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CLERK OF WISCONSIN
COURT OF APPEALS

**STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV**

Leonard Pozner,
Plaintiff-Respondent

v.

Appeal No. 2024AP002027

James Fetzer,
Defendant-Appellant

Appeal From the Circuit Court of Dane County
Case No. 2018CV003122
Judge Frank D. Remington, Presiding

APPELLANT'S REPLY BRIEF

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Issue 2: May the parties who submitted the fraudulent document—namely, the Pozner attorneys, Genevieve M. Zimmerman, Jake Zimmerman, and Emily M. Feinstein—a counterfeit passport, in this case—be exempt from legal responsibility on the ground that Appellant did not have the right to appeal the Order and Decision, when the Order and Decision issued by Judge Frank Remington on October 4, 2024, was declared by Judge Remington to be “a final order for purpose of appeal. Wis. Stat. 808.3(1)”?

Issue 3: May the parties who submitted the fraudulent passport simply ignore and fail to response to Applicant’s proofs (a) that the passport is not genuine but is counterfeit, which follows from its failure to satisfy Department of State’s photographic restrictions: (b) that the real person whose image appears on the passport is not “Noah Pozner” but Michael Vabner, who is not a child and who did not die at Sandy Hook; and (c) that Dr. Fetzer was exposing the commission of a fraud upon the court, which is a proper purpose and for which the parties responsible—not Dr. Fetzer but the Pozner attorney perpetrators of the fraud—should be sanctioned?

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ISSUES PRESENTED FOR REVIEW

Issue 1: May Dr. Fetzer be sanctioned under 802.05 for his submissions when his submissions were non-frivolous and are therefore non-sanctionable, the passport in question is counterfeit, the party whose image appears is not Noah Pozner, and his intent was to expose this blatant Fraud upon the Court?

General Area of the Law: Wis. Stat. 943.392 Fraudulent data alteration. Whoever, with intent to injure or defraud, manipulates or changes any data, as defined in s. 943.70 (1) (f), is guilty of a Class A misdemeanor. Wis. Stat. 946.65 Obstructing justice (1)

Whoever for a consideration knowingly gives false information to any officer of any court with intent to influence the officer in the performance of official functions is guilty of a Class I felony. (2) “Officer of any court” includes the judge, reporter, bailiff and district attorney.

Necessary Facts: Dr. Fetzer first raised the issue of the true identity of the Plaintiff, who calls himself “Leonard Pozner”, but whom Dr. Fetzer identified as Reuben Vabner, already in his Answer to the Complaint. And, as Dr. Fetzer has explained on numerous occasions that the purported victim, Noah Pozner, is a fiction created out of photos of Reuben Vabner’s younger son, Michael Vabner, whose image was also used to create the counterfeit passport, which Court and Pozner attorneys are now desperately seeking to conceal lest they suffer sanctions appropriate to their offense.

Issue 2: May the parties who submitted the fraudulent document—namely, the Pozner attorneys, Genevieve M. Zimmerman, Jake Zimmerman, and Emily M. Feinstein—which is, in this case, a counterfeit passport—be exempt from legal responsibility on the ground that Appellant did not have the right of appeal,

when the Order and Decision issued by Judge Remington was declared by him to be “a final order for purpose of appeal. Wis. Stat. 808.3(1)”?

General Area of the Law: SCR 20:3.1 Meritorious claims and contentions and SCR 20:3.3, Candor toward the tribunal. Perhaps most importantly, Wis. Stat. 946.65

Obstructing justice. These actions were taken to conceal violations of Wis. Stat. 943.392 Fraudulent data alteration (elaborated above). Additionally, Federal Rules of Civil Procedure: Rule 36. Requests for Admissions and Wisconsin Rules of Civil Procedure: Rule 804.11. Requests for Admission.

Necessary facts: Pozner’s attorneys knew then and know now that “Noah Pozner” is a fiction, that the passport is counterfeit, and that Dr. Fetzer has the right to appeal a final Order and Decision declared to be “a final order for purpose of appeal. Wis. Stat. 808.3(1)” by Judge Remington when it was issued October 4, 2024. More interesting legally, the Pozner attorneys ignoring and not responding to Dr. Fetzer’s documentation of seven (7) egregious violations of his rights under color of law appears to qualify as admissions (or to be the equivalent) under both federal and state Rules of Civil Procedure.

