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*Pro Se Plaintiff*

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

MICHAEL E. SPREADBURY	)	Cause: 9:11-cv-11-64-DWM-JCL
Plaintiff	)	
v.	)	<b>RESPONSE TO CITY,</b>
BITTERROOT PUBLIC LIBRARY,	)	<b>LIBRARY OBJECTION</b>
LEE ENTERPRISES INC.,	)	<b>TO COURT ORDER,</b>
CITY OF HAMILTON (FBN)	)	<b>FINDINGS DOC. #250</b>
_____	)	

Comes now Spreadbury with timely response, brief in support to City, Public Library objection of Court findings (Doc. #250) finding city, public library liable.

Brief in Support

City, Public Library argument falls short before this court due to one of several simple reasons: no controlling authority was cited to modify findings and order.

Spreadbury fully enjoyed watching his tax dollars used to tell a US Magistrate Judge his errors, including not using any court authority, then not citing any federal citations in city, library brief of 20 pages costing thousands of dollars.

Negligence of BPL, Brophy

While Spreadbury avers Public Library intimidated by a letter to the US President, actions of City, Public Library negligent, absent of care, outside of either scope or course of duties preclude immunity by state statute MCA§ 2-9-105. Assembly on public property at Public Library August 20, 2009 by Spreadbury as no public library staff made contact with Spreadbury; no harassment can be claimed although City, Library makes attempt in every pleading before this honorable court.

Facts presented that Defendant Brophy wrote letter of August 20, 2009 (BPL079) to fully support Defendant Langstaff unlawful ban in violation of Montana Code Ann MCA§ 22-1-309 (Board must act in all lawful ways; PLA 192). The ban was unlawful due to Montana Code Ann. MCA§ 22-1-311(Use of Library—Privileges) indicates only a full board decision can be reached as “willful violation of the rules” occurs. Defendant public library director stated under oath no staff *ever* asked Spreadbury to leave at City criminal trial February 18, 2010. Spreadbury was maliciously prosecuted for trespass as taxpayer on public property at Public Library 306 State St. Hamilton MT 59840 USA in the City of Hamilton.

An element of reasonable care, negligence arises for Brophy as he knew, should have known Spreadbury never confronted about behavior, asked to leave, never willfully violated Public Library rules. Defendant Library Director Langstaff did not have authority to remove privileges, nor did Board Director Brophy without consensus of library board and demonstrated willful violations of BPL rules MCA§22-1-311. As Brophy sends four (4) certified letters to Spreadbury March 3, 2010 (BPL049-052) to indicate removal of privileges, Brophy breached duty to Spreadbury to make policies, rules for Library as Library Board Director consistent with law(PLA 192) MCA§22-1-309(1).

Spreadbury pleads negligence of Defendant Brophy as request for reconsideration of submission July 8, 2009 (PLA 085-086) in Count 1 2<sup>nd</sup> Amended Complaint (Doc. #10). Brophy was required by Library protocol to assemble a 10 person committee to reconsider, vote on Spreadbury submission (BPL024), yet offered no administrative remedy breaching duty to Spreadbury.

No administrative remedy offered by Brophy as right to liberty, property deprived, almost three years later without due process *Matthews v. Eldridge 424 US319 (1976)*. Spreadbury authored email sent to then Board President Ellen Jones offering to attend next meeting with law enforcement to ensure peaceful discourse. (BPL089); Public Library, Brophy ignored Spreadbury request.

City fails at Public Duty argument

City, Library rely on public duty doctrine of law enforcement, which require foreseeability of a dangerous situation, or crime to take place; law enforcement not required to act *South v. Maryland 59 US 396 (1896)*. In the aforementioned, Spreadbury did not present dangerous situation, and Defense argument ironically wastes judicial economy requesting immunity for City, Library actors using public duty doctrine before this Honorable Court.

Malice, Liability, Negligence of City Officers

Malice is intentional wrongful act done without lawful justification. Defendant Murphy executed report of Stalking MCA§ 45-5-220 as Spreadbury published sighting of actual person vacating Public Library wearing “Gloria” nametag on a website, is evidence of undue care, negligence, and malice by Murphy.

