

Michael E. Spreadbury  
700 S. 4<sup>th</sup> Street  
Hamilton, MT 59840  
Telephone: (406) 363-3877  
mspread@hotmail.com

*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

Cause No: CV-11-61-M-DWM

MICHAEL E. SPREADBURY )

Plaintiff )

v. )

BITTERROOT PUBLIC LIBRARY, )

CITY OF HAMILTON, )

LEE ENTERPRISES INC., )

BOONE KARLBERG PC, )

Defendants )

**COMBINED RESPONSE  
TO DEFENDANT ANSWER  
BY BOONE KARLBERG PC  
CITY OF HAMILTON,  
PUBLIC LIBRARY**

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Comes now Plaintiff with timely response to Defendant Boone Karlberg, City of Hamilton, Bitterroot Public Library per F. R. Civ. P. 12 allowing 21 days.

The Defendants admits to allegations by Spreadbury, give rise to partial Summary Judgment before this court. Combined answers for individual, main defendants .

Spreadbury responds to Defendant affirmative defenses are universal for Individual Defendants (ID) and Main Defendants (MD) although answers for MD are listed below; pleading was redundant.

Defendant City of Hamilton, Public Library admit to:

1. Denying Spreadbury request for submission in ¶ 19 Main Defendants (hereafter “MD”) pg. 6.
2. Relinquishing library privileges MCA§ 22-1-311 without Spreadbury willful violations of rules, Staff, Law Enforcement asking Spreadbury to leave Public Library in ¶ 30, 32, 34, 37.
3. Public library admit to receiving Spreadbury affidavit, Montana code from July 15, 2009 correspondence indicating unlawful removal of library privilege
4. Prosecuting Spreadbury for peaceful assembly on public property in Amended Complaint (State) ¶117.
5. Defense admits Gloria Langstaff was former library director in ¶ 5 pg. 3 MD.
6. Defense admit Bitterroot Public Library is a public library in ¶7 pg. 3 MD.
7. Defense admit Chief Ryan Oster is policymaker ¶ 11 pg. 4 MD.
8. Defense admit City Attorney Bell policymaker ¶12 pg. 4 MD

9. Defense admit Lee Enterprises employees calling in to Ravalli County dispatch July 9, 2009; slander and libel, as Spreadbury wrote request to then Publisher Kristen Bounds without saying a word in office, business was conducted in Ravalli Republic offices of Lee Enterprises ¶20 pg. 6 MD.
10. Defense admit charging Spreadbury with misdemeanor criminal trespass on public property by Defendant City of Hamilton ¶21 pg. 6.
11. Defense admit Ravalli Republic and five (5) affiliate Lee Enterprises newspapers in Montana published extensive number of articles including false Associated Press (AP) articles identifying Spreadbury and imputing criminal behavior, criminal charge for protected right ¶22 pg. 7; published defamation per se regarding Spreadbury's mental health as found in ¶50, 51 Amended Complaint (State) MD.
12. Defense admit investigating Spreadbury for no criminal behavior with respect to the library from June 11, 2009 to February 18, 2010; including publishing a defamatory police report for stalking for observing someone in public as written on a website ¶24 pg. 8 MD
13. Defense admit to fraudulently representing Defendant Senior Librarian Roddy, Defendant City Attorney Ken Bell (outside scope of employment per MCA§ 7-4-4604 Duties) accepting public funds for knowingly ineligible actors in ¶25 pg. 8 MD.

