

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,
Plaintiff,

vs.

Case No. 18CV3122

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

PLAINTIFF'S STATEMENT OF PROPOSED UNDISPUTED FACTS

Plaintiff Leonard Pozner, by his attorneys, submits the following Statement of Proposed Undisputed Facts ("PPUF") in support of his Motion for Summary Judgment:

NOAH POZNER (NOVEMBER 20, 2006 - DECEMBER 14, 2012)

PPUF No. 1: Plaintiff and Veronique De La Rosa were married in 2003, but divorced in 2014. (Pozner Aff. ¶ 21.)

PPUF No. 2: Noah Samuel Pozner was born at 8:34 A.M. on November 20, 2006 at the Danbury Hospital in Danbury, Connecticut to Leonard Pozner and Veronique Pozner (now known as Veronique De La Rosa). (See Zimmerman Aff. ¶ 4 & Ex. C; see also Zimmerman Aff. Ex D at 27.)

PPUF No. 3: The attending physician was Dr. Daniel Goldstein. (Zimmerman Aff. Ex. D at 27.)

PPUF No. 4: Noah Pozner's mother, Ms. De La Rosa, delivered twins—one boy and one girl. (See Zimmerman Aff. ¶ 4, Ex. C; see also Zimmerman Aff. Ex D at

27 (reflecting “multiple gestation” and delivery details regarding twin babies).)

PPUF No. 5: Until he was named, Noah Pozner was referred to in his medical records as “Baby A” or “Pozner, NBM A”. *See Zimmerman Aff.* ¶ 4, Ex. C; *see also Zimmerman Aff. Ex D at 27* (reflecting “multiple gestation” and delivery details regarding twin babies).)

PPUF No. 6: At birth, Noah Pozner weighed 7 lbs, 2 oz and he was 19 ¾” long. (*See Zimmerman Aff. Ex D.*)

PPUF No. 7: Noah Pozner’s blood type was B positive. (*See Zimmerman Aff. Ex D at 10.*)

PPUF No. 8: Noah Pozner’s medical records reflect information that would typically accompany a childbirth, such as charts containing his temperature, pulse readings, lung sounds, skin color, and hearing test. (*See Zimmerman Aff. Ex D at 11, 25.*)

PPUF No. 9: Noah Pozner’s birth records also indicate he was a healthy baby by noting he passed urine and stool. (*See Zimmerman Aff. Ex D at 32.*)

PPUF No. 10: Noah Pozner was discharged from the Danbury Hospital on November 24, 2006. (*Zimmerman Aff. Ex D at 2.*)

PPUF No. 11: Noah Pozner’s discharge records include left and right footprints. (*See Zimmerman Aff. Ex D at 37.*)

PPUF No. 12: Medical bills evidencing Noah Pozner’s birth were prepared by the hospital, sent to Blue Cross Blue Shield of Connecticut, and reflect Blue Cross’s payment to the hospital. (*Zimmerman Aff. Ex. E.*)

PPUF No. 13: Noah Pozner's Connecticut Birth Certificate was registered on November 30, 2006. (*See Zimmerman Aff. Ex. C.*)

PPUF No. 14: Noah Pozner's live birth was certified by Dr. Daniel Goldstein. (*See Zimmerman Aff. Ex. C.*)

PPUF No. 15: Noah Pozner's father is Leonard Pozner. (Pozner Aff. ¶ 4; *see also Zimmerman Aff. Ex. C.*)

PPUF No. 16: Noah Pozner is Leonard Pozner's only son. (Pozner Aff. ¶ 4.)

PPUF No. 17: On December 12, 2006, Noah Pozner was issued a social security number by the United States Social Security Administration. (*See Zimmerman Aff. Ex. G; Pozner Aff. Ex. C.*)

PPUF No. 18: As a 3 year old, Noah Pozner received three stitches at the Danbury Hospital emergency room for a cut on his forehead. (*Zimmerman Aff. Ex. D at 39.*)

PPUF No. 19: Later that same year, Noah Pozner was back at the ER for a bad cough and fever and, following an x-ray, he was diagnosed with croup. (*Zimmerman Aff. Ex. D at 60-67, 75.*)

PPUF No. 20: Noah Pozner's immunization record reflects dates of immunization from 2007-2011. (*Zimmerman Aff. Ex. H at 8 (certified copy of Noah Pozner pediatric records).*)

PPUF No. 21: Noah Pozner was treated for head lice and also received a flu shot in September of 2011. (*Zimmerman Aff. Ex. H at 15.*)

PPUF No. 22: Noah Pozner's well-child visit in February of 2012 is the last

pediatrician visit reflected in his certified pediatric medical records. (Zimmerman Aff. Ex. H at 37-38.)