Defendant Snavelly approaches Spreadbury, accuses trespass on Public Library lawn with unlawful letter of trespass, deprivation of Spreadbury established right without due process is improper or wrongful motive, malice even without hatred, or ill will toward Spreadbury *Davis v. Muse 441 A. 2d 1089 (1992)*.

City officers exhibited callous indifference towards Spreadbury, with intentional misconduct, potential evil motive due to Spreadbury running for Mayor and availability to remove City officers if successful at November 2009 election.

Punitive damages are defined in MCA§ 27-1-221 which include knowing depriving material fact, property, other established right. As Defendant Snavely accuses Spreadbury of trespass on public property is not a “reasonable mistake” *Hunter v. Bryant 502 US at 228 (1991) citing Beck v. Ohio 379 US at 91(1964)*. The reasonableness of Snavely, Brophy, Murphy actions can only be ascertained at trial; did Defense actors reasonably understand their power and responsibilities were to be when they acted under clearly established standards *Saucier v. Katz 533 US 194 (2001)*.

Recklessness standard met by Brophy, Snavely, Murphy

As Honorable Court finds Defense actors liable for negligence with cause, duty to Spreadbury to uphold basic standard of care is breeched as an absence of care according to the circumstances *Hollinger v. Titan Capital Corp. 94 F. 2d 1564 (9<sup>th</sup> Cir., 1990)*. The Hollinger court went on to explain Recklessness and negligence @ 1589:

*Recklessness conduct may be defined as a highly unreasonable omission invoking simple or even inexcusable negligence but an extreme departure from the standards of ordinary care and which presents a danger of misleading (Plaintiff) that is either known to the defendant or it is so obvious [public property] that the actor must have been aware of it.*

Defendant Snavely is heard in audio evidence (PLA-CD-1) speaking to Defendant Langstaff and the bias, and lack of care: Snavely did not care what Spreadbury said, or what Montana Law said, nor care if the property was publically owned. With callous indifference for Spreadbury's established right, or actions as city police officer, Snavely displayed reckless disregard for Montana law, harm to Spreadbury actionable by negligence, and punitive damage.

Information to Library Board from Spreadbury

On June 16, 2009 an email was sent to Board President Jones (BPL 089; later to be replaced by Defendant Brophy) requesting administrative remedy for unlawful removal or privileges; no response or contact was made by Public Library.

Spreadbury written correspondence dated July 15, 2009 was sent to library, library board, Brophy, Board Member Jones, and City Police (PLA 030) indicating no disturbance and the error of a Library director removing privileges in violation of MCA§22-1-311(See PLA-DVD-1 for video) . Letter identified Montana law Spreadbury contacts Defendant Brophy by certified letter (PLA 001-002) August 25, 2009 requesting liberty to address library board as administrative remedy to deprivation of rights, indicates MCA§22-1-311 as privileges, mentions affidavit of June 12, 2009 indicating no disturbance, no request to leave library.

Elements of Negligence, punitive damages met for Defense Actors

Defense Actors Brophy, Snavelly, Murphy, police officers have a duty to exercise reasonable care in their official dealings with citizens who may be injured by their actions *State v. Hughes* 230 NJ Super 223(1989). Defendants had duty to uphold, policies, rules, Montana Code, right to liberty. Defendants breeched that duty to Spreadbury with malice or omission, even if no harm was intended. Cause of Spreadbury's injury of disability (PLA 193) proximate to Defense actors negligence, recklessness, malice. Forseeability of damage to Spreadbury invokes liability for Negligent Infliction of Emotional Distress as pled in 2<sup>nd</sup> Amended complaint (Doc. #10) ¶207-208 count 21 pg. 38 *Sacco v. High Mountain Independent Press* 896 P. 2d at 418, 423(1995). As injury, stress caused permanent impairment of Spreadbury's health NIED criteria is met as pled in aforementioned *Cashinv. No. Pac. Railroad* 28 P. 2d at 865 (1934).