14. Defendant Boone Karlberg PC admits to writing court pleadings with malice and recklessness defaming Spreadbury described in MCA§27-1-804(4) ¶25 pg. 8 MD.
15. Admit dismissing charge, with malice written in ¶26 pg. 8 MD; allows malicious prosecution charge against defendants.
16. Defendant Boone Karlberg PC defames outside protected court pleadings by aver Spreadbury "...suggested he is a current or past member of the FBI..." ¶27 pg. 9 MD which is with malice accusing Spreadbury of crime that never happened.
17. Defense admit Spreadbury ran for Mayor November 3, 2009 passes "Public Function Test" US Supreme Court *in color of law* for Boone Karlberg, Lee Enterprises Inc ¶28 pg. 9 MD
18. Defense admit Public Library Chairman Dr. Brophy DVM acted in scope of duties although condoned the June 11, 2009 removal of Spreadbury library privileges, March 23, 2010 removal without willful violation of the rules per MCA§22-1-311, no staff, law enforcement asked Spreadbury to leave ¶32 pg. 9 MD.
19. Defense admit to sending one of more police reports to City Attorney Bell to prosecute Spreadbury without any criminal conduct; defamatory to

Spreadbury, violation of right to speak, assemble in Hamilton, MT ¶49 pg. 12 MD.

20. Defense admit to investigating Spreadbury for protected right to speak as listed in AM complaint (State ¶151-155) in ¶52 pg. 13 MD

21. Defense admit filing a criminal complaint against Spreadbury for peaceful assembly on public property ¶57 pg. 14 MD.

22. Defense admit Spreadbury seeking injunctive relief before this court to cease defamatory comments such as MCA§27-1-804(4) in pleadings before this honorable court in Answer, other pleadings, proof of future harm ¶65 pg. 15 MD.

23. Defense admit to Plaintiff request of injunctive relief against Lee Entrprises including the proper request for arrest of Perry Backus for intentional harm to person or character in MCA§27-16-102(2) for putting up 4 versions of a defamatory and false light account of Spreadbury interaction with library 2 articles made into associated press and published to an international audience ¶65 pg. 15 MD.

**The admissions of the Defense allow this case to be narrowed by partial Summary Judgment before this court.**

I. Response to First Defense pg. 2 MD

1. Spreadbury filed original complaint in the Montana State Court 21<sup>st</sup> Judicial District, Hamilton, MT with Honorable Karen S. Townsend presiding.
2. Spreadbury did not have duty to include federal jurisdiction in original complaint or amended complaint due to State filing of claim as in #1.
3. Defense answer does not allow Spreadbury to amend complaint (See *City and Library Brief in Opposition to Plaintiff 2<sup>nd</sup> Amended Complaint* filed 9<sup>th</sup> May 201) when brought to Federal Jurisdiction at US District Court for Montana, Missoula Division.
4. It was Defense will to remove case from State Court, then attempts to disallow Plaintiff to amend complaint to meet jurisdiction. A comparison is taking a case to Italy, and offering no chance to translate the complaint to a different venue (here a hypothetical).
5. Spreadbury, as pro se IFP has met federal standard of liberally made claim for 42 USC§ 1983 although filed originally in a State Courtroom, due to conflict of interest with Federal Judges in Missoula (see Motion for recusal of judges served 5-2-11) and state issues of IIED, NIED which do not have jurisdiction in a Federal court, not even supplemental jurisdiction as Defense avers. In other words, Spreadbury met federal pro se IFP standard, even with amended state complaint which was removed to the US District Court in Missoula *Farmer v. Breman 511 US 825 (1994)*.

From *Farmer*: a pro se IFP litigant is **ENTITLED** to 5 procedural protections:

- I. Process issued and served (not met in *Spreadbury v. Hoffman et. al.*)
  - II. Notice by court to dismiss the complaint and grounds therefore.
  - III. Opportunity to submit written memorandum in opposition.
  - IV. In the event to a dismissal, grounds therefore.
  - V. Opportunity to amend complaint to overcome deficiency.
6. Defense has placed Plaintiff in new jurisdiction and tries to use to his advantage, although *Spreadbury* has right to overcome the deficiency that the Defense has put *Spreadbury* in.
  7. *Spreadbury* complaint is not deficient, unless state complaint is not allowed to be modified to meet federal jurisdiction.
  8. *Spreadbury* states claim sufficient for review in amended complaint, fully sufficient in 2<sup>nd</sup> Amended complaint.
  9. Defense needs to take Latin class; *Res judicata* is for a case already adjudicated; while Plaintiff has cause of action for non-release of public information in against Defendant Bell, city of Hamilton with cause DV-10-639 in 21<sup>st</sup> District Court, it is for the Art. II s. 9 right to know. This cause of action does not complain in re: right to know although it shares a common cause of 42 USC§ 1983.

