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P R O C E E D I N G S

THE COURT: Okay. Good morning. Welcome.
This is 2018 CV 3122, Leonard Pozner vs. James Fetzner. I
see -- welcome back, Dr. Fetzner. May I have the
appearance for the plaintiff?

MR. PFLUM: Good morning, your Honor. Randy
Pflum of Quarles -- Randy Pflum and --

THE COURT: Yeah. That's not gonna work. I
appreciate your attention to detail, but --

MR. PFLUM: Randy Pflum and Emily Feinstein
appear on behalf of Leonard Pozner.

THE COURT: Ms. Feinstein, I'm sure you can
move to the end of the table and have some social
distance if you like. No one will take -- you won't be
offended.

MR. PFLUM: No. No, sir.

MS. FEINSTEIN: That's fine, your Honor. I
will take my mask off when I need to speak.

THE COURT: Great. Thank you.

Welcome. We're on the court's calendar for a
motion hearing filed by you, Dr. Fetzner. And then we do
have this remaining issue over the valuation question
that got sort of upended by the pending motions.

In preparation for today's hearing, I did read
the briefs, so I'm prepared to answer the questions

1 presented.

2 You may recall, I suspect, the purpose of an
3 oral argument is to tell me what -- anything additionally
4 you want me to consider that wasn't already discussed in
5 writing without being repetitive or redundant. It also
6 enables me to ask questions to confirm my understanding
7 of the position of the parties, what may or may not be in
8 dispute. And then if all my questions are answered and
9 you've told me everything that you want me to hear, then
10 I'd be prepared to make a ruling.

11 Dr. Fetzer, it's your motion, so you get to go
12 first, and then you also then get to go last.

13 MR. FETZER: Well, thank you, your Honor. I do
14 have briefing notes, which I am not going to read, but
15 which I thought might be useful in following my sketch of
16 the argument for the benefit of the Court.

17 THE COURT: Okay.

18 MR. FETZER: And then at the conclusion, I'll
19 request they be admitted as evidence.

20 THE COURT: Well, we'll mark it as an exhibit,
21 Dr. Fetzer.

22 MR. FETZER: Yes. I meant be as an exhibit,
23 yes.

24 THE COURT: Okay. It is not -- I mean, the
25 distinction is subtle, but important. It is not evidence

1 in and of itself.

2 MR. FETZER: Yeah.

3 THE COURT: I will construe it as a
4 demonstrative exhibit that succinctly states in writing
5 what you orally would present in terms of argument. Let
6 me take an opportunity to read it, please. We'll go off
7 the record.

8 (Off the record)

9 THE COURT: Okay. Thank you very much. I have
10 reviewed, I've marked it as Exhibit Number 1, and it'll
11 be received as a demonstrative exhibit.

12 I do have a question for you, Dr. Fetzer. So
13 when we first entertained the motion by the plaintiff to
14 essentially seize these assets, you took the position
15 alternatively the assets that Mr. Pozner wanted was one
16 of two things -- it either was not your property, it was
17 owned by someone else, or that it had no value.

18 At that time -- well, it seems to me you're
19 changing your position. Where you previously said these
20 assets were either not owned by you or they had no value,
21 now you're saying they are of immense value to you. How
22 do I square your two positions?

23 MR. FETZER: Well, it's a distinction, your
24 Honor, between value to me and value to Pozner. They
25 have no value to him because he cannot market them. The

1 book, 440 pages, approximately, of which he objected to
2 three sentences, includes a FEMA manual showing it was a
3 FEMA drill, nobody died at Sandy Hook, FBI documentation
4 certifying zero deaths from murders or non-negligent
5 manslaughters in Newtown during 2012, that the official
6 report on Sandy Hook by Stephen Sedensky, III, the
7 Danbury State's Attorney, does not create a causal nexus
8 that ties the alleged shooter, Adam Lanza, together with
9 the weapons he's supposed to have used, in one instance,
10 a rifle with which he is supposed to have shot his
11 mother, which did not have his fingerprints, or the
12 weapon with which he's supposed to have shot 20 children
13 and six adults where --

14 THE COURT: Okay. I'm sorry to interrupt. I
15 don't know where we're going here. All I asked you
16 was --

17 MR. FETZER: I'm explaining.

18 THE COURT: -- whether I should hold you to
19 your first statement that the assets were without value
20 or whether now I should say they do have value and that
21 the value is this number or this amount that you say is a
22 value to you as an income-producing asset used that you
23 say should be able to satisfy the judgment.

