

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

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Pro Se Plaintiff

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

MICHAEL E. SPREADBURY)	Cause No: CV-11-64-DWM-JCL
Plaintiff)	
v.)	OBJECTION TO COURT
BITTERROOT PUBLIC LIBRARY,)	FINDINGS; IN RE:
CITY OF HAMILTON,)	DEFENDANT BOONE
LEE ENTERPRISES, INC.,)	
BOONE KARLBERG, PC,)	
_____)	

Comes now Spreadbury with objection to court findings and recommendations with respect to Defendant Boone Karlberg PC in the aforementioned.

Motion:

Spreadbury moves that Honorable court rejects findings and recommendation of Honorable Magistrate Lynch, biased in this case, baseless in findings for dismissal.

Brief in Support

Defendant Boone Karlberg PC (hereafter: Boone) acted with malice towards Spreadbury in publishing with negligence, actual malice, in color of law with other defendants in aforementioned. Montana Code Ann. MCA§ 27-1-804 does not protect Boone from published court information which knowingly defames, deprives Spreadbury right to peaceful assembly. As Boone intentionally defames Spreadbury by imputing crime: Spreadbury impersonating federal law enforcement 18 USC §1912, trespass on public property, library privileges Boone meets Stigma-plus test, Joint Action Test, and Nexus Test for color of law as private party *Johnson v. Knowles 113 F. 3d at 1118-1120 (9th Cir. 1997)*, Plaintiff response to Boone Dismiss (TR.# 37).

Spreadbury pled Notice of Fraud F.R.Civ. P. 9b (TR. #29) filed May 13, 2011, implicates Boone for accepting litigation fees: RICO activity with Spreadbury as intended victim *Semegen v. Weider 780 F2d 727 (9th Cir., 1985)*. Boone financially benefited from Racketeering activity using public funds intended to protect public municipalities in Montana: Defendant City of Hamilton; herein used to commit fraud by protecting a non-municipal public library and employees *Schreiver Distributing v. Serv-Well Furniture Co. 806 F. 2d 1393 (9th Cir., 1986)*. To allow fraud, Racketeering activity, deprivation of right by Boone in color of law to be dismissed from court is in violation of the judicial oath made by this

Honorable court. The right to Procedural due process, peaceful assembly must be upheld on an equal basis for every party before this court.

It is reckless on the part of this District court to dismiss a Defendant for failure to state a claim which properly claims Federal Civil rights, defamation, Intentional Infliction of Emotional Distress, Malicious Prosecution, Tortious Interference, Policy or Custom depriving right, negligence. Dismissal for failure to state a claim Rule 12(b)(6) rare and must show glaring problems with basic argument on its face; a pro-se litigant in an civil rights case must have the ability to amend the complaint prior to dismissal *Noll v. Carlson et. al.* 809 F. 2d 1446 (9th Cir., 1987). The only way Boone should be dismissed from a case is when no set of facts, including color of law tests pled before this honorable court arise *Mishler v. Clift* 191 F. 3d 998 (9th Cir., 1999).

This court misinterprets peaceful assembly on public property as “returning to the library”. Peaceful assembly on public property must be supported by this court, regardless of the circumstances. The procedural due process violations of the Bitterroot Public Library, not to mention Public Fraud, properly pled with specificity conspired by Boone, cannot be denied *Bly-Magee v. California* 236 F3d 1014 (9th Cir. 2001). If a case for trespassing on public property were dismissed in August 2010, Boone’s client City Attorney Bell, Boone published in December 2010 with malice Spreadbury convicted of trespassing. Statements made in actual

malice nullifies privilege under Montana Code Ann. MCA§ 27-1-804, as does the violation of peaceful assembly abridged by Boone, Defendants in aforementioned.

