

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER

Plaintiff

vs.

Case No. 2018-CV-003122

JAMES FETZER

Defendant

**FETZER'S MOTION TO STAY POZNER'S "TAKING ORDER"
UNTIL RULING ON PETITION FOR WRIT OF CERTIORARI**

Now comes James H. Fetzer, Ph.D., pro se Defendant, and Judgment Debtor, with his Motion to Stay the ORDER GRANTING PLAINTIFF'S MOTION FOR TURNOVER OF PROPERTY TO SATISFY JUDGMENT of June 29, 2022, as amended, referred to herein as the "Taking Order" (**Exhibit A**).

1. The property to be taken by said order consists of four website Domain Names (DNs) and four versions of a book entitled *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control*, referred to herein as "Nobody Died."

2. Mr. Pozner is fully aware that Dr. Fetzer filed his Petition For Writ of Certiorari in the U.S. Supreme Court on May 19, 2022 to review the underlying summary judgment in this case affirmed by the Wisconsin 4th Court of Appeals. The said petition has been distributed for conference on September 28, 2022 and may be read on line.¹

3. On July 14, 2022, Mr. Pozner's attorney, Jake Zimmerman, sent a letter (**Exhibit B**) to Mr. Dave Gahary, of Wrong Without Wremedies, LLC, requesting him to redirect jamesfetzer.org to <https://www.poznervfetzer.com/>. This request was based upon Zimmerman's

¹ <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/21-7916.html>

comment that "Given the court's order, Mr. Pozner now stands in the shoes of Dr. Fetzer with respect to jamesfetzter.org." Mr. Pozner standing in the shoes of Dr. Fetzer with regard to jamesfetzter.org, even if true, does not put Mr. Pozner in the shoes of Mr. Dave Gahary. The Taking Order was made upon Dr. Fetzer not Mr. Dave Gahary. The lease of the jamesfetzter.org DN is paid for and "owned" by Mr. Dave Gahary not Dr. Fetzer. The Taking Order against Dr. Fetzer is unenforceable against Mr. Gahary.

4. The request to "redirect" Mr. Gahary's domain name (jamesfetzter.org) was made by Mr. Pozner before the Taking Order was final. Pozner's attorney emailed the letter to Gahary on July 14, 2022. Dr. Fetzer filed his MOTION FOR RECONSIDERATION, VACATION, & OBJECTION TO POZNER'S VALUATION OF PROPERTY & DAMAGES FOR ABUSE OF PROCESS (Motion For Reconsideration of Taking Order), on July 13, 2022 and it has yet to be ruled upon by this court (**Exhibit C**). Any action to execute the Taking Order is premature as the said Motion has not been ruled upon. This action could be viewed as contempt of court as it shows disregard for the authority of this court to finalize its rulings prior to execution.

5. On July 14, 2022, Mr. Gahary's attorney, Alexander Petale, emailed a response letter to Pozner's redirect request email letter of the same day (**Exhibit D**) proving that the DN jamesfetzter.org will expire on September 19, 2022, at which time Mr. Pozner could obtain the jamesfetzter.org DN. The letter reassured Mr. Pozner that Mr. Gahary would not assist Dr. Fetzer in his defense as was promised in his settlement. There was no mention in the letter of Mr. Gahary having promised to help Mr. Pozner win his lawsuit or collect on any judgment he might obtain. Therefore, the response was completely neutral as would seem to serve justice to all concerned.

6. On July 18, 2022, Mr. Pozner replied with an email letter (**Exhibit E**) to Mr. Gahary's

neutrality letter saying "we cannot accept your proposal," as if Mr. Gahary needed to make a satisfactory proposal of any kind. The letter stated: "Abandoning the domain so that it is available for any of Dr. Fetzer's fellow hoaxers to acquire for his beneficial use will likewise be viewed by Mr. Pozner as an effort to help Dr. Fetzer avoid the court's order." Demanding that Mr. Gahary aid Mr. Pozner in deceiving thousands of people by misdirecting honest inquiry concerning hundreds of issues from Dr. Fetzer's website to Mr. Pozner's one issue website (poznervfetzer.com) is more than neutral to both parties. Mr. Gahary being drawn into deceptive action such as that cannot properly be part of his settlement agreement with Mr. Pozner.

7. Mr. Gahary has an obligation to Dr. Fetzer to inform him of impending action that would prevent the operation of his website. Rather than allowing Dr. Fetzer to be blindsided and his website to be misdirected without notice, he sent Dr. Fetzer the correspondence he had with Mr. Pozner concerning the transfer and redirection of the DN. This can in no way be misconstrued to be aiding Dr. Fetzer in his defense or impeding the Taking Order.

8. Mr. Pozner's efforts to execute the Taking Order are premature in this court and before the filed and pending direct appeal to the Supreme Court of the United States to review the underlying summary judgment, the basis of this Taking Order. All action by Mr. Pozner to collect his money judgment should be stayed until a ruling is made on Dr. Fetzer's Petition for Writ of Certiorari.

Motion To Stay Execution Of Taking Order

9. In *Long v. Robinson*, 432 F.2d 977 (4th Cir. 1970) the court lists what a party seeking a stay of order execution must show:

Briefly stated, a party seeking a stay must show (1) that he will likely prevail on the merits of the appeal, (2) that he will suffer irreparable injury if the stay is denied, (3) that other parties will not be substantially harmed by the stay, and (4) that the public interest will be served by granting the stay.

