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FILED
JAN 18 2012
PATRICK E. DUFFY, CLERK
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DEPUTY CLERK, MISSOULA

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

Cause No. 9:11-cv-11-64-DWM-JCL

MICHAEL E. SPREADBURY)

Plaintiff)

v.)

OBJECTION, CHALLENGE

BITTERROOT PUBLIC LIBRARY,)

TO CITY, LIBRARY

CITY OF HAMILTON,)

EXPERT WITNESS

LEE ENTERPRISES INC.,)

BOONE KARLBERG PC,)

Defendants)

Comes now Plaintiff with objection, challenge to City, Public Library expert witness via Fed. Evidence Rule 702, 403. Plaintiff seeks disqualification of Defense witnesses Smith, Oster, Bell by court; or reliability hearing as to Defense witnesses. Defense move seems extremely strange as counsel considers biased defendants expert witnesses before this Honorable Court.

Motion:

WHEREFORE, Plaintiff moves court rejects City, Library named “experts” due to conflict, reliability, relevant credibility issues raised in this pleading. As Defendants cannot act as independent expert witness: no specialty knowledge or training. Court must reject Smith, Oster, Bell as expert witness in this case, in alternative, Plaintiff seeks reliability hearing of experts Smith, Oster, Bell.

Defense opposes motion

Brief in Support:

City gives notice to this court, served 13 January 2012 [T.R. #199] expert witnesses includes 3 Defendants (T.R. #10 2nd Amended Complaint ¶ 3, 9,10) in the aforementioned. Defendants Smith Defendant library director, Defendant Oster City Police Chief, Defendant Bell, City Attorney cannot act independently, lack required training, experience, or publication history required to be an expert witness. See Exhibit A, from Legal Dictionary.com for definition of expert witness which precludes trial witnesses, named Defendants in aforementioned.

Plaintiff has prepared expert witness cases which required hiring expert to present cases in court for RLK Hydro Inc.; Geotechnics Inc. principals prepared credible case in court as an expert. Defendants Smith, Oster, Bell do not have credentials,

experience to have objective perspective that is tested, reliable, and non-biased before this court to be expert witness for Defense.

The Federal Evidence Rule 702 gives the authority to trial judges to act as gatekeepers to exclude unreliable expert testimony *Daubert v. Merrell Dow Pharmaceuticals Inc.* 509 US 579 (1993), *Komho Tires Co. v. Carmichael* 119 S. Ct. 1167 (1999). A US District Judge must assess the reliability and helpfulness of an expert witness, and answer question of admissibility of evidence by Federal Evidence Rule 104(a) *ibid.*

In the aforementioned, Defendant City, Library did not establish pertinent admissibility of Smith, Oster, Bell as expert status, or credibility as witness in aforementioned, or objective nature of testimony as Defendants in the aforementioned *Bourjaily v. US* 483US171 (1987), [Exhibit A].

Character History of Defendant Expert Witnesses

Trista Smith

As Defendant library director, Ms. Smith has never held a position of Library Director prior to recent appointment at Defendant Library. Background for Ms. Smith: one year as staff in a Los Angeles Library District, two years at Darby City Library, a non-incorporated municipality of less than 2,000 residents. There are no known publications by Ms. Smith related to American Library Association

policies, behavior policies of libraries, nor is she considered a “sought after” expert in the State of Montana as a librarian. Ms. Smith is biased due to being employed by the Bitterroot Public Library in Hamilton, Montana, and cannot be objective or attain authority and reliability in this case as violation of library policy is condoned by Smith.

Ken Bell

Ken Bell knowingly acted in Official Misconduct, [PLA089-PLA090] a crime in Montana on November 20, 2009 in the Defendant City Court by acting outside official duties[PLA091] working with the library to deprive Plaintiff right to due process [PLA007-PLA009]. Mr. Bell knowingly accessed the NCIC national crime database as Plaintiff peacefully assembled on public property August 20, 2009 at 306 State St. Hamilton MT site of the Bitterroot Public Library. Mr. Bell committed a felony crime by accessing the NCIC database for a non-crime as disclosed to Plaintiff in discovery for Hamilton City Cause No. CR-2009-53 trespassing on public property. Mr. Bell is solely responsible per February 18, 2010 trial statement of malicious prosecution of Plaintiff, gravamen of aforementioned. Plaintiff has disclosed tax statement proving payment/joint ownership of public property at 306 State St. site of the Bitterroot Public Library [PLA032]. Plaintiff cannot affect criminal trespass for property joint owned by Plaintiff and City Taxpayers at Defendant Library 306 State St. Hamilton Montana.