24 MR. FETZER: In arriving at the figure of
25 \$100,000 as value, that was based upon basically a fire

1 sale by Moon Rock Books once Dave Gahary arrived at a
2 settlement where he could no longer sell the book. The
3 book was in great demand.

4 THE COURT: But you told me then that the book
5 had no value because it couldn't be sold and it couldn't
6 be changed and it was basically that Mr. Pozner and other
7 people like him had shut it down.

8 MR. FETZER: That's completely correct. And
9 that's part of the reason why he's estopped from using
10 the book, your Honor. It has no value to him.

11 He's spent his entire efforts here since the
12 event taking down blogs, taking down books, taking down
13 videos, 1,500 by his own account, from YouTube alone,
14 that dispute what happened at Sandy Hook and claim the
15 official narrative is wrong. He cannot now change his
16 position in that claim to take value from a book or a
17 blog that he spent endless efforts in destroying, your
18 Honor.

19 It's very clear from the conditions of estoppel
20 that we have the same facts, we have the same court. You
21 are persuaded of his position now, but he is being
22 inconsistent now because while all of his efforts have
23 been devoted to blocking the sale or the availability
24 even for free as a PDF, your Honor, he now claims he
25 wants to take it for value. Well, he can only get value

1 for monetary judgment if it has monetary value. But he's
2 certainly not gonna market it.

3 THE COURT: Are you asking that I -- well,
4 you're asking for me to reverse or change my mind on the
5 original decision allowing him to take those assets. Are
6 you asking me then to value those assets at zero?

7 MR. FETZER: For him, they have no value. For
8 me, they would have great value, your Honor. I could
9 publish a redacted version. They'd sell like hotcakes.
10 I might even pay off the judgment.

11 But the fact is by taking the book which he
12 can't possibly publish because it contradicts his prior
13 position, he's estoppelled from doing it. He has no
14 intent in doing it. That was a misleading abuse of
15 process involved here, your Honor.

16 THE COURT: I thought you told me that as to
17 the book, it couldn't be published for two reasons. One
18 is I think it was taken off of Amazon and shut down.
19 Also, I thought you said the copyright was not yours in
20 the first instance anyway.

21 MR. FETZER: That was my belief at the time,
22 your Honor. But you have ruled that I own the common law
23 copyright.

24 THE COURT: I didn't rule.

25 MR. FETZER: So I'm under the assumption I own

1 the common law copyright.

2 THE COURT: Where did I make that finding?

3 MR. FETZER: Well, that was the argument of Mr.
4 Zimmerman during the oral hearing that under the common
5 law copyright with which you agreed that I had the
6 ownership of the books, which I did not up to that point
7 believe I had.

8 THE COURT: No. Let me make clear 'cause it
9 comes up tangentially in the document Exhibit 1 just
10 filed today, I've always viewed the question for me to
11 decide not to be that I should determine definitively the
12 nature and extent of your ownership interest, but much
13 like a quitclaim deed, all we were doing was whatever
14 your interest is -- either it's nothing, it could be
15 worth less, or it could be worth something -- whatever
16 your interest is, it was now Mr. Pozner's property.

17 So if you took the position that the book was
18 basically worthless because it couldn't be republished,
19 it was banned and it was prohibited and it had no value,
20 then that would -- Mr. Pozner took it with sort of open
21 eyes and a clear understanding and he obtained a
22 worthless asset. But in return, I thought, honestly,
23 quite generously, he was willing to reduce your debt to
24 him by \$100,000 reflecting domain names you didn't own,
25 couldn't control, and books you were unable or prohibited

1 from publishing.

2 MR. FETZER: Your Honor, this is all traded on
3 an ambiguity. The difference between value to me and
4 value to Pozner, Pozner is not gonna market the book.
5 It's inconsistent with his past behavior. He takes it
6 for an improper purpose, your Honor, which is to prohibit
7 the public from having access to information it contains.

