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Phillips Law Firm P.C.  
FILED  
DEBBIE HARMON, CLERK 5380  
MAY 07 2010  
*Deputy*  
DEPUTY

6 MONTANA 21<sup>ST</sup> JUDICIAL DISTRICT COURT  
7 RAVALLI COUNTY

8  
9  
10 MICHAEL E. SPREADBURY ) Cause No: DV-10-223 / 4  
11 Plaintiff )  
12 v. ) AMENDED COMPLAINT  
13 KENNETH S. BELL )  
14 Defendant )

15 Cause of action:

16 This case is for relief for the intentional infliction of emotional distress.

17 Factual Background:

18 Plaintiff, acting on his own behalf, pleads and alleges as follows:

- 19 1. Plaintiff Michael Spreadbury is an individual and resides at 700 South 4<sup>th</sup> Street in the
- 20 City of Hamilton, County of Ravalli, State of Montana.
- 21 2. Defendant Kenneth S. Bell is an individual and is employed at 210 South 3<sup>th</sup> Street, in the
- 22 City of Hamilton, County of Ravalli, State of Montana.
- 23 3. On or about November 20, 2009, Plaintiff was in court for a civil order of protection
- 24 hearing (CV-2009-168) in Hamilton, MT. The appearance of Defendant Kenneth S. Bell
- 25 at this hearing was not part of his duties as City Attorney. Defendant Bell was allowed
- 26 by the court to examine the witness. Defendant Bell proceeded in leading the witness
- 27 through gestures, to give false testimony on the interaction between Plaintiff and

EXHIBIT C

5/7/10

28 Petitioner which occurred Nov 4 2009. The false information illicited by Defendant Bell  
29 put Plaintiff in unnecessary jeopardy. Defendant Bell actions defamed Plaintiff without  
30 due cause, or in good faith.

31 4. Based upon Defendant borne information in the civil hearing, Plaintiff continues to be in  
32 undue future harm by Defendant's actions for four (4) years by order of protection  
33 information.

34 5. The acts of the Defendant described in paragraph 3 and 4 of this Amended Complaint  
35 were done willfully, maliciously, outrageously, deliberately, and purposely with the  
36 intention to inflict emotional distress upon Plaintiff and were done in reckless disregard  
37 of the probability of causing Plaintiff emotional distress, and these acts did in fact result  
38 in severe and extreme emotional distress.

39 6. As a direct and proximate result of the Defendant's acts alleges herein, Plaintiff was  
40 caused to incur severe and grievous mental and emotional suffering, fright, anguish,  
41 shock, nervousness, and anxiety. Plaintiff continues to be fearful, anxious, and nervous  
42 specifically but not exclusively regarding the future possibility of wrongful arrest and  
43 prosecution. For this harm, Plaintiff requests compensatory damages in the amount of  
44 \$250,000.00 .

45 7. As a proximate result of the Defendant's actions alleged herein, Plaintiff has had his  
46 oncapacity to pursue an established course of life destroyed by the Defendant. Plaintiff has  
47 suffered permanent damage to lifestyle and professional life as a result of Defendant  
48 activity described in paragraph 3 through 5. Severe emotional distress has inflicted  
49 Plaintiff as a result.

50 8. This severe emotional distress was reasonable and foreseeable consequence of actions by  
51 Defendant on November 20, 2009. Defendant did not take reasonable care to avoid  
52 permanent damage to Plaintiff's person, or defamation to Plaintiff. Defense actions on this  
53 date were outrageous. Defendant Bell acted as Hamilton City Attorney for non city business  
54 or city interest in a city court against Plaintiff. Defense actions were deliberate.

55 9. Plaintiff respectfully asks the court for a jury trial to resolve this matter.

56 WHEREFORE, Plaintiff Michael E. Spreadbury prays for judgment against Defendant Kenneth  
57 S. Bell as follows:

- 58 1. Compensatory Damages in the amount of \$ 250,000.00
- 59 2. Punitive Damages in the amount of \$25,000.00
- 60 3. Costs associated with the suit and such other relief as the Court deems proper.

