

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,

CASE NO. 2018-CV-003122

Plaintiff,

vs.

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

DEFENDANT FETZER'S PROPOSED UNDISPUTED FINDINGS OF FACT

Defendant James Fetzer (hereinafter "Defendant") hereby submits his proposed findings of fact in support of his Motion for Summary Judgment on Plaintiff's claims dated 30 April 2019. The term "Motion" is used, below, as a substitute for "Fetzer Affidavit," since he has sworn under oath to the veracity of the factual statements in the Motion.

1. Plaintiff Leonard Pozner (hereinafter "Plaintiff") engaged in around 100 hours of phone conversations with Kelley Watt of Tulsa, Oklahoma, over a six-month interval (Watt Aff., ¶9).
2. Kelley Watt has listened to audio of an interview done by Richard Gutjahr and confirmed that the subject of the interview, identified as Leonard Pozner, is absolutely the same man she had those conversations with, who identified himself to her as "Lenny Pozner" (Watt Aff. ¶20).
3. After repeatedly asking Plaintiff for his son Noah's death certificate and other materials, Kelley Watt received the following email:

On Monday, May 12, 2014, Len Pozner <lpozner@ymail.com> wrote:

Take a look on my google page lenpoz.com

The documents posted there may interest you

Lenny

(The actual email is in Defendant's Errata; it was referred to but not quoted in Ch. 11, p. 184, of *Nobody Died At Sandy Hook: It was a FEMA Drill to Promote Gun Control*, on p. 49 of 51 of the Motion, Exhibit 3 to Watt Aff.; Watt Aff. ¶¶17-18.)

4. The web address lenpoz.com directs to a Google Plus page with the address <https://noahpozner.blogspot.com>, which has numerous family photos of "Noah Pozner" on it, all posted by "Lenny" and bearing the label "Lenny Pozner" (admission of a party opponent per Wis. Stat. 908.01(4)(b)(1)).

5. Kelley Watt found the death certificate for "Noah Samuel Pozner" posted on the above website, which says it is owned by Leonard Pozner. She provided that death certificate to Defendant (Motion, p. 2; Watt Aff.).

6. It is attached to Defendant's Motion for Summary Judgment as Exhibit B (Motion, p. 2).

7. Exhibit B is the version Defendant wrote about in the book, *Nobody Died At Sandy Hook: It was a FEMA Drill to Promote Gun Control* (2015; 2nd edition, 2016) and concluded to be a fake, a forgery, or a fabrication. (Motion, pp. 1, 9-10.)

8. Chapter 11, "Are Sandy Hook Skeptics Delusional with 'Twisted Minds,'" was co-authored by Defendant and Kelley Watt, and is identical in both editions (Watt Aff., ¶10).

9. Defendant and Kelley Watt addressed the death certificate that Plaintiff gave to Kelley Watt (Exhibit B) in that chapter (Exhibit 3 to Watt Aff.).

10. Exhibit B to Defendant's Motion for Summary Judgment is the death certificate purporting to be of "Noah Samuel Pozner" that Defendant has repeatedly asserted to be a fake, a forgery and a fabrication in Chapter 11 of the book and many blogs, videos and interviews (Motion, pp. 2, 3; Exhibit B).

11. The document Plaintiff attached to his Complaint, which he has represented to the Court as the death certificate of his son “N.P.”—Exhibit A to Defendant’s Motion for Summary Judgment—contains much of the same information as Exhibit B (Exhibit A; Exhibit B; Motion).
12. Exhibit A has distinct differences from Exhibit B (Motion, pp. 2-5, 8-10).
13. Exhibit A has a state file number, while Exhibit B does not (Exhibit A; Exhibit B).
14. Exhibit A bears the words “boxes 12 & 22 corrected as per Father 6/14/13 Leonard Pozner” and has the address “37 Alpine Circle” lined out in boxes 12 and 22, with a new address “3 Kale Davis Road” typed in.
15. Exhibit A, to the extent to which it is discernible, has relatively uniform texture and tone while Exhibit B displays obvious differences in tone and texture, where the bottom has a dark cast that is missing from the top (Exhibit A, Exhibit B).
16. Defendant has stated that this difference arises because the document is a fabrication using the bottom of an authentic death certificate with the top half of a fake (Motion, p. 3).
17. Exhibit A is not the death certificate that Defendant has repeatedly asserted to be a fake, a forgery or a fabrication in the book or in many blogs, videos and interviews (Motion, p. 2).
18. Defendant had published no statements whatsoever about Exhibit A prior to this suit, which he had not previously seen (Motion, p. 2).
19. Exhibit B is an uncertified copy or version of a death certificate purporting to be of “Noah Samuel Pozner” (Motion, pp. 4-5; Exhibit B).
20. The Town Clerk is the Registrar of Vital Statistics within each Connecticut town. (Conn. Gen. Stat. Sec. 7-37(a)).