PPUF No. 23: Noah Pozner was also listed as a dependent on Plaintiff's tax returns for several years leading up to his death. (Pozner Aff. ¶ 19.)

PPUF No. 24: Noah Pozner died on December 14, 2012. (See Zimmerman Aff. Ex. I.)

PPUF No. 25: Noah Pozner was declared dead by paramedics at 12 Dickinson Drive in Sandy Hook, Connecticut at 11:00 on December 14, 2012. (See Zimmerman Aff. Ex. I (Report Investigation section); see also Zimmerman Aff. Ex. J (death certificate) & K (Probate Court Order); Pozner Aff. ¶ 13 & Ex. B.)

PPUF No. 26: Sandy Hook is a community within Newtown, Connecticut. (Pozner Aff. ¶ 15.)

PPUF No. 27: The certified United States Social Security Administration data states that Noah Pozner died on December 14, 2012. (Zimmerman Aff. Ex. G.)

PPUF No. 28: Dr. H. Wayne Carver, II, the Chief Medical Examiner for the State of Connecticut, certified that he performed a post-mortem examination of Noah Pozner early the following day. (See Zimmerman Aff. Ex. I.)

PPUF No. 29: That post-mortem examination was documented in a report (the "Medical Examiner's report"). (See Zimmerman Aff. Ex. I.)

PPUF No. 30: The certified report for M.E. Case No. 12-17064 describes the deceased as a preadolescent male 47" tall and weighing 61 lbs. (See Zimmerman Aff. Ex. I.)

PPUF No. 31: The Medical Examiner's Office took a tissue sample of cardiac blood. (*See Zimmerman Aff. Ex. I.*)

PPUF No. 32: DNA analysis of that cardiac blood establishes a 99.99% probability that the body on the medical examiner's table was Leonard Pozner's only son, Noah Samuel Pozner. (Affidavit of Dr. Alan Friedman ¶¶ 11-13 & Ex. C; *see Zimmerman Aff. Ex. I; see also Pozner Aff. ¶ 4.*)

PPUF No. 33: According to the Medical Examiner's report, Noah Pozner suffered multiple gunshot wounds. (*See Zimmerman Aff. Ex. I.*)

PPUF No. 34: One went through Noah Pozner's chest, penetrating both lungs and his upper arm. (*See Zimmerman Aff. Ex. I.*)

PPUF No. 35: One went through Noah's left hand. (*See Zimmerman Aff. Ex. I.*)

PPUF No. 36: The last went through Noah's lower lip and jaw. (*See Zimmerman Aff. Ex. I.*)

PPUF No. 37: The Medical Examiner's report lists the cause of Noah Pozner's death as "multiple gunshot wounds." (*See Zimmerman Aff. Ex. I.*)

PPUF No. 38: Noah Pozner's death certificate is on a standard Connecticut form, VS-4ME. (*See Zimmerman Aff. Ex. J (certified copy of Noah Pozner's death certificate); Pozner Aff. Ex. B; see also Affidavit of Samuel Green ("Green Aff.") ¶ 7.*)

PPUF No. 39: The "ME" indicates that his death was investigated by the medical examiner. (*See Zimmerman Aff. Ex. J; Pozner Aff. Ex. B; Green Aff. ¶ 7.*)

PPUF No. 40: Boxes 3, 4, 23-27, and 36-53 of Noah Pozner's death certificate were completed by the medical examiner, who certified that the information was

correct. (Green Aff. ¶ 10; Zimmerman Aff. Ex. J.)

PPUF No. 41: Noah Pozner's certified death certificate likewise states that Noah Samuel Pozner was pronounced dead at 11:00 AM on December 14, 2012. (*See* Zimmerman Aff. Ex. J; Pozner Aff. Ex. B.)

PPUF No. 42: Noah Pozner's death certificate identifies the related Medical Examiner's case number as 12-17604, the same report number on Noah Pozner's medical examiner's report described above. (*See* Zimmerman Aff. Exs. I & J.)