8 THE COURT: What would you say is the value of
9 these assets in the free market?

10 MR. FETZER: Well, if it's possible to be
11 published, if I would have published a revised edition,
12 it could be quite considerable because I would be able to
13 market it even in a redacted edition, and it would make
14 many times \$100,000.

15 THE COURT: That's not my question because
16 you're never gonna -- under the current confines you're
17 not going to be able to publish it.

18 MR. FETZER: That's correct, which is part of
19 the reason Pozner is not going to publish it either, your
20 Honor. It's a specious claim that it has \$100,000 value
21 to him. If he were to actually be able to market it, it
22 could make much more than \$100,000, and that all
23 presumably would accrue against the indebtedness I owe to
24 him.

25 But it can't be -- if he were to have and to

1 obtain the \$100,000, then any value after that would
2 derive back to me as my common law copyright owner by
3 Pozner's argument. I, of course, do not believe and
4 never believed I actually owned the property, but as
5 under the common law --

6 THE COURT: You say you never believed that you
7 owned the property.

8 MR. FETZER: I did not. But under the argument
9 that I have a common law copyright, I'm willing to argue
10 on that basis. And if you assume I have the common law
11 copyright --

12 THE COURT: I'm not gonna assume that.

13 MR. FETZER: Well, if one were to, I mean,
14 hypothetically, I mean, not that you specifically are
15 adopting, I mean, for argument's sake that if I own the
16 copyright, then I would be at liberty to publish a
17 redacted edition since I've only been restricted from
18 three sentences in a 440-page book. But Leonard Pozner
19 has spent all of his time going after Sandy Hook's
20 (unintelligible) seeking to remove all their information
21 is clearly inconsistent with his prior position that led
22 you to your original judgment against me, your Honor.
23 And he is therefore estopped from doing that or
24 claiming any value to him in his action since he took the
25 blog, by the way, which occurred on the 28th, confirmed

1 my belief that it's for an improper purpose. He is not
2 seeking to make any money from it. He's redirected to
3 the documents for this court case. And it's very obvious
4 that this was done with improper intent on the 27th of
5 July. My blog had articles about Sandy Hook. On the
6 28th after he took -- it was redirected to the documents
7 in this case. But the fact is the documents in this case
8 are of no financial value. He is not deriving any
9 financial benefit from it. It has no financial benefit
10 to him whatsoever.

11 Even, your Honor, in the Lucy Richards case,
12 his argument -- and the ruling was Lucy Richards was
13 enjoined from visiting any conspiracy-related websites,
14 including those published by James Fetzer. So the
15 estoppel argument here I think is crystal clear, your
16 Honor.

17 THE COURT: Okay. Plaintiff's response.

18 MR. PFLUM: Your Honor, we're here on a motion
19 to reconsider, not here to relitigate plaintiff's motion
20 for turnover of property. There is a stark difference
21 between --

22 THE COURT: Well, there's two motions. There's
23 a motion for relief from judgment or order, loosely
24 called reconsideration of my decision granting the
25 plaintiff's request to obtain the assets. There's also a

1 motion for stay Dr. Fetzer wants pending a decision by
2 the United States Supreme Court on his petition for
3 certiorari. So as to the motion for relief from judgment
4 or order, loosely a motion to reconsider, change my mind,
5 your response?

6 MR. PFLUM: Your Honor, we do not believe that
7 Mr. Fetzer has met the elements to show this Court that
8 there is any newly-discovered evidence or a manifest
9 error of law has been committed. We ask the Court to
10 deny his motion.

11 THE COURT: I told you you get the last word on
12 your motion for reconsideration or relief from judgment
13 order. Dr. Fetzer.

14 MR. FETZER: Well, thank you, your Honor. Yes,
15 sir. I know of no changes of law or new evidence, but a
16 clear error of law in my judgment violating the
17 prescriptions for how financial judgments are only
18 settled by financial means. A receiver ought to have
19 been appointed, undertake a bid if it were to be done in
20 a proper way. But it's very clear this has no value to
21 Mr. Pozner. He's not gonna market the book. He's not
22 gonna use the blog. He has domain names with my name,
23 James Fetzer, and the name False Flags. He's opposed to
24 both. He certainly isn't gonna promote evidence that
25 establishes that Sandy Hook was a FEMA drill, even

1 including a manual. So to prevent a manifest injustice
2 or the abuse of process by having improper motive which
3 is shown by his actions, and I have here, your Honor, I
4 have a series of exhibits that substantiate all the
5 points I've made. If the Court would like to see them, I
6 would be pleased to introduce them. May I do so?

7 THE COURT: What exactly -- as a matter of fair
8 play, I ordinarily don't, especially now on reply, take
9 new things that have not been filed or submitted because
10 it's not fair to the plaintiff to do that. Why don't you
11 just articulate to me --

12 MR. FETZER: Certainly.

13 THE COURT: -- what this is that you think is
14 relevant to the question of whether I should change my
15 mind.

16 MR. FETZER: Certainly. Well, these are all
17 mentioned in the brief. The second exhibit is from my
18 blog on the 27th of July showing that I was discussing
19 Sandy Hook issues and evidence that shows it was not as
20 it's been portrayed.

21 Exhibit -- the next exhibit is from the 28th of
22 July that was redirected to the court documents in this
23 case where the timing appears to have been in
24 coordination with the Alex Jones trial because Alex Jones
25 was -- during the trial my name was gonna be mentioned in

1 a negative fashion, but people would have been keen to
2 know what this guy, who's been described as bat-shit
3 crazy, had to say about Sandy Hook. So to preclude going
4 to my blog, which is a vast repository of information
5 about Sandy Hook, they precluded that from happening.

6 On the 10th of August, which is listed there as
7 Exhibit D, there was nothing found on the blog that was
8 very curious, nothing at all. Exhibit E. By the 10th of
9 August later, however, it was back to the documents that
10 were in the case, Pozner v. Fetzer. But also very
11 interesting, between the 27th and the 28th on my
12 Amazon.com page where my books are listed where there
13 were photographs of me in Athens when I was flown to
14 Athens to make a presentation on 9/11 that was broadcast
15 worldwide by satellite television and of me in San
16 Francisco, they were on the 28th replaced by documents
17 related to this case, and there's no one with motive,
18 means or opportunity than the plaintiff in this case who
19 would have had such a motivation.

20 I do have a proposed draft for an order should
21 the Court be willing to consider this with favor.

22 THE COURT: Okay. Go ahead. My bailiff will
23 take your exhibits. I'll mark those as a group exhibit
24 as Exhibit Number 2. Those all I do think pertain to --
25 you can just make a pile.

1 MR. FETZER: Okay.

2 THE COURT: I note that those are all exhibits
3 that were discussed and so are germane to your argument.

4 Thank you very much, Dr. Fetzer. I'm prepared
5 to rule on your motion for relief from judgment order or
6 motion for reconsideration. I'm gonna deny the motion.
7 I adopt and I agree with the positions and arguments set
8 forth in the plaintiff's brief.

9 Dr. Fetzer, as I'm sure you know, having been
10 in the courtroom, whether I'm right or wrong is something
11 for the court of appeals to say. But generally,
12 litigants don't get a second kick at the cat, an
13 opportunity just to reargue the position. There are
14 limited circumstances under Wisconsin Statutes 806.07
15 which allows a court, allows an individual to ask the
16 court essentially to change its mind or reconsider or
17 relief from a prior judgment or order. I agree with and
18 I adopt the arguments of the plaintiff that you have not
19 met your burden in that regard. And so, therefore, your
20 motion is denied.

21 Now, your motion to stay, I understand you say
22 that why don't we just take a pause because you're
23 reasonably confident that the United States Supreme Court
24 will grant your petition for certiorari and that
25 ultimately you might prevail in turning back the hands of

1 time and reversing, I guess, the jury's verdict that
2 awarded damages to Mr. Pozner. Was there anything more
3 you'd like to say in support of your motion to stay?

4 MR. FETZER: Well, I have a similar set of
5 briefing notes, your Honor, I'd like to submit as an
6 exhibit.

7 THE COURT: Okay. We'll mark that as your
8 Exhibit Number 3. Hand it to my clerk. We'll go off the
9 record. I'll review your exhibit.

