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

MICHAEL E. SPREADBURY,

Plaintiff,

v.

BITTERROOT PUBLIC LIBRARY,
CITY OF HAMILTON, LEE
ENTERPRISES, INC., and BOONE
KARLBERG P.C.,

Defendants.

Cause No. CV-11-064-M-DWM

DEFENDANT LEE ENTERPRISES,
INC.'S STATEMENT OF GENUINE
ISSUES IN OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT

Pursuant to Local Rule 56.1(b) of the Rules of Civil Procedure in the United States District Court, District of Montana, Defendant, Lee Enterprises, Inc. ("Lee Enterprises"), submits the following Statement of Genuine Issues in opposition to Plaintiff, Michael E. Spreadbury's ("Spreadbury"), Motion for Partial Summary Judgment against Lee Enterprises, Inc. (Dkt. 51).

1. In May or June of 2009, Spreadbury met with Ms. Nansu Roddy at the

Bitterroot Public Library (“Library”). (Amend. Compl. ¶ 31 (Apr. 19, 2011) (Dkt. 1-1).)

2. The purpose of the meeting was to admit a letter written by another person on the reserve shelf of the library. (Dkt. 1-1 at ¶ 31.)

3. Ms. Roddy, on behalf of the Library, refused to admit the letter. (Dkt. 1-1 at ¶ 32.)

4. After numerous interactions with Library staff, Spreadbury was banned from the Library. (Dkt. 1-1 at ¶¶ 33-35.)

5. After being banned from the Library, witnesses reported to local law enforcement that Spreadbury returned to the Library property. (Dkt. 1-1 at ¶¶ 43-46.)

6. Spreadbury was subsequently charged with criminal trespass. (Dkt. 1-1 at ¶ 46.)

7. The *Ravalli Republic*, a newspaper owned by Lee Enterprises, published articles stemming from the criminal trespass charges. (Dkt. 1-1 at ¶¶ 17, 49, 52.)

8. The articles were republished by the *Missoulian*, a paper owned by Lee Enterprises. (Dkt. 1-1 at ¶¶ 16, 52.)

9. However, none of the articles contained personal opinions from the reporters, but, instead, were based purely on official Ravalli County Court

documents. (Foundational Aff. Jeffrey B. Smith (“Aff. Smith”), Aff. Stacey Mueller (“Aff. Mueller”) ¶ 3 (June 20, 2011).

10. Around this same time period, Spreadbury was verbally abusive to *Ravalli Republic* staff at the *Ravalli Republic* offices located at 232 Main Street, Hamilton, Montana. As a consequence, Spreadbury is not allowed in the *Ravalli Republic* offices. Spreadbury has been personally notified, along with the Sherriff’s Department, that he is not allowed in the *Ravalli Republic* offices because of his past abusive behavior. (Aff. Mueller ¶¶ 4-6; Dkt. 1-1 at ¶¶ 38-39.)

11. On September 9, 2009, Spreadbury was summoned to a procedural hearing for the criminal trespass charges. (Dkt. 1-1 at ¶ 48.)

12. On September 10, 2009, the *Ravalli Republic* published an article detailing the trespass charges brought against Spreadbury. (Dkt. 1-1 at ¶ 49; Aff. Smith, Ex. B: Sept. 10, 2009, *Ravalli Republic* article.)

13. The article was entitled, “Mayoral candidate charged with trespass,” and included a picture of Spreadbury. (Dkt. 1-1 at ¶ 49; Aff. Smith, Ex. B.)

14. On November 3, 2009, the *Ravalli Republic* published an article entitled “Candidate attends procedural hearing,” detailing a procedural hearing for Spreadbury’s charges of criminal trespass. Aff. Smith, Ex. C: Nov. 3, 2009, *Ravalli Republic* article.)

15. While Spreadbury’s criminal trespass charges were pending,

Spreadbury approached Ms. Roddy outside the Library and, as a result of the encounter, Ms. Roddy sought and obtained an Order of Protection against Spreadbury. (Aff. Smith, Ex. D: relevant orders in Cause No. DV-10-93.)

16. Based upon Spreadbury's encounter with Ms. Roddy, felony intimidation charges were brought against Spreadbury. Both the *Missoulian* newspaper and the *Ravalli Republic* published articles regarding the intimidation charges brought against Spreadbury. Aff. Smith, Ex. E: Nov. 10, 2009, *Missoulian* article; Aff. Smith, Ex. F: Nov. 11, 2009, *Ravalli Republic* article.)

17. Subsequently, the *Missoulian* and the *Ravalli Republic* published articles regarding Spreadbury's initial appearance for the intimidation charges. Aff. Smith, Ex. G: Dec. 3, 2009, *Missoulian* article; Aff. Smith Ex. H: Dec. 4, 2009, *Ravalli Republic* article.)

18. On February 18, 2010, based on proof beyond a reasonable doubt, a jury in the City Court for the City of Hamilton found Spreadbury guilty of criminal trespass. Aff. Smith, Ex. I: Feb. 18, 2010, City Court, City of Hamilton Verdict; Feb. 18, 2010, Sentencing Or.).

19. On February 22, 2010, the *Ravalli Republic* published an article regarding Spreadbury being found guilty of the criminal trespass charges. Aff. Smith, Ex. J: Feb. 22, 2010, *Ravalli Republic* article.)

20. Later, after the Montana Supreme Court upheld Ms. Roddy's Order of

Protection that restrained Spreadbury from entering into the Library for five years, the City of Hamilton voluntarily dropped the criminal trespass charges against Spreadbury. Subsequently, both the *Missoulian* and the *Ravalli Republic* published articles regarding the City dropping the charges. Aff. Smith, Ex. K: Aug. 18, 2010, *Missoulian* article; Aff. Smith, Ex. L: Aug. 19, 2010, *Ravalli Republic* article.)

21. Finally, Spreadbury pled guilty to the felony intimidation charges. Subsequently, both the *Missoulian* and the *Ravalli Republic* published articles regarding Spreadbury pleading guilty to the felony intimidation charges. Aff. Smith, Ex. M: Oct. 15, 2010, *Missoulian* article; Aff. Smith, Ex. N: Oct. 16, 2010, *Ravalli Republic* article; Aff. Smith, Ex. O: Oct. 17, 2010, *Ravalli Republic* article.)

22. The current matter is brought against the Library, City of Hamilton, Lee Enterprises, and the law firm of Boone Karlberg, P.C. Regarding Lee Enterprises, Spreadbury alleges: Count 8 – Tortious Interference With a Prospective Economic Advantage; Count 18 – Negligence/Negligence Per Se; Count 19 – Defamation, Defamation Per Se; Count 20 – Intentional Infliction of Emotional Distress; Count 21 – Negligent Infliction of Emotional Distress; Count

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23 – Injunctive Relief; and Count 26 – Punitive Damages. (Dkt. 1-1.)

DATED this 21st day of June, 2011.

/s/ Jeffrey B. Smith
Attorneys for Defendant, Lee Enterprises, Inc.

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), I certify that this Defendant Lee Enterprises, Inc.'s Statement of Genuine Issues In Opposition to Plaintiff's Motion For Partial Summary Judgment is printed with proportionately spaced Times New Roman text typeface of 14 points; is double-spaced; and the word count, calculated by Microsoft Office Word 2007, is 884 words long, excluding Caption, Certificate of Service and Certificate of Compliance.

/s/ Jeffrey B. Smith
Attorneys for Defendant, Lee Enterprises, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June, 2011, a copy of the foregoing document was served on the following persons by the following means:

1, 3 CM/ECF
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