PPUF No. 43: The death certificate also states that Noah Pozner's cause of death was "multiple gunshot wounds." (*See* Zimmerman Aff. Ex. J; Pozner Aff. Ex. B.)

PPUF No. 44: The Chief Medical Examiner certified the time, date, place, and cause of his death. (*See* Zimmerman Aff. Ex. J; Pozner Aff. Ex. B.)

PPUF No. 45: The certified death certificate bears an embossed seal. (*See* Pozner Aff. ¶ 13; *see also* Zimmerman Aff. Ex. L at 181 (embossed seal is visible in bottom left of image in Defendants' book).)

PPUF No. 46: The certified death certificate reflects amendments made by the Newtown Vital Records Office in 2013 to reflect Noah Pozner's permanent address. (Zimmerman Aff. Ex. J; *see also* Pozner Aff. ¶ 17.)

PPUF No. 47: After the medical examiner was done with Noah Pozner's post-mortem examination, Noah's body was released to the Abraham L. Green and Son Funeral Home. Green Aff. ¶ 4.

PPUF No. 48: Noah Pozner's death certificate, at that point incomplete, was

also released to Abraham L. Green and Son Funeral Home. (Green Aff. ¶ 4.)

PPUF No. 49: Abraham L. Green and Son Funeral Home prepared Noah Pozner's body for burial. (*See* Green Aff. ¶¶ 3, 16.)

PPUF No. 50: Samuel Green has worked at the Abraham L. Green and Son Funeral Home for 41 years. (*See* Green Aff. ¶ 3.)

PPUF No. 51: Mr. Green personally prepared Noah Pozner's body for burial. (*See* Green Aff. ¶ 16.)

PPUF No. 52: He personally filled out his respective portions of Noah Pozner's death certificate. (Green Aff. ¶¶ 9, 12.)

PPUF No. 53: The portions of the death certificate entered by Mr. Green are unchanged from what Mr. Green filled out on that form in December of 2012. (Green Aff. ¶ 13.)

PPUF No. 54: Mr. Green personally observed Noah Pozner's body in his casket. (*See* Green Aff. ¶¶ 16-17.)

PPUF No. 55: Among other things, Mr. Green performed "restorative procedures" on Noah Pozner's face using a photo to see what Noah looked like prior to his death. (*See* Green Aff. ¶¶ 16; *see also* Pozner Aff. ¶ 5.)

PPUF No. 56: To assist him in that effort, Mr. Green relied on a photo to see what Noah looked like prior to his facial injury. (Green Aff. ¶ 16; *see also* Pozner Aff. ¶ 5.)

PPUF No. 57: Mr. Green confirmed that the deceased boy is the boy in the photo he relied on for these restorative procedures. (Green Aff. ¶ 17; *see also* Pozner

Aff. ¶ 5.)

PPUF No. 58: Mr. Green personally entered the required information into boxes 1, 2, 5-22, 28-35, 54-58, and the decedent's social security number. (*See Green Aff. ¶ 12.*)

PPUF No. 59: Mr. Green testified in his sworn affidavit that the information visible in the copy of Noah Pozner's birth certificate released by Leonard Pozner appears unchanged from the information that Mr. Green entered in 2012. (*See Green Aff. ¶ 13.*)

PPUF No. 60: Mr. Green signed the death certificate in box 34. (*See Green Aff. ¶ 14.*)

PPUF No. 61: Mr. Green used that death certificate to obtain a burial permit for Noah Pozner's body from the town of Fairfield, which is the town in which his funeral home is located. (*See Green Aff. ¶ 15.*)

PPUF No. 62: Noah Pozner's funeral service was held at Mr. Green's funeral home. (*Green Aff. ¶ 18.*)

PPUF No. 63: Mr. Green remembers this funeral service because it was the only time in his career that the police swept his funeral home for bombs prior to a funeral service and the door to the chapel was closed, locked, and guarded by state and local police. (*See Green Aff. ¶ 18.*)

PPUF No. 64: Following Noah Pozner's death, Plaintiff was appointed administrator of Noah Pozner's estate by the Connecticut Probate Court. (*Zimmerman Aff. Ex. K (Probate Court Order).*)

PPUF No. 65: The order includes a judicial finding that Noah Samuel Pozner died on December 14, 2012. (*See Zimmerman Aff. Ex. K.*)

PPUF No. 66: The copy of the death certificate released by Mr. Pozner in 2014 is a certified record issued by the Newtown clerk and the State of Connecticut Office of Vital Records. (*See Pozner Aff. ¶ 13; Zimmerman Aff. ¶ 11 & Ex. J.*)

PPUF No. 67: Plaintiff did not possess Noah Pozner's death certificate before it was registered with the records clerk. (*See Pozner Aff. ¶ 14; Green Aff. ¶ 5.*)

PPUF No. 68: Plaintiff's counsel obtained one certified copy of the death certificate via the State Vital Records Office shortly before this case was filed. (*Zimmerman Aff. ¶ 11.*) That document was attached to Plaintiff's Complaint. (*See Doc. #1.*)

PPUF No. 69: Wrongs Without Wremedies also obtained a certified copy of the death certificate from the Newtown Vital Records Office after the Complaint was filed. (*See Zimmerman Aff. Exs. R (Wrongs Response to RTA No. 11) & W (Wrongs Supplemental Response to RTA No. 14).*)

SANDY HOOK HOAXERS

PPUF No. 70: Within weeks of the 2012 tragedy at Sandy Hook Elementary School, conspiracy theorists began claiming that the shooting was fake. (*See, e.g., Zimmerman Aff. Ex. L at 312-13.*)

PPUF No. 71: Some of these conspiracy theorists, like Fetzer, argued that the Sandy Hook victims were murdered by the Israeli Mossad. (*See Zimmerman Aff. ¶ 15 & Exs. N & O (Fetzer Responses to RTA Nos. 15-16).*)

PPUF No. 72: Other conspiracy theorists, including James Tracy, claimed that

the families are “crisis actors” and that no one actually died. (See Pozner Affidavit ¶ 8; see also Zimmerman Aff. Ex. O (Fetzer Response to RTA No. 26.)

PPUF No. 73: Other conspiracy theorists, like Alex Jones, claimed that Sandy Hook was an “inside job.” (Pozner Aff. ¶ 7.)

PPUF No. 74: Fetzer has admitted that in 2013, he published an article that claimed the parents of Sandy Hook victims are crisis actors. (See Zimmerman Aff., Ex. O (Fetzer Response to RTA No. 26).)

PPUF No. 75: Fetzer has referred to Plaintiff specifically as “one of the world’s great liars and frauds”, a “hypocrite”, a “con-artist”, and “among the nation’s most dishonorable men.” (Zimmerman Aff. Ex. A & B (Exhibit A to Fetzer Response to RFP No. 2).)

PPUF No. 76: Fetzer has also admitted that before April of 2014 he “probably” stated that no children were killed at Sandy Hook. (Zimmerman Aff. Ex. O (Fetzer Response to RTA No. 27).)

PPUF No. 77: Fetzer admits to writing several blog posts that refer to Noah Pozner’s death certificate. (Zimmerman Aff. Ex. A (Fetzer Response to RFP No. 7).)

PPUF No. 78: Fetzer admits that by April of 2014, he publicly stated that Noah Pozner was a fictional person. (Zimmerman Aff. Ex. O (Fetzer Response to RTA No. 28).)

PPUF No. 79: Plaintiff initially took no public position on the conspiracy theories, assuming that the conspiracy theorists’ zeal would diminish over time. (Pozner Aff. ¶ 9.)

DEFENDANTS' DEFAMATORY PUBLICATIONS

PPUF No. 80: In May of 2016, Defendants published the “second edition” of their 2015 book, *NOBODY DIED AT SANDY HOOK* (the “Book”). (See Fetzer’s Response to Plaintiff’s Motion to Strike, Doc. #27 at p. 12 (admitting Complaint ¶ 17, Doc. #1, which set forth the defamatory statements); Palacek’s Answer, Doc. #28 at p. 1 (same); Wrongs Answer, Doc. #36 ¶ 17 (same).

PPUF No. 81: The Second Edition of the Book was actually a third edition, with the “First Edition” published in October of 2015 and the second “Banned Edition” being published in December of 2015. (See Zimmerman Aff. Ex. L (copyright page).)

PPUF No. 82: This Second Edition was not a “mere reprinting of the first edition, but is instead described as ‘Expanded’ and ‘Revised.’” (Compare Plaintiff’s Complaint, Doc. #1 ¶ 16 with Wrongs Without Wremedies’ Answer, Doc. #36 ¶ 16; Defendant Palecek’s Answer, Doc. #28 at p. 1 (admitting allegations at ¶ 16 of Plaintiff’s Complaint).

PPUF No. 83: The Book was also published in Defendants’ “Banned Edition” by releasing it as a PDF, which is available for public download. (See Zimmerman Aff. ¶ 24 & Ex. M.)

PPUF No. 84: The existence of multiple editions of the book is confirmed by the title page, which states:

First edition: October 2015
Banned Edition: December 2015.
Second Edition: May 2016

(See Zimmerman Aff Ex. L, Title Page.)

PPUF No. 85: The Preface of the Book states:

The “knowing” goes something like this. . . . Knowing that the evidence shows that nobody died at Sandy Hook, as wild as that sounds. The grieving parents are actors, the school was not a functioning school, only a stage, Gene Rosen, Wayne Carver are insanely ridiculous. Of course there’s more, following, here, in this book in your hands.

(See Zimmerman Aff. Ex. L, Preface at xxii.)

PPUF No. 86: Palacek wrote the Preface to the Book. (See Zimmerman Aff. Ex. L, Preface at ix.)

PPUF No. 87: Palacek also edited the Book. (Complaint ¶ 4; Zimmerman Aff. Ex. O (Fetzer Response to RTA 30); Palacek Answer at 1 (“Defendant affirms paragraph 4”).)

PPUF No. 88: Fetzer wrote, in particular, Chapter 11 of the “Expanded 2016 Revised” version of the Book and also edited the Book. (Complaint ¶ 3; Zimmerman Aff. Ex. O (Fetzer Response to RTA 30).)

PPUF No. 89: Palacek, Fetzer, and Wrongs Without Wremedies entered into a verbal agreement to publish the book containing the defamatory material after the first edition was banned by Amazon in 2015. (See Zimmerman Aff., Ex. O (Fetzer Response to RTA No. 31).)

PPUF No. 90: Moon Rock Books, an entity formed by Fetzer, Palacek, and Wrongs Without Wremedies, published the Book. (Complaint ¶ 5; Zimmerman Aff. Ex. O (Fetzer Response to RTA 31).)

PPUF No. 91: Wrongs Without Wremedies is the owner of Moon Rock Books Publishing, registered with the State of Florida under registration number

G16000003745. (Complaint ¶ 5; Wrongs without Wremedies' Answer Doc. #36 ¶ 5; Zimmerman Aff. Ex. O (Fetzer Response to RTA 31).)

PPUF No. 92: Defendants admit that Defendants Palecek and Defendant Wrongs Without Wremedies “coordinated publication” of the Book “with Mr. Fetzer....” (Complaint ¶ 7; *see* Wrongs Without Wremedies Answer, Doc. # 36 ¶ 7 (failing to deny this aspect of Plaintiff’s allegation); Palecek Answer, Doc. # 28 at p. 1 (failing to deny this aspect of Plaintiff’s allegation; *see generally* Fetzer Answer, Doc. #5 (failing to deny this aspect of Plaintiff’s allegation);.)

PPUF No. 93: The Second Edition of the Book, which contains the statements at issue, was published under the Moon Rocks Books imprint. (*See* Zimmerman Aff. Ex. L, Title Page.)

PPUF No. 94: Wrongs Without Wremedies has admitted that it sold and shipped copies of the book. (*See* Zimmerman Aff. Ex. W (Wrongs Supplemental Response to RTA No. 14).)

PPUF No. 95: The copies encompassed by Defendants’ admission were not shipped to Plaintiff. (Pozner Aff. ¶ 18; *see also* Zimmerman Aff. ¶ 13.)

PPUF No. 96: The Book attributes the Afterward to James Tracy, a conspiracy theorist and former associate professor at Florida Atlantic University. (*See* Zimmerman Aff. Ex. L at 235-43; Pozner Aff. ¶ 8.)

PPUF No. 97: The Afterward describes Mr. Tracy’s view that he was fired because of pressure from Plaintiff and the South Florida Jewish Community. (*See* Zimmerman Aff. Ex. L at 240-241.)

A. Defendants Published Defamatory Statements.

PPUF No. 98: Plaintiff's defamation claim is based, in part, on three statements made in Chapter 11 of the Book related to Noah Pozner's death certificate. (*See* Complaint ¶ 17.) This chapter posits that the entire Sandy Hook tragedy is a hoax, that no children actually died, and that Plaintiff is "posing" as the father of Noah Pozner. (*See* Zimmerman Aff. Ex. L at 178-183.)

PPUF No. 99: The three statements in the Book include:

a. "Noah Pozner's death certificate is a fake, which we have proven on a dozen or more grounds." (*See* Zimmerman Aff. Ex. L at 183; *see also id.* at 177 ("Noah Pozner's death certificate is a fake."))

b. "And when Kelley Watt, who had spent more than 100 hours in conversation with Lenny, told him she did not believe a word he said, that she did not believe he had a son or that his son had died, he sent her a death certificate, which turned out to be a fabrication." (*See* Zimmerman Aff. Ex. L at 232.)

c. "As many Sandy Hook researchers are aware, the very document Pozner circulated in 2014, with its inconsistent tones, fonts and clear digital manipulation, was clearly a forgery." (*See* Zimmerman Aff. Ex. L at 242.)

PPUF No. 100: The statement "Noah Pozner's Death Certificate is a fake, which we have proven on a dozen or more grounds[,]” appears on page 183 of both the Second Edition and the Banned Edition of the Book. (*See* Zimmerman Aff. at Exs. L & M at 183.)

PPUF No. 101: Noah Pozner's death certificate is reproduced on page 242, with the defamatory falsehood in the paragraph beneath the death certificate.

(*See Zimmerman Aff. Ex. L at 242.*)

PPUF No. 102: The Second Edition of the Book includes additional and new defamatory statements that were not part of the earlier editions; specifically, the Epilogue includes new material responsive to an article published in early 2016, well after the 2015 publication date of the first edition. (*See Zimmerman Aff. Ex L at 229-34.*)

PPUF No. 103: Each of these statements listed in PPUF No. 99 are false. (*See Zimmerman Aff. Ex. Q; see also Pozner Aff. ¶ 13.*)

PPUF No. 104: The claim that Plaintiff faked his son's death certificate is a story fabricated by Defendant Fetzer. (*See Zimmerman Aff. Ex. L at 229 (crediting Chapter 11 author James Fetzer).*)

PPUF No. 105: Each of these false statements were made in the context of assertions that Mr. Pozner was part of an effort to deceive the public into believing his son, among others, had been killed at Sandy Hook Elementary School. (*See Zimmerman Aff. Ex. L at 177-86, 229-42.*)

PPUF No. 106: Each Defendant admitted that the statements in the Book accuse Plaintiff of issuing and/or possessing a forged copy of Noah Pozner's death certificate. (*See Wrongs Answer, Doc. #36 ¶ 17 (Defendant admits the allegations in paragraph 17)*); Fetzer's Response to Motion to Strike, Doc. #27 at p. 12 ("Defendant affirms paragraph 17 [of Plaintiff's Complaint] where Defendant has asserted on more than 100 occasions that the death certificate Plaintiff gave to Kelley Watt is a fake and a fabrication"); Palecek Answer at p. 1 ("Defendant affirms paragraph 17");

see also Plaintiff's Complaint ¶ 17 (alleging that the defamatory falsehoods were directed at Plaintiff).)

PPUF No. 107: Fetzer posted another false statement on his blog in 2018: "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." (*See* Zimmerman Aff. Ex. P; *see also* Fetzer's Response to Plaintiff's Motion to Strike, Doc. #27 at p. 12 ¶ 11 (affirming Complaint ¶ 18).)

PPUF No. 108: The statement in PPUF No. 107 is false. (*See* Zimmerman Aff. Ex. Q; *see also* Pozner Aff. ¶ 13.)

PPUF No. 109: Fetzer admitted that the defamatory statement in his blog post refers to Mr. Pozner. (*See* Fetzer's Response to Motion to Strike, Doc. #27 at p. 12 ¶ 11 (affirming Complaint ¶ 18).)

PPUF No. 110: As of April 27, 2019, Defendant Fetzer's defamatory falsehood in his blog post remains accessible on the Internet. (*See* Zimmerman Aff. at ¶ 17 & Ex. P.)

B. Defendants' Statements Were False And Harmed Plaintiff.

PPUF No. 111: In October of 2018, Defendants were notified that their language was defamatory. (*See* Zimmerman Aff. Ex. Q.)

PPUF No. 112: The notice letter explained that Noah Pozner's death certificate was not counterfeit, and informed them that they could obtain a certified copy directly from the State of Connecticut. (*See* Zimmerman Aff. Ex. Q.)

PPUF No. 113: The letter requested a full retraction. (*See Zimmerman Aff. Ex. Q.*)

PPUF No. 114: No such retraction occurred. (*See Zimmerman Aff. Ex. W (Wrongs Supplemental Response to RTA No. 14).*)

PPUF No. 115: Wrongs Without Wremedies claims that: “Plaintiff made no complaints for over three years from the filing of this lawsuit. Defendant was led to believe Plaintiff had no objections to the contents of both editions of the book.” (*Zimmerman Aff. Ex. T (Wrongs Response to Interrogatory No. 3).*)

PPUF No. 116: Infowars personnel discussed distancing themselves from Defendant’s theories that Plaintiff faked his son’s death certificate, characterizing Fetzer as “bat[] crazy.” (*Zimmerman Aff. at Ex. V (expletive omitted).*)

PPUF No. 117: Recently, Fetzer has admitted that a “definitive, official death certificate, certified by the State of Connecticut” was issued and he presented no argument, much less evidence, that the top half of that document was fake and the bottom real. (*See Zimmerman Aff. Ex. S (referencing Death Certificate #5).*)

PPUF No. 118: Plaintiff has suffered severe humiliation and other emotion anguish and distress as a result of the accusations in Defendants’ Book. (*Pozner Aff. ¶ 22.*)

PPUF No. 119: Fetzer and Wrongs Without Wremedies have failed to specify the basis for their affirmative defense that Plaintiff suffered no damages. (*Zimmerman Aff. Ex. T (Wrongs Response to Interrogatory No. 4) & U (Fetzer Response to Interrogatory No. 4).*)

PLAINTIFF'S PUBLIC PRESENCE

PPUF No. 120: Plaintiff had no public presence until he was forced to defend his character and that of his family, including his murdered son, from false aspersion. (*See* Pozner Aff. ¶¶ 9-12.)

PPUF No. 121: Plaintiff initially took no public position on the conspiracy theories, assuming that the conspiracy theorists' focus would shift and he and his family would be left in peace. (Pozner Aff. ¶ 9.)

PPUF No. 122: Eventually, following relentless harassment of Plaintiff and disparagement of the memory of Plaintiff's deceased son by Defendant Fetzer and others, Plaintiff felt compelled to defend the memory of his deceased son. (*See* Pozner Aff. ¶¶ 10-11.)

PPUF No. 123: Plaintiff released information that demonstrated that his son was in fact, a real boy who, in fact, really died. (*See* Pozner Aff. ¶ 11.)

PPUF No. 124: When Plaintiff released this information in May of 2014, it was not accompanied by a press release, interviews, or even a narrative. (*See* Pozner Aff. ¶¶ 11, 13, 16.)

PPUF No. 125: Plaintiff uploaded a handful of documents, including Noah Pozner's certified birth certificate and certified death certificate, to his son's memorial page. (Pozner Aff. ¶ 11.)

PPUF No. 126: Plaintiff's public statements, interviews, and opinion pieces all relate to activities Plaintiff undertook *after* he was accused by Defendants and their associates of being a crisis actor and being complicit in faking the existence and death of his son in an effort to deceive the public. (Pozner Aff. ¶¶ 7-

12; *see* Zimmerman Aff. Ex. U (Fetzer Response to Interrogatory No. 1).)

PPUF No. 127: Defendants claim that Plaintiff is a limited purpose public figure. (*See* Zimmerman Aff. Exs. T (Wrongs Response to Interrogatory No. 1) & U (Fetzer Response to Interrogatory No. 1); *see also* Palecek Answer, Doc. #28 at p. 6.)

PPUF No. 128: Defendants have not identified any public controversy into which Plaintiff inserted himself. (*See* Zimmerman Aff. Exs. T (Wrongs Response to Interrogatory No. 1) & U (Fetzer Response to Interrogatory No. 1).)

Dated this 30th day of April, 2019.

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