

1 the document published in the book, *Nobody Died at Sandy*
2 *Hook: It was a FEMA Drill to Promote Gun Control*, 2015;
3 2nd edition, 2016, including the missing file numbers, the
4 wrong estimated time of death, the difference in shading
5 between the upper and lower portions, the variations in
6 types, fonts, and spacings would have reasonably inferred
7 that this document was not authentic but a fabrication.
8 And I have only recently realized that the given name of
9 the town as Sandy Hook in the death certificates is not
10 correct because the death happened in Newtown,
11 Connecticut.

12 Even if I, the Defendant, was mistaken about
13 some of the reasons I concluded that the document was
14 fake, it was a reasonable inference at the time. Now,
15 supported by two document expert examiner reports, there
16 are no good reasons to doubt that I was right. Exhibit 4,
17 the document he addressed, is in fact and indeed, a
18 fabrication, as claimed. The allegedly defamatory
19 statements are true, which means Count 1 is refuted.

20 Count 2. Defamation Defendant Fetzer.

21 Paragraph 31. The statements excerpted from Defendant
22 Fetzer's August 2018 blog post are false, both in their
23 particular facts and in the main point, essence, or gist
24 in the context in which they were made, because N.P.'s
25 death certificate is not a fabrication or forgery. The

1 surrounding context implies that Plaintiff knowingly
2 distributed a falsified death certificate.

3 Another oddity of the Complaint is -- is the
4 insinuation that Defendants allege that Plaintiff had
5 personally fabricated the death certificate addressed in
6 the book, which again, is Exhibit 4. But, while Defendant
7 Fetzer did express that opinion to Plaintiff in private
8 correspondence, he has not published that allegation,
9 which he no longer entertains, and therefore in the
10 absence of publication, he cannot be liable for defamation
11 under Count 2, either.

12 Count 3. Conspiracy

13 Paragraph 41. With regard to the statements in *Nobody*
14 *Died at Sandy Hook*, Defendants acted together, as a cabal,
15 to accomplish their defamation. Defendants had a meeting
16 of the minds on the object or course of action underlying
17 their recklessly defamatory publication.

18 There being no defamation, there can be no
19 conspiracy between us to commit defamation.

20 The following has thus been established: No
21 facts are in issue with regard to the death certificate.
22 The one I received from Plaintiff via Kelley Watt is not
23 certified. Plaintiff has admitted to his conversations
24 with Kelley and to posting it on Noah's memorial Google
25 Plus page. Even though I added a border, the rest came

1 from him. The size of image is immaterial and varies with
2 its reproduction. What matters is what is on it and what
3 is not. It does not have the town registrar's seal on the
4 left-hand side. That is decisive. These are crucial
5 points because the Plaintiff has not mentioned these
6 problems in his Response to my Motion for Summary
7 Judgment. It is confessed, which means I am entitled to
8 summary judgment in my favor. My statements are
9 substantially true and, as the Wisconsin Supreme Court has
10 ruled in Meier v. Meurer, 8 Wis.3d 24, 29 -- 29, 98 N.W.2d
11 411, 1959: "In this state, if a statement be
12 substantially true, it cannot be the basis for a civil
13 action for libel," Meier, 8 Wis.2d 29, citations omitted.

14 There are also legal problems with the death
15 certificate having been received by the town clerk more
16 than five days after the death, that a burial could not
17 have been issued and more in my Motion for Summary
18 Judgment. I have also pointed out that the death was
19 supposed to be registered in the town in which it
20 occurred, per the law, while the funeral director, Samuel
21 Green, said that it was registered in Fairfield, which
22 would mean the Fairfield clerk's signature should appear
23 on the death certificate, not Debbie's.

24 We are the editors of Moon Rock Books. As
25 editors, have been doing our best to inform the public of

1 the truth about its own history, which Plaintiff in this
2 case has been desperately trying to suppress. The State
3 of Wisconsin and the American people deserve better. The
4 facts of this matter with regard to the Complaint are not
5 in doubt. It has no merit and represents an abuse of
6 process and a fraud upon the Court. The Court can
7 contribute to ending this charade by it rendering us the
8 summary judgment to which we are entitled. Let it end.

9 Thank you.

10 THE COURT: Thank you, Dr. Fetzer.

11 Dr. Fetzer, because you -- you did read fairly
12 quickly, I notice you were reading from something. I
13 don't want to sort of steal your work product. Can I use
14 that and mark that as an exhibit and --

15 MR. FETZER: You may.

16 THE COURT: -- make that part of the record?

17 MR. FETZER: You may indeed, Your Honor.

18 THE COURT: Thank you.

19 MR. FETZER: Let me make sure we have the right
20 pages in the right order.

21 THE COURT: We'll mark it as an exhibit.

22 (Exhibit 8 marked for identification.)

23 MR. ZIMMERMAN: Your Honor, while we're doing
24 that, can I ask a minor administrative question?

25 THE COURT: Okay.

1 MR. ZIMMERMAN: The original document that we
2 provided as I believe Exhibit 2, the death certificate,
3 has a social security number in the bottom right-hand
4 corner. It's the one with the raised seal on it.

5 THE COURT: Correct.

6 MR. ZIMMERMAN: It's an original, so obviously,
7 we can't redact it.

8 THE COURT: We'll file this under seal.

9 MR. ZIMMERMAN: Thank you, Your Honor. I
10 appreciate that.

11 THE COURT: Under -- under the new rules, which
12 automatically recognize the confidentiality of social
13 security numbers. Do we need anything further on that?

14 THE CLERK: No.

15 THE COURT: No. That will be taken care of.

16 MR. ZIMMERMAN: Thank you, Your Honor.

17 MR. FETZER: Your Honor, regarding the statement
18 I just provided, I added extemporaneous additional
19 explanatory remarks in three cases.

20 THE COURT: I understand. What this will help
21 is my court reporter, if she has a question about words
22 then she'll refer to it, and obviously, of preeminent
23 importance is to get in the official record all that you
24 said. It does not supplant what you've said but augments
25 it.

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MR. FETZER: Thank you, Your Honor.

I do have one question too about this business of a million dollars. I have never been notified that the Plaintiff was seeking a million dollars, Your Honor. I question whether it was done in a timely fashion. I'm not an attorney, but I have been advised that there's a point at which that must be done or it's nullified. I have never been notified of a million dollar seek for -- punishment for damages in this case, Your Honor. I find that quite bewildering.

THE COURT: Well, very timely, Dr. Fetzer, if you might have turned the television on, consuming much of the news over the weekend was an, I don't know, I think it was like a \$10 million lawsuit against law enforcement in some other town. In Wisconsin, the law precludes for the very reason of pre-trial publicity and sensationalizing parties from putting and specifying in the Complaint.

Plaintiff cites 802.08(2) for the proposition that he's required to disclose the amount. 802.08(2) says, "Prior to a hearing on the motion, any party who was prohibited under 802.02(1m) from specifying the amount of money sought in the demand for judgment shall specify that amount to the court and to the other parties." So it says, "Prior to the hearing on the motion," and this was filed on Sunday morning prior to the hearing. I haven't

1 seen this very often, but in answer to your question,
2 Dr. Fetzer, apparently what Wisconsin statutes require.

3 Mr. Zimmerman, it's your motion --

4 MR. FETZER: Incidentally, Your Honor, I have
5 those death certificates I obtained from the state, if the
6 Court would like to review them. They all have the
7 printed file number, they all have the embossed imprint,
8 and, you know, they're available for the Court's review.

9 THE COURT: Well I'll -- you have the right
10 to -- you've given me a lot of exhibits. Is there
11 anything else you want to offer?