Issue 3: May the parties who submitted the fraudulent passport simply ignore and fail to response to Applicant’s proofs (a) that the passport is not genuine but counterfeit, which follows from its failure to satisfy Department of State’s photographic restrictions: (b) that the real person whose image appears on the passport is not “Noah Pozner” but Michael Vabner, who is not a child and did not die at Sandy Hook; and (c) that Dr. Fetzer was thereby exposing the commission of a fraud upon the court, which is a proper purpose and for which the parties responsible—not Dr. Fetzer but the Pozner attorneys who

perpetrated the fraud—should be sanctioned?

General area of the law: 18 USC § 241 and § 242 Violation of Constitutional Right

Under Color of Law, Wisconsin Stats. Chapter 757. General Provisions.

Concerning Courts of Record, Judges, Attorneys and Clerks, Section 757.19

Disqualification of judge, specifically 757.19(2)(g), the Guide to WISCONSIN\

APPELLATE PROCEDURE For the SELF-REPRESENTED LITIGANT (July 1,

2021) and Wis. Stat. 802.04, Form of pleadings; and *United States v Throckmorton*,

98 U. S. 61 (1878), that Fraud upon the Court may be brought at any time in any

court when a party has been prevented from presenting a valid defense.

Necessary Facts. Dr. Fetzer was “taken to the cleaners” by Judge Remington and the

Pozner attorneys, who blatantly violated his constitutional rights from beginning to

end. Now that Dr. Fetzer has found his bearings with new proof of the subornation

of perjury by Pozner and Judge Remington (with expert affidavits and proof galore

in support), they are grasping after straws to save themselves from blatant violations

of Dr. Fetzer’s Constitutional Rights under Color of Law.

What makes this case of special interest from a legal point of view is that the failure of Plaintiff-Respondent to deny or rebut any of the specific lines of proof of the denial of Dr. Fetzer’s constitutional rights under color of law advanced by Applicant appears to qualify as admissions (or equivalent thereto) under both federal and state rules of civil procedure, specifically: *Rules of Civil Procedure: Rule 36. Requests for Admissions* and *Wisconsin Rules of Civil Procedure: Rule 804.11. Requests for Admission*: by the Plaintiff-Respondent’s failure to deny or rebut the Appellant’s three proof of fraud, Plaintiff-Respondent has acknowledged their inability to refute them, thereby conceding that they are valid.

STATEMENT OF THE CASE

This case is an attempt by the Court and Plaintiff to circumvent, suppress and avoid confronting the evidence presented by Dr. Fetzer in his Motion to Open Judgment Pursuant to Extrinsic Fraud and Fraud upon the Court dated June 17, 2024 (and elsewhere) by imposing sanctions that would restrict Dr. Fetzer's ability to pursue justice and expose extrinsic fraud and fraud upon the court by Judge Remington in collusion with Pozner and his attorneys. This is only the latest instance of a pattern of deprivation of Dr. Fetzer's Constitutional rights under color of law by Judge Frank Remington and Pozner's attorneys that has characterized *Pozner v Fetzer, et. al.* 18CV3122 (2018) from its inception and would have the effect of precluding Dr. Fetzer from pursuing these issues and exposing their malfeasance to public scrutiny and appropriate judicial reprimands. All other documents submitted *Pozner v. Fetzer* are hereby incorporated/reaffirmed lest this court be subject to redundant pleadings.

STATEMENT OF FACTS

1. Dr. Fetzer submitted his MOTION TO OPEN JUDGMENT PURSUANT TO EXTRINSIC FRAUD AND FRAUD UPON THE COURT (**MOJ**) on June 17, 2024.
2. Circuit Court Judge Remington issued his Decision and Order Denying James Fetzer's Motion for Relief from Judgment on June 20, 2024.
3. Dr. Fetzer submitted his Request for Relief from Judgment or Order on June 20, 2024.
4. Emily Feinstein submitted her Motion to Seal or Redact a Court Record on June 20, 2024.
5. Circuit Court Judge Remington Denied Dr. Fetzer's Request for Relief from Judgment

or Order on June 24, 2024).