II. Second Defense Response pg. 2 MD

1. Jurisdiction of heading was for a state claim filed in 21<sup>st</sup> Montana Judicial District and removed to US District Court Missoula Division.
2. Dr. Robert Brophy DVM as chairman of the Bitterroot Public Library board is responsible for operation and maintaining the library under MCA§ 22-1-707 (Duties of Board).

### III. Third Defense Response

1. The policy or custom Chief Ryan Oster made telling Spreadbury to not enter Lee Enterprises Inc. business in Hamilton, MT when Spreadbury silently wrote a request to publisher to not defame him online, or in print; business was able to be conducted 232 W. Main St. Hamilton, MT violated right to liberty without due process as covered in Amendment 14, US Constitution.
2. Policy or Custom Defendant City Attorney Ken Bell made by filing a sworn court document September 2, 2009 for summons for peaceful assembly on public property for Spreadbury's constitutional protected act August 20, 2009 violated Amendment 1, US Constitution.
3. By arbitrarily removing Spreadbury library privileges contrary to MCA§22-1-311 it violated Spreadburys state right to privileges, and right to liberty, procedural due process when no administrative remedy was offered pre-deprivation (or post deprivation).



4. All named city actors and library staff knew or should have known that a) there was no cause to remove privileges as set in Montana law b) reasonable law enforcement, prosecutor officer knew or should have known peaceful assembly fundamental protected right in State of Montana, United States. Under *Harlow v. Fitzgerald* 457 US at 818 (1982) government officials performing discretionary functions are shielded from liability for civil damages only where their conduct does not violate clearly established statutory or constitutional rights. Defendant actors in *Spreadbury v. Bitterroot Public Library et. al.* do not enjoy immunity herein.
5. By Defense actions, knowledge, no immunity and subjection to punitive damages are available to *Spreadbury* per MCA§27-1-221 for actual malice, as *Spreadbury* pled in Complaint, Amended Complaint, 2<sup>nd</sup> Amended Complaint in the aforementioned. Defendants meet 42 USC§ 1983 criteria for punitive damages, callous indifference, actual malice as can be found in established authority before this court.
6. The act of prosecuting *Spreadbury* for peaceful assembly is an act of malice, an omission of constitutional rights, as is arbitrary removal of library privileges, denial of proper library submission.
7. Library representatives were in color of law when calling law enforcement for trespassing on public property, returning submission to law enforcement

instead of to Spreadbury. By removing privileges without cause, copying law enforcement in unlawful Director “ban” from library June 11, 2009 act in conjunction with law enforcement, is in color of law.

8. Spreadbury initiated this case in a State Court for remedy, it was Defendants who removed it to a Federal Court. Spreadbury should not need a court remedy for library privileges, administrative remedy proper through library administration, was not offered; Spreadbury suffered procedural due process violation from Library as pled herein.
9. Ken Bell and Jennifer Lint enjoy no immunity to prosecution if a reasonable officer knew or should have known prosecution for peaceful assembly would violate Spreadbury’s established rights under the 1<sup>st</sup> Amendment.
10. Spreadbury lost state right of library privilege, suffered procedural due process violation when no administrative remedy offered. Library privileges are cognizable liberty interest, which cannot be deprived without due process of law.
11. Peaceful assembly on public property is not a crime, to prosecute Spreadbury is evidence of actual malice. By using private property statute for public property, knowingly prosecuting private property on public property, shows actual malice intent, open to punitive damages. Defense

actors prosecuting, investigating peaceful assembly on public property as private property criminal trespass is a reckless disregard for the truth.