12 Any objection to any of these exhibits that
13 Dr. Fetzer has offered?

14 MR. ZIMMERMAN: Not -- no objection to admitting
15 them into the record, no, Your Honor.

16 THE COURT: They'll be received.

17 (Exhibits 4 through 9 received into evidence.)

18 THE COURT: Is there anything else, Dr. Fetzer
19 or Mr. Palecek, you want me to receive?

20 MR. PALECEK: No. No.

21 MR. FETZER: These are scans, Your Honor, rather
22 than the original documents, which I do have and which
23 arrived in an envelope I have here, Your Honor.

24 THE COURT: We'll mark that as a group exhibit.

25 (Exhibit 9 marked for identification.)

1 THE COURT: Okay. Mr. Zimmerman, it's your
2 motion. As to your Motion for Summary Judgment, you get
3 the last word.

4 MR. ZIMMERMAN: Yes, Your Honor.

5 None of the issues that Dr. Fetzer raised in his
6 presentation change the underlying facts of this case.
7 This case is about Noah Pozner's death certificate as it
8 was reproduced in the book. Very few of the arguments
9 that Defendant Fetzer raised spoke to that death
10 certificate in particular. I think he's admitted that the
11 statements that he made in the book were false and he no
12 longer subscribes to them; that he may have other reasons
13 today for making that accusation, do not excuse his
14 publication in the book. As a matter of law in Wisconsin,
15 his belief is irrelevant to the publication of a
16 defamatory statement. I think for that reason, Your
17 Honor, the Court should grant Plaintiff's Motion for
18 Summary Judgment.

19 THE COURT: Okay. Mr. Palecek, they're asking
20 for summary judgment against you as well. Is there
21 anything you'd like to say?

22 MR. PALECEK: Nothing I -- I just think that we
23 were -- we are trying to find the truth out, and I think
24 it's an important -- Jim's work is important and the book
25 is important. I think it's important for the history of

1 this country. And I -- I -- I just think that I believe
2 in what we were -- we've been doing, and that's all I have
3 to say.

4 THE COURT: Okay. Anything more from any of the
5 parties before I do my job and rule on the Motions for
6 Summary Judgment? Anybody? I --

7 MR. FETZER: Your --

8 THE COURT: -- I do this because sometimes I
9 hear later on, well, he didn't -- I hadn't -- he didn't
10 let me finish or there's one more issue. I don't want you
11 to be repetitive. I've listened. I've read everything.
12 Is there anything else?

13 MR. PALECEK: If we are to go to trial, I wish
14 it would -- the jury would be able to hear the evidence
15 rather than just have -- just the -- about money, just
16 talk about the amount of money.

17 THE COURT: I'm not going to make any decisions
18 today about what evidence is admitted or prohibited at
19 trial. Obviously, depending upon how I rule, that will be
20 a factor. But it's very important that everyone gets a
21 chance, notwithstanding the Court's ruling, to give the
22 jury some context and some background. I don't know what
23 I'll decide on that. I'll have to wait to see what the
24 parties ask.

25 Anything else?

1 MR. ZIMMERMAN: Nothing from the Plaintiffs,
2 Your Honor.

3 MR. FETZER: There are now four death
4 certificates in this case, Your Honor, where there ought
5 only to be one. That's prima facie proof of fabrication
6 and fakery. The seal of --

7 THE COURT: Okay. You're being -- that's
8 repetitive.

9 But I'll -- Look it, I think this case is
10 fairly -- very simple. I'm going to ask you another
11 question, and I -- because I want you to address just the
12 question I'm going to ask you, Dr. Fetzer. I don't think
13 there's any genuine issue over any of the material facts.
14 I think the last question that both parties are asking me
15 to decide is the legal question.

16 As Mr. Zimmerman has said, Dr. Fetzer, he's seen
17 no objection to receiving all the various copies with all
18 the various differences into evidence. Neither -- Both
19 parties say that is the fabric of the underlying
20 government records. I understand all that. I -- I start
21 with the blank form, and then I start with Exhibit 2, and
22 I work all the way up until -- considering the various
23 iterations that the Plaintiff has presented, including
24 now, Dr. Fetzer, those as well. I understand that. Those
25 are not in dispute. What they are, they speak for

1 themselves. Dr. Fetzer, you have correctly pointed out on
2 more than one occasion the differences between the various
3 copies. That does not alone indicate that any one of them
4 are false, it only demonstrates a difference.

5 For example, some copies have a state file
6 number, some don't. There's no genuine issue as to the
7 fact that some have a file number and some don't.

8 Whether the Defendants' original publications
9 are a false statement is a legal question that the Court
10 applies based on the undisputed facts. To say it in plain
11 English, Mr. Palecek or Mr. -- Dr. Fetzer, juries decide
12 facts, judges apply the law to those facts. But
13 sometimes, when there's no genuine issue about the facts,
14 the rules of civil procedure says, Well, we don't need the
15 time and expense of a jury, let the parties lay out those
16 facts, and then, Judge, you do your job and apply the law.

17 I know, actually, both parties have moved for
18 summary judgment, and there is precedent in Wisconsin that
19 when both parties move for summary judgment, that's an
20 acquiescence or even a concession there's no genuine issue
21 as to the underlying facts. Each of the parties look at
22 the facts and come to different conclusions or so they
23 suggest to the Court.

24 So Dr. Fetzer -- well, do you agree that there's
25 no genuine dispute on the underlying facts? The only

1 question is that you'd like me to conclude is based on
2 those facts, come to the legal conclusion that you and
3 Mr. Palecek did not at the time the statement was made,
4 make a false statement. Is that the question?

5 MR. FETZER: We did not make a false statement,
6 Your Honor, because our statement was substantially true.

7 THE COURT: Okay. Stop.

8 MR. FETZER: And if --

9 THE COURT: I'm putting in the context of the
10 legal question. Do you agree that there's no dispute
11 between the Plaintiff and Defendants about the facts? The
12 only dispute is whether those facts would cause me to make
13 the legal conclusion that it is or is not a false
14 statement.

15 MR. FETZER: As I called him out for it earlier
16 this morning, Your Honor, Mr. Zimmerman presented you with
17 not just one but two copies of the purported death
18 certificate, which is not the death certificate that was
19 posted by Leonard Pozner or was transmitted to Kelley Watt
20 or I published in the book. That's a very significant
21 fundamental question here. I described it then as a shell
22 game. I reaffirm that, Your Honor. There's a fraud being
23 perpetrated on the Court. As I understand it, counsel, as
24 officers of the court, have an obligation to act
25 consistent with the truth. That has not happened here in

1 this courtroom this morning.

2 THE COURT: Okay. At a certain level,
3 Dr. Fetzer, I understand your and Mr. Palecek's position,
4 having listened to your rather lengthy closing argument.
5 At a certain level, Dr. Fetzer, you say all of these death
6 certificates are a fabrication because there never was a
7 death at Sandy Hook and Noah Pozner never died; is that
8 right?

9 MR. FETZER: I'm not making that argument here
10 and now, Your Honor. In fact, the document examiners have
11 given so many good reasons. There are boxes in these
12 death certificates that were drawn in by hand, Your Honor.
13 I cannot imagine you would want to make a decision without
14 reviewing the experts' testimony.

15 THE COURT: Well I --

16 MR. FETZER: Boxes in the death certificate were
17 even drawn in by hand. That's the finding of -- of the
18 first death examiner, Wickstrom, that was reenforced by
19 Robertson. These are formidable individuals, Your Honor.
20 They have staked their representations on their reports,
21 their declarations and their affidavits that these are all
22 four fraudulent. Mr. Wickstrom, in fact, was dumbfounded
23 that the State of Connecticut was not only issuing
24 fabricated death certificates --

25 THE COURT: Hang on.

1 MR. FETZER: -- but giving different fabricated
2 death certificates to different parties to a litigation.

3 THE COURT: I think you said in there, all of
4 the death certificates are false and fraudulent.

5 MR. FETZER: Yes.

6 THE COURT: Okay. Including, all of the death
7 certificates marked as your Exhibit No. 9?

8 MR. FETZER: I'm not -- those, Your Honor, I got
9 for comparison purposes. The Shanley is obviously
10 authentic. This was a dear friend of mine.

11 But, Your Honor, this is to create a straw man.
12 I -- you asked me not to address Sandy Hook, only to
13 address the question of the Noah Pozner death certificate.
14 I obtained others --

15 THE COURT: I'm only -- You're right. It's --
16 Exhibit No. 9 is a group exhibit. The first page is Noah
17 Pozner's death certificate. Is that false or fraudulent?

18 MR. FETZER: Yeah, it's fraudulent.

19 THE COURT: Okay. Okay. So then you agree --
20 do you agree that, you know, when I say the facts are not
21 genuinely disputed, if it was a traffic accident, you'd
22 say the light was Green when I went through it and the
23 defendant -- the plaintiff would say, no, you went through
24 a red light. Whether it was Green or red, that's a
25 question of fact. Do you agree that there's no dispute

1 about the facts, you want me to conclude based on my
2 review of all the evidence that Noah Pozner's death
3 certificates were false in fabrication?

4 MR. FETZER: The Plaintiff would have you make
5 this decision on the basis of death certificates not in
6 question, that weren't published in the book, that I never
7 even saw before. I find it completely absurd, Your Honor,
8 that I should be sued for a death certificate that I've
9 never even seen prior to publication, prior to the falling
10 of the lawsuit. If that isn't a manifest legal absurdity,
11 I can't imagine what would be.

12 THE COURT: Well --

13 MR. FETZER: I've never even seen that death
14 certificate.

15 THE COURT: Okay.

16 MR. FETZER: Yes. The one in the book, that is
17 the object of the lawsuit, Your Honor. That is the
18 object. Not this other stuff that Zimmerman is bringing
19 in which is intended to mislead the Court, frankly.

20 THE COURT: Okay.

21 MR. FETZER: That's what's going on.

22 THE COURT: Okay. Dr. Fetzer, I have always
23 tried -- have I tried to treat you with the dignity and
24 respect a man of your education deserves?

25 MR. FETZER: You have, Your Honor.

1 THE COURT: So I'd only ask the same that you
2 address counsel. It's -- I try to refer to Mr. Palecek
3 and Dr. Fetzner.
4 MR. FETZER: You're right.
5 THE COURT: I would --
6 MR. FETZER: Mr. Zimmerman, indeed.
7 THE COURT: Okay. Well --
8 MR. FETZER: Your Honor --
9 THE COURT: I think --
10 MR. FETZER: -- the Court --
11 THE COURT: -- to some extent this is a
12 belabored point, but Mr. Zimmerman, just so I can sort
13 of -- to create a record, let me ask you this question.
14 It really doesn't make any difference which particular
15 iteration I look at, including the one appearing on page
16 181. The Plaintiff's position is none of them are a false
17 or fabrication. They reflect the document in its various
18 forms -- in its various forms.
19 MR. ZIMMERMAN: Yes, Your Honor.
20 There are times when we want to make sure we're
21 looking at the right version of a document to understand,
22 for example, an expert's opinion that derive from a
23 document, but its Plaintiff's position that they all have
24 the same content. The one in the book is the one we've
25 been talking about.

1 THE COURT: Okay. So Dr. Fetzer, so just so
2 you're not feeling like you're being accused of -- about
3 something you've never seen, that would not be right.
4 Let's just talk about the one in your book.
5 MR. FETZER: Yes.
6 THE COURT: I'm holding your book.
7 MR. FETZER: Yes.
8 THE COURT: The Plaintiff has responded to all
9 the aspects of this document, where it came from, how it
10 was uploaded --
11 MR. FETZER: No.
12 THE COURT: -- what -- its modifications. Are
13 there any dispute about those facts?
14 MR. FETZER: Your Honor, it's missing the state
15 certification --
16 THE COURT: No. No.
17 MR. FETZER: -- that would have been on the left
18 side.
19 THE COURT: Stop. Stop.
20 MR. FETZER: It's missing the state
21 certification at the bottom.
22 THE COURT: Dr. Fetzer.
23 MR. FETZER: It is on its face a fraudulent --
24 THE COURT: Dr. Fetzer, you've -- it's 12:30.
25 We started at 8:30. You've said on more than one occasion

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what you want to comment about it. Well, okay.

This is -- there is no dispute about the facts. Dr. Fetzer, I've heard loud and clear every time you've said what you believe is missing or changed, what you believe should cause me to conclude that it's a false statement or fabrication.

MR. FETZER: It's a matter of Connecticut law, Your Honor.

THE COURT: I --

MR. FETZER: Not even parents are allowed to possess uncertified death certificates. That is an uncertified death certificate. By Connecticut law, the -- even Pozner is not allowed to possess.

THE COURT: Okay.

MR. FETZER: It is clear on its face.

THE COURT: All right. Now it's my turn to talk.

I do have some same concerns about the propriety of a motion for partial summary judgment. I'm satisfied, Mr. Zimmerman, you're right, the law does obligate me and especially when you're talking about liability, that is a conclusion that's appropriate for a motion for partial summary judgment. Having concluded there's no genuine issue as to the material facts, then really the only question is for me to look at every aspect of the

1 criticisms that the Defendants have made -- well, let's
2 not say criticisms -- to look at every one of the
3 observations that the Defendants have made to judge
4 whether the statements made in the book and in the blog
5 are false.

6 And in that regard, although I haven't directly
7 addressed it here due to the length of the hearing, I have
8 been mindful of the Plaintiff's critiques of the
9 admissibility of certain factual propositions offered by
10 the Defendants, and the absence of authenticity of some of
11 the documents.

12 Quite honestly, Mr. Zimmerman, much of that
13 is -- those objections should be sustained, but much of
14 that is really subsidiary to the underlying question, and
15 although I understand the relevance, for purposes of
16 summary judgment, they're immaterial. This is a very
17 simple case, I think.

18 As someone who is -- although I have my own
19 opinions, those are not relevant today. The function of
20 the Court is to examine the evidence submitted by the
21 parties to determine whether there's any genuine dispute
22 and then decide what the conclusion of law should be.
23 Nothing I say here or do should give anyone the impression
24 I have any opinions on anything that's not before the
25 Court. There's been -- much has been said about maybe

1 your comment, Mr. Palecek, about search for truth and the
2 like. That's not my function today is to be the final
3 word on any of this. To the contrary, my function as a
4 circuit court judge is to address the question before the
5 court properly presented and supported by the evidence.
6 Having concluded there's no genuine dispute as to any of
7 the material facts, I conclude that the Plaintiff is
8 entitled to judgment on liability as a matter of law.

9 I've looked at the exhibits. I follow and track
10 all of the explanations that have been provided by the
11 Plaintiff as to explaining the differences between the
12 various forms and copies of the death certificates. All
13 of that makes sense to me and provide a plausible and
14 acceptable explanation for those differences. Ultimately
15 and cumulatively, they all point back to the proposition
16 that an accusation then as apparently is iterated now,
17 that the death certificate is false and fabricated, is not
18 supported by the evidence that's been presented in the
19 context of a motion for summary judgment.

