

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

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PATRICK E. DUFFY, CLERK  
By DEPUTY CLERK, MISSOULA

*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. )  
BITTERROOT PUBLIC LIBRARY, ) **RESPONSE TO**  
CITY OF HAMILTON, ) **DEFENDANT LEE**  
LEE ENTERPRISES, INC., ) **IN RE: INTERNET**  
BOONE KARLBERG, PC, ) **COMMENTS**  
\_\_\_\_\_ )

Comes now Spreadbury with reply to Defendant Lee Enterprises Inc. with respect to liability of third part internet comments defamatory to Spreadbury.

Brief in Support

Defense Counsel for Lee Enterprises *erroneously* purports that Defendant Lee is immune from liability from third party comments in the aforementioned using 47

USC § 230 (c) (Communications Decency Act). The act protects internet providers, listserv managers and public internet exchanges *not* newspapers, magazines or television Batzel v. Smith 333 F.3d at 1026 (9<sup>th</sup> cir. 2003) citing Blumenthal v. Drudge 992 F. Supp 44 49 DDC (1998). The intent of §230 (c) (1) was to provide liability protection to internet providers such as AOL, Quest, and public listervs, an automotive forum website where public comments are put up by registered users, other registered users respond.

The Website [www.RavalliRepublic.com](http://www.RavalliRepublic.com) is a proprietary site of Defendant Lee Enterprises and their newspaper The Ravalli Republic, a Defendant in this case. The main function of the Ravalli Republic is to publish news stories as a newspaper. The public cannot obtain internet services from the Ravalli Republic Newspaper, and therefore is not an internet services corporation protected in 47 USC §230 et. seq.

The publisher of a newspaper where the statement originally appeared may be held liable even without notice (from the damaged party) *Barrett v. Rosenthal* 146 P. 3d 510 Cal Supra (2006).

Public comments from one Ravalli Republic article September 2009 imputed severe psychological illness a defamatory per se liability for Defendant Lee

Enterprises, recognized US Magistrate Lynch in the aforementioned prior what appears to be a reversal; more evidence of bias towards Spreadbury.

In the *Batzel* court, the 9<sup>th</sup> Circuit Court of Appeals stated:

Congress decided not to treat providers of interactive computer services like other information providers such as newspapers, magazines or television and radio stations, *all of which may be held liable for publishing or distributing obscene or defamatory material written by others* [emphasis added].

Batzel v. Smith 333 F. 3d at 1026 (9<sup>th</sup> Cir., 2003)

Defendant Lee Enterprises misrepresenting themselves to court internet provider protected from online comments published on newspaper propriety website identified in 2<sup>nd</sup> Amended Complaint (TR.#10) to release liability from defamation.

Misrepresentation of liability protection by Ravalli Republic pled *Sprunk v. First Bank W. Missoula* 288 Mont at 174 (1987).

1. Defendant Ravalli Republic (hereafter: RR) is aware of falsity presented to court that Defendant Lee enterprises is an Internet Service Provider (ISP).
2. RR is not an ISP but a newspaper publisher.
3. RR improperly benefiting from improper classification as ISP-protection from 47 USC§ 230 et. seq.

4. RR is aware of falsity of claim of ISP.
5. RR is intent that court should act on falsity.
6. Spreadbury, Court misrepresented, ignorant of falsity.
7. Court relies on representation, acts to protect RR improperly.
8. Court does not expect RR to present misrepresentation.
9. Spreadbury defrauded in proper upholding of the lawful precedent in court, redress of injury from RR defamation, deprivation of right.

Publisher of newspaper Defendant Lee liable for comments on site defamatory to Spreadbury as pled in 2<sup>nd</sup> Amended Complaint (TR. # 10) ¶50, ¶51, elsewhere.

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 525 words excluding title page, this compliance.

Respectfully submitted this 12<sup>th</sup> day of August, 2011

BY: \_\_\_\_\_

Michael E. Spreadbury, Self Represented Plaintiff