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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., 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.

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

**CITY AND LIBRARY
DEFENDANTS' BRIEF IN
SUPPORT OF MOTION TO
AMEND CAPTION**

This supports the City and Library Defendants' Motion to Amend the Caption of this case to remove Boone Karlberg P.C. ("Boone") from the caption. Good cause supports the motion, and it should be granted.

Plaintiff's claims against Boone have been dismissed. Further, as noted by the Court, "Boone Karlberg is no longer a party to this case." [See Doc. 67, pp. 8-21; Doc. 79, p. 5; Doc. 107; Doc. 121, pp. 4-5.] Despite this, as outlined in Document 212, pages 4-5 (City's Motion *in Limine* Brief) and Document 219, pages 3-6 (City's Motion *in Limine* Reply Brief), it is apparent that Plaintiff intends to continue to litigate in District Court those claims which he believes he has against Boone. [See, e.g., Doc. 214.]

Evidence, testimony, argument or references about the alleged misconduct of Boone should be excluded at trial for the reasons stated in Documents 212 and 219. For the same reasons, the caption of this case should be amended to remove Boone. Otherwise, a risk exists that the jury may be misled as to whether claims against Boone are to be considered and determined by it. That aside, the City and Library Defendants are subjected to a risk of unfair prejudice based on inadmissible, irrelevant and speculative matter relating to their attorneys. On the other hand, Plaintiff is not prejudiced by amending the caption. It is only the handle to identify the case, and a determination of whether a defendant is properly in the case hinges on the allegations in the body of the Complaint and the

determinations by the Court. *See, e.g., Munos v. U.S.*, 2011 WL5036003*2 (S.D. Cal. 2011). In other words, amending the caption will not prejudice Plaintiff's ability to appeal the dismissal of his claims against Boone.

Good cause exists to grant the motion to amend the caption, and therefore, the motion should be granted.

DATED this 23rd day of February, 2012.

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

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1(d)(2)(E), Local Rules of the United States District Court, District of Montana, I hereby certify that the textual portion of the foregoing brief uses a proportionally spaced Times New Roman typeface of 14 point; is double spaced; and contains approximately 310 words, excluding the parts of the brief exempted by L.R. 7.1(d)(2)(E).

DATED this 23rd day of February, 2012.

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

CERTIFICATE OF SERVICE

I hereby certify that, on the 23rd day of February, 2012, a copy of the foregoing document was served on the following persons by the following means:

1, 3 CM/ECF

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2 Mail

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_____ E-Mail

1. Clerk, U.S. District Court
2. Michael E. Spreadbury
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 Hamilton, MT 59840
3. Anita Harper Poe
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