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*Pro Se Plaintiff*

**FILED**  
MAY 17 2011  
By PATRICK E. DUFFY, CLERK  
DEPUTY CLERK, MISSOULA

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

MICHAEL SPREADBURY	)	Cause No: CV-11-61-M-DWM
Plaintiff	)	
v.	)	
BITTERROOT PUBLIC LIBRARY,	)	<b>MOTION, BRIEF IN</b>
CITY OF HAMILTON,	)	<b>SUPPORT TO REMAND</b>
LEE ENTERPRISES, INC.,	)	<b>PENDANT STATE CLAIMS</b>
BOONE KARLBERG, PC,	)	
_____	)	

Comes now the Plaintiff with motion to remand pendant state claims to state court with original jurisdiction in this cause of action.

Motion:

Spreadbury moves court remands pendant state claim for Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress to state court.

Defense oppose this motion.

Brief in Support:

The statute used with respect to remand is 28 USC§ 1441(c). A portion of that statute is the district court "...may remand all matters not otherwise in its jurisdiction." This court, if granting the motion to remand pendant state issue of NIED, IIED to original jurisdiction in 21<sup>st</sup> Montana District Court would allow Spreadbury to amend complaint to remove those state issues, and continue with federal jurisdiction *Carnegie-Mellon Univ. v. Cohill 484 US at 346 (1988)*.

In *Carnegie-Mellon*, the court decided after reviewing appellate court decisions to remand the independent non-removable claims as Spreadbury's ED pendant state claim *Carnegie-Mellon at 354*.

Court precedent allows remand of independent claims to original jurisdiction. The US District Court does not have jurisdiction over pendant state claims, and Spreadbury asks court allowance to amend complaint to remove pendant state claim of IIED, NIED to remand to state court.

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 147 words excluding title page, this compliance.

Respectfully submitted this 14<sup>th</sup> day of May, 2011

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

Michael E. Spreadbury, Pro Se

Certificate of Service

Cause No. CV-11-0064-DWM

I certify as Plaintiff in this action, a copy of the below named motion 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:

*Motion, Brief in Support to Remand Pendant State Claims*

*Combined Response to Defendant Answer Boone Karlberg, City of Hamilton, Public Library*

Russell Smith Federal Courthouse

Clerk of Court

200 E. Broadway

Missoula, MT 59803

Defendant Counsel:

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(self-represented)



Dated \_\_\_\_\_ 5/14/11 \_\_\_\_\_

Michael E. Spreadbury, Pro Se Plaintiff