Dr. Fetzer Is Likely To Prevail On The Merits

10. Dr. Fetzer has proved in his Petition For Writ of Certiorari that the Wisconsin summary judgment methodology does not protect anyone's 7th Amendment right to a trial by jury equally with other states in the union, e.g., Texas. This he has shown is true for any non-movant party to a summary judgment procedure in Wisconsin. No state shall deprive any person of life, liberty, or property without equal protection of due process, including a right to trial by jury, under the 14th Amendment of the U.S. Constitution.

11. The 7th and 14th Amendment rights are guaranteed to all citizens by the U.S. Constitution and are not mere random acts of benevolence sprinkled about at the whim and prerogative of the Supreme Court of the United States of America. Therefore, Dr. Fetzer has invoked the jurisdiction of the U.S. Supreme Court under its Rule 10(b) where two state high courts differ on how summary judgment methodology will or will not protect federal constitutional guarantees.

12. Dr. Fetzer's Petition showed that the Wisconsin summary judgment methodology puts the burden on the non-movant, rather than the movant, to show there are no material fact issues in dispute. The Petition also shows that the Wisconsin summary judgment methodology does not require the judge to accept all the evidence favorable to the non-movant as true or indulge every inference that can be reasonably drawn from that evidence.

13. The Petition also showed that it is the non-movant, Dr. Fetzer in this case, that is at risk of losing their 7th and 14th Amendment rights in a summary judgment. Hence it is the movant that should have the burden of proving there are no material fact issues in dispute by taking all evidence favorable to the non-movant as true and indulging every reasonable inference to be drawn from that evidence.

14. In Texas the movant has the burden of proving there are no material fact issues in dispute

and all the evidence in favor of the non-movant must be taken as true. This methodology protects the 7th and 14th Amendment rights of the non-movant, or the one in a summary judgment who is at risk of having said rights denied in a summary judgment.

15. There are no constitutional rights to a summary judgment but there are for a trial by jury and equal access to due process under the 7th and 14th Amendments and same should be protected in summary judgment methodology equally throughout the nation. Therefore, all evidence favorable to the non-movant must be taken as true and all reasonable inferences that can be drawn from said evidence must be indulged.

16. Dr. Fetzer's Petition for Writ of Certiorari showed compelling and undeniable evidence that the Wisconsin summary judgment methodology, supported by statute and the Wisconsin Supreme Court, is completely inverted from that of the Texas summary judgment methodology supported by its highest court. The Wisconsin summary judgment practice protects the wrong party, the movant, in this case Mr. Pozner, the one who is not at risk of losing their constitutional rights to a trial by jury and equal protection of the law and due process.

17. In Texas Mr. Pozner would be required to show his agreement with all the evidence favorable to Dr. Fetzer and accept all reasonable inferences drawn from that evidence in order to obtain a summary judgment. This would be impossible under the pleadings, facts and evidence of this case.

18. Every non-movant subjected to a summary judgment process in Wisconsin is at extreme risk of losing their 7th and 14th Amendment rights, guaranteed by the U.S. Constitution as the burden of proving there are no material facts in dispute is put on them to win or earn a right to trial by jury and the court is not required to take any of the non-movant's evidence as true and the judge is free to exercise bias, prejudice and whim against the non-movant. The Wisconsin

summary judgment methodology is simply a non-jury trial conducted in the cloak of a summary judgment.

19. Dr. Fetzer is more than likely to prevail at the Supreme Court of the United States and Wisconsin's summary judgment practice will be changed forever and a new summary judgment standard will be established in every state of the union.

Dr. Fetzer Will Suffer Irreparable Injury If The Stay Is Denied

20. If this motion to stay is denied Dr. Fetzer will suffer irreparable harm. And even when this underlying "summary judgment" is reversed by the U.S. Supreme Court, the damage done by misdirecting the DN to another website would brake all URL links to individual pages located at the jamesfetzer.org website resulting in search engine downgrading and deleting, much of which would be permanent as so stated in the attached affidavit of the webmaster of jamesfetzer.org and Information Technology expert Mr. Jack Mullen (**Exhibit F**).

21. The bulk of material accessed by the domain name jamesfetzer.org has nothing to do with the facts or evidence in this case and the misdirection of those seeking that material to pozervfetzer.com lawsuit website does irreparable harm to all those websites and blog sites that reference jamesfetzer.org on other issues.

22. Once links are misdirected and broken in search for Dr. Fetzer material the searchers will permanently erase and delete links to Dr. Fetzer's DNs. Even if the U.S. Supreme Court reverses the summary judgment irreparable harm will have been done as Dr. Fetzer will have no way of notifying those who were misdirected that the links have been restored or to upgrade or restore search engine hierarchy. It is a fact that the mass media cartel does not cover the success of those who question its narratives, therefore, most would never hear about Dr. Fetzer's success much less that his websites and links had been restored.

23. Even though Dr. Fetzer could start a new blog site with a new DN and even copy most existing files from the old website, few people would know the DN to access it and the links from other websites would still be broken. Much of this would be permanent damage.

24. Mr. Pozner's demand letters attempting to force Mr. Gahary to misdirect those seeking Dr. Fetzer's blog, even if lawful and not an abuse of process, is premature in light of the fact that Dr. Fetzer has filed a Motion for Reconsideration of Taking Order in this court and a Petition for Writ of Certiorari before the U.S. Supreme Court. The misdirection of the DN (jamesfetzer.org) to poznerfetzer.com will break millions of links from the content of others developed over the years that have nothing to do with Sandy Hook or Mr. Pozner.

