

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

Pro Se Plaintiff

FILED

AUG - 9 2011

PATRICK E. DUFFY, CLERK
By _____
DEPUTY CLERK, MISSOULA

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,) CITY OF HAMILTON,
LEE ENTERPRISES, INC.,) BITTERROOT PUBLIC
BOONE KARLBERG, PC,) LIBRARY
_____)

Comes now Spreadbury with objection to court findings and recommendations with respect to Defendant City, Public Library in the aforementioned.

Motion:

Spreadbury moves that Honorable court rejects findings and recommendation of US Magistrate Lynch, biased in this case, improper summary judgment dismissal.

Brief in Support

Defendant City of Hamilton, Bitterroot Public Library (hereafter: "public library") acted with malice towards Spreadbury in prosecuting with negligence, actual malice, in color of law with other defendants in aforementioned. Defendants deprived Spreadbury right to peaceful assembly in public park *Hague v. CIO* 307 US 496, 515 (1939). Defendant City, Public Library meet Stigma-plus test, Joint Action Test, and Public Function Tests for color of law as private, local subdivision violating statutory right of library privilege, interference with election, joint action *Johnson v. Knowles* 113 F. 3d at 1118-1120 (9th Cir. 1997).

Spreadbury pled Notice of Fraud F.R.Civ. P. 9b (TR. #29) . Public library benefits from Racketeering activity pled before this court (TR. #60). Defendant City of Hamilton arranged public fraud, litigation fees paid for public library, racketeering activity to benefit Defendant Boone *Schreiber Distributing v. Serv-Well Furniture Co.* 806 F. 2d 1393 (9th Cir. 1996) .

Defendant City of Hamilton defamed Spreadbury via admissions of Mayor Steele ¶ 87 ¶88 2nd Amended Complaint (TR. # 10), knowingly and maliciously prosecuting Spreadbury peaceful assembly on public property in aforementioned. Defendant City admitted to prosecuting Spreadbury, site is irrefutably public

property at 306 State St. Hamilton MT 59840 USA: site of Public Library,
Hamilton City Park via certified Platt Map City of Hamilton Montana USA.

This court misinterprets peaceful assembly on public property as “returning to the library”. Peaceful assembly on public property must be upheld by this court, regardless of the party before the Honorable Court. 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) Mathews v. Eldridge 424 US 319 (1976).

Case for trespassing on public property dismissed August 2010, Defendant Bell, Boone acting in color of law published in December 2010 with malice Spreadbury convicted of trespassing. Statements made in actual malice nullify privilege under Montana Code Ann. MCA§ 27-1-804, as does the violation of peaceful assembly abridged by City, Defendants in aforementioned *Amendment 1, 14 US Constitution, Hague at 6.*

Known false statements about constitutionally protected activity such as peaceful assembly cannot be abridged by Montana law, within findings before this court *due process clause 14 Amendment US Constitution.* Defendant City has imputed crime of Spreadbury when there is none, deprived constitutional right, engaged in Racketeering, fraud as properly pled before this court (TR. #29, 60).

Magistrate Judge Lynch, with prior bias to Spreadbury makes finding of four (4) Finding and Recommendations (TR. # 67, 75, 76, 79) un-necessarily punitive on Spreadbury. As Defendant City, Public Library impute criminal trespass on public property meets 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, City, Public Library imputed criminal activity as none were perfected by Spreadbury engaging in peaceful activity on public property August 20, 2009. Significant impact includes malicious republication, publication in 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 [USDOJ 2007], 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, 60*). Due to initial bias from *Spreadbury v. Hoffman* 9:10-cv-00049-DVM and allowing law student, clinic attendee within this District to practice law without a license against Spreadbury, this court has shown bias, in the aforementioned without proper recusal 28 USC§455 *et. seq.*

Dismissal of Summary Judgment improper for Defendant City, Public Library: no material fact remaining in case; merely denial of damage to Spreadbury by court.

Spreadbury has pled that immunity of City actors in aforementioned must be determined prior to discovery per *Harlow v. Fitzgerald* 457 US at 818 (1978).

Honorable District court has ignored well established court precedent in ordering compel of evidence for City of Hamilton, Public Library (TR. # 68). Spreadbury pled in Response to Compel (TR. #60) City actors do not deserve qualified immunity, Defense failed to functionally plead for such immunity before this court *Morley v. Walker* 175 F. 3d 756 (9th Cir., 1999).

With the Bias evident towards Spreadbury, and overzealous protection of Defendant City of Hamilton, public library, defendant private law firm outside established court precedent, allows for appeal to a higher 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 879 words excluding title page, this compliance.

Respectfully submitted this 6th day of August, 2011

BY: _____

Michael E. Spreadbury, Self Represented Plaintiff