interrogatory No. 10 asks Plaintiff to identify the sources of his income for the last ten years. City

Interrogatory No. 3 asks Plaintiff to identify the economic loss alleged in paragraph 78 of the First Amended Complaint, including the identity of people with knowledge and relevant documents. Steele's Interrogatory No. 5 asks Plaintiff to describe his educational history, including schools attended, courses studied and degrees and certificates obtained. Snaveley's Interrogatory No. 4 asks Plaintiff to describe his work and employment history in the past ten years including the identity of his employers, the dates of employment and his job positions and job duties.

26. Page 29 of Plaintiff's First Amended Complaint seeks \$2,000,000 for pain and suffering and \$1,010,000 for negligent and intentional infliction of emotional distress. BPL Interrogatory No. 4 asks Plaintiff to describe the emotional distress alleged by him, including the people with knowledge and the relevant documents. BPL No. 6 asks Plaintiff to identify the health care providers who have examined or treated Plaintiff for bodily injury or emotional distress caused by the Defendants. BPL's Interrogatory No. 7 asks Plaintiff to identify the last four medical doctors who have seen Plaintiff.

27. BPL's Interrogatory No. 3 asks Plaintiff to describe the injury to his character alleged in paragraphs 78-82 of the First Amended Complaint, including the identity of people with knowledge and the relevant documents.

28. The City's Interrogatory No. 4 asks Plaintiff to identify the injury to his established course of life alleged in paragraph 78 of the First Amended Complaint.

29. Snavelly's Interrogatory No. 4 asks Plaintiff to describe damage to his reputation.

30. Count VIII of the First Amended Complaint alleges a claim of tortious interference with prospective economic advantage against all Defendants. The City's Interrogatory No. 6 asks Plaintiff to describe the damage to prospective economic advantage, including identifying people with knowledge and relevant documents.

31. Steele's Interrogatory No. 6 asks Plaintiff to identify the injury to lifestyle alleged in paragraph 81 of the First Amended Complaint, including identifying people with knowledge and material documents.

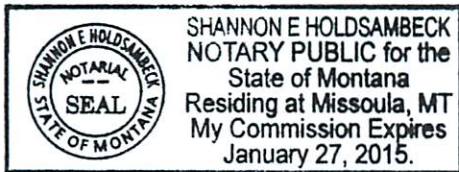
32. Page 29 of the First Amended Complaint seeks punitive damages in the amount of \$13,845,000. BPL's Interrogatory No. 5 asks Plaintiff to describe the facts supporting a punitive damage claim against BPL.


33. Further affiant sayeth naught.

DATED this 9th day of September, 2011.

/s/William L. Crowley
William L. Crowley
BOONE KARLBERG P.C.
*Attorneys for City and Library
Defendants*

SUBSCRIBED AND SWORN TO before me this 9th day of September,
2011, by William L. Crowley.




Printed Name: Shannon E. Holdsambeck
Notary Public for the State of Montana
Residing at: Missoula, Montana
My Commission Expires: January 27, 2015

CERTIFICATE OF SERVICE

I hereby certify that, on the 9th day of April, 2011, a copy of the foregoing document was served on the following persons by the following means:

- 1 CM/ECF
- Hand Delivery
- 2 Mail
- Overnight Delivery Service
- Fax
- E-Mail

1. Clerk, U.S. District Court
2. Michael E. Spreadbury
700 South Fourth Street
Hamilton, MT 59840

/s/ William L. Crowley
William L. Crowley
BOONE KARLBERG P.C.
Attorneys for City and Library Defendants