25. Not only should this entire Taking Order be ruled an abuse of process, its execution at this time, without a final ruling and a motion to reconsider is premature, unnecessary and unjust. There is no finding by this court that all the content under the listed Domain Names or all the content of those listed Books are defamatory and they are worthless by law to Pozner and hence he cannot take them or destroy them or tamper with them in any way.

Mr. Pozner Can Not Be Harmed By This Stay

26. Mr. Pozner can not be harmed by this stay of execution of the taking of the books and DNs because he cannot reduce the money judgment by taking them, now or ever, and he is also judicially estopped from claiming he intends to make money from them as shown in Dr. Fetzer's Motion for Reconsideration of Taking Order. Therefore, Mr. Pozner cannot be harmed by this stay as an operation of law.

27. Even if Dr. Fetzer were to obtain a Writ of Certiorari and have the summary judgment, the basis of this Taking Order reversed, Mr. Pozner may, after some court specified time, bring the same defamation claim against Dr. Fetzer to be tried before a jury of his peers.

The Public Interest Will Be Served By Granting This Stay

28. The public interest will be served by preventing Mr. Pozner from misdirecting DNS from websites controlled by the person whose name is in the DNS to a person who was praised by the mass media for their fantastic "novel legal strategy" to remove "conspiracy theorists" like Dr. Fetzer from the internet, as if God had ordained such work and anointed Pozner to perform it.

29. It is in the public interest to stay the efforts of judicial victors from humiliating the judicially conquered by sticking the symbolic head of the vanquished on the victor's website. This is no more than a symbolic act to warn all those who might otherwise question the narrative of the mass media cartel, as did Dr. Fetzer.

30. Mr. Pozner's Motion to Take Property and the Taking Order itself is an abuse of process which cannot reduce the money judgment awarded by the jury practically or by law, hence, it is in the public interest to stay the execution of an abuse of process.

31. It is in the public interest to prevent Mr. Pozner from taking action against Dr. Fetzer and his property that are not justified or warranted by the summary judgment or awarded as damages by the jury. It is in the public interest to stay the execution of extra-judicial procedures against Dr. Fetzer.

32. It is in the public interest to stay the execution of a procedure meant to administer justice but rather allows action that is not warranted by the findings and awards in the case as the job of the judiciary is to maintain a state of peace between the adversaries without initiating a new state of war between them in the resolution to the initial state of war brought before the court.

33. It is in the public interest to stay all activities of Mr. Pozner with regard to Dr. Fetzer until the Supreme Court of the United States decides if Wisconsin will continue to use its inverted unconstitutional summary judgment process to deprive its citizens of due process and a trial by jury or issue an opinion that will bring the Wisconsin practice of summary judgment

methodology in line with other states that provide that protection in their summary judgment practice.

CONCLUSION

Defendant and Judgment Debtor, Dr. Fetzer, has shown herein that he will likely prevail in his pending Petition for Writ of Certiorari before the United States Supreme Court and that he will be irreparably injured if this motion to stay is denied and that Mr. Pozner cannot be harmed by this stay and is judicially estopped from claiming otherwise as shown in Dr. Fetzer's Motion for Reconsideration of Taking Order. And finally it has been shown herein that it is in the public interest to grant a stay against this ill motivated abuse of process and execution of extra-judicial penalties and punishments not found or authorized by summary judgment or jury award.

For the principles and reasons shown herein, the Defendant, Dr. Fetzer, respectfully asks this court to grant his Motion to Stay against the Taking Order until the Supreme Court of the United States determines the need to issue a Writ of Certiorari and ruling in this case.

Respectfully Submitted,



James H. Fetzer, Ph.D.
Pro Se

NOTICE OF SERVICE

On this 19th day of July 2022, I hereby certify that a copy of FETZER'S MOTION TO STAY POZNER'S "TAKING ORDER" UNTIL RULING ON PETITION FOR WRIT OF CERTIORARI has been emailed and forwarded by first-class mail (postage paid) to Plaintiff's Counsel, Randy Pflum, Attorney, Quarles & Brady LLP, 33 East Main Street, Suite 900, Madison, WI 53703; and randy.pflum@quarles.com.



James H. Fetzer, Ph.D.
Pro Se
800 Violet Lane
Oregon, WI 53575
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Exhibit A

FILED
07-08-2022
CIRCUIT COURT
DANE COUNTY, WI
2018CV003122

DATE SIGNED: July 8, 2022

Electronically signed by Frank D Remington
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,

Plaintiff,

vs.

Case No. 18CV3122

JAMES FETZER,

Defendant.

**AMENDED ORDER GRANTING PLAINTIFF’S MOTION FOR TURNOVER OF
PROPERTY TO APPLY PROPERTY TO SATISFY JUDGMENT**

This matter having come on before the Court for a hearing on June 24, 2022, on Plaintiff’s Motion for Turnover of Property to Apply Property to Satisfy Judgment (the “Motion”) with Plaintiff appearing by Randy J. Pflum and Jacob Zimmerman and Defendant appearing by Jennifer M. Schank and the Court having considered the parties’ briefs and arguments made at the hearing and for the decision rendered and reasons stated on the record,

IT IS HEREBY AND NOW ORDERED AND ADJUDGED that:

1. The Plaintiff’s Motion for turnover of the Personal Property (defined below) is **Granted.**

2. Effective as of June 24, 2022, the Defendant’s interest in the copyright and title of the following personal property is transferred to the Plaintiff:

Books:

- Nobody Died At Sandy Hook, 1st Edition (2015)
- Nobody Died At Sandy Hook, Banned Edition (2015)

Nobody Died At Sandy Hook, PDF Edition (2015) (the “PDF Version”)
Nobody Died At Sandy Hook, 2nd Edition (2016)

Domain Content:

Defendant’s rights and interest in the title to the following website domains:
www.jamesfetzer.org; www.jamesfetzer.net; www.falseflagnews.org;
www.falseflagnews.net

(the “Personal Property”).

