

This motion is opposed by Defense counsel.

Brief in Support:

Section 1983 litigation, 42 USC §1983 is established to permit persons who have had constitutional rights violated, and to sue the wrongdoer for redress of injuries.

Liability attaches if the defendant acted in “color of law”, and the action(s) deprived the Plaintiff of some right, privilege, or immunity secured by the Constitution, or federal laws *Monroe v. Pape 365 US 167 (1961)*.

Spreadbury alleges constitutional deprivations in color of law in complaint, amended complaint, 2nd Amended complaint served upon this court. In answer dated April 26, 2011, Defendant Boone admits representing Defendant Bell, Roddy, published articles about criminal trespass of Spreadbury peacefully assembled on public property protected in ***Amendment 1, US Constitution***. Fewer issues of material fact remain, partial summary judgment proper *Celotex Corp. v. Catrett 477 US 317 (1986)*.

Spreadbury pleads before this Honorable court that the right to peaceful assembly is a fundamental right ***Amendment 1 US Constitution***. Spreadbury further avers property, facility at 306 State Street Hamilton MT 59840 that contains the Bitterroot Public library in original block #18 of the City of Hamilton is *public* property. Common knowledge of public entity City of Hamilton, Public library are

supported by public funds, Spreadbury avers no private land held by public entities. Honorable court does not need evidence of public property at location of Spreadbury's peaceful assembly, inherent with public entity defendants.

On August 20, 2009 Spreadbury peacefully assembled on same public property; unlawful prosecution for criminal trespass by Defendant City of Hamilton executed for *private* property Montana Code Ann. MCA§ 45-6-203.

In Defendant City of Hamilton April 26, 2011 answer to this court, Defendant City of Hamilton admitted to prosecuting Spreadbury for peaceful assembly on public property in ¶ 2 pg. 3, ¶21, ¶57 in Joint Answer of Defendants; response to Spreadbury ¶ 117 of the Amended State Complaint. Defendant City of Hamilton admitted dropping charges in ¶ 26 Joint Defendant Answer of April 26, 2011.

Defendant City of Hamilton actors prosecuting Spreadbury for peaceful assembly when *reasonable* prosecutor, knew or would have known ***1st Amendment US Constitution*** protects peaceful assembly of Spreadbury, no law can be enforced abridging this right ***Amendment 14 US Constitution, Buckley***. Boone Karlberg PC acts in color of law with Defendant City of Hamilton as *Public Function, Joint Action tests*, other test met *Humphries v. Co. of Los Angeles 554 F. 3d 1170 (9th Cir. 2009)*.

Court pleadings with malice not privileged

Defendant Boone Karlberg PC pleadings before Montana Courts are not privileged by Montana Code Annotated MCA§ 27-1-804(4). As Defendant Boone Karlberg actors publish protected act of Spreadbury peacefully assembled on public property as crime, false light of actions of Spreadbury done knowingly and maliciously by Defendant to defame and further injure Spreadbury with co-conspirator Defendant City of Hamilton actors. Negligence arises due to knowingly publishing information as crime protected in the US Constitution. NIED, IIED arises from having a position to injure Spreadbury, effect outrageous acts to cause emotional distress on Spreadbury. NIED, IIED threshold depriving a well established right that has significant effect on Spreadbury *Johnson v. Supersave* 211 Mont. 465 (1984).

Admitted actions of Defendant Boone Karlberg PC, implicate Defense actors for §1983, negligence, defamation, IIED, NIED in Spreadbury's 2nd Amended complaint served on Honorable court May 4, 2011.

No material facts remain, partial summary judgment proper. Defense admit to Spreadbury before this court; no clear and convincing evidence standard is needed where the *New York Times Standard* for defamatory publication and summary judgment apply *Anderson et. al. v. Liberty Lobby Inc. et. al.* 477 US 242 (1986).

WHEREFORE, Spreadbury moves Honorable Court find count # 8, 15, 16, 20, 21, 22, 26 of 2nd Amended Complaint as actions and omissions admitted and enacted by Defendant Boone Karlberg PC are subject to summary judgment. Spreadbury asks court to find summary judgment against Defendant Boone Karlberg PC for above counts, fully admitted in Defense answer pleadings presented herein.

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 691 words excluding title page, this compliance.

Respectfully submitted this 26th day of May, 2011

BY: _____

Michael E. Spreadbury, Self Represented Plaintiff