21. In Newtown, CT, the Registrar of Vital Statistics in 2012 was Debbie Aurelia (Exhibit A; Exhibit B; Motion, p. 4). She has since changed her name to Debbie Aurelia Halstead (judicial notice).
22. The town registrar registers the original death certificate and submits a certified copy to the State Department of Public Health and Vital Statistics, which then can also issue certified copies itself. (Conn. Gen. Stat. §7-42).
23. The Registrar of Vital Statistics in each town has an official seal provided by the town, which is required to be used to authenticate certificates and copies of record. (Conn. Gen. Stat. Sec. 7-40).
24. Debbie Aurelia's signature at the bottom of the death certificate is not the required certification of authenticity of the copy, but is, instead, her declaration of when the certificate was received by her for recording (Exhibit B; Motion, p. 4).
25. There is no certification of authenticity of the copy on Exhibit B; no attestation of it as authentic; and no official town seal (Exhibit B).
26. Under Connecticut law, no one but an approved genealogical researcher or state or federal agency can obtain an uncertified copy of a death certificate (Conn. Gen. Stat. 7-51a).
27. The uncertified death certificate, Exhibit B, was created in violation of law and is a forgery (Conn. Gen. Stat. 7-51a; Motion, pp. 5, 6).
28. Because Exhibit B was posted on lenpoz.com, Plaintiff was in possession of Exhibit B (which necessarily follows from its presence on his website).
29. Exhibit B, in box 39, has "No" checked to the question, "WAS AN AUTOPSY PERFORMED?" (Exhibit B).

30. Plaintiff has filed with the Court an autopsy report for “Noah Samuel Pozner” attached to Plaintiff’s “Motion for Paternity Testing” (Exhibit C).
31. The statement in box 39 of Exhibit B is false (which necessarily follows from Exhibit C).
32. Exhibit A has the same false indication in box 39 (necessarily follows).
33. No medical personnel ever entered Sandy Hook Elementary School during the day of 14 December 2012 (Exhibit D; Motion, p. 8).
34. Then-Chief State Medical Examiner H. Wayne Carver II, M.D. said publicly that the bodies were not brought out of the school until sometime during the night after the 14 December 2012 event at Sandy Hook Elementary School, under cover of darkness (Motion, p. 8, n. 4).
35. No medical professional declared anyone dead inside Sandy Hook Elementary School during the day on 14 December 2012 (necessarily follows from the above).
36. The Official Report by Danbury State’s Attorney Stephen Sedensky III says the shooting took place between 9:30 AM and 9:41 AM (“Errata to Defendant’s Motion for Summary Judgment”; <https://portal.ct.gov/-/media/DCJ/SandyHookFinalReportpdf.pdf>, p. 9).
37. The 11:00 AM time of death stated on both Exhibit A and Exhibit B is thus false (follows from the four previous findings).
38. Sandy Hook Elementary School is within the Town of Newtown (judicial notice; Motion, pp. 4, 6).
39. The death of “Noah Samuel Pozner” was registered in the Town of Newtown on 26 December 2012, as established by the dated signature of Debbie Aurelia on both Exhibit A and Exhibit B (Motion, p. 6).
40. No burial permit could legally issue for “Noah Samuel Pozner” until after the registration of his death, which occurred on 26 December 2012 (Motion, pp. 6-7).