3. For the reasons stated on the record, Plaintiff values the Personal Property at \$100,000.

4. The Defendant has 10 days from June 24, 2022, to advise the Court whether he accepts the Plaintiff’s valuation of the Defendant’s Personal Property.

5. If Defendant accepts the Plaintiff’s valuation, he shall be provided with a partial satisfaction of Plaintiff’s existing judgment in the amount of \$100,000.

6. If the Defendant rejects the Plaintiff’s valuation of the Personal Property, he must submit an expert appraisal of the Personal Property within 60 days from June 24, 2022.

7. Plaintiff will have 60 days thereafter to submit an expert appraisal of the Personal Property.

This is a final order for purposes of appeal.

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,

Plaintiff,

vs.

Case No. 18CV3122

JAMES FETZER,

Defendant.

NOTICE OF ENTRY OF ORDER

TO: James Fetzer
800 Violet Lane
Oregon, WI 53575

PLEASE TAKE NOTICE that an Order was signed by the Honorable Frank D. Remington on July 8, 2022, and entered in the above-entitled action on July 8, 2022. A copy of the Order is attached hereto. This notice is served under Wis. Stat. § 806.06.

Dated: July 14, 2022.

QUARLES & BRADY LLP

Electronically Signed by Randy J. Pflum

Randy J. Pflum
33 E. Main Street, Suite 900
Madison, WI 53703
Telephone: (608) 283-2436
Facsimile: (608) 251-9166
Email: randy.pflum@quarles.com

Attorneys for Plaintiff

Exhibit B



The Zimmerman Firm

Jake Zimmerman

July 14, 2022

Dave Gahary
Wrongs Without Wremedies, LLC
dave@moonrockbooks.com

Mr. Gahary,

As you know, Mr. Pozner recently filed a motion seeking turnover of some of Dr. Fetzer's property in partial satisfaction of Mr. Pozner's judgment against Dr. Fetzer. That property included Dr. Fetzer's interest in the domain name jamesfetzer.org.

Enclosed please find an order recently issued by the court in the Pozner v. Fetzer matter, granting Mr. Pozner's motion for turnover. Given the court's order, Mr. Pozner now stands in the shoes of Dr. Fetzer with respect to jamesfetzer.org. We understand that Wrongs Without Wremedies secured that domain on Dr. Fetzer's behalf, and therefore you have control over the domain name settings. In that regard, Mr. Pozner requests that you immediately redirect that domain name to: <https://www.poznervfetzer.com/>

The order also granted Mr. Pozner ownership of Dr. Fetzer's copyrights to various editions of Nobody Died at Sandy Hook. It is my understanding from discovery in the litigation and from Dr. Fetzer's post-trial deposition that Wrongs and/or Moonrock does not have any written contracts or written agreements with Dr. Fetzer regarding any editions of Nobody Died at Sandy Hook. If that understanding is incorrect, can you please send me copies of those agreements?

To the extent you have questions about this request, please let me know and I would be happy to discuss it with you.

Best regards,



Jake Zimmerman

Enclosure

Exhibit C

FILED
07-13-2022
CIRCUIT COURT
DANE COUNTY, WI
2018CV003122

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

LEONARD POZNER,

PLAINTIFF

vs.

Case No. 2018-CV-003122

JAMES

FETZER,

DEFENDANT

**FETZER'S MOTION FOR RECONSIDERATION,
VACATION & OBJECTION TO POZNER'S VALUATION OF PROPERTY,
& DAMAGES FOR ABUSE OF PROCESS**

Now comes James H. Fetzer, Ph.D., pro se Defendant, and Judgment Debtor, with his Motion for Reconsideration of the ORDER GRANTING PLAINTIFF'S MOTION FOR TURNOVER OF PROPERTY TO SATISFY JUDGMENT of June 29, 2022, as amended, referred to herein as the "Taking Order," and his Motion to Vacate the Taking Order, and Objection to Mr. Pozner's Valuation of Property, and Motion for Damages For Abuse of Process.

1. The property to be taken by said order consists of four website Domain Names and four versions of a book entitled *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control*, referred to herein as "Nobody Died."

2. Dr. Fetzer continues to maintain what he has said in the Taking Order hearing that the four versions of the book have monetary value only if they are marketed and that the property subject to the Taking Order has no monetary value that can be applied to Plaintiff's money judgment, as asserted in his Response Brief in Opposition to the Plaintiff's Notice of Motion and Motion for Turnover of Property to Apply Property to Satisfy Judgment (Exhibit A page 2). Dr.

Fetzer has also asserted that intellectual property cannot be taken to satisfy a money judgment but rather only the profits from it (Exhibit A page 1) citing *Ager v. Murray*, 105 U.S. 126, 127-31 (1881).

Judicial Estoppel Against Book Values over Zero Dollars

3. Now Dr. Fetzer adds that the Plaintiff and Judgment Creditor, Mr. Pozner, is judicially estopped from claiming the Nobody Died books have any value to him. He has won a judgment, the very basis of this property taking, finding that certain portions of the said books are defamatory to him and his son whom he claimed was killed at a mass shooting, the subject of the said books, which are filled with evidence that the shooting did not occur. Therefore, Mr. Pozner cannot now claim that he will be publishing and selling any of the four versions of Nobody Died containing material adjudged defamatory to him and the public memory of his son.