It took approximately 6 years for Mr. Bell to swear an oath of office [BPL 000114] to uphold the US and MT Constitution and felt it was “ridiculous” for him to do so. As legal department head [PLA092-PLA093], Official Policymaker [PLA 010] for the City of Hamilton, Defendant Bell made decision to summon Plaintiff to City Court to answer for trespass on public property as Defendant Lee was invited to publish Plaintiff photo in a front page article September 10, 2009 prior to Plaintiff November 3, 2009 election for Mayor for Defendant City.

Defendant Bell knew or should have known Plaintiff never asked to leave library, required action by Library Policy [PLA052] included in unlawful “ban” letter on or around July 11, 2009 by Defendant Library Director [PLA044]. Requesting Plaintiff not to return under threat of trespass violated Montana Code Ann. MCA§22-1-311 (Use of Library—Privileges) [PLA077], Plaintiff right to due process, and equal protection *Amendment 14 US Constitution*. Defendant Bell further withheld public documents from Plaintiff as Defendant City Attorney, protecting library staff Roddy as she gave unsolicited, defamatory, and false information that did not include a threat Nov. 4, 2009 [PLA078]. Defendant Bell did not prosecute Plaintiff for Felony Intimidation, which is not defined in Montana code as “scaring” librarians formerly married to a State Judge. Plaintiff event with unincorporated Defendant City Police November 4, 2009 is slated for dismissal March 26, 2012 prior to aforementioned trial. Honorable court must

remove Newspaper, court, Defense evidence of November 4, 2009 incident in the
aforementioned. Court, Defense directed to [PLA011], Public Trust National
Security clearance #378635DC8; Plaintiff affidavit November 22, 2011 #6 [PLA
094-PLA095] before this court as Plaintiff affiants no crime in Ravalli County,
Montana under penalty of perjury.

Defendant Bell has not published any papers, defended prosecution for peaceful
assembly in front of the Supreme Court for Montana or the United States. Mr. Bell
is not an instructor at the FBI academy in Quantico, VA or considered an expert at
anything, other than the civil conspiracy of attending Library staff meetings to
Deprive Plaintiff right to liberty by fraudulent funds to ineligible city, library.

Chief Ryan Oster

On July 9, 2009 Defendant Chief Oster deprived Plaintiff right to liberty to enter
Defendant Lee place of public business without cause, or administrative remedy.
On September 14, 2007 Defendant Oster obstructed justice, tampered with
evidence, and covered up an injury felony automobile accident at Fox field Ave
and US 93 in Hamilton, MT. Boone Karlberg PC wishes to include Defendant
Oster as an expert at anything amazes the Plaintiff. He is not objective, is
dangerous to his constitutional oath, nor has he authored anything regarding
trespass to public property, a right he is sworn to uphold, not degrade in a court of

law. Defendant Oster is an expert at criminal trespass due to unlawful entry into Plaintiff residence October 4, 2011 with video documentation presented to this Honorable court.

Court review of Expert Witnesses

Honorable Court is given notice of Defendant Smith, Bell, Oster failure as criteria for expert witness as to theory, technique not tested or challenged in a meaningful medium; no peer review or publication of their opinions; known error in opinion; no standard control to gage framed opinion; experts opinion presented to court is not accepted in professional community *Daubert*.

As Defendant Smith indicates Right to Read is for prisoners only, it defies 1953 statement of American Library Association that no library or librarian can dictate what is read in a library by a patron [PLA186-189]. Any adult, or child with reading comprehension at a grade 9 level can ascertain the meaning of the American Library Association policies presented before this court; which indicate Smith reached this opinion solely for this litigation *Daubert at 1317*. In her opinion about the right to read, or banning Plaintiff from Bitterroot Public Library, Smith comes to an unfounded conclusion, about operating policies in place prior to her becoming director; required any staff to ask Plaintiff to leave, or indicate any behavior was inappropriate [PLA051-PLA053], Smiths opinion is contrary to

