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FILED
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By PATRICK E. DUFFY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

Cause No.: CV-11-64-DWM-JCL

MICHAEL E. SPREADBURY)	
Plaintiff)	RESPONSE TO LEE
v.)	DEFENDANT PLEADING
BITTERROOT PUBLIC LIBRARY,)	IN RE: SUMMARY
CITY OF HAMILTON,)	JUDGMENT ON
LEE ENTERPRISES INC.,)	REMAINING COUNTS
BOONE KARLBERG PC,)	
Defendants)	

Comes now Plaintiff with response to Lee Enterprises with respect to summary judgment before this Honorable Court. Motion, Statement of Disputed facts, brief in support before the Honorable Court presented herein.

Motion:

Spreadbury moves that court declines Defendant Lee motion for summary judgment due to issues of material facts that remain, grant of summary judgment improper via FRCP 56.

Statement of Disputed Material Facts

1. Defendant Lee Enterprises is a publisher of newspapers in the United States under pretext before this court as an internet provider, interactive internet service.
2. Defendant Lee does not provide internet access or service to any individual.
3. Defendant Lee is not protected under 47 USC§ 230 et. seq. The Communications Decency Act; as newspaper publisher, its internet website www.RavalliRepublic.com, www.Missoulian.com and others are news publishers. Defamatory third party comments are liable to Defendant Lee Enterprises Inc.
4. Defendant Lee, by publishing the conviction of a crime August 9, 2010 never charged on Plaintiff Spreadbury is engaging in Defamation per se.
5. Lee Enterprises coverage with malice of a trial for trespass on public property is not privileged under Montana Code Ann. MCA§ 27-1-804(4) depriving Spreadbury right to peaceful assembly with malice at the Bitterroot Public Library public property August 20, 2009; submitting articles with malice to Associated Press to be mass published about Spreadbury protected activity.

6. There is no information within Lee's amended foundational affidavit of October 18, 2011 to support Lee's "uncontroverted facts" although it is mentioned as such.
7. Spreadbury returned to being a private citizen November 3, 2009, after Defendants successfully defamed Spreadbury to alter a public election.
8. Material fact is Spreadbury's right to peacefully assemble at the Bitterroot Public Library August 20, 2009 precludes any motion for summary judgment.
9. Defendant Lee August 9, 2010 article went out of scope of hearings, misreported information without fact checking, falsely attributed Spreadbury with speech never uttered, false light of situation, contained defamatory third party comments published by Defendant Lee.
10. Lee failed to correct August 9, 2010 article concerning the false and incorrect published information: conviction for Disturbing the Peace by Spreadbury.
11. Defendant Lee added false light within the August 24, 2010 failed attempt at correction (Appendix B) by incorrectly reporting a Supreme Court decision imputing more crime and misconduct on Spreadbury; did not mention false charge.
12. Defendant Lee was in joint function, *inter alia* with Defendant City July 9, 2009 at 232 W. Main St as Spreadbury requested in writing Lee refrain from defaming Spreadbury and Defendant City Police arrive: false "threats" call.

13. A publisher of news such as Defendant Lee and their online resources are always liable for published third party comments defamatory in nature.

14. Spreadbury injury: unable to seek gainful employment due to stress, anxiety willfully and knowingly leveraged by Defendant Lee; affirmed in Social Security Disability notice of decision fully favorable (Exhibit A).

15. The willful and intentional defamation by Lee, willful publish of defamatory per se comments was tortious inference in Spreadbury's ability to work.

16. Lee knew or should have known that peaceful assembly on public property is a protected activity; published front page headline articles, AP stories, multiple articles about Spreadbury's alleged trespass done with actual malice.

17. Lee acted in actual malice to publish multiple articles in re: trespass on public property at the Bitterroot Public Library August 20, 2009.

18. Lee breeched duty to Spreadbury to not defame, deprive rights as sovereign American citizen.

19. Lee abused position as public news source with actual malice to deprive Spreadbury established right to peacefully assemble on public property at the Bitterroot Public Library August 20, 2009.