4. From *State v. Basil E. Ryan, Jr.*, 2012 WI 16, reversing 2011 WI App 21:

¶32 We begin by addressing the circuit court's application of the equitable doctrine of judicial estoppel. Judicial estoppel is intended "to protect against a litigant playing 'fast and loose with the courts' by asserting inconsistent positions" in different legal proceedings. *State v. Petty*, 201 Wis. 2d 337, 347, 548 N.W.2d 817 (1996). "The doctrine precludes a party from asserting a position in a legal proceeding and then subsequently asserting an inconsistent position." *Id.* "[J]udicial estoppel is not directed to the relationship between the parties but is intended to protect the judiciary as an institution from the perversion of judicial machinery." *Id.* at 346.

¶33 For judicial estoppel to be available, three elements must be satisfied: (1) the later position must be clearly inconsistent with the earlier position; (2) the facts at issue should be the same in both cases; and (3) the party to be estopped must have convinced the first court to adopt its position. *Id.* at 348.

5. Mr. Pozner convinced the court that some material in the Nobody Died books were defamatory, winning a money judgment of \$457,395.13 which he used to remove the said books from the public. He now claims that the said book and copyrights have monetary value to him, as if he would publish and sell books containing the slightest defamation against him. The case is

the same along with the facts thereof. Clearly all 3 elements of judicial estoppel are present to prevent Mr. Pozner from appraising and taking the Nobody Died books and copyrights, even if Dr. Fetzer held them.

6. Mr. Pozner has also used the summary judgment in this very case to obtain settlements with WWW, d/b/a Moon Rock Books Publishing to take the books off the market and never publish them again. Mr. Pozner is now judicially estopped from claiming these same books and their copyrights have any monetary value to him.

7. Mr. Pozner is also judicially estopped from claiming that he is going to use any of the four versions of Nobody Died to make money to reduce the money judgment while his use of the rulings of this court have successfully removed all versions of Nobody Died from public access, even free access. Mr. Pozner cannot now claim in the execution of the Taking Order in this same case that he is going to earn money from the publication and sale of those same books. Hence, the appraisals by the best experts on book values and sales history are completely inapplicable and irrelevant.

8. Mr. Pozner cannot remove the defamatory material and republish the Nobody Died books without establishing a new copyright for that version leaving Dr. Fetzer's presumed copyright unused and unpublished. Therefore, unless Mr. Pozner plans on publishing the books as they are and selling them he cannot show a value for them and cannot take them.

9. Mr. Pozner cannot prove that he can legally earn money from the removal of any or all versions of Nobody Died from the market, or from free access, to make money indirectly from the sale of any book he has published targeting the same market. Since all versions of Nobody Died have no monetary value to Mr. Pozner, he cannot take them, even if Mr. Pozner could show that Dr. Fetzer owns the copyright to them. If Mr. Pozner is being paid by other entities to

remove the Nobody Died books, he must supply that information as proof of money and its source to be applied to the reduction or discharge of the judgment debt and may be considered unlawful and subject to another cause of action.

10. Therefore, Mr. Pozner is judicially estopped from claiming that all four versions of Nobody Died have any value to him and hence the value of said books must be ZERO DOLLARS by law and cannot reduce the judgment debt by one cent and hence cannot be taken.

Judicial Estoppel Against Domain Name Values Over Zero Dollars

11. The website Domain Names (DNs) listed in the Taking Order are a little different from the Nobody Died books in that their content, which is copyrighted upon posting, is not static or held to fixed data or data type as are printed and copyrighted books. People rent or lease DN addressees on a recurring basis from web registration companies contracted by ICANN, a nonprofit corporation authorized by the U.S. Department of Commerce, to manage domain names. People can buy and sell DN leases and new lessees can be assigned to existing Domain Names held by others.

12. The taking of a Domain Name would entail the transfer of the lease and their assignment to Mr. Pozner as the new lessee of the four existing Domain Names listed in the Taking Order. Mr. Pozner would then take over the DN leases and would begin paying for the recurring rent on them. However, as Dr. Fetzer explained in his response brief and oral hearing, he is not the owner or lessee of any of the four DN's.

13. Even if Dr. Fetzer had registered the DN's and was the actual registrant and lessee of them, to which condition he has stated otherwise, Mr. Pozner must still prove to this court that he intends to maintain all four of these Domain Names and that he can earn money from them to satisfy some portion of the money judgment debt by his operation of them.

14. Under a completely unreal scenario where Mr. Pozner was able to take the Nobody Died books and Domain Names and operate them and make money from them, it would be highly unjust to earn 200,000 dollars from that which he reduced a money judgment by only 100,000 dollars. The listed Taking Order property must involve a monthly accounting until the ordered value is reached at which time all the property would be returned for Dr. Fetzer's use. This is one reason intellectual property cannot be taken to satisfy a money judgment, as it could hypothetically earn more than the judgment.

15. There are circumstances where the taking of Domain Names would be entirely feasible and profitable with names like "GoodHealth4U.net" or "GoodbyFat.com," However, in this case, two of the four domain names contain the term "JamesFetzer" (JamesFetzer.org and JamesFetzer.net) and the other two contain the term "FalseFlags" (FalseFlags.org and FalseFlags.net). Neither of these domain name prefixes could attract potential financial opportunity for Mr. Pozner.