The representation of Bell outside of official duties in 21st District DV-10-223, representation of Defendant Nansu Roddy in DV-10-224, DV-10-93 and this cause of action for the Bitterroot Public Library constitutes civil, criminal conspiracy on Boone Karlberg PC, acceptance of Racketeering funds to benefit Boone *Schribner Distributing v. Serv-Well Furniture Co. 806 F. 2d 1393 (9th Cir., 1986).*

Known false statements about constitutionally protected activity such as peaceful assembly cannot be abridged by any Montana law, in findings before this court *due process clause 14 Amendment US Constitution.* Defendant Boone has imputed crime of Spreadbury when there is none, deprived constitutional right, engaged in Racketeering, fraud as properly pled before this court. Dismissal is improper per well pled case and controversy before this court per *Article III US Constitution.*

Defendant Boone meets tests proving color of law with other defendants in this case *Johnson v. Knowles 113 F. 3d at 1118-1120 (9th Cir., 1997); Response to Boone Dismiss (TR.#37).* As Magistrate Judge Lynch with prior bias to Spreadbury makes finding that a private law firm cannot act in color of law is nothing short of astounding that a Federal jurist would attempt such a statement as Stigma-Plus test, Joint action Test, and Nexus Test pled by Spreadbury with

specifics (Response to Boone Dismissal TR.# 37) *Humphries v. Co. of Los Angeles* 554 F. 3d 1170 (9th Cir., 2009), *Paul v. Davis* 424 US 693 (1976), *Hart v. Parks* 450 F. 3d 1059 (9th Cir., 2006).

As Defendant Boone imputes Spreadbury acting as federal law enforcement, a crime under 18 USC§ 1912; criminal trespass on public property meets the standard for emotional distress set under both *Sacco v. HMIP Inc.* 271 Mont. 209 (1995) actual IIED prima facie standard in Montana: *Johnson v. Supersave* 211 Mont. 156 (1984). A prima facie case in Montana for IIED or NIED needs only have this element without physical or psychological injury *Johnson Mont. Supra:*

whether tortuous conduct results in a substantial invasion of a legally protected interest and causes a significant impact upon the Plaintiff.

In the aforementioned, Boone imputed criminal activity as none were perfected by Spreadbury in engaging in peaceful activity on public property. Significant impact includes publication in a national newspaper with 1.8 Million readers daily, and radio, internet, and television coverage of criminal act of trespassing on public property, Protected in the 1st Amendment US Constitution, as is asking for help from a librarian in public, unless said activity occurs in the 48th ranked state of Montana, where US District Judges ignore federal rules, Montana, US Statutes, and well established court precedent in 42 USC§1983 herein.

Judicial relief and equal protection do not mean allowance of deprivation of rights, nor protecting law firms who participate in Racketeering, and Fraud found in FRCP 9b and well pled before this court (*TR. # 29*). Due to bias from *Spreadbury v. Hoffman* and allowing a law student, and clinic attendee within this District to practice law without a license against *Spreadbury*, this court has shown bias, in the aforementioned without proper recusal 18 USC§455 *et. seq.*

Spreadbury must state a claim that he is entitled to relief to overcome Rule 12(b)(6) failure to state claim met in aforementioned *Bell Atlantic Corp. v. Twombly* 167 L. Ed. 2d 929 (2007). Dismissal is improper for Defendant Boone.

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 1077 words excluding title page, this compliance.

Respectfully submitted this 2nd day of August, 2011

BY: _____

Michael E. Spreadbury, Self Represented Plaintiff

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:

Objection to Court Findings in re: Defendant Boone

Russell Smith Federal Courthouse

Clerk of Court

201 E. Broadway

Missoula, MT 59803

Defendant Counsel:

William L. Crowley

Boone Karlberg PC

PO Box 9199

Missoula MT 59807

Jeffrey B Smith

Garlington, Lohn, & Robinson PLLP

PO Box 7909

Missoula MT 59807

Plaintiff Counsel:

Michael E. Spreadbury

PO Box 416

Hamilton, MT 59840

(self-represented)

Dated _____ 8/2/11 _____



Michael E. Spreadbury, Pro Se Plaintiff