Montana Code with respect to library privileges MCA§22-1-311[PLA077]

General Electric Co. v. Joiner 522 US at 146 (1997). More problematic for Smith is the limited experience to which she draws, the alternative explanations to ALA policies that are more founded and accepted in the Library Science Community in the United States *Claar v. Burlington NRR* 29 F. 3d 498 (9th Cir., 1994). For example, in *Wayfield v. Town of Tisbury*, a US District Court found in the Plaintiff's favor via summary judgment for a violation of patron due process, as *Wayfield, Spreadbury* banned without due process impeaches Defendant Smith's argument *Wayfield v. Town of Tisbury* 925 F. Supp. 880 (1996).

Smith would not give opinion about the ALA "Right to Read" as prisoner only, or excluding written materials from a library on a stand for another case, and fails as an expert witness due to lack of experience, credibility, or published authority on the subject matter *Kumho Tire Co. at 1176*. As Smith indicates public library did not err as they violated own patron policy is not reliability that Boone Karlberg PC can rely upon before a jury *ibid at 1175*.

Plaintiff seeks reliability hearing of Smith, Oster, Bell as to expertise, independence of pending litigation, and reliability of testimony if experts not rejected. As court contemplates abuse of discretion allowing Defenes expert witnesses without independence or well respected knowledge ripe for appeal *GE Corp. v. Joiner* 522 US 136 (1997). Further, *Spreadbury* urges Court to find

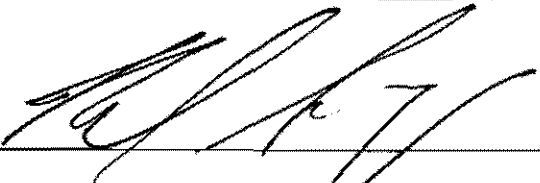
Defense expert Smith, Oster, Bell testimony unfair, prejudiced, will mislead jury, and a waste of the courts time under Federal Evidence Rule 403.

If Defense wishes to place these witnesses as expert, it will be clear that Oster, Bell violated oath to US Constitution to prosecute Spreadbury for trespass on public property as Public Library violated term of lease [BPL000295-BPL000296], Defendant Public Library never asked Spreadbury to leave in violation of Defendant Public Library policy, Reconsideration Policy for Plaintiff submission, the American Library Association Policy for "right to read" and "Library Bill of Rights" as adopted Defendant Library policy.

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 1686 words excluding title page, this compliance.

Respectfully submitted this 18th day of January, 2012



Michael E. Spreadbury, Pro Se Plaintiff

Attach Exhibit A (1 page).

Expert Witness definition.

expert witness n. a person who is a specialist in a subject, often technical, who may present his/her expert opinion *without having been a witness to any occurrence relating to the lawsuit* or criminal case. It is an exception to the rule against giving an opinion in trial, provided that the expert is qualified by evidence of his/her expertise, training and special knowledge. If the expertise is challenged, the attorney for the party calling the "expert" must make a showing of the necessary background through questions in court, and the trial judge has discretion to qualify the witness or rule he/she is not an expert, or is an expert on limited subjects. Experts are usually paid handsomely for their services and may be asked by the opposition the amount they are receiving for their work on the case. In most jurisdictions, both sides must exchange the names and addresses of proposed experts to allow pre-trial depositions. (See: expert testimony)

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Available: <http://legal-dictionary.thefreedictionary.com/Expert+witnesses>

Certificate of Service

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

I certify as Plaintiff in this action, a copy of the below named pleading 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:

Objection, Challenge to City, Library Expert Witness

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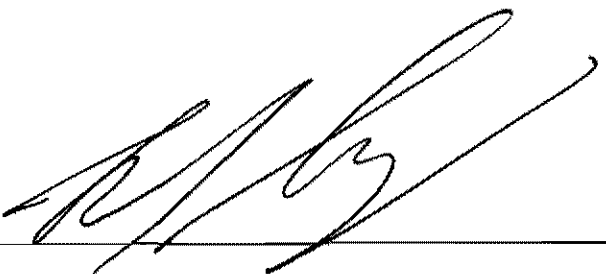
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(self-represented)

Dated _____ 1/18/12 _____



Michael E. Spreadbury, Pro Se Plaintiff