10 (Off the record)

11 THE COURT: Plaintiff's response?

12 MS. FEINSTEIN: Thank you, your Honor. We
13 continue to believe that there's not even a chance that
14 the United States Supreme Court will accept this petition
15 and hear the case, much less that the United States
16 Supreme Court will decide to overturn summary judgment
17 procedures that are used not only on a regular basis
18 every day in the courts of Wisconsin, but in courts
19 across the country.

20 As this Court knows, the Supreme Court
21 procedure used in Wisconsin is very similar to that used
22 in the Federal Rules of Civil Procedure. The United
23 States Supreme Court has already approved that process,
24 and we don't think this is a chance they will use to
25 revisit that decision.

1 THE COURT: Dr. Fetzer, it's your motion. You
2 get the last word.

3 MR. FETZER: Well, your Honor, there are four
4 grounds for a stay, which include likelihood of success;
5 also, causing irreparable harm; that the other party is
6 not harmed; that the public interests would be served.
7 Plaintiffs have conceded the second, third and fourth,
8 irreparable harm, other parties not harmed, and public
9 interests served, and only insist that the likelihood of
10 success is low. They claim zero. They offer six
11 arguments, a lack of uniformity and that they must all be
12 the same are the first and the third. The second, that
13 it calls for the admission of inadmissible evidence.
14 Those are quite mistaken.

15 My argument, of course, is that the summary
16 judgment protocols employed in Wisconsin are unfair and
17 inconsistent with those of other states. I use Texas as
18 a contrast case. In Wisconsin --

19 THE COURT: I don't want to hear about
20 comparing Wisconsin to Texas.

21 MR. FETZER: Well, it's relevant for the
22 Supreme Court, your Honor, because that's one of the
23 criteria for hearing cases between the hearings because
24 there are conflicts between the highest courts of more
25 than one state. That's a criterion for the Supreme Court

1 to hear a case.

2 THE COURT: Yeah. I don't think so,
3 Dr. Fetzer. These are state law questions.

4 MR. FETZER: No. Under the Fourteenth
5 Amendment, your Honor, in fact, all citizens of the
6 United States were citizens, dual citizens, in every case
7 of both our states and of the United States. We're
8 entitled to protection of the Fourteenth Amendment and of
9 the Seventh Amendment. And there's an issue that is ripe
10 for the Supreme Court. The issues here in Wisconsin are
11 so subjective in allowing a court to rule on the basis of
12 what evidence it finds to be reasonable or not
13 reasonable, independent of its objective status. In
14 other words, there are measures of objectivity involving
15 deductive, inductive and abductive logic that are
16 sacrificed here on the basis of a subjective criterion
17 that ranges from indubitability to incredulity.

18 THE COURT: My court reporter is going to have
19 trouble with "indubitability" on the transcript in this
20 case.

21 MR. FETZER: That's okay.

22 THE COURT: You're going back to your
23 professorial --

24 MR. FETZER: Well, you know, I was only last
25 night contemplating how I realize that courses I've been

1 teaching for 35 years have applicability here because one
2 of my areas of expertise is logic, critical thinking and
3 scientific reasoning and how fascinating it was to me to
4 be in a judicial procedure which took me so long to sort
5 out until I had read your Honor's post-verdict comments
6 and those of the appellate court where they juxtaposed
7 what it was reasonable to believe, namely, the mass media
8 narrative about Sandy Hook. What it was unreasonable to
9 believe was anything contesting it, such as suggesting
10 that on the basis of a FEMA manual, FBI reports --

11 THE COURT: Okay. We're going back to the
12 merits.

13 Dr. Fetzer, I'm gonna deny your motion to stay.
14 In state court, I apply the Gutenschwager standards.
15 They are similar to what you just articulated.

16 I will give you this, and I don't mean to be
17 flip, but I think you have maybe a one in a million
18 chance of your certiorari being granted. Not zero. One
19 in a million. But the standard is a substantial
20 likelihood of success on the merits, so one in a million
21 doesn't get you there.