12. Spreadbury suffered loss of liberty in travel restrictions purposely published falsely by Defendant Lee Enterprises in color of law, loss of use of firearm, court restrictions.
13. No ability for Spreadbury to be heard for deprivation of liberty interest of library privileges; charging criminal trespass on public property was enough to enact the federal circuit “Stigma-plus” test.
14. Civil Conspiracy does not have to be proved, Defendants worked in conjunction to meet a goal of disruption of an election, defamation of Spreadbury, and goal of criminal charges unlawfully to Spreadbury.
15. Spreadbury was treated differently than any other citizen seated on the lawn of the library August 20, 2009 ¶16 MD.
16. Spreadbury has fear of future harm from Defendants, proved that complaint does not stop Lee Enterprises from defaming Spreadbury, reasonable person would request protection from this Honorable court. Injunctive relief is proper when excessive abuse of Defendant discretion against Spreadbury causing irreparable harm has transpired.

IV. Fourth Defense Response pg. 19 MD.

1. Defendant violated state right to Individual dignity Art. II s. 4; Freedom of Assembly Art. II. s. 6; Freedom of Speech Art. II s. 7; Right to participation Art. II s. 8; Right to privacy Art. II s. 10; Due Process of Law Art. II. s. 17 ¶2 pg. 19 MD.
2. In ¶3 Defendant actors for city take oaths to uphold the constitutions; knowingly deprived Spreadbury right to peaceful assembly, other established right: speak as presented submission to library.
3. Defense avers Spreadbury knew or should have known peaceful assembly on public property would lead to defamation, criminal prosecution ¶4 pg. 19 MD.
4. Charging Spreadbury with crime when none existed is sufficient to plead for relief from a court for Emotional Distress. When Defense actors put in a position to affect Spreadbury, deprive right, ED is actionable in State Court in The State of Montana.
5. Sitting on public property as a crime is defamation, court paperwork is defamation by City of Hamilton, MT. Dr. Robert Brophy made comments defamatory to Spreadbury, which came through court paperwork for “discovery” of trespass on public property. Library employee Frankforter responsible to Defendant Brophy defamed, false light of Spreadbury

requesting library policy promised, missing from former library Director letter of June 9, 2009 ¶6 pg 20.

6. Spreadbury exhausted all remedies, to the ridicule, defamation, false light of Defendant Boone Karlberg. Defendant Public Library did not offer any remedies, removed privileges outside of established lawful process in MCA§22-1-311, constitutional protections ¶7 pg. 20 MD.
7. Defendants abused lawful process in charging Spreadbury with crime for peaceful assembly, removing library privileges without cause, investigating for crime when no criminal conduct occurred ¶8 pg. 20 MD.
8. Public Library misrepresented actions of Spreadbury, misrepresented “library property” as private property at a publically supported facility in Hamilton, Montana. Defendants had no grounds to believe public property was private property. The intent that court, public, Spreadbury would rely on it ¶9 pg. 20 MD.

#### V. Fifth Defense Response pg. 20 MD

1. Plaintiff has suffered irreparable damage as pled in 2<sup>nd</sup> Amended Complaint: is considered disabled from malicious prosecution of Defense actors. Malicious and vicious defamation per se, malicious prosecution, intentional deprivation of established right ¶1 pg.20 MD.