16. In 2014 Mr. Pozner founded HONR¹, an organization dedicated to scouring the web of any hint of an event being described as a "false flag." HONR acts as self-appointed internet police and claim §230 USC Title 47 (Communications Decency Act) is misused, as quoted below from the HONR website:²

Section 230 has been misused by social media providers who have often used it to avoid taking action when their platform is being weaponized. One of the chief problems that we have had with platforms is the apathetic and inconsistent response in removals. In some cases, we have reported the same content in multiple places only to have one removed quickly and others stay up for weeks or even months.

Regardless of the motivation and intentions of HONR, it is undeniable that it is dedicated to removing websites and Domain Names from the internet that fall into the same category in

¹ <https://www.guidestar.org/profile/82-3556040>

² <https://www.honrnetwork.org/positions/>

which they would place "JamesFetzer" and "FalseFlags." The declaration by the founder of this group of their new intention to earn money from the taking and operation of these Domain Names is contradictory to their eight-year history. Therefore Mr. Pozner is judicially estopped from claiming any such intention or ability to earn money from the operation or sale of these website Domain Names, while his whole purpose is to remove them from the public. Therefore, the doctrine of judicial estoppel prevents Mr. Pozner from contradicting his eight-year behavior and earlier asserted court positions to now claim that the Domain Names listed in the Taking Order are worth anything over ZERO DOLLARS.

17. From *Adelphia Recovery Trust v. Goldman, Sachs & Co.*, 748 F.3d 110 (2nd Cir. 2014) quoting from the Supreme Court in *New Hampshire v. Maine*, 532 U.S. 742, 121 S. Ct. 1808, 149 L. Ed. 2d 968 (2001) on the doctrine of judicial estoppel:

The purpose of the doctrine is to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions according to the exigencies of the moment. Courts have recognized that the circumstances under which judicial estoppel may appropriately be invoked are not reducible to any general formulation. Nevertheless, several factors typically inform the decision whether to apply the doctrine in a particular case: First, a party's later position must be clearly inconsistent with its earlier position. Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled. Third, courts ask whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.

18. Mr. Pozner in his original complaint leading to this Taking Order has stated that the websites and domain names he is now trying to say he can profit from if maintained are on a list of conspiracy websites that those who threatened him cannot access as part of their punishment (Exhibit B Page 4,5 ¶15):

In January of 2016, Florida resident Lucy Richards left menacing voicemail messages and sent violent online threats to Plaintiff, including messages stating: "you gonna die, death is coming to you real soon" and "LOOK BEHIND YOU IT IS DEATH." When Richards was later sentenced, Senior U.S. District

Judge James Cohn stated: "I'm sure [Plaintiff Leonard Pozner] wishes this was false, and he could embrace [N.P.], hear [N.P.'s] heartbeat and hear [N.P.] say 'I love you, Dad'...Your words were cruel and insensitive. This is reality and there is no fiction. There are no alternative facts." As part of her sentence, Ms. Richards will not be permitted to access a list of conspiracy-based websites upon her release, including websites maintained by James Fetzer.

19. Now that Mr. Pozner has won a money judgment against Dr. Fetzer he wants to claim that he can make money to greatly satisfy a money judgment by using and maintaining "conspiracy-based websites...including websites maintained by James Fetzer." Clearly Mr. Pozner's exigencies have changed, and he wants to take anything from Dr. Fetzer even if he must alter the position that he has previously persuaded this court to accept. The acceptance of this new contradictory position would indicate that the court was either wrong in the beginning or wrong now. All that which was ruled defamatory by this court has been removed from the websites accessed by the listed Domain Names and their continued use Dr. Fetzer, regardless of what some may think of them, is his right in the United States of America, and would take a great deal of time and work to establish the same at some other site under some other DN. The taking of these Domain Names constitutes an unfair detriment to Dr Fetzer and cannot reduce the judgment debt by one cent and is inconsistent with Mr. Pozner's judicial and conventional position. Clearly Mr. Pozner is judicially estopped from now claiming he can take the Domain Names and earn money from their operation to reduce the judgment debt in complete contradiction to his earlier judicial position and awards.

20. Collection laws for money judgments do not contemplate or address the taking of property that cannot reduce a money judgment. This silence in debt collection law indicates no recognition of the lawfulness of taking property that is worthless to the money judgment creditor for any other purpose such as harassment, hatred, revenge, or interference with the ability to earn money. A motion to take property worthless to a money judgment creditor implies and reveals

such motivations that go beyond the intent and authorization of money judgment collection laws. This means, in essence, that the property listed in the Taking Order does not exist for Mr. Pozner regardless of the opinion of his appraisers or Dr. Fetzer's ability to turn it over to Mr. Pozner and the listing of such worthless property implies an ulterior purpose not intended in the taking process.