20 I will also, although I did not do it before,
21 have read the Plaintiff's Motion to Strike the Expert
22 Opinions. I actually think the expert opinions, even,
23 Mr. Zimmerman, if they weren't struck, are just that,
24 someone else's opinions. Ultimately, I've made the
25 decision based on the facts.

1 I do share the Court's concern -- excuse me, the
2 Plaintiff's concerns about the various challenges to those
3 experts under the Daubert case and the Seifert case. I'm
4 not sure I need, in the context of today's proceeding, to
5 rule on them. It may be very well that that would be
6 reiterated on a motion in limine. Are you asking that I
7 rule on your motion to strike those reports?

8 MR. ZIMMERMAN: No, Your Honor. I don't think
9 it's required given the bases that you've provided today.

10 THE COURT: Okay.

11 MR. FETZER: Your Honor, for the sake of an
12 appeal, do I need to make an objection now to the Court's
13 ruling?

14 THE COURT: No. I'll tell you -- I don't give
15 advice, but I'll tell you what your options are,
16 Mr. Palecek and Dr. Fetzer.

17 Although the Plaintiffs have held on their
18 motion to strike the experts, I -- I would grant the
19 motion to strike those reports for the reasons -- those
20 opinions. I do think that under the Daubert v. Merrell
21 Dow Pharmaceutical cases, the Plaintiffs have made a
22 showing as to the propriety.

23 Why do I say that? Well, I don't want to have
24 someone come back and say, well, if the judge would have
25 reviewed the expert opinion reports -- expert opinions,

1 then that creates a genuine issue as to fact. I just
2 don't think they were helpful and I don't think they were
3 persuasive even above all the evidentiary problems they
4 present.

5 I also agree, Mr. Zimmerman, they come late and
6 provide a post hoc rationale perhaps of a justification
7 that doesn't directly address the falsity of the statement
8 at the time it was made. So for those reasons, I'm going
9 to grant the Plaintiff's Motion for Summary Judgment as to
10 liability.

11 What have we done today? In addition to the
12 ruling on the other motions, I've concluded two things,
13 that Leonard Pozner is not a public person for purposes of
14 applying the different standard that implicates the
15 concept of malice. I did that based on the facts and the
16 concession of the parties acquiescing to that. And
17 second, I've granted summary judgment on liability. The
18 case will now proceed to trial on damages.

19 I'll make such rulings as presented before the
20 Court. Pay particular attention to the Court's scheduling
21 order. Pre-trial motions are due two weeks before the
22 final pre-trial conference. Motions in limine are Latin
23 for motions to limit testimony, but if you'd like to bring
24 on a motion to seek clarification on the propriety of
25 admitting testimony, you can do that. We'll use the final

1 pre-trial conference to talk about the length of trial,
2 the issues at trial, the witnesses to be called. Keep in
3 mind also there are other requirements, if they haven't
4 come and gone, on witness lists and disclosure of expert
5 witnesses.

6 Now, Dr. Fetzer, this is not a final order for
7 purposes of appeal, because further proceedings are to be
8 had in this case. So you don't have an appeal, in my
9 opinion, as a matter of right. You do have a right to
10 what is called a permissive appeal. You can provide
11 information and fairly easily online. There's internal
12 operating procedures for Wisconsin Court of Appeals, and
13 in fact, there are some forms that you could use. The
14 decisions you have to make is whether you take what is
15 called an interlocutory appeal, what issues you'd like the
16 Court of Appeals to address.

17 You'll have to provide a notice of appeal. I
18 believe you're still required to do a docking statement.
19 And you'll also then have to fill out a statement on
20 transcript, and the statement on transcript will disclose
21 whether a transcript and what transcripts are necessary
22 for purposes of your interlocutory appeal.

23 Suffice to say that today's argument did stray
24 off into substantial factual assertions in which you've
25 asked the Court to consider and oral concessions and

1 acquiescence and do articulate the basis of this Court's
2 ruling. I believe a transcript would be required for
3 purposes of appeal, but that's in a statement that you'd
4 have to make and attest that necessary arrangements have
5 been made with the court reporter to prepare that. That
6 would be your option.

7 The only question sometimes people ask the
8 circuit court judge is, Judge, while we're doing that, can
9 we stay the proceeding in the circuit court? No request
10 has been made. We have some time. I think we're not in
11 trial until October?

12 MR. ZIMMERMAN: That's correct, Your Honor.

13 THE COURT: There's enough time for the Court of
14 Appeals usually act fairly quickly on interlocutory
15 appeals. We're just going to keep moving forward. The
16 case is set. Beyond that, I'm not sure what other options
17 or information you need.

18 Do you have any questions? Mr. Palecek, do you
19 have any questions?

20 MR. PALECEK: No, I don't.

21 THE COURT: Dr. Fetzer?

22 MR. FETZER: You're suggesting, Your Honor,
23 there's an opportunity to make an appeal to stay the
24 process at this point; is that my understanding?

25 THE COURT: I'm not -- I'm not suggesting

1 anything. I'm just saying that --

2 MR. FETZER: No, that -- that there is the

3 option.

4 THE COURT: There is.

5 MR. FETZER: And that is, again, known as?

6 THE COURT: Well, it was a motion to stay

7 pending appeal. Of course, the Plaintiff has a right to

8 weigh in on that. There are various factors that you'd

9 have to satisfy to get a stay. Because of the time

10 between today and the trial and there's -- if this was

11 going to be tried next week, that might be different.

12 You'd have to demonstrate those factors and then you would

13 also have the ability if you were unsatisfied --

14 dissatisfied with my answer, you can ask the Court of

15 Appeals to stay proceedings in the circuit court as well.

16 Those are your options, that's true, if you decide to take

17 an interlocutory appeal.

18 I would say to you both that interlocutory

19 appeals are generally disfavored and not commonly granted.

20 Any other questions?

21 Well, hearing none, then Mr. Zimmerman or

22 somebody will prepare a simple just marginal order for the

23 reasons stated by the Court from the record, you probably

24 should memorialize my other rulings on the other motions

25 that have been presented.

1 Thank you very much for coming.

2 MR. ZIMMERMAN: Thank you, Your Honor.

3 THE COURT: We won't see you then until, if not

4 before for some matter brought to the Court, at the final

5 pre-trial conference.

6 My bailiff will bring the book back. And before

7 you leave, don't -- don't let anyone leave until we make

8 sure we have all the exhibits.

9 MR. FETZER: Wasn't this -- wasn't this

10 accepted, Your Honor? This is the most important evidence

11 in the entire case. It's the actual publication of the

12 death certificate in the book.

13 THE COURT: I did not know that you were asking

14 for it to be marked as an exhibit.

15 MR. FETZER: I did so, Your Honor.

16 THE COURT: Okay.

17 MR. ZIMMERMAN: No objection.

18 THE COURT: Okay. I'll have to figure out how

19 we scan in. In the new world, we don't actually keep

20 things but --

21 THE CLERK: It won't be scanned. It will be

22 treated like a CD.

23 THE COURT: Okay. We'll keep it in the record.

24 We'll mark it as an exhibit with -- what number are we on?

25 THE CLERK: This will be 10.

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THE COURT: Ten.
(Exhibit 10 marked for identification and
received into evidence.)
THE COURT: Thank you very much.
(Proceeding concluded at 12:45 p.m.)