41. There was no permit for the burial of “Noah Samuel Pozner” on 17 December 2012 (Motion, pp. 6-7; follows from foregoing finding).
42. “Noah Samuel Pozner” was not buried on 17 December 2012 (follows necessarily from foregoing findings).
43. Defendant’s published statements about different typefaces and pitches used in various boxes; lack of certification; and different shading on Exhibit B are true (Exhibit B; Motion, pp. 2-3, 8-10).
44. Exhibit A does not bear the official seal of the town registrar certifying the authenticity of the copy (Motion, p. 8).
45. Neither Exhibit A nor Exhibit B is on safety paper, meaning the certificates could the more easily have been forged (Exhibit A; Exhibit B; judicial notice).
46. Exhibit B, because it is uncertified, violates Connecticut law and is therefore a fake, a forgery and a fabrication (Motion, pp. 4-6).
47. Exhibit A, because it contains a false indication of nonperformance of an autopsy, is a fake, a forgery and a fabrication (Exhibit A; Motion, p. 6).
48. Exhibit B, because it contains a false indication of nonperformance of an autopsy, is a fake, a forgery and a fabrication (Exhibit B; Motion, p. 6).
49. Exhibit A, because it contains a false statement about time of death, is a fake, a forgery and a fabrication (Exhibit A; Exhibit D; Motion, pp. 7-8; Sedensky Report; Errata).
50. Exhibit B, because it contains a false statement about time of death, is a fake, a forgery and a fabrication (Exhibit B; Exhibit D; Motion, pp. 7-8; Sedensky Report; Errata).

51. Exhibit A bears a date of receipt of the death certificate by the town registrar more than five days after death, in violation of Connecticut law, and therefore is a fake, a forgery and a fabrication (Exhibit A; Motion, pp. 6-7).

52. Exhibit B bears a date of receipt of the death certificate by the town registrar more than five days after death, in violation of Connecticut law, and therefore is a fake, a forgery and a fabrication. (Exhibit B; Motion, pp. 6-7).

53. Since Dr. Carver checked “No” to the question, “WAS AN AUTOPSY PERFORMED,” in box 39, and signed the death certificate which is Exhibit A, even while completing a Post-Mortem Examination Report on the same day, 15 December 2012, he made a material misrepresentation on the death certificate, which is a crime (Exhibit A; Motion, p. 7).

54. Since Dr. Carver checked “No” to the question, “WAS AN AUTOPSY PERFORMED,” in box 39, and signed the death certificate which is Exhibit B, even while completing a Post-Mortem Examination Report on the same day, 15 December 2012, he made a material misrepresentation on the death certificate, which is a crime (Exhibit B; Motion, p. 7).

55. Exhibit A is not an authentic death certificate issued by the State of Connecticut (necessarily follows from the foregoing).

56. Plaintiff and his lead counsel Jacob S. Zimmerman both knew, or should have known, before filing this suit, that Exhibit A was not an authentic death certificate issued by the State of Connecticut (necessarily follows from the foregoing).

57. Death reportedly occurred on Friday, 14 December 2012, and five business days later is 21 December, not 26 December 2012. Thus, the registration of the death on 26 December 2012, violated Connecticut law (Motion, pp. 6-7).

58. Because both Exhibit A and Exhibit B state the death was not registered until 26 December 2012, funeral director Samuel Green violated the law requiring registration of the death within five business days (necessarily follows from the foregoing).

59. The paramedic who declared “N.P.” dead at 11:00 AM, as referenced in the autopsy report, is unnamed, because no medical professional entered the school during the day (Exhibit C; Exhibit D; Motion, pp. 7-8; Sedensky Report, p. 9; Errata).

60. The statement of declaration of death at 11:00 AM is false on the autopsy report provided to this Court by Plaintiff (Exhibit C).

61. Both state and town certifications of the copy of the death certificate appear on Exhibit A (Motion, p. 8).

62. There is no raised seal accompanying either certification on the copy of Exhibit A which Plaintiff served on Defendant (Motion, p. 8).

63. Exhibit A—putatively certified by the state, but lacking the seal—does not comport with the state’s legal requirements for authenticity (necessarily follows from preceding findings).

64. To the extent to which both death certificates are similar, the differences in font types, styles and sizes in both Exhibits A and B support Defendant’s additional allegations of fabrication (Motion, pp. 9-10).

65. The use of typewriters rather than computers makes these variations easy to spot, such as in the downward slope of the name “Noah Samuel Pozner” on both certificates (Motion, pp. 8-9).

66. At the very top in box 3, where the date is posted, the type is clearly smaller than the rest of the page (Exhibit A; Exhibit B; Motion, pp. 8-10).

67. The capital “A” in Alpine in box 12 for RESIDENCE is identical to the capital “A” in Alpine in box 22 for MAILING ADDRESS and is also identical to the capital “A” in Abraham in box 33 for FUNERAL FACILITY (Exhibit A; Exhibit B; Motion, pp. 8-10).

68. The capital “A” in question above in three different boxes has a small flag at its pinnacle (Exhibit A; Exhibit B; Motion, pp. 8-10).

