

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

MICHAEL E. SPREADBURY,

CV 11-64-M-DWM-JCL

Plaintiff,

vs.

ORDER

BITTERROOT PUBLIC LIBRARY,
CITY OF HAMILTON,
LEE ENTERPRISES, INC., and
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.

Defendants City of Hamilton and Bitterroot Public Library move the Court to compel Plaintiff Michael Spreadbury to participate in preparing the final pretrial order in accordance with Local Rule 16.4 and the scheduling order entered in this matter on November 30, 2011 (Dkt. 182). In view of the proximity of the jury trial set for June 18, 2012, and in the interest of efficiency, the Court addresses the Defendants' motion without the benefit of a response from Mr. Spreadbury.

Local Rule 16.4 requires all parties to cooperatively participate in the

preparation of a final pretrial order. And the failure to cooperatively participate will result in an appropriate sanction – which may be dispositive in nature – being entered against any recalcitrant party that inhibits the preparation of the final pretrial order.

Under the circumstances presented, the Court deems it appropriate not to require the parties to convene a conference in relation to the preparation of the final pretrial order. The parties shall accomplish preparation of the final pretrial order in accordance with the following procedure and schedule:

(A) On May 25, 2012, Plaintiff Spreadbury shall serve upon counsel for the Defendants a written statement setting forth, in accordance with Local Rule 16.4, the following:¹

- (1) *Nature of Action.* A plain, concise statement of Spreadbury's remaining claims against the Defendants; ...
- (4) *Agreed Facts.* Those facts proposed by the Defendants to which Spreadbury stipulated are not in dispute; ...
- (7) The basis and amount of any monetary damages sought by Spreadbury and the specific nature of any relief; ...
- (10) Provide a list of each witness Spreadbury will call at trial, identifying each by name and city and state of current residence. And provide a similar list with respect to each witness Spreadbury may call to testify at the time of trial.
- (11) Identify on an exhibit list each document, photograph, or other

¹The Defendants represent they have provided Mr. Spreadbury their proposed form of a pretrial order setting forth each of the categories of information required by Local Rule 16.4.

- item that Spreadbury will offer as an exhibit at trial. And a separate list identifying each document, photograph, or other item that Spreadbury may offer as an exhibit at the time of trial.
- (12) *Discovery Documents*. A list of specific answers to interrogatories and responses to requests for admission that Spreadbury expects to offer at trial;
 - (13) *Deposition Excerpts and Summaries*. Reflect on the witness list referred to above, any deposition excerpts that Spreadbury intends to offer at trial, except for impeachment or rebuttal and his objections to the deposition excerpts designated by the Defendant.
 - (14) *Estimate of Trial Time*. Set forth the number of Court days Spreadbury expects will be necessary for the presentation of his case in chief.²

(B) Upon receipt of Mr. Spreadbury's written submission, Counsel for the Defendant shall incorporate that submission into the proposed final pretrial order, serve on Mr. Spreadbury, and file it with the Court on or before May 31, 2012.

The failure of any party to comply with this Order will result in the imposition of an appropriate sanction.

DATED this 23rd day of May, 2012

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge

² The writing shall conform to the sample Form D as set forth in Appendix C to the Local Rules. Likewise, the witness lists and exhibit lists discussed herein shall conform to sample Forms E and F as set forth in Appendix C to the Local Rules.