

William L. Crowley  
Natasha Prinzing Jones  
Thomas J. Leonard  
BOONE KARLBERG P.C.  
201 West Main, Suite 300  
P.O. Box 9199  
Missoula, MT 59807-9199  
Telephone: (406)543-6646  
Facsimile: (406) 549-6804  
bcrowley@boonekarlberg.com  
npjones@boonekarlberg.com  
tleonard@boonekarlberg.com

*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' RESPONSE TO  
PLAINTIFF'S REQUEST TO  
RECONSIDER**

## INTRODUCTION

Plaintiff has filed a “Leave File Motion to Reconsider Lee, City Defamation.” [Doc. 241.] In it, Plaintiff requests the Court to reconsider “defamation.” Also, Plaintiff moves the Court “to accept specific defamatory material in evidence against Defendant City, Lee.” [Doc. 241, p. 1.] Plaintiff’s requests should be denied.

## DISCUSSION

It is not clear what Plaintiff is asking the Court to reconsider. Plaintiff does not identify the order to be reconsidered. In any event, Plaintiff’s motion does not comply with the requirements of L.R. 7.3, Rules of Procedure, United States District Court, District of Montana. Plaintiff does not identify what facts or applicable law are materially different from that presented to the Court before entry of any order. Likewise, he does not identify any “new material facts” or any “change of law.” L.R. 7.3(b). Therefore, his motion to reconsider should be denied. Likewise, any request to admit specific evidence is premature. Plaintiff also does not identify what specific evidence he seeks to have admitted. Rule 104, Fed. R. Evid. Therefore, Plaintiff’s request to admit evidence should also be denied.

In part, Plaintiff argues Defendant Kenneth Bell committed official conduct at the protective order hearing in Hamilton City Court. [Doc. 241, pp. 2, 6.]

However, in *Spreadbury v. Kenneth S. Bell*, Cause No. DV-10-223, Montana Twenty-First Judicial District Court, Ravalli County, Montana, the State District Court rejected Plaintiff's argument. It determined that Defendant Bell was acting within the course and scope of his office at the hearing. [Doc. 12-3, pp. 4, 7.] Further, the District Court's determination was affirmed by the Montana Supreme Court. [Doc. 12-3, pp. 10-12.] In the City's view, Plaintiff's argument is another collateral attack on the protective order against him. However, Plaintiff's attempts to overturn or modify the order of protection on appeal have been rejected at least twice by the Montana Supreme Court. [Doc. 14, pp. 1-13.]

Next, according to Plaintiff, Defendant Kenneth Bell made a false statement in a news article on August 20, 2010. [Doc. 241, p. 2.] According to the news article, Defendant Bell said, "the Library was never out to get him" and "it was him who frightened and threatened the staff." However, Plaintiff has not demonstrated why the statement is defamatory. *See, e.g.*, MCA § 27-1-803. In any event, the statement is not false. [Doc. 12-1, p. 2; Doc. 12-4, p. 2; Doc. 152, Nos. 2, 3, 8 and 10.]

### **CONCLUSION**

Plaintiff has not identified what specifically he wants to have reconsidered, and he has not satisfied the requirements to reconsider a prior determination of the

Court. In addition, his request to admit evidence is premature and not specific.

Therefore, Plaintiff's motion should be denied.

DATED this 2<sup>nd</sup> day of March, 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 445 words, excluding the parts of the brief exempted by L.R. 7.1(d)(2)(E).

DATED this 2<sup>nd</sup> day of March, 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 2<sup>nd</sup> day of March, 2012, a copy of the foregoing document was served on the following persons by the following means:

- 1, 3      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
3.      Anita Harper Poe  
         Jeffrey B. Smith  
         Garlington, Lohn & Robinson, PLLP  
         350 Ryman Street  
         P.O. Box 7909  
         Missoula, MT 59807-7909

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