2. Compensatory damages are based upon well established court precedent in Montana , United States for causes of action. Spreadbury has combined several causes of action into this cause of action.
3. Spreadbury has suffered permanent loss of employment, established course of life as documented with the US Social Security Administration for Disability and Supplemental Income, Vocational Rehabilitation for the State of Montana who employ employment specialists who have deemed Spreadbury disabled ¶3 pg. 21.
4. The Defense actors for City, Public Library are not immune from civil damages. The Montana Library compact dictates in subsection 3(e) MCA§ 22-1-601 that an independent library can sue and be sued. Defense police officers, prosecutors have not established immunity for knowingly prosecuting Spreadbury for peaceful assembly on public property. Spreadbury avers no immunity available for actions that *a reasonable officer* would know deprives right to speak, assemble or otherwise for Spreadbury ¶4 pg. 21.
5. Every action of Defendants, as pled in the aforementioned was calculated to damage Spreadbury, actions of defendants, in actual malice did permanently damage established course of life for Spreadbury ¶5 pg. 21.

6. Statutes listed by Defense counsel in Title 2, chapter 9 do not indemnify acts, one merely allows municipal employers to give liability protections to employees. Of note: Montana Constitution Article II s. 18 **State Subject to Suit:** *The State counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property, except as may be specifically provided by law by a 2/3 vote of each house of the legislature.*
7. Spreadbury's claim is generous, straightforward, and clear to understand. One's right to work, pursuit of happiness is limited when injury at the hand of malicious Defendants, who knowing better did worse. City, Public library, Boone Karlberg entitled to criminal investigation for multiple instances of public fraud at the discretion of the US Justice Department, and constitutional deprivations as pled in the 2<sup>nd</sup> Amended Complaint and pleadings before this court ¶7 pg. 21 MD.
8. Dismissing complaint would deny Spreadbury property interest without due process of law, protected by the 14<sup>th</sup> Amendment US Constitution. Attorney fees are not available in this cause of action due to Pro Se. IFP Plaintiff.

#### Individual Defendants Response

Parties to a complaint, acting in color of law are Defendants in the aforementioned. Spreadbury has a right per *Farmer* to amend the complaint

to overcome deficiency; in aforementioned Defendants created deficiency  
Spreadbury presented 2<sup>nd</sup> Amended Complaint to honorable court.

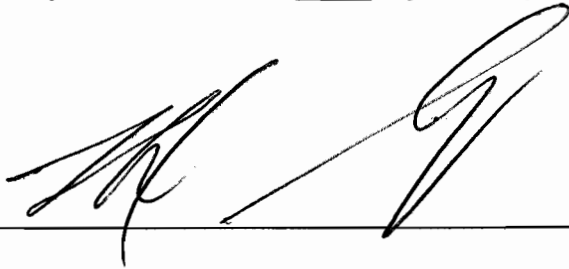
Spreadbury cites claim to 42 USC§ 1983 court is to interpret liberally for pro se  
IFP *Boag v. McDougal* 454 US 364 (1982). Spreadbury cites two (2) policy or  
custom claims against Defendant City of Hamilton shields, from dismissal *Shah v.*  
*Co. of Los Angeles* 797 F. 2d 743(9<sup>th</sup> Cir. 1986).

Spreadbury avers to court that answer to Main Defendants are identical to  
Individual Defendants; complaint states cause of action for 42 USC§ 1983 where  
defendants, in color of law conspired to deprive Spreadbury right to speak,  
peacefully assembly *inter alia*. Spreadbury also indicates to this honorable court  
that defendants have not established immunity, nor available due to reasonable  
officer know or should have known peaceful assembly, free speech protected right  
of Spreadbury *Harlow*. Defamation, emotional distress plead, cause of action for  
Stigma-plus test in aforementioned for protected State right, library privileges  
established in state statute *Humphries v. Co. of Los Angeles* 554 F. 3d 1170 (9<sup>th</sup>  
Cir. 2009), *Heart v. Parks* 450 F. 3d 1059(9<sup>th</sup> Cir. 2006).

Partial summary judgment is proper, where Defendant admits to unconstitutional  
behavior as indicated herein.



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

A handwritten signature in black ink, appearing to read "Michael E. Spreadbury", written over a horizontal line.

Michael E. Spreadbury, Pro Se Plaintiff