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STATE OF WISCONSIN)
ss.)
COUNTY OF DANE)

I, COLLEEN C. CLARK, Registered Professional Reporter, Official Court Reporter, Branch 8, Dane County Circuit Court, hereby certify that I reported in Stenographic shorthand the proceedings had before the Court on this 17th day of June, 2019, and that the foregoing transcript is a true and correct copy of the said Stenographic notes thereof.

On this day the original and one copy of the transcript were prepared by pursuant to Statute.

Dated this 20th day of June, 2019.

Electronically signed by:

Colleen C. Clark
COLLEEN C. CLARK, RPR
OFFICIAL COURT REPORTER

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

EXHIBIT S:
Fetzer Oral Hearing Briefing Notes
(June 17, 2019)

ORAL ARGUMENT BRIEFING NOTES
Defendant James Fetzer
17 June 2019

The death certificate for which I am being sued is the one published in the book, *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control*, which has appeared as Chapter 11 co-authored with Kelley Watt in both first editions (2015) and second (2016). It is an expanded and revised version of an article that I originally published on *Veterans Today* (6 August 2014), which included the death certificate for my characterization of which I have been sued. Kelley said it came from "Lenny". I published it in VT and with Mike Palecek in both editions and we made no changes to its content.

It appears that I added a border, which is not one of the things that they complain about. The circumstances of this version's publication are not in issue. The death certificate that I received from Plaintiff via Kelley Watt is not certified by Newtown's Registrar of Vital Statistics, Debbie Aurelia (now) Debbie Aurelia Halsted. Plaintiff has admitted to his conversations with Kelley and to having posted it on Noah's memorial Google Plus page. So, even though I may have added a border, for which I take responsibility, the rest came from him. The file size is immaterial and varies with compression and reproduction. What matters is what is on it—

and what is not, because it does not have the Town Registrar's certification on the side, it is therefore illegal and a fabrication, precisely as I maintain.

In his latest gambit, moreover, the Plaintiff attempts to prove too much. If the border makes a difference and the death certificate is ON THAT VERY GROUND not *bona fide*, then the certificate that I described as a fabrication in the book is in fact a fabrication by Plaintiff's own contention. How ironic that Plaintiff thereby admits that I am right and my statement truthful, in which case I cannot be found guilty of defamation for my true affirmation.

If the death certificate published in the book were not the same as the one that "Lenny" published on a web site, then the suit filed against me and my co-defendant, Mike Palecek, on 27 November 2018, would have had an entirely different character. The Complaint does not deny this is the same document that "Lenny" provided to Kelley Watt but instead attacks me for declaring it to be a fake and a fabrication. The appropriate passages from the Complaint read:

17. The second edition of "Nobody Died at Sandy Hook" accuses Plaintiff of issuing and/or possessing a forged copy of N.P.'s death certificate. In particular, page 183 of Nobody Died at Sandy Hook states: "Noah Pozner's death certificate is a fake, which we have proven on a dozen or more

grounds.” At page 232 the book states, [Mr. Pozner] sent her a death certificate, which turned out to be a fabrication.” At page 242, the book states, “As many Sandy Hook researchers are aware, the very document Pozner circulated in 2014, with its consistent tones, fonts, and clear digital manipulation, was clearly a forgery.”

A comment from a contribution to the *Sandy Hook Memoranda for POTUS*, edited by Robert David Steele, has also been cited as being defamatory:

18. Mr. Fetzer’s publication of this false accusation against Plaintiff was not limited to the book. He repeated that false statement on one or more blog posts, including, e.g., <https://phibetaiota.net/2018/08/james-fetzer-in-solidarity-with-alex-jones-how-we-know-sandy-hook-was-a-fema-drill-nobody-died-obama-officials-confirmed-it-was-an-anti-gun-propaganda-exercise>. That blog post is dated August 5, 2018. There, Defendant Fetzer made the following false statement: “It [N.P.’s death certificate] turned out to be a fabrication, with the bottom half of a real death certificate and the top half of a fake, with no file number and the wrong estimated time of death at 11 AM, when ‘officially’ the shooting took place between 9:35-9:40 that morning.” That statement is false, both in its particular fact and in the main point, essence, or gist in the context in which it was made, because

N.P.'s death certificate is not a fabrication or forgery. That context of that statement referred specifically to Plaintiff, the previous sentence reads: "Kelley Watt had over 100 hours of conversation with 'Lenny Pozner', who purports to be his father and who sent Kelley a death certificate for 'Noah' as proof that he had died, which we included in the book."

Notice there is no denial that the death certificate published in the book is the same as the death certificate that the Plaintiff made available to Kelley Watt, who in turn shared it with me and I with my co-defendant, when we edited and published the first edition of the book using CreateSpace, a subsidiary of amazon.com, and placed in on sale on 22 October 2015 only to be banned on 19 November 2015 after selling nearly 500 copies.

Moreover, we are all aware that arguments have two parts: *premises* (or the grounds, reasons or evidence one cites) and *conclusions*. In this case, my premises may have been mistaken or wrong—the absent file number, the differences in tone and texture, the variations in font sizes and spacing, which led me to believe that this document had been created by combining the bottom half of a real death certificate with the top half of a fake—given what I have learned in the meanwhile, do not appear to have been right. But my conclusion—that the document is a fake or a fabrication—has been borne out by subsequent research, including the forensic analysis of Larry Wickstrom, confirmed by the further review and analysis of A.P. Robertson, which leave no doubt about it. Even though my initial reasons were bad, there are abundant good reasons to arrive at the same conclusion, where my original argument had false premises but a true conclusion.

As the Complaint itself emphasizes, its foundation is the crucial claim I have made that the death certificate that Plaintiff provided to Kelley Watt is a fake, a fabrication, or a forgery. Truth is an absolute defense to defamation. This case hangs on the question of authenticity, specifically, upon the truth or falsity of my assertion that this document is not authentic as a fake, a fabrication, or a forgery. My premises or reasons for reaching that conclusion may not have been good ones, but the conclusion I reached, *which is the issue upon which this case revolves*, was true. And because I believed what I wrote at the time on the basis of (what I took to be) good reasons at the time, I cannot have acted with malice, which requires knowing what you are asserting is false but asserting it anyway with the intent to mislead your target audience, which I have not done. This means that the Complaint likewise has no basis in claiming that I acted with malice;

36, Defendant Fetzer acted with actual malice. In particular, Defendant Fetzer published his statements knowing that the statements were false or with reckless disregard for the truth or falsity of the statements.

On the contrary, my conclusion was reached on the basis of collaborative research with several others, including Dennis Cimino, who was the top electronics trouble-shooter for the US Navy before he left to work for Raytheon and a contributor to the first edition of the book and who suggested that portions had been photoshopped, where I had reason to take him at his word. The additional reasons reported by Bob Simms—about the fonts, the size and spacing of words in the document—were ones I confirmed by direct observation. In combination with my own observations about dark texture of (roughly) the bottom 2/3 in contrast with the top 1/3, it was my inference that the document appeared to be fabrication combining the bottom half (or 2/3) or a real death certificate with the top half (or 1/3) of a fake, which I no longer believe is true.

My reasons regarding the top half included the absence of a file number, which it turns out can occur with documents obtained from the Town Registrar, and wrong estimated time of death as 11 AM, when, as even the Report on the Sandy Hook Shooting by Danbury State’s Attorney Stephen Sedensky III states, the shooting took place between 9:30-:40 (or 9:41), which meant the estimated time of death was wildly inaccurate. Even though the Medical Examiner, Wayne Carver, II, M.D., sought to explain that away, it remains inconsistent with the official account, which was one more reason why I sincerely believed that this document is a fake, a fabrication or a forgery. Therefore, for the wrong reasons, I came to the right conclusion. Not only am I not guilty of defamation, therefore, but I did not act with malice, which is another false accusation.

