

# Memo

**To:** Montana State Library Commission

**From:** Darlene Staffeldt, State Librarian

**Date:** February 13, 2009

**Re:** Amicus Curiae for Montana public libraries

**Issue:** A legal case has been appealed to the Supreme Court that will have significant impact on all Montana public libraries whether it is decided for the Plaintiff and Appellee who is the Board of Trustees, Butte Silver Bow Public Library or the Defendant and Appellant who is Butte-Silver Bow County. It is significant because it addresses the powers and duties of public library board trustees. Do these library boards have the power to decide library staff duties and wages or not?

**Background:** The Butte-Silver Bow Public Library has been involved in a dispute with the County for the past 8 months regarding the Board of Trustees power in setting the wages and duties of the non-union library staff. The Board of Trustees won in district court with a summary judgment granted to the Trustees, reaffirming their rights, powers and duties.

The County has appealed to the Montana Supreme Court.

The Butte-Silver Bow Public Library Director has requested help and support from public library boards as well as the State Library Commission in the form of an Amicus Curiae or friend of the court brief.

The Montana State Library Commission has an interest in this matter based on its statutory authority to "give assistance and advice to all tax-supported or public libraries in the state . . . ." MCA § 22-1-103(1). The Commission, through the Montana State Library, supports the role of Montana libraries throughout the state and has consistently provided advice and assistance to public libraries regarding issues that are similar to the ones that are at stake in this appeal.

Options:

- (1) The State Library Commission and State Librarian can ignore this issue.  
Pro: No current work to do, no lawyer invoice to pay.

Cons: Not in keeping with our statutory authority, not good leadership, poor public relations to the library community of Montana, probably a lot more time spent in explaining why we did not do anything.

(2) Ask our agency lawyer to pursue a motion to leave to file a Amicus Curiae (which is to file correct paperwork to ask for the Supreme Courts' permission to file a friend of the court brief). And further to follow up with the Amicus Curiae if the Supreme Court gives us permission.

Pro: Stating our case for how this decision will affect all Montana public libraries will show that we are providing good leadership and fulfilling our statutory obligations, and allow us to maintain good public relations with the library community of Montana. If our Amicus Curiae helps get a judgment for the Plaintiff we will have a very important tool in our consulting bag when public libraries and counties have future disagreements regarding the powers and duties of library trustees.

Con: It will cost several thousand dollars that we do not currently have in our legal budget but that we can find from other parts of our budget.

The State Librarian's recommendation to the State Library Commission is that you direct me to move ahead with our agency attorney to:

- (1) File a motion for leave to file an Amicus Curiae (has already been done as noted in message to Commission on January 29, 2009).
- (2) File the Amicus Curiae if permission to do so is granted by the Supreme Court.
- (3) Pay the cost of the our attorney fees related to this matter from the State Library operations budget

Please let me know if you have any questions on this item at this time. Thank you.