22 I also think it really -- I don't construe the
23 plaintiffs to have conceded the presence of the three
24 other factors. I think their briefs argue otherwise,
25 that you've met none of the factors that should award

1 granting your motion. I don't think that you've
2 satisfied me that as to any of the Gutenschwager
3 standards that would entitle you to a stay to allow the
4 United States Supreme Court to rule on your petition for
5 writ of certiorari.

6 I'd like to turn then to finish up. The
7 question is we set forth the procedure to value the
8 assets. Mr. Pozner already essentially has your assets.
9 That you know has undertaken. The question is is what
10 compensation you are to be given.

11 You took the position that the assets either
12 were not owned by you, so, therefore, you had no
13 interest, no interest, no value, or that they had no
14 value at all.

15 Your position I'm gonna rely on that ordinarily
16 -- ordinarily, parties, lawyers, cannot take positions
17 that are materially adverse to each other, arguing that
18 the light was green on day one and then later arguing the
19 light was red on day two.

20 I think Mr. Pozner, in suggesting that the
21 asset had a value of \$100,000, probably shared, at least
22 my impression was, a similar consternation in ascribing
23 to the assets he was taking in partial satisfaction of
24 the judgment may not have any value at all. And
25 certainly, there's no dispute between either of the

1 parties that in the market, these assets in their present
2 form have no value, no value to you and really no value
3 to Mr. Pozner as a valuation from a fair market value.

4 To you, they have assets -- value because you
5 created it and you think, well, if you could remove the
6 impediments, maybe then you could market it, take out the
7 language and the like. None of that was discussed at the
8 last hearing. But even if you went in that direction,
9 they may be marketable. Although I think you can
10 indicate -- what was your position as to even while you
11 sold, what was the total amount you earned to you on the
12 sale of the book while it was marketed?

13 MR. FETZER: Your Honor, I don't recall that
14 was specified. You mean total sales from this book from
15 the beginning?

16 THE COURT: Yeah.

17 MR. FETZER: Because, you know, after --

18 THE COURT: What were the total sales?

19 MR. FETZER: After less than a month, it sold
20 nearly 500 copies when it was banned by Amazon
21 improperly. And then I released it for free as a PDF,
22 but I received no financial --

23 THE COURT: How much did you earn from the sale
24 of the copies while it was sold?

25 MR. FETZER: Ah, let's see, 500 copies, ah,

1 well, cumulative, perhaps around \$25,000, your Honor.

2 THE COURT: And then you released -- then you
3 basically undermined your own sort of pecuniary interest
4 by releasing it as a PDF.

5 MR. FETZER: But your Honor, I've been utterly
6 consistent. It has value to me if it can be marketed.
7 It has no value to Pozner. He's not gonna market it.

8 THE COURT: I understand.

9 MR. FETZER: He's doing all this for illicit
10 purpose --

11 THE COURT: Please. I think you're entitled to
12 some fair compensation. And the point that I was making
13 is Mr. Pozner could take the position that it has no
14 value to anyone else, it has great value to you 'cause,
15 yes, his plan is to shut it down. Appears, I should say.
16 It appears. I don't anticipate him marketing, selling
17 the book *Nobody Died at Sandy Hook*. It would be entirely
18 inconsistent with the constant position he's taken since
19 day one of this case. So it has great value to him, on a
20 personal basis has value to you. But the measure under I
21 guess the Fourteenth Amendment or the Fifth Amendment,
22 the taking, if you're gonna take someone's asset, you
23 should afford, I mean, some words that's used is just
24 compensation.

25 The \$100,000 by your own concession is a

1 magnitude of four times what you earned before you really
2 eliminated the economic value by publishing it for free.
3 Nobody was going to buy it. And then, of course, it's
4 enjoined anyway. Amazon won't touch it. And I might
5 even suggest since you brought up in your argument recent
6 events involving litigation with other parents, it's an
7 even less marketable asset to the general population or
8 public due to the general feeling that people in fact did
9 die at Sandy Hook, notwithstanding your book to the
10 contrary.

11 So I also am not inclined now to allow you to
12 switch your position and say that the assets are
13 invaluable. I think there's no factual basis to say that
14 you would be able, if you kept the assets, that you
15 would, having now said that you in the best of times
16 earned \$25,000, that you would be able to earn, were I to
17 return it to your ownership and even if you were able to
18 publish it, that you would be able to earn anywhere near
19 \$100,000.