Some Responses to City, Library assertions

City, Library aver that "special relationship" exists in *Nelson v. Driscoll* 893 P. 2d 972 (Mont. 1999) ¶36 which does not appear in that paragraph; a duty to not damage, negligence to third party within paragraph. No mention of special relationship exists, [Defense gives misleading statements to court] or 4 criteria pled in bottom ¶ pg. 6 (Doc. #256). Spreadbury meets three of four criteria, and does

not understand one criteria: 1) Library patrons are specific class of person, privileges, use of library protected from harm to which Spreadbury is member of class; 2) Defendant Snavelly undertaking specific action to protect Spreadbury, and failed; 3) not understood as pled; 4) Defendant Snavelly having custody of Spreadbury at interview August 20, 2009 and harms Spreadbury due to accusation of trespass on public property, refuses to listen to false information given by Public library. Defense pleads these 4 are exceptions to public duty doctrine in Montana, as *Nelson* case was reversed on appeal for the petitioners claiming 42 USC§1983. Spreadbury had no contact with library staff on August 20, 2009 and therefore could not harass public library staff. Spreadbury stood on public sidewalk August 20, 2009 to ask former seatmate for name, who refused and appeared to have been intimidated by Snavelly due to photographs incorrectly portraying Spreadbury's position by the gazebo after initial departure in hopes of criminal trespass conviction. Photographs of Cassens taken by Snavelly now with the FBI. Spreadbury has never met Gloria Langstaff, due to Langstaff cancelling appointment, and meeting of July 15, 2009 is a false statement. Murphy forwarded report of stalking to city prosecutor due to malice, negligence, failure to adhere to protocol, probable cause of crime, defamatory, injurious to Spreadbury. Asking for a Library policy (promised in a June 9, 2009 correspondence from Defendant Langstaff) Spreadbury requested from a Librarian is far from a confrontation;



leaving the library to avoid a confrontation was wise. All library staff failed to implement policy of requesting patron to leave—Spreadbury was never asked to leave (affidavit June 12, 2009; PLA016, PLA-DVD-1). Defense actors did not act within duties as prescribed in law, or duty to public to not harm, violate rights.

### Injunctive Relief

Court is made aware of Spreadbury near three (3) year absence from public facility as public events not related to library operations continue as taxes are paid to support the public Library. Spreadbury attempted administrative remedy of attendance of board meeting with law enforcement, ignored by library. As supported by June 12, 2009 affidavit given to City, Library, Library board. Submission was not reconsidered although administrative request was submitted July 8, 2009; requiring 10 independent reviewers, vote and/or discussion. Neighboring library accepted letter on temporary reserve. New policy for privileges currently at public library reject wording of MCA§22-1-311 (Library Privileges). Spreadbury is deprived right to liberty, property as city, county taxes are paid without willful violation of rules, requests court intervention on library privileges. Spreadbury yields to Honorable Court for relief with respect to library use, and after hour use, and thanks court for its diligence in the aforementioned.

Conclusion

Honorable Court should retain negligence charges, consider adding NIED charges to Defense City, Public Library actors. Spreadbury requests injunctive relief to support right to liberty to enter Public Library. Defense has no merit in argument, as no controlling authority was cited in Doc. #256.

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 1734 words excluding title page, this compliance.

Respectfully submitted this 23<sup>rd</sup> day of March, 2012

BY: \_\_\_\_\_

Michael E. Spreadbury, Self Represented Plaintiff

Certificate of Service

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

*Response to City, Library Objection to court order, findings Doc. #250*

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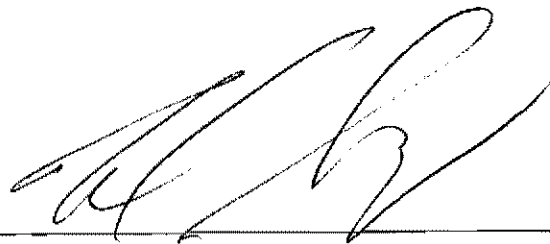
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Dated 3/23/12



Michael E. Spreadbury, Pro Se Plaintiff