6. Circuit Court Judge Remington issued his Order to Seal or Redact a Court Record on June 24, 2024.

7. Emily Feinstein submitted her Notice of Motion and Motion for Sanctions and Order to Show Just Cause on June 20, 2024 (**Appendix B**)

8. Circuit Court Judge Remington issued his Notice of Briefing Schedule Regarding Plaintiff's Motion for Sanctions and Order to Show Just Cause on June 24, 2024 (**Appendix C**).

9. Response of Defendant dated 24 July 2024 (**Appendix D**).

10. Plaintiff's Reply in Support of Its Motion for Sanctions dated August 3, 2024 (**Appendix E**).

11. Decision and Order Sanctioning James Fetzer Under Wis. Stat. 802.05 dated October 4, 2024 (**Appendix A**)

11. Brief of Appellant dated November 21, 2024.

12. Response Brief of Plaintiff-Respondent dated December 16, 2024.

ARGUMENT

Plaintiff-Respondent offers two replies in response to Appellant's Brief: (1) that Dr. Fetzer does not have an appeal of right from the Decision and Order and has not requested interlocutory review; and (2) that the Circuit Court did not abuse its discretion when it sanctioned Fetzer for his repeated public filing of private information of a minor for an improper purpose by preventing Fetzer from doing so in the future. Both replies are flagrantly and demonstrably false.

Dr. Fetzer had the right to appeal a final Order and Decision declared by Judge Frank Remington to be "a final order for purpose of appeal Wis. Stat. 808.3(1)"

when it was issued by Judge Remington on October 4, 2024 (**Appendix A**). There was no role for or requirement of an interlocutory review. Plaintiff's first argument thus fails. The second is far more interesting, because it simply ignores and does not respond to Dr. Fetzer's multiple lines proof (a) that the passport is not genuine but counterfeit, which follows from its failure to satisfy Department of State's precise photographic restrictions: (b) that the real person whose image appears on the passport is not "Noah Pozner" but Michael Vabner, who is not a child and who did not die at Sandy Hook; and (c) that Dr. Fetzer was exposing the commission of a fraud upon the court, which is a proper purpose. The second argument therefore likewise fails.

But the failure of the second argument is far more interesting than that of the first, because Plaintiff-Respondent makes no effort at all—none whatsoever—to rebut or defeat the Appellant's proofs (i) that the passport is not genuine but counterfeit, which follows from its failure to satisfy State Department photographic restrictions: (ii) that the real person whose image appears on the passport is not "Noah Pozner" but Michael Vabner, who is not a child and who did not die at Sandy Hook; and (iii) that Dr. Fetzer was exposing the commission of a fraud upon the court, which is a proper purpose and for which the parties responsible deserve to be sanctioned, not Dr. Fetzer.

The federal Rule on Admissions (https://www.law.cornell.edu/rules/frcp/rule_36) states that, in response to requests for admission regarding either

- (A) the application of law to fact, or opinions about either; and,
- (B) the genuineness of any described documents;

where each matter must be separately stated and accompanied by a copy of the document. A matter is admitted unless, within 30 days of being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. Wisconsin

has a similar rule with corresponding requirements ([804.11 – Requests for Admission](#)).

Appellant's Brief in this case was filed on November 21, 2024; and the Plaintiffs-Response Brief on December 16, 2024. Less than 30 days, but Plaintiff-Respondent made no request for additional time. Indeed, these issues have been present since Dr. Fetzer filed his MOTION TO OPEN JUDGMENT PURSUANT TO EXTRINSIC FRAUD AND FRAUD UPON THE COURT on June 17, 2024. A review of what has taken place (under STATEMENT OF FACTS above) reveals one effort after another to evade confronting these matters, where the context of this litigation and the issues raised qualifies as Requests for Admissions or the legal equivalent thereof.