20 But we talked about this, and the process did
21 have a time and date for you to employ some party to give
22 an opinion as to value. You did not avail yourself of
23 that opportunity. And I think, quite honestly, the
24 \$100,000, which I will accept as partial satisfaction for
25 the judgment, is substantially higher than the fair

1 market value.

2 Now, why I do that? I could simply say you
3 said it was worth nothing, Mr. Pozner can take the assets
4 and you will get no reduction in the judgment you owe. I
5 think the value of giving it the \$100,000 is thus.
6 Because if in fact this case continues on in the
7 appellate courts, now there's an added dynamic to the
8 decision of this Court that not only will you have to say
9 that I've made a mistake as a matter of law, but that if
10 I made a mistake that it had some prejudicial effect that
11 you were able to demonstrate that were I to have denied
12 Mr. Pozner the ability to take these assets that you
13 would be able to establish a value in excess of \$100,000.
14 Now, maybe you could establish that they were worth
15 \$20,000 or \$30,000. But by setting the value on a
16 partial reduction of the judgment you owe in the amount
17 of \$100,000, in a sense, though I do not believe I've
18 made error, the error might be arguably harmless error
19 because the value offered or stipulated by Mr. Pozner is
20 so far greater than the fair market value, given the
21 position that you took in this court that you either did
22 not own the assets, that they were not marketable and
23 they had no value to other people.

24 We don't set values for takings based on the
25 intrinsic or personal value that someone might think. A

1 good example, I used to do highway condemnation, eminent
2 domain, and people would say the DOT cut down my tree, I
3 think that was a million-dollar tree, it was a tree my
4 children grew up on, swung from their tire swing on, if
5 you're going to cut my tree down, I want a million
6 dollars. It just doesn't work that way. The valuation
7 is what sort of a reasonable party at an arm's length
8 transaction, similarly motivated, equally informed, would
9 value the asset. And you've demonstrated to me I think
10 quite convincingly that these assets honestly don't have
11 any value in the market. It's a personal between the
12 parties. And that's what litigation often is, a
13 personal, an opportunity to use litigation to obtain the
14 personal advantage and result of shutting down the book,
15 seeing that it's not published, and redirecting the
16 traffic from these websites now to a website owned and
17 operated and controlled by Mr. Pozner for his personal
18 view.

19 So for those reasons, I'm going to deny the
20 motion for reconsideration/relief of judgment and order.
21 I'm gonna deny the motion for stay pending resolution by
22 the United States Supreme Court on the petition for writ
23 of certiorari. And I'm gonna accept the stipulation of
24 the plaintiff and establish a value of the asset at
25 \$100,000, understandingly that if Mr. Pozner does have

1 the ability if in fact I'm wrong on the underlying issue
2 that he would have leave to relitigate and assert that
3 the assets actually had no value, that he was doing that
4 as an opportunity to be fair and reasonable, to give
5 Mr. Fetzer and his wife, a joint tenant in his home, in
6 his property and his bank account some diminution of the
7 legal obligation owed to Mr. Pozner as a result of the
8 judgment of this Court. That will be the order of the
9 Court.

10 Anything further from the plaintiff?

11 MR. PFLUM: No, your Honor. Thank you.

12 THE COURT: Please draft an order -- orders for
13 the Court's signature.

14 MR. PFLUM: Yes, your Honor.

15 THE COURT: Dr. Fetzer?

16 MR. FETZER: No, your Honor. Thank you.

17 THE COURT: Thank you for coming. We're
18 adjourned.

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1 STATE OF WISCONSIN)
2 COUNTY OF DANE) ss:
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4 I, ANN M. ALBERT, Court Reporter, do hereby certify
5 that I reported in stenographic machine shorthand the hearing
6 held in the above-entitled matter before the Honorable FRANK
7 D. REMINGTON, on the 17th day of August, 2022, and that the
8 foregoing is an accurate and complete transcript of my
9 shorthand notes and the whole thereof.

10 Dated this 19th day of August, 2022.

11 Electronically signed by:

12
13 Ann M. Albert
14 Court Reporter
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