20. Publishing the false conviction of a criminal charge always carries liability, there are no “stages” of severity as implied by Lee counsel before this court.

21. Spreadbury’s peaceful assembly August 20, 2009 on public property at 306 State St. Hamilton Montana USA site of Bitterroot Public Library.

22. The attempt at deception before this court by Defendant Lee counsel of submitting an edited version as the sworn true and accurate copy of the August 9, 2010 article shows intent by Lee to unlawfully and unethically absolve liability, damages to Spreadbury.

Brief in Support

It is improper for this honorable court to find summary judgment for Defendant Lee as Spreadbury has presented claim under 42 USC§1983 for deprivation of fundamental established right: peaceful assembly Amendment 1 US Constitution, and Defendant Lee failed to show absence of material fact *Adickes v. SH Kress & Co. 398 US at 148 (1970)*.

Lee counsel misrepresented correction, written, published in malice which did not correct the publication indicating Disturbing the Peace, a false charge against Spreadbury. The full text of the correction published August 24, 2010 with respect to the August 9 2010 article is:

Correction

An article on the front page of the Aug. 9 edition of the Ravalli Republic incorrectly identified a charge against Hamilton resident Michael Spreadbury. The article should have stated that Spreadbury was appealing a conviction of criminal trespassing, a charge the city dropped earlier this month after the Montana Supreme Court upheld an order of protection restraining Spreadbury from entering the Bitterroot Public Library for five years.

[full copy Exhibit B, attached]

The Montana Supreme Court denied an out of time appeal on August 10, 2010 which was one day after the August 9, 2010 article. At no time did the Montana Supreme Court uphold the unlawful “ban”, nor did Spreadbury willfully violate the rules of the Bitterroot Public Library per Montana Code Ann. MCA§22-1-311 (Use of Library—Privileges). Spreadbury was arbitrarily removed from the Bitterroot Public Library without procedural due process, never asked to leave by Defendant Public Library staff or Defendant City Police. Disturbing the Peace is not mentioned or corrected in the Defendant Lee *attempt* at correction of August 24, 2011. The order of protection was secured by Defendant City Attorney Bell by Official Misconduct, Montana Code Ann. MCA§ 45-7-401(b)(c) a city prosecutor

unlawfully acting on behalf of Defendant Roddy in a civil courtroom. Further the Order of Protection was without finding of fact, conclusion of law as contained in the written order, in violation of Mont. R. Civ. P 52 (c), Spreadbury's due process: no hearing was issued at District Court level.

Honorable Court, must find that issues of material fact remain, and summary judgment for Lee is not proper FRCP 56 *Lopez v. Smith 203 F. 3d 1122 (9th Cir. 2000)*.

Certificate of Compliance

From LR 7(d)(2)(E) US District Court Rules Montana, I certify that this brief conforms with 14 point font, New Times Roman typeface, is double spaced, contains 1,074 words excluding title page, this compliance.

Respectfully submitted this 28th day of October, 2011



Michael E. Spreadbury, Pro Se Plaintiff

Certificate of Service

Cause No. 9:2011-cv-11-0064-DWM-JCL

I certify as Plaintiff in this action, a copy of the below named motion was served upon the US District Court Missoula Division and all opposing counsel for parties in this above named cause of action by first class mail. The following addresses were used for service:

Response to Lee Defendant Pleading in re: Summary Judgment on Remaining Counts.

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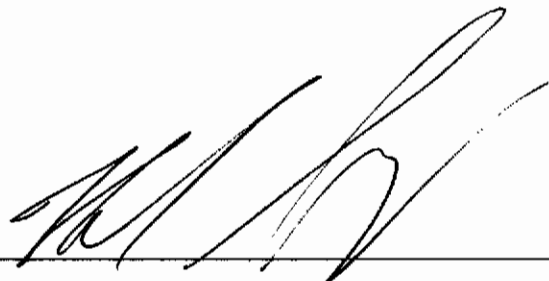
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Dated _____ 10/28/2011 _____

Michael E. Spreadbury, Pro Se Plaintiff