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

## MICHAEL E. SPREADBURY,

CV 11-64-M-DWM-JCL

Plaintiff,

vs.

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 Federal Rule of Civil Procedure 72(b)(1) Recommendation

Defendants.

On May 31, 2012, Plaintiff Michael Spreadbury filed a motion requesting that he be allowed to voluntarily dismiss this action in its entirety. Although Mr. Spreadbury characterized the motion as one brought under Fed. R. Civ. P. 41(a)(1)(A)(i), the Court properly construed the motion as one brought under Fed. R. Civ. P. 41(a)(2). Mr. Spreadbury's motion did not indicate whether he was requesting dismissal with or without prejudice. But in response to the motion, the sole remaining Defendant Lee Enterprises, Inc. advised the Court that it opposed the motion for voluntary dismissal unless the dismissal was with prejudice.

On May 31, 2012, the Court entered an order granting Spreadbury's motion for voluntary dismissal – dismissing all claims with prejudice. The referenced order also expressly advised Mr. Spreadbury that the Court would reconsider the order of dismissal if, on or before June 7, 2012, Spreadbury either (1) filed a notice advising the Court that he was requesting an opportunity to be heard as to why the dismissal should not be with prejudice, or (2) withdrew his motion to dismiss. Review of the record reflects that Mr. Spreadbury has done neither. Therefore,

IT IS RECOMMENDED that the undersigned's Order of May 31, 2012, be affirmed and judgment entered accordingly.

DATED this 8th day of June, 2012

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