69. Comparing the capital “A” in findings 67 and 68, without the small flag in box 4, ACTUAL OR PRESUMED TIME OF DEATH, box 26, CITY OR TOWN OF DEATH & ZIP CODE, box 27, COUNTY OF DEATH, box 38, TIME PRONOUNCED, and in box 46, TIME OF INJURY, compels the conclusion that they are not the same (Exhibit A; Exhibit B; Motion, pp. 8-10).

70. Comparing “Noah,” in box 1, DECEDENT’S LEGAL NAME, with “November,” in box 7, Date of Birth (MM/DD/YYYY), compels the conclusion that the spacing between the “N” and the “o” is quite different (Exhibit A; Exhibit B; Motion, pp. 8-10).

71. Comparing “Samuel,” in box 1, DECEDENT’S LEGAL NAME, with “Sandy,” in box 11, RESIDENCE, compels the conclusion that the spacing between the “S” and the “a” is not the same (Exhibit A; Exhibit B; Motion, pp. 8-10).

72. The entire spacing in box 1 is unlike any other in Exhibit B, as reported on pages 182-183 of *Nobody Died At Sandy Hook: It was a FEMA Drill to Promote Gun Control*. The spacing between “N” and “o” in box 1 and box 7 is clearly different (Exhibit A; Exhibit B; Motion, pp. 8-10).

73. Comparing “Pozner” in box 1, DECEDENT’S LEGAL NAME, with “Pozner” in box 20, INFORMANT’S NAME, compels the conclusion that they are not the same (Exhibit A; Exhibit B; Motion, pp. 8-10).

74. These variations indicate that the document was created at different times using different typewriters or different type-balls with a typewriter (Exhibit A; Exhibit B; Motion, pp. 8-10).

75. Defendant contends that, insofar as Exhibit A is the same as Exhibit B in these respects, the latter is inauthentic, too, and is a fake prepared as such by the State of Connecticut (Exhibit A; Exhibit B; Motion, pp. 8-10; follows from above findings).

76. The faint imitation of a circular seal on the bottom left of Exhibit B is not where the seal from the town should be placed, another indication of fakery, since no seal is required for the registrar's statement of receipt of the record.

77. The differences between Exhibit A and Exhibit B are material (necessarily follows).

78. Defendant's assertions about Exhibit B are substantially true (necessarily follows).

79. The false time of death, false indication of no autopsy, late 26 December receipt by Debbie Aurelia, and absence of a raised seal establish that Exhibit A is also a fake, a forgery and a fabrication (necessarily follows).

80. Since Defendant's statements are substantially true, Defendant did not publish statements with reckless disregard of whether they were true or false.

81. Plaintiff has secured opinion pieces in some of the nation's largest newspapers, and appearances in front of the nation's largest broadcasters (Motion, p. 14).

82. Plaintiff instigated a campaign to get Professor James Tracy fired from his tenured teaching position at Florida Atlantic University for publicly sharing his private doubts and concerns about the official narrative of the Sandy Hook Elementary School event on his own personal blog (Motion p. 14).

83. Plaintiff's successful venture against Professor Tracy was extensively covered by the print, broadcast and digital media worldwide at the time (Motion, p. 14).

- 84. Plaintiff has voluntarily thrust himself to the forefront of, and become a key figure in, the Sandy Hook controversy in order to influence the resolution of the issues involved (Motion, p. 14, reciting statements from Plaintiff's Complaint).
- 85. Plaintiff is a limited-purpose public figure (Motion, p. 14).
- 86. Malice is not an issue because Defendant's statements are substantially true (Motion, pp. 14-15). Defendant exhibited no malice.
- 87. Exhibit B is a forgery due to the violations of Connecticut law revealed on its face (Motion, p. 15 and *passim*).
- 88. Defendant made no publication of any statement relating to Exhibit A prior to being served with this lawsuit (Motion, *passim*).
- 89. Defendant made no "recklessly defamatory publication" relating to either Exhibit A or Exhibit B (Motion, pp. 14-15).
- 90. Defendant's description of Exhibit B as a fake, a forgery and a fabrication was true prior to this lawsuit and has received considerable further substantiation in the course thereof, as established in the Motion (Motion, *passim*).

Signed: James Fetzer
James Fetzer

STATE OF WISCONSIN)
)
COUNTY OF DANE)

Subscribed and sworn to before me this 13 day of May, 2019, by James Fetzer.

WITNESS MY HAND AND OFFICIAL SEAL:

Melissa Woodson
Notary Public

My commission expires: 7/6/2019