Appended to the Complaint was a copy of a death certificate that I had never before laid eyes upon, which the Complaint alleged to be the same in every material respect:

19. The Connecticut Department of Public Health maintains official death records for the State of Connecticut. The Connecticut Department of Public Health, Vital Statistics Division, issued an official death certificate for N.P. A true and correct copy of that death certificate (sensitive information redacted) is attached hereto as Attachment A. The official death certificate attached hereto does not differ in any material respect from the one released publicly by Plaintiff.

The claim that the death certificate attached to the Complaint “does not differ in any material respect from the one released publicly by Plaintiff”, as should be apparent already, blatantly falsifies the situation we confront, because the attached certificate has both the State certification as a true copy and the certification of the Town Registrar, in the absence of which it properly qualifies as illegal and a fabrication. ^{by Connecticut law,} It’s that blatant.

not even a parent can have an inherited copy,

They say. “The law works in mysterious ways”, but I am baffled to this day how I could be sued for defamation regarding a document that I had never before seen, much less

commented upon prior to the filing of this suit. Moreover, the copy attached was so poor that it was virtually illegible and legally useless, as I explained to Mr. Zimmerman when he called me about the suit. I asked him if he knew anything about Sandy Hook or had any idea what he was getting into, adding that the copy attached was so poor as to be unreadable and legally useless. He replied that, if I wanted a better copy, I could contact the State of Connecticut to obtain one for a \$20 fee. I thought that was rather strange: to provide the Defendant with an illegible copy of a document on which the case was said to be based. While I did not initially attempt to obtain a copy, eventually co-defendant, Dave Gahary, and I both obtained copies of the death certificate for "Noah Pozner". To my surprise, they were not the same. Mine had the same hand-written file number as on the copy attached to the complaint but no redaction for the burial location and the SSN box was empty rather than redacted. Dave's had a partial, printed file number that does not correspond with the others. We therefore have four different versions thereof:

Exhibit ^A: The copy published in the VT article (2014), in the first and second editions of *Nobody Died at Sandy Hook* (2015 and 2016) and in the *Sandy Hook Memoranda* edited by Robert David Steele (2018) also cited in the Complaint, all of which have no file number but with redactions for the location of burial of the decedent and of his SSN. And it even seems to have a fake seal at the bottom left, where no seal should appear.

Exhibit ^B: Attached to the Complaint, has a handwritten file number, "2012-07-078033". It has changes to the last residence of the deceased (from "37 Alpine Drive" to "3 Kale Davis Road") made at the request of the father, identified as "Leonard Pozner", and with redaction to the location of the burial plot but none to his SSN, where the box is empty.

Since the box for the SSN is empty on the attached complaint, I have been puzzled that the copy published by Plaintiff was redacted as though there had been a present SSN. But notice as I have been emphasizing, the attached copy, Exhibit ^B, has two forms of

certification, while the Kelley copy, Exhibit ^TA, has none. What could be more material?

Exhibit ⁶C: Obtained by Dave Gahary from the Town Registrar, which has the changes made by the father (the same as Exhibit ^TB) but has no redaction for either burial plot or SSN, where the box is empty. Its most striking difference is a file number that is printed and partial, including only the last four digits, the first obscure but the remainder "243".

Exhibit ⁷D: Obtained by me from the State of Connecticut, it has the handwritten file number, "2012-07-078033", but in other respects appears to be the same as Exhibit ⁶C. Notice that, although the location of the authentication of Debbie Aurelia on Exhibit ⁶E and Exhibit ⁷D both appear at the upper left (close in) to the border of the form, that on Exhibit ⁶C appears at the middle (further out), which indicates more than one version.

In addition to Exhibit ⁷D, I obtained four other death certificates from the state, including for purported Sandy Hook assailant, Adam Lanza; his mother, Nancy Lanza; another of the alleged victims, Avielle Richman; and for my dear friend, William Brandon Shanley, who died (apparently of natural causes) on 6 November 2017. What is most striking in relation to the disputed death certificates is that ALL OF THEM HAVE PRINTED FILE NUMBERS. None of them has handwritten. They were all on the same form (VS4-ME) except for Shanley, which, as Wayne Carver, M.D., explained to me during questioning on the occasion of his deposition in Connecticut on 21 May 2019. When I showed him Exhibit ⁶C above (obtained by Dave Gahary from the Town of Newtown), he could not explain its partial, printed file number: "Well, first of all, this was—I have no idea what it is" (Deposition Transcript, p. 81, lines 7-8) from the State Medical Examiner.

Several significant points emerge from comparing these various versions, not least of which is that, when Plaintiff provided Kelley Watt with a copy of Exhibit ^TA in 2014, he had already made revisions to it in 2013 and knew it was not the currently available

version. Notice Exhibit ⁵ B, attached to the Complaint, had been corrected by “Leonard Pozner” on 6-14-13. That raises the question of why the Plaintiff published on his son’s memorial page a version of his death certificate that he knew was no longer correct. It smacks of baiting Sandy Hook skeptics into focusing on a version that he could subsequently effortlessly claim to be wrong, which he knew of his own personal knowledge—because he himself had changed it!

Another anomaly with Exhibit ⁵ B, which was attached to the Complaint, is that the father changed the address of the decedent. That struck me as at least faintly absurd because no one changes their last residence after they are dead! During his video deposition, I asked the Plaintiff why had had made this change, to which he replied that “Noah” had only resided at that address with his mother for a brief period of time and he wanted his death certificate to reflect the location where he had longer resided, which I regard as highly implausible. A more reasonable explanation for this change has come from the forensic document examiner, A.P. Robertson, who suggests this may have been an effort by Plaintiff to ensure that donations from the public would flow to him at 3 Kale Davis Road rather than to his ex-wife at 37 Alpine Drive, which, if true, would explain it.

Indeed, there are at least two other anomalies—one about the death certificate, the other about the complaint—that have struck me as disturbing. On the death certificate, where it asks for first, middle and last name of the informant, only the nickname, “Lenny Pozner”. Even more anomalous—and, to me, extremely peculiar—is that the decedent, who is supposed to be the man’s beloved son, is only referred to by his initials, “N.P.” As a father myself, I cannot imagine in my wildest dreams having lost a child and then feeling compelled to bring a lawsuit to protect his sanctity and then only referring to him by his initials. All of these oddities are more readily explicable on the hypothesis that “Noah” is a fiction made up out of photographs of his purported older step-brother, Michael Vabner, than on the hypothesis that he was real. When we consider that we

may be dealing with an illusion rather than reality, where the Sandy Hook event was a FEMA mass casualty exercise involving children to promote gun control that was then presented to the public as mass murder to promote gun control, the pieces make sense.

Insofar as the Complaint was narrowly crafted to focus upon the solitary issue of the authenticity of the death certificate and my observations about it, we find the situation—now copiously documented, including the studies of two document examiners to be as follows with respect to the charges thereby made:

COUNT ONE DEFAMATION (BY ALL DEFENDANTS).

21. The statements excerpted from "Nobody Died at Sandy Hook" are false, both in their particular facts and in the main point, essence, or gist in the context in which they were made, because N.P.'s death certificate is not a fabrication or forgery.
22. The statements excerpted from "Nobody Died at Sandy Hook" refer directly to Plaintiff by name, and the surrounding context likewise indicates that the comments implicate Plaintiff. Given the surrounding assertions, a reasonable reader would understand the statement to imply that Plaintiff knowingly possessed and distributed a fabricated death certificate.

Since truth is an absolute defense against defamation and the documents in question—not just Exhibits A and B, but Exhibits C and D as well—turn out to be fabrications, the Defendants have not committed defamation. Moreover, as A.P. Robertson has astutely observed, a reasonable person, observing the anomalies in the document published in the book, *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control* (2015; 2nd edition, 2016), including the missing file number, the wrong estimated time of death, the difference in shading between the upper and lower portions, the variations in types, fonts and spacing—would have reasonably inferred that this document was not authentic but a fabrication. And I have only recently realized that the given name of the town as "Sandy Hook" is not correct, because the death happened in Newtown, CT.

Even if I, the defendant, was mistaken about some of the reasons I concluded that the document was fake, it was a reasonable inference at the time. Now, supported by two expert document examiner reports, there are no good reasons to doubt that I was right. Exhibit A, the document he addressed, is in fact and indeed, a fabrication, as claimed. The allegedly defamatory statements are true, which means that Count One is refuted.

COUNT TWO DEFAMATION (DEFENDANT FETZER)

31. The statements excerpted from Defendant Fetzer's August 2018 blog post are false, both in their particular facts and in the main point, essence, or gist in the context in which they were made, because N.P.'s death certificate is not a fabrication or forgery. The surrounding context implies that Plaintiff knowingly distributed a falsified death certificate.

Another oddity of the Complaint is the insinuation that Defendants alleged that Plaintiff had personally fabricated the death certificate addressed in the book (Exhibit A). But, while Defendant Fetzer did express that opinion to Plaintiff in private correspondence, he has not published that allegation, which he no longer entertains, and therefore in the absence of its publication, he cannot be liable for defamation under Count Two, either.

COUNT THREE CONSPIRACY

41. With regard to the statements in "Nobody Died At Sandy Hook," Defendants acted together, as a cabal, to accomplish their defamation. Defendants had a meeting of the minds on the object or course of action underlying their recklessly defamatory publication.

There being no defamation, there can be no conspiracy between to commit defamation.

The following has thus been established: No facts are in issue with regard to the death

certificates. The one I received from Plaintiff via Kelley Watt is not certified. Plaintiff has admitted to his conversations with Kelley and to posting it on Noah's memorial Google Plus page. Even though I added a border, the rest came from him. The size of image is immaterial and varies with its reproduction. What matters is what is on it--and what is not. It does not have the Town Registrar's seal on the left-hand side. That is decisive. These are crucial points because the Plaintiff has not mentioned these problems in his Response to my MSJ. It is confessed--which means I am entitled to summary judgment in my favor. *My statements are substantially true* and, as the Wisconsin Supreme Court has ruled in *Meier v. Meurer*, 8 Wis.2d 24, 29, 98 N.W.2d 411 (1959): "In this state, if a statement be substantially true it cannot be the basis for a civil action for libel." *Meier*, 8 Wis. 2d at 29 (*citations omitted*).

There are also legal problems with the death certificate having been received by the town clerk more than 5 days after the death, that a burial permit could not have been issued and more in my Motion for Summary Judgment. I have also pointed out that the death was supposed to be registered in the town in which it occurred, per the law, while the Funeral Director, Samuel Green, said that it was registered in Fairfield, which would mean the Fairfield clerk's signature should appear on the death certificate, not Debbie's. We as the editors of Moon Rock Books have been doing our best to inform the public of the truth about its own history, which Plaintiff in this case has been desperately trying to suppress. The State of Wisconsin and the American people deserve better. The facts of the matter with regard to the Complaint are not in doubt. It has no merit and represents an abuse or process and a fraud upon the Court. The Court can contribute to ending this charade by rendering us the summary judgment to which we are entitled. Let it end.

EXHIBIT T:
Decision and Order on Post-Verdict Motions
(December 12, 2019)
excerpts pages 1-2

FILED
12-12-2019
CIRCUIT COURT
DANE COUNTY, WI
2018CV003122

BY THE COURT:

DATE SIGNED: December 12, 2019

Electronically signed by Frank D Remington
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 8

DANE COUNTY

LEONARD POZNER,

Plaintiff,

v.

JAMES FETZER, *et al.*,

Case No. 18CV3122

Defendants.

DECISION AND ORDER ON POST-VERDICT MOTIONS

Plaintiff Leonard Pozner is the parent of Noah Pozner, a student killed in the mass shooting at Sandy Hook Elementary School. Mr. Leonard Pozner filed suit for defamation, after defendant Dr. James Fetzer published several statements denying the existence of his son. In June 2019, the court entered partial summary judgment in favor of Mr. Pozner, after concluding that Dr. Fetzer’s statements met all the elements of defamation under Wisconsin law. Dkts. 230 and Dkt. 231. The issue of damages was submitted to a jury, and on October 15, the jury returned a verdict in favor of Mr. Pozner. Dkt. 300. Dr. Fetzer now moves to vacate the court’s entry of partial summary judgment. He also moves for a new trial, based on the argument that inadmissible evidence was submitted to the jury. Dkt. 331.

The court will deny both motions. As discussed below, Dr. Fetzer’s primary argument against the court’s entry of partial summary judgment is that he qualifies as a “media defendant.”

But not only did Dr. Fetzer fail to raise media-defendant issue until now, he has also failed to articulate how he qualifies as one in his post-verdict materials. The omissions are enough for the court to reject the argument. But even if the court were to consider the argument, the court would conclude that Dr. Fetzer acted with negligence when making (or publishing) his statements. The undisputed facts show that Noah Pozner's death certificate was (and is) authentic, and no reasonable factfinder can conclude that Dr. Fetzer acted with ordinary care when he published the statements claiming that the death certificate was a fake.

As for whether there should be a new trial, the evidence that Dr. Fetzer now claims was prejudicial was in fact relevant to Mr. Pozner's claim for compensatory damages. Because the evidence was relevant, the evidence was admissible.

As a final matter, Mr. Pozner has also filed post-verdict motions. He seeks a permanent injunction preventing Dr. Fetzer from repeating the defamatory statements at issue in this case. Dkt. 329. Mr. Pozner has also filed an application for reasonable attorney fees. Dkt. 327. As further discussed below, the court will grant the request for a permanent injunction. Defamatory statements are not protected by the First Amendment, and a narrow enough injunction can be crafted to balance the competing interests in this case. As for whether Mr. Pozner is entitled to reasonable attorney fees, Wisconsin follows the American Rule. The rule generally holds that in the absence of a statute or contract, attorney fees cannot be awarded. An exception to this rule exists when dealing with actions in equity—such as a foreclosure—where the court has considerable more leeway in “do[ing] justice between the parties.” But this case is an action in law, not equity, so the court must deny Pozner's application for attorney fees.

EXHIBIT U:

Defendant's Response to
Plaintiff's Opposition to
Defendant's Motion to Reconsider
(June 14, 2019)

Case 2018CV003122

Document 215

Page 1 of 23

Filed 06-14-2019

FILED
06-14-2019
CIRCUIT COURT
DANE COUNTY, WI
2018CV003122

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER, Plaintiff,

vs.

CASE NO. 2018-CV-003122

JAMES FETZER,
MIKE PALECEK,
and WRONGS WITHOUT WREMEDIES, LLC,

Defendants.

**DEFENDANT’S RESPONSE TO PLAINTIFF’S OPPOSITION TO PLAINTIFF’S
MOTION TO RECONSIDER, AND FOR PROTECTIVE ORDER**

Defendant James Fetzer, pro se and in the first person henceforth, pursuant to Wis. Stat.

804.01(2) and 885.14 respectfully asks this court to reconsider its order issued during the phone conference of May 16, 2019 compelling production of my emails, and grant a protective order establishing that the discovery cannot be had, as grounds therefor stating as follows:

BACKGROUND

With the emergence of the Internet, the role of citizen-journalists has increased and grown even as the role of professional investigative journalism was waned. Operation Mockingbird, which was initiated by the CIA in the 1950s, was so successful that William Colby, then its Director, testified under oath to Congress in 1975 that the agency owned everyone of any significance in the media. Carl Bernstein followed with an article in Rolling Stone, [“The CIA and the Media”](#) (1977), in which high officials of the agency boasted that their greatest success has been with TIME/Life, *The New York Times* and CBS. And the situation has only grown worse over the years, where, in my talks, interviews and radio programs, I often cite three panels of 100 execs from CNN, another 100 from NBC and another 100 from *The New York Times*, all of whom are

dual US-Israeli citizens. A foreign power has been interfering with our elections, but it has not been Russia but Israel, as many commentators, including Paul Craig Roberts, have observed.

Investigative journalists undertake research of complex and controversial events, such as the assassination of JFK, the atrocities of 9/11, the moon landing and (what has now become) many occurrences where the government may have motives for concealing the truth from the American people. Because of my background in epistemology, methodology and the philosophy of science, I have an ability to sort things out more methodically and systematically than most other students of these events, where I bring together the best experts on different aspects and publish our work, where my initial research on JFK led to my chairing or co-chairing five national conferences in Minneapolis 1999, Dallas 2000, Dallas 2001, Duluth 2003 and Santa Barbara 2013, publishing four edited volumes (the most recent in 2017) and many blogs, lectures, YouTube videos and the like to disseminate research by the best experts to undertake their study. I lay out my approach in taking “conspiracy theories” from “theories” in the weak sense of guesses, speculations and rumors to “theories” in the strong sense of empirically-testable explanatory hypotheses in my [“Thinking about ‘Conspiracy Theories’: 9/11 and JFK”](#), which is available on-line by its title.

SCHOLARS FOR 9/11 TRUTH

Having been dumbfounded by the “collapse” of the Twin Towers on 9/11 (but not imagining I would ever be in the position to do anything about it), I found myself in a lengthy discussion thread of experts from diverse disciplines in December 2005, when it occurred to me that an organization that brought together experts from around the world in collaborative research on 9/11 would be a good idea; and I founded Scholars for 9/11 Truth, inviting the physicist Steve Jones from BYU to be my co-chair. I created a web site, (now) [911scholars.org](#), to publish

research, feature videos, sponsor conferences and press releases, of which I was the principal ‘ author and which can be found archived at that site. Scholars was such a success that it took off like a rocket and had around 800 members in four different categories of membership by late 2006. When Alex Jones organized his “American Scholars Conference” in Los Angeles, June 2006, he invited me to be the keynote speaker. When C-SPAN videotaped the panel discussion on Sunday, which was moderated by Alex Jones, all four of the panelists were from Scholars.

My first television interview was on “Hannity & Colmes”, where Ollie North was stilling in for Sean Hannity. I had been informed by the producer that they wanted to learn the results of our Collaborative research; but in the waiting room before the show, I watched as Alan Colmes said, “You won’t believe what your students are being taught by their professors”, and I knew it was a set-up. I knew they didn’t know enough about my courses to have it right and was able to take control of the show from the beginning. In many ways, it may have been my most important appearance on television. I would subsequently be interviewed by Sean Hannity, Bill O’Reilly and by Donnie Deutsch, all of whom were out to discredit me (with scant success). O’Reilly was the most difficult to deal with, launching one *ad hominem* after another and barely allowing me to speak. I thought it had been a complete disaster until years later, in New York for 9/11 events, after I had spoken at Cooper Union in the Great Hall where Abraham Lincoln had presented one of his celebrated speeches, I attended an Alex Jones event and was honored to be seated with the first responders, one of whom leaned over to me and said, “It was watching you on O’Reilly that convinced me 9/11 had been an inside job”, at which I felt it had been worth the effort, after all.

In December 2006, my wife and I were flown to Athens (all expenses paid) to appear on a TV

program hosted by the leading muck-racking journalist in Greece, who had been responsible for the downfall of corrupt administrations there. They had a panel of 12 other journalists who asked question while I addressed what had happened (illustrated by sensational video clips his staff had prepared). I was told going in that only a few would ask questions, to which I replied, “Not this time!” And, indeed, I was right: All 12 asked questions. The program was extended from 3 to 3.5 hours and broadcast worldwide by satellite. It was met with a sensational response from the 9/11 research community and was certainly a high-water mark for the 9/11 Truth movement.

I would subsequently organize the first 9/11 conference sponsored by Scholars in Madison in 2007 on “The Science and the Politics of 9/11”. I would be flown to Buenos Aires in 2008 to present lectures on JFK and 9/11; and then flown back the following year to be the keynote speaker at an International Symposium on 9/11 Truth and Justice held at The National Library of the Republic of Argentina. In 2010, I would organize a conference at Friends’ House in London, “Debunking the War on Terror”; and in 2012, I would organize The Vancouver Hearings held in June with a dozen speakers on diverse aspects of 9/11. I have edited and published two books on 9/11, [*The 9/11 Conspiracy: The Scamming of America*](#) (2007)—where the conspiracy theory of the government has proven to be completely indefensible—and (more recently) [*America Nuked on 9/11: Compliments of the CIA, the Neocons in the DOD, and the Mossad*](#) (2017), revealing how it was done and by whom, a tale that illustrates how much truth can be stranger than fiction.

THE DEATH OF JFK

Thus, I had already become deeply involved in collaborative research on the assassination of JFK and had published three volumes of expert studies—[*Assassination Science*](#) (1998), [*Murder in Dealey Plaza*](#) (2000), and [*The Great Zapruder Film Hoax*](#) (2003), which Vincent Bugliosi

would describe as the only exclusively scientific books ever published on the assassination—it was inevitable that I would continue my investigations, which occurred with the plane crash that killed Senator Paul Wellstone, his wife and daughter, three aides and two pilots on 22 October 2002, which took place in close proximity to the Evelyth-Virginia Airport, 60 miles north of my office. I would publish 10 articles about the crash in the local alternative media and subsequently publish, [*American Assassination: The Strange Death of Senator Paul Wellstone*](#) (2005) with Don “Four Arrows” Jacobs, a Native American scholar then at Norther Arizona University. Wellstone was then widely regarded as “The Conscience of the Senate” and his death appears to have been in retaliation for his opposition to the Bush/Cheney war with Iraq, where Iraq had nothing to do with 9/11, as even Donald Rumsfeld acknowledged at the time. My research on Wellstone has been substantiated by witness interviews in “They Killed Wellstone”, from Snowshoe Films.

MOON ROCK BOOKS

A partial list of (what could be called) my conspiracy research appears on my curriculum vitae at www.d.umn.edu/~ifetzer which I classify as “Applied Philosophical Research” (here, Exhibit A). Having offered courses in logic, critical thinking, and scientific reasoning for 35 years, I have felt an obligation to contribute to the public welfare by investigating these events in order for the American people to have access to the truth about their own history. After *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control* (2015) was banned by amazon.com after selling nearly 500 copies in less than a month, we knew that we had to find a new, reliable venue for our research and founded Moon Rock Books (moonrockbooks.com). Our list has now grown from one book to a dozen, including research on the moon landing, the Boston bombing, Orlando and Dallas, Charlottesville, Parkland and more, with several new volumes yet to be released. We also have monographs on JFK (by Larry Rivera), European “false flags” (by Nick Kollerstom,