And of course Plaintiff cannot respond: (i) that the passport is not genuine but counterfeit follows from its failure to satisfy the Department of State's photographic restrictions which are mathematical and impossible to refute; (ii) that the real person whose image appears on the passport is not "Noah Pozner" but Michael Vabner, who is not a child and who did not die at Sandy Hook could be contested but the evidence documented in prior submissions makes it all but undeniable; and once the fraud of a counterfeit passport has been established, (iii) that Dr. Fetzer was thereby exposing the commission of a fraud upon the court, which is a proper purpose, there is no rationale for his being sanctioned, which was an elaborate charade to protect those complicit.

The same argument applies to the seven (7) major points Dr. Fetzer has made about this case from its inception:

- (1) Judge Remington Suppressed the Affidavit of Kelley Watt**
- (2) Judge Remington Dismissed Proof that Nobody Died at Sandy Hook**
- (3) Judge Remington Set Aside Reports of Two Forensic Document Experts**
- (4) Judge Remington denied Dr. Fetzer Discovery on his Counterclaims**
- (5) Judge Remington Refused to Admit Proof that Noah Pozner is a Fiction**

(6) Judge Remington Refused to Acknowledge Dr. Fetzer as a Media Person

(7) When Dr. Fetzer tried to Expose the Impostor, he was Sanctioned

Dr. Fetzer submits that parallel arguments apply, which means that the Plaintiff-Respondent (with complicity of Judge Remington) has committed the offenses alleged.

CONCLUSION

Dr. Fetzer's submission of the scan of a purported passport—which does not comply with Department of State requirements and is fraudulent on its face—establishes that there were further grounds for submission to a jury, where the current proposal to sanction Dr. Fetzer has no basis in fact on multiple grounds. The alleged violation of the confidentiality of a deceased child's passport number is thus null and void:

- (a) Such sanctions would apply only if this were a genuine passport;**
- (b) The party whose image is shown is not the party thereby named;**
- (c) The purported “passport number” is not a valid passport number.**

These points were already proven in Dr. Fetzer's Motion to Expand DNA Testing (**MOJ, Exhibit O**), which was reiterated in **Exhibit Q** and verified by **Exhibit Y**.

The suppression of Dr. Fetzer's proofs on the core issue is inexplicable absent collusion between the Court and Pozner's attorneys to perpetrate Fraud upon the Court in violation of 18 USC §241 and 242 *Violation of Constitutional Rights Under Color of Law*, of Wis. Stat. 807.12 Suing by fictitious name or as unknown, Wis. Stat. 943.392 Fraudulent Data Alteration. Wis. Stat. 946.31 Subornation of Perjury Wis. Stat. 946.65 Obstructing Justice, and of the State of Wisconsin Code of Judicial Conduct, Ch. 60, especially SCR 20:3.1, *Meritorious claims and contentions* and SCR 20.3.3 *Candor toward the tribunal*. Circuit Court Judge Frank Remington bears responsibility for allowing this fraud to take place in his Dane County Courtroom

and seeks to protect himself and complicit Pozner attorneys from their unjust acts.

And the improper purpose of these sanctions becomes apparent when you look at the issues Dr. Fetzer would be prohibited from addressing (absent supervision by an attorney, whom it would be practically impossible to find) as Judge Remington has enumerated in his Decision and Order of October 10, 2024 (**Exhibit A, page 9**). False information can NEVER be protected by a court, no matter the number of times a court asserts otherwise. Plaintiff-Respondent has been unable to prove the “Noah Pozner” passport is valid, and therefore a candidate for protection, because it is counterfeit—evinced by the failure to even deny any of Dr. Fetzer’s lines of proof, which appropriately qualify as legal admissions, including seven (7) key aspects that invalidate the case against Dr. Fetzer.

There are parties who clearly deserve to be sanctioned for their gross and illegal misconduct, including the fabrication of evidence and the subornation of perjury. Their names are Jake Zimmerman, Genevieve Zimmerman, and Emily Feinstein, the Pozner attorneys, and Judge Frank D. Remington, who, under these extraordinary circumstances, deserve to have their licenses revoked. The harm to Dr. Fetzer’s honor and reputation, not to mention time and expense, has been extremely unjust, and probably beyond repair. But the effort should be made. Reverse this case in its entirety and sanction those who deserve to be sanctioned. Justice requires no less.

Electronically signed by:

/ James H. Fetzer, Ph.D. /

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Signed this 11th day of January 2025