

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

BRANCH 8

LEONARD POZNER,

CASE NO. 2018-CV-003122

Plaintiff,

vs.

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

FETZER'S MOTION TO STRIKE GREEN AFFIDAVIT

Defendant James Fetzer, in the first person henceforth, moves to strike the affidavit of Samuel Green which was filed in support of Plaintiff's motion for summary judgment (MSJ), since it contains numerous false statements, so is entitled to no weight by the Court. As grounds therefore I state as follows:

1. In his first paragraph, Mr. Green states that he has been "licensed by the State of Connecticut as a funeral director and been so licensed since 1979." When the name "Samuel Green" is input into the Connecticut business license lookup¹, selecting the occupation "funeral director," however, it comes up "no records found." Because even expired licenses show up in this look-up feature, indications are that Mr. Green has *never* held a funeral director's license.
2. Inputting the name of the business "Abraham L. Green and Son" and selecting "funeral home" also brings up no records. So the business itself is not licensed, either.
3. Mr. Green does appear to be licensed as an *embalmer*, with license #2130, as reported on the death certificate (Exhibits A and B to my motion for summary judgment) in Box

¹ <https://www.elicense.ct.gov/lookup/licenselookup.aspx> I am unable to obtain a printout which shows both the screen showing the selection made and the screen saying "no records found," the reason I do not attach screenshots.

#35, but an embalmer is in many cases treated differently in the law from either a funeral director or a funeral home. Interestingly, the body of Noah Pozner was reported as *not* embalmed, presumably because embalment violates Jewish tradition.

4. Mr. Green's statement in par. 5—"at no point did Mr. Pozner possess the partially completed death certificate"—is inapposite to any issue before the Court, because the "partial completion" I have discussed in my own MSJ refers not to his or the medical examiner's contributions to the certificate, but to the fact that Exhibit B (the one I dissected in my books and talks) is not certified. In other words, Mr. Green has no personal knowledge about what Leonard Pozner possessed. The death certificate was still only partially completed even after it left the funeral director's hands, because the town registrar's certification was not on it.

5. In par. 11, Mr. Green does not say where he obtained the death certificate he reviewed "in preparation for this affidavit," which he has attached as Exhibit A. I have pointed out in my MSJ that only state-approved genealogical researchers and members of state or federal agencies can obtain an uncertified copy of the death certificate. That legal argument is incorporated by reference here. Assuming Exhibit A is a copy he made for himself of the death certificate as it existed at the time it left his hands (which is a charitable assumption, since doing so would not be legal), paragraphs 11-13 are again inapposite to the issue before the Court, which is the lack of certification on that version. In fact, Mr. Green's Exhibit A is the same as the version I have established in my MSJ is a fake, attached to my motion as Exhibit B, since it lacks the town certification and has an apparent seal forged over Debbie Aurelia's signature at the bottom, where a seal does not go.

6. Mr. Green refers to the burial permit (called in Connecticut statute a “removal, transit, and burial permit,” Conn. Gen. Stat. 7-65(a)), but he does not provide that document. Because the permit itself is the best evidence his reference to it must be ignored as hearsay.

7. Mr. Green says, at par. 21-25, that he produced documents related to the funeral services he provided “pursuant to a subpoena.” The Court is advised that that was not *Defendant’s* subpoena, but *Plaintiff’s*, so it was a “friendly deposition.” I could not attend, due to it being in Connecticut on short notice—and I had a conflict. However, I note that

8. Wrongs Without Wremedies, LLC requested from the Plaintiff many records relating to the burial and funeral, which have never been provided. Plaintiff responded that he is “still looking for them.”

9. Mr. Green’s elaborate discussion in paragraphs 7-15 of the procedure for completing the death certificate, whereby (he says) the Medical Examiner completes one portion of the death certificate, which is then (by means he does not reveal) provided to the funeral director to complete the rest, who can then apply for a burial permit in the town within which the funeral home is located (rather than the town in which the death occurred), with the sexton of the cemetery ultimately filing the death certificate with the town registrar, does not comport with Connecticut law. Conn. Gen. Stat. Sec. 7-62b, which deals with death certificates, says in pertinent part at subsec. (b):

The funeral director or embalmer licensed by the department . . . in charge of the burial of the deceased person shall complete the death certificate on a form provided by the department. Said certificate shall be filed by a licensed embalmer or such embalmer’s designee or a funeral director or such director’s designee, in accordance with the provisions of this section, *except when inquiry is required by the Chief Medical Examiner’s Office, in which case the death certificate shall be filed in accordance with section 19a-409.*

Sec. 19a-409 then says:

The Office of the Chief Medical Examiner shall complete its investigation where reasonably possible within thirty days. Upon completion of the investigation, the Chief Medical Examiner, Deputy Chief Medical Examiner, an associate medical examiner, an authorized assistant medical examiner or a pathologist designated by the Chief Medical Examiner *shall file a death certificate, or a certificate supplementing that already filed, with the registrar of vital statistics for the town in which the death occurred*, if known, or, if not known, for the town in which the body was found. . . .

Thus, contrary to what Mr. Green maintains, not only is the Chief Medical Examiner supposed to file the death certificate, but he can only *file it in the town where the death occurred*.

10. It should not be lost on the Court that, although the death occurred in Newtown, according to Mr. Green the burial permit was obtained from Fairfield, and the B'nai Israel Cemetery is in Monroe, three different towns with three different registrars. I have shown the only registrar who should legally have been involved is that for Newtown, who is, in fact, the one whose signature is *on* all versions of the death certificate.

11. Mr. Green further says, at par. 15, "It is the responsibility of the sexton of the cemetery to forward the burial permit to the proper registrar following interment." I have discovered no Connecticut statute which assigns any duties to the sexton of the cemetery.

ARGUMENT

A trial court can strike an affidavit as unreliable, *see Dugan v. R.J. Corman R. Co.*, 344 F.3d 662, 669 (7th Cir. 2003), which is what the Court must do here with the Green affidavit. Since virtually every statement he has made is in violation of some Connecticut law his affidavit must be deemed incredible as a matter of law. His business is not even licensed as a funeral home, nor is he licensed as a funeral director, although he says he is under oath. Wis. Stat. 802.08(3), states, "Supporting and opposing affidavits shall be made *on personal knowledge* and shall set forth *such evidentiary facts as would be admissible in evidence*." In a nutshell, Mr. Green does not know what he is talking about. He is also lying.

WHEREFORE, Samuel Green's affidavit having no probative value as to any issue before the Court, it must be disregarded, and stricken, in the interest of justice.

/s/ James Fetzer

Date: 7 June 2019

Signed: _____
James Fetzer