61 Respectfully submitted on this <sup>7<sup>th</sup></sup> day of May, 2010.

62

63

64 Michael E. Spreadbury, Pro Se Plaintiff Attorney

1 John W. Larson, District Judge  
2 Fourth Judicial District Dept. 3  
3 Missoula County Courthouse  
4 Missoula, MT 59802  
5 (406) 258-4773

FILED  
DEBBIE HARMON, CLERK

AUG 19 2010  
*Debbie Harmon*  
DEPUTY

6 MONTANA <sup>2/27</sup> ~~FOURTH~~ JUDICIAL DISTRICT COURT, <sup>RAVALLI</sup> ~~MISSOULA~~ COUNTY

7 MICHAEL E. SPREADBURY,

Dept. 3  
Cause No. DV-10-223 /27

8 Plaintiff,

9 vs.

OPINION AND ORDER  
GRANTING DEFENDANT BELL'S  
RULE 12(b)(6) MOTION TO  
DISMISS

10 KENNETH S. BELL,

11 Defendant.

12  
13 Before the Court is the Defendant Bell's Rule 12(b)(6) Motion to  
14 Dismiss. Briefs have been filed and the matter is now ready for decision.

15  
16 **Background**

17 The Court finds the facts as the following. On April 26, 2010, Plaintiff  
18 Spreadbury filed a Complaint against Hamilton City Attorney, Defendant  
19 Kenneth Bell, for Intentional Infliction of Emotional Distress allegedly caused  
20 by Defendant examining a witness in a civil order of protection hearing on  
21 November 20, 2009, in Cause CV-2009-168 in Hamilton, Montana. On May 7,  
22 2010, Plaintiff filed an Amended Complaint alleging that Defendant  
23  
24 intentionally caused him emotional distress when "Bell proceeded in leading  
25  
26

1 the witness through gestures, to give false testimony on the interaction  
2 between Plaintiff [Spreadbury] and Petitioner [witness] which occurred on  
3 November 4, 2009." See Amended Complaint. Plaintiff seeks \$275,000.00  
4 and costs for alleged damages caused by Defendant's examination of the  
5 public librarian that resulted in an order of protection against Plaintiff.  
6

### 7 Standard

8 Pursuant to Mont. R. Civ. P. 12 (b)(6), a party may move to  
9 dismiss for failure of the pleading to state a claim upon which relief can  
10 be granted. "A complaint should not be dismissed for failure to state a  
11 claim unless it appears beyond doubt that the plaintiff can prove no set  
12 of facts in support of a claim which would entitle the plaintiff to relief.  
13  
14 *Snetsinger v. Mont. Univ. Sys.*, 2004 MT 390, ¶ 10, 325 Mont. 148,  
15 152, 104 P.3d 445, 449 (citing *Dukes v. Sirius Constr., Inc.*, 2003 MT  
16 152, ¶ 11, 316 Mont. 226, 231, 73 P.3d 781, 784). "A motion to  
17 dismiss under Rule 12(b)(6), M.R.Civ.P., has the effect of admitting all  
18 well-pleaded allegations in the complaint." *Id.* "In considering the  
19 motion, the complaint is construed in the light most favorable to the  
20 plaintiff and all allegations of fact contained therein are taken as true.  
21  
22 *Id.* "[S]hould defendants desire any further degree of specificity, they  
23 may obtain the same by use of the appropriate discovery devices such  
24  
25  
26

1 as depositions, interrogatories and requests to admit." *Willison v.*  
2 *Taylor*, 194 Mont. 123, 128, 634 P.2d 1180, 1183 (1981) (citation  
3 omitted). "This Court does not favor the short circuiting of litigation at  
4 the initial pleading stage unless a complaint does not state a cause of  
5 action under any set of facts." *Id.*

### 7 Discussion

8 Defendant Bell argues that Defendant's action were related to  
9 maintaining criminal charges in directly related criminal matters, and his status  
10 as the Hamilton City Attorney renders him immune from suit. Defendant  
11 argues that his appearance in a civil matter is not outside the scope of his  
12 position as City Attorney, nor does an appearance in a civil matter disqualify  
13 him from immunity. Defendant argues that leading a witness by gestures is an  
14 insufficient action to create intentional infliction of emotional distress claim.  
15 Defendant also argues that the Montana Supreme Court has held that parties  
16 may be judicially estopped from contesting the legal existence of a  
17 governmental entity that has operated for over one hundred years.

18 Plaintiff Spreadbury responds that Defendant is not entitled to immunity  
19 because the City of Hamilton does not exist. Plaintiff argues that Defendant is  
20 not entitled to immunity because Defendant is not a judge, Defendant's  
21 actions occurred in a civil courtroom, and Nansu Roddy, the librarian, was not  
22  
23  
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a city employee.

1 This Court takes judicial notice of the proceedings in CV-2009-168  
2  
3 where the alleged false testimony was given and other related criminal  
4 matters. Pursuant to M.C.A. § 3-11-301, "[t]he city attorney must prosecute all  
5 cases for the violation of any ordinance and prosecute, conduct, and control all  
6 proceedings" under the city court's jurisdiction. City Attorney Bell was acting  
7 within the scope of his office when he examined the witness regarding the  
8 order of protection against Plaintiff in city court. As such, Defendant Bell is  
9 entitled to immunity from liability for actions he performs as part of his position  
10 as City Attorney. *Rosenthal v. County of Madison*, 2007 MT 277, ¶ 29, 339  
11 Mont. 419, ¶ 29, 170 P.3d 493, ¶ 29.  
12  
13

14 For the foregoing reasons,  
15

16 IT IS HEREBY ORDERED that Defendant Bell's Rule 12(b)(6) Motion  
17 to Dismiss is GRANTED, as Plaintiff can prove no set of facts which would  
18 entitle him to relief against City Attorney Bell.  
19

20 DATED this 17<sup>th</sup> day of August 2010.  
21

22  
23  
24   
25 \_\_\_\_\_  
26 JOHN W. LARSON, District Judge

Copies of the foregoing were sent to:

*8-19-10*  
*Debbie Harmon*

1

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Natahsa Prinzing Jones  
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Michael E. Spreadbury  
700 South Fourth Street  
Hamilton, MT 59840

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1 Hon. John W. Larson  
District Judge  
2 Fourth Judicial District, Dept. 3  
Missoula County Courthouse  
3 200 West Broadway  
Missoula, MT 59802  
4 (406) 258-4773

FILED  
DEBBIE HARMON, CLERK  
SEP 27 2010  
*[Signature]*  
DEPUTY

8 MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

9 MICHAEL E. SPREADBURY,  
10 Plaintiff,

Cause No. DV-10-223 /39

JUDGMENT

11 v.  
12 KENNETH S. BELL,  
13 Defendant.

14  
15 On August 19, 2010, the Court granted the motion to dismiss filed by Defendant Kenneth  
16 Bell. Accordingly,

17 GOOD CAUSE APPEARING, judgment is hereby entered in favor of Defendant Bell.

18 This matter is DISMISSED WITH PREJUDICE.

19 ORDERED this 22<sup>nd</sup> day of September, 2010.

20  
21 *[Signature]*  
22 Hon. John W. Larson  
District Judge

23 c: Michael E. Spreadbury  
Natasha Prinzing Jones and William L. Crowley

24  
25 I certify that I forwarded copies of  
this instrument to counsel of record.  
9-28-10 *[Signature]*  
Debbie Harmon, Clerk  
By *[Signature]*, Deputy

FILED

April 5 2011

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

DA 10-0442

IN THE SUPREME COURT OF THE STATE OF MONTANA

2011 MT 67N

---

MICHAEL E. SPREADBURY,

Plaintiff and Appellant,

v.

KENNETH S. BELL,

Defendant and Appellee.

---

APPEAL FROM: District Court of the Twenty-First Judicial District,  
In and For the County of Ravalli, Cause No. DV 10-223  
Honorable John W. Larson, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Michael E. Spreadbury, (self-represented litigant); Hamilton,  
Montana

For Appellee:

Natasha Prinzing Jones, William L. Crowley; Boone Karlberg, P.C.;  
Missoula, Montana

---

Submitted on Briefs: February 23, 2011

Decided: April 5, 2011

Filed:

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Clerk

Justice Jim Rice delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Michael E. Spreadbury appeals the order entered by the Twenty-First Judicial District, Ravalli County, granting Hamilton City Attorney Kenneth S. Bell's motion to dismiss Spreadbury's complaint alleging intentional infliction of emotional distress. Spreadbury challenges the District Court's conclusion that Bell was entitled to immunity from the suit, asking that we reverse and remand for trial.

¶3 On April 26, 2010, Spreadbury filed the complaint against Bell for intentional infliction of emotional distress allegedly resulting from Bell's examination of a witness in a civil order of protection hearing held in Hamilton City Court on November 20, 2009. Previously Spreadbury had unsuccessfully attempted to persuade staff at the Bitterroot Public Library in Hamilton to include a particular document in the library's collection. Various other actions grew out of these and related incidents, including the civil order of protection, which public librarian Nansu Roddy sought against Spreadbury after an interaction with him on November 4, 2009. The city court granted the order of protection, which was affirmed by the district court, and this Court has subsequently denied Spreadbury's untimely attempts to appeal the order. *See* Cause No. DA 10-0352, *Roddy v. Spreadbury*, August 10, 2010 Order; Cause No. DA 11-0017, *Roddy v. Spreadbury*, February 8, 2011 Order, *reh'g denied*, March 15, 2011.

¶4 In this action, Spreadbury alleged in his amended complaint that the appearance of Bell at the civil order of protection hearing was "not part of his duties as City Attorney," that Bell was

“allowed by the court to examine the witness,” and “proceeded in leading the witness through gestures, to give false testimony on the interaction between Plaintiff and Petitioner which occurred Nov[ember] 4 2009,” further alleging that Bell “acted as Hamilton City Attorney for non city business or city interest in a city court against [Spreadbury].” The complaint alleged severe emotional distress caused as a result and prayed for compensatory damages of \$250,000 and punitive damages.

¶5 In ruling on Bell’s motion to dismiss pursuant to M. R. Civ. P. 12(b)(6), the District Court took judicial notice of the civil order of protection proceeding and other related criminal matters. The court concluded that Bell was “acting within the scope of his office when he examined the witness regarding the order of protection against [Spreadbury] in city court,” and thus was “entitled to immunity from liability for actions he performs as part of his position as City Attorney.” We review de novo a district court’s ruling on a motion to dismiss pursuant to Rule 12(b)(6). *Spencer v. Beck*, 2010 MT 256, ¶ 7, 358 Mont. 295, 245 P.3d 21.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for noncitable memorandum opinions. The issues in this case are legal and are controlled by settled Montana law, which the District Court correctly interpreted.

¶7 Affirmed.

/S/ JIM RICE

We concur:

/S/ MIKE McGRATH  
/S/ PATRICIA COTTER  
/S/ MICHAEL E WHEAT

/S/ BRIAN MORRIS

IN THE SUPREME COURT OF THE STATE OF MONTANA

Cause No. DA-10-0442

MICHAEL E. SPREADBURY	)	
Petitioner and Appellant	)	<b>RESPONDENT INVOKES</b>
v.	)	<b>RULE 20; PETITION FOR</b>
KENNETH S. BELL	)	<b>REHEARING</b>
Respondent and Appellee	)	
_____	)	

Comes now the Respondent, invoking rule 20 on court for non-adherence to statute, lower court error for non-adherence to statute.

The Honorable Court is directed to p.12 of the Plaintiff reply brief dated 31 December 2010 containing Montana Statute for Duties of Ken Bell, Defendant City Attorney. The adherence of law escapes the Honorable court, a sworn duty found in Art. III s. 3 of a document named the Montana Constitution.

Within Montana Code Ann. MCA§ 7-4-4604 are the duties of any City Attorney in the State of Montana, for which the honorable Justices failed to recognize.

On p. 8 of the Plaintiff reply brief are four (4) definitions of the word prosecute.

The Plaintiff will not belittle this Honorable court to question the ability to understand the English Language, or comprehend written prose in proper pleadings before this court. The Plaintiff had no care if this Honorable court agrees with the

pleadings presented, but decisions must abide by Montana Law, made by the ultimate law making body in the state, the legislature *Wallace v. Helena Electric Ry. Co. 10 Mont. 24 (1894)*.

Further, the decisions from this court must be consistent with Montana law made by the legislature *ibid*. The decision in this matter allowed the Defendant to commit crime within a Montana Courtroom, actions were not consistent with Montana Code Ann. MCA§ 7-4-4604 (Duties) for a City Attorney.

It is noted in the opinion that this Honorable court took notice of an order of protection with no relevance to this case, which shows the professionalism, and adherence to duty of this Honorable Court:

Municipal Court in Hamilton, Montana, Judge Michael J. Reardon presiding did not issue findings of fact as required Mont. R. C. P. Rule 52(a) in order dated December 28, 2009. Judge Reardon further decreed:

*As is often the case in the motions for misdemeanor cause filed while the defendant was a self represented litigant, the Court's response does not let itself to a findings of fact—opinions—conclusions of law format because the basic problem is simply the defendants limited understanding of law and procedure.*

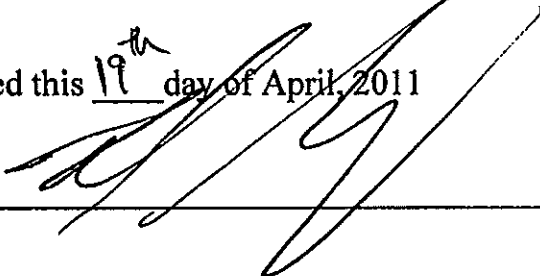
With the highest regard this Honorable Court did not adhere to Montana law, or Montana Rules of Civil Procedure. Plaintiff is confident that municipal fraud, crime will continue to be enveloped by this most Honorable Court.

The Plaintiff petitions that this Honorable court rehear DA-10-0442 in adherence with MCA§ 7-4-4604 for city attorney Bell. A prosecutor is not afforded immunity in a civil courtroom, a distinction a 7<sup>th</sup> grade government student would understand, apparently missed by this Honorable High Court in the State of Montana.

A writ for Certiorari to The United States Supreme Court will be filed with this Honorable Court, for Roddy v. Spreadbury detailing the public fraud, arbitrary decision, violation of procedural due process, outrageous behavior by court officers, violation of liberty without due process, and allowance of crime in the 48<sup>th</sup> state for Justice in the continental US, The State of Montana.

Please take note this Honorable court answers to a higher authority.

Signed this 19<sup>th</sup> day of April, 2011



---

Michael E. Spreadbury, self-represented litigant.

700 S. 4<sup>th</sup> St.

Hamilton, MT 59840



Certificate of Service:

I certify that I have filed a true and accurate copy of the foregoing:

*Respondent Invokes Rule 20; Petition for Rehearing*

With the clerk of the Montana Supreme Court and that I have served true and accurate copies of the foregoing with each attorney of record. Service is by mail, or hand delivered.

Attorney for Appellee

Natasha Prinzing Jones

Boone Karlberg PC

PO Box 9199

Missoula, MT 59807-9199

Pro Se Plaintiff and Appellant

Michael Spreadbury

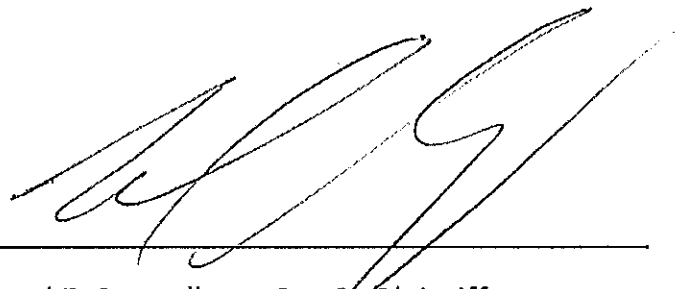
700 S. 4<sup>th</sup> St.

Hamilton MT 59840

Clerk of Montana Supreme Court

PO Box 203003

Helena, MT 59620-3003



Dated: 4/19/10

Michael E. Spreadbury, Pro Se Plaintiff