

Anita Harper Poe
Jeffrey B. Smith
GARLINGTON, LOHN & ROBINSON, PLLP
350 Ryman Street • P. O. Box 7909
Missoula, MT 59807-7909
Telephone (406) 523-2500
Telefax (406) 523-2595
ahpoe@garlaington.com
jbsmith@garlington.com

Attorneys for Defendant, Lee Enterprises, Inc.

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., and BOONE
KARLBERG P.C.,

Defendants.

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

DEFENDANT LEE ENTERPRISES,
INC.'S BRIEF IN SUPPORT OF
MOTION TO STRIKE DOCKET Nos.
279 AND 280

Defendant, Lee Enterprises, Inc. ("Lee Enterprises" or "Lee"), through its counsel, Garlington, Lohn & Robinson, PLLP, respectfully files this Brief in Support of Motion to Strike Docket Nos. 279 and 280.

On April 4, 2012, Lee filed a Motion for Summary Judgment, Brief in

Support, and a Statement of Undisputed Facts. (Dkts. 259-261.) Spreadbury filed responsive documents on April 20, 2012 (Dkts. 267-269.) After Lee filed its Reply Brief in Support of Motion for Summary Judgment on May 4, 2012 (Dkt. 278), Spreadbury filed additional briefing in opposition to Lee's Motion for Summary Judgment. These documents include an "Affidavit of Michael E. Spreadbury In Re: Lee Enterprises Newsworthiness" (Dkt. 279) and "Notice of Lee Newsworthy[i]ness; Discovered Professionalism" (Dkt. 280). Even though these documents do not create an issue of fact and Lee is still entitled to summary judgment as a matter of law, they should be stricken because the Court did not grant Spreadbury leave to file additional briefing. *See* Local Rule 7.1(d)(1)(D) ("No further briefing is permitted without prior leave.").

Moreover, Spreadbury seeks to add allegations to the factual record which is already complete.

Upon filing of the Statement of Undisputed Facts and Statement of Genuine Issues, the factual record for the motion is deemed complete. Parties may not file further factual materials except with leave of the Court upon a showing that factual materials were reasonably omitted from the Statement of Undisputed Facts or Statement of Genuine Issues.

L.R. 56.1(d).

Because the Court has not granted Spreadbury leave to file additional

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information, Docket Nos. 279 and 280 should be stricken.

DATED this 11th day of May, 2012.

/s/ Jeffrey B. Smith
Attorneys for Defendant, Lee Enterprises, Inc.

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), I certify that this DEFENDANT LEE ENTERPRISES, INC.'S BRIEF IN SUPPORT OF MOTION TO STRIKE DOCKET Nos. 279 AND 280 is printed with proportionately spaced Times New Roman text typeface of 14 points; is double-spaced; and the word count, calculated by Microsoft Office Word 2007, is 264 words long, excluding Caption, Certificate of Service and Certificate of Compliance.

/s/ Jeffrey B. Smith
Attorneys for Defendant, Lee Enterprises, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2012, a copy of the foregoing document was served on the following persons by the following means:

 2 CM/ECF
 Hand Delivery
 1 Mail
 Overnight Delivery Service
 Fax
 E-Mail

1. Michael E. Spreadbury
P.O. Box 416
Hamilton, MT 59840
Pro Se Plaintiff

2. William L. Crowley
Natasha Prinzing Jones
Thomas J. Leonard
bcrowley@boonekarlberg.com
npjones@boonekarlberg.com
tleonard@boonekarlberg.com
Attorneys for Defendants Bitterroot Public Library, City of Hamilton, and
Boone Karlberg P.C.

 /s/ Jeffrey B. Smith
Attorneys for Defendant, Lee Enterprises, Inc.