This Taking Process is Abuse of Process

21. By commencing this taking action against the listed property, worthless to Mr. Pozner in reducing a money judgment in this Taking Order, not only implies all the illegal purposes stated above but show motive to deny Dr. Fetzer's 1st Amendment rights to print and post evidence that comes to his attention concerning national events. Dr. Fetzer could simply remove the minor fragment of material ruled defamatory by this court from the Nobody Died books and republish them with over 400 pages of evidence. But, if Mr. Pozner could acquire Dr. Fetzer's presumed copyright of the whole book, then Dr. Fetzer could not republish any part of the book without infringing on a copyright taken and owned by Mr. Pozner. This is a purpose that well exceeds the purpose of this judicial Taking Order process. In this way Mr. Pozner can remove over 400 pages of evidence contradictory to his own version of Sandy Hook, by having only two or three pages ruled defamatory to him. The elements for abuse of process are here as shown from the Wisconsin Supreme Court in *Thompson v. Beecham*, 241 N.W.2d 163, 72 Wis.2d 356 (Wis. 1976):

The essential elements of abuse of process, as the tort has developed, have been stated to be: first, an ulterior purpose, and second, a wilful act in the use of the process not proper in the regular conduct of the proceeding. Some definite act or threat not authorized by the process, or aimed at an objective not legitimate in the use of the process, is required;...

The ulterior motive or purpose may be inferred from what is said or done about the process, but the improper act may not be inferred from the motive.

In order to maintain an action for abuse of process, the process must be used for something more than a proper use with a bad motive. The plaintiff must allege and prove that something was done under the process which was not warranted by its terms.

22. The court can infer from Mr. Pozner's listing of property that he cannot possibly use to satisfy a money judgment, that Pozner has an ulterior motive to achieve something outside the intent of the judicial property execution process. The most likely motive, which is consistent with Mr. Pozner's behavior over the last eight years, is to prevent Dr. Fetzer, or anyone, else from publishing the vast amount of evidence about Sandy Hook after removing the tiny fraction of material in the books ruled defamatory by this court. The act of listing property Mr. Pozner knew was directly worthless to him to reduce a money judgment without claiming the property in its present form was no longer harmful to him, from which is judicially estopped, constitutes the use of this judicial taking process for a purpose it is not intended or authorized to perform. The process itself cannot take worthless property to satisfy a money judgment as he was so informed by Dr. Fetzer's Response Brief in Opposition to Plaintiff's Motion for Turnover of Property to Apply Property to Satisfy Judgment which is adopted in its entirety herein (Exhibit A). Both elements of abuse of process are evident in this taking process, first, improper use of process exceeding its authority, and second, inferred ulterior motive that conforms to the long history of Mr. Pozner. As a result of this abuse of process, Dr. Fetzer had to hire another attorney for Six Thousand Two Hundred Seventy Seven & 50/100 Dollars (\$6,277.50) and waste his time and mental energy (Exhibit C).

CONCLUSION

Mr. Pozner cannot alter any of the book's contents to remove the material ruled defamatory against him in this court without establishing a new copyright, leaving Dr. Fetzer's presumed copyright unused and unpublished. Therefore, Dr. Fetzer's presumed copyright remains of no

value to Mr. Pozner having no means to reduce the judgment debt and hence, cannot be taken to satisfy a money judgment.

Mr. Pozner is judicially estopped from claiming all four versions of Nobody Died have more than zero value to him as he has obtained a judgment in this very case finding parts of all of them defamatory to himself. He is also judicially estopped from claiming the said books have more than zero value as he has used the rulings of this court to establish settlements with publishers removing the books from the market, never to be sold again by those publishers.

Mr. Pozner is also judicially estopped from claiming any or all four Domain Names have more than zero value as he has worked for eight years removing websites and their domain names from the internet which are of the same profile as those listed in the Taking Order. Mr. Pozner's position in this court is that other courts have ruled websites listed in this Taking Order inaccessible to those who have threatened him. And now he wants this court to believe he can take them and maintain them and make money from them to reduce the money judgment debt. He is judicially estopped from doing so.

All property in Dr. Fetzer's possession that cannot have value to Mr. Pozner by law does not exist in the eyes of the law and cannot be appraised or taken by a court order to satisfy a money judgment. This court should set the lawful value of the property listed in the Taking Order to be zero dollars (\$0.00)

Based upon the preceding, Dr. Fetzer asks this court to:

1. Reconsider ORDER GRANTING PLAINTIFF'S MOTION FOR TURNOVER OF PROPERTY TO SATISFY JUDGMENT, and
2. Set the value of the property listed in the ORDER GRANTING PLAINTIFF'S MOTION FOR TURNOVER OF PROPERTY TO SATISFY JUDGMENT to be

ZERO DOLLARS (\$0.00), and

3. Vacate the ORDER GRANTING PLAINTIFF'S MOTION FOR TURNOVER OF PROPERTY TO SATISFY JUDGMENT with prejudice, and
4. Find all elements of an abuse of process commenced by Mr. Pozner and fine him \$6,277.50 in damages, and
5. Grant any other relief the law allows and to which the Defendant is entitled.

Respectfully Submitted,



James H. Fetzer, Ph.D.
Pro Se

NOTICE OF SERVICE

On this 13th day of July 2022, I hereby certify that a copy of this Motion for Reconsideration has been emailed and forwarded by first-class mail (postage paid) to Plaintiff's Counsel, Randy Pflum, Attorney, Quarles & Brady LLP, 33 East Main Street, Suite 900, Madison, WI 53703; and randy.pflum@quarles.com.



James H. Fetzer, Ph.D.
Pro Se
800 Violet Lane
Oregon, WI 53575
jfetzer@d.umn.edu

Exhibit D

July 14, 2022



LAW OFFICES OF
ALEXANDER J. PETALE

Mr. Jake Zimmerman, Esq.
jake@zimmerman-firm.com

Re: My Client : Wrongs Without Wremedies, LLC
Dane County No. : 18CV3122

Dear Mr. Zimmerman:

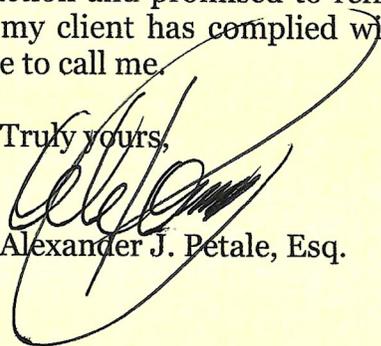
As you know from our prior contact regarding my client referenced above, I represent Wrongs Without Wremedies, LLC. Wrongs Without Wremedies, LLC, is the owner of the domain name: *jamesfetzer.org*.

As can be seen from the attached "screen shot," the domain name expires on August 19, 2022. Wrongs Without Wremedies, LLC, agrees to refrain from taking any action regarding, *jamesfetzer.org*, from now on; and further agrees to allow the ownership to expire and will not renew the domain name registration.

It is my understanding that after the expiration date, the registrar allows a 30-day "grace period." After this "grace period" expires, on or about 9/19/2022, Mr. Pozner, or anyone else for that matter can acquire the domain name.

I believe the agreements referenced above would be sufficient for Mr. Pozner. As you know, Wrongs Without Wremedies, LLC, was dismissed from the Wisconsin state court action and promised to refrain from helping James Fetzer to defend the lawsuit, which my client has complied with. If you need to discuss this further, please do not hesitate to call me.

Truly yours,



Alexander J. Petale, Esq.



Enter Dr

- DOMAINS
- WEBSITE
- CLOUD
- HOSTING
- SERVERS
- EMAIL
- SECURITY
- WHOIS

jamesfetzer.org

Updated 1 day ago



Domain Information

Domain: jamesfetzer.org
Registrar: NameCheap, Inc.
Registered On: 2018-08-19
Expires On: 2022-08-19
Updated On: 2021-08-17
Status: clientTransferProhibited
Name Servers: dns1.registrar-servers.com
dns2.registrar-servers.com

Exhibit E



The Zimmerman Firm

Jake Zimmerman

July 18, 2022

Alexander Petale
petaleesq@gmail.com

Mr. Petale,

Unfortunately, we cannot accept your proposal. It is our understanding that WWW acquired the domain name on behalf of Dr. Fetzer—acting in your client's role as Dr. Fetzer's publisher. We further understand that Dr. Fetzer reimbursed your client for the costs of acquiring the domain name, and has continued to reimburse your client for the annual cost of domain registration. We understand that your client does not have any control over the content of the domain—he has ceded all such control to Dr. Fetzer. While your client is the registrant, we believe that Dr. Fetzer would be considered the legal owner of the domain name. Your client acted as his agent for purposes of securing a domain.

The Court's order puts Mr. Pozner in Dr. Fetzer's shoes with regard to the domain name. In that position, Mr. Pozner is asking that the domain be transferred into his name.

As you may know, your client's settlement agreement with Mr. Pozner forbids your client from providing assistance to Dr. Fetzer related to the litigation. We view your proposal as an effort to assist Dr. Fetzer in his attempt to avoid complying with the Court's order. Abandoning the domain so that it is available for any of Dr. Fetzer's fellow hoaxers to acquire for his beneficial use will likewise be viewed by Mr. Pozner as an effort to help Dr. Fetzer avoid the court's order.

We therefore ask that your client immediately turn over control of that domain to Mr. Pozner.

Best regards,

A handwritten signature in black ink that reads "Jake Zimmerman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jake Zimmerman

Exhibit F

**AFFIDAVIT OF JACK MULLEN
WEBMASTER AT MATRIX WEB DESIGNER**

I, Jack Mullen, being of legal age and of sound mind have first-hand knowledge of the following facts:

1. This Affidavit is submitted in support of Defendant FETZER’S MOTION TO STAY POZNER’S “TAKING ORDER” UNTIL RULING ON PETITION FOR WRIT OF CERTIORARI.

2. I am an expert in Information Technology (IT credentials attached).

3. I am the webmaster for jamesfetzter.org. I am the developer and maintainer of the website accessed by the stated domain name, which is managed by Dr. James Fetzter.

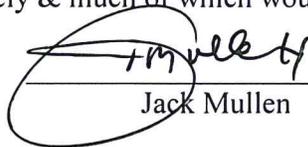
4. The transfer of the domain name jamesfetzter.org to Mr. Leonard Pozner would have devastating effects for Dr. Fetzter’s blog.

5. It would vitiate all links worldwide (probably in the millions) to blog contents.

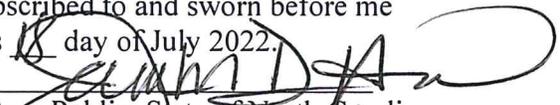
6. It would make his blog functionally useless for publishing articles and comments.

7. It would invalidate your current links which then would begin to be de-listed from and downgraded in terms of SEO. This means that your search engine standing would change and searches that would normally place your site in the first few pages of returned links will not have your site or links listed

8. This damage would begin immediately & much of which would be permanent.



Jack Mullen

Subscribed to and sworn before me
this 18 day of July 2022.


Notary Public, State of North Carolina
My Commission expires: 9/27/2023

JENNIFER D HOUSAND
NOTARY PUBLIC
Dare County
North Carolina
My Commission Expires Sep. 27, 2023

Jack I Mullen 2nd

Abbreviated Resume

Educational Background

Associates of Arts Engineering
Bachelor of Science Electrical Engineering
Master of Science Electrical Engineering (incomplete thesis)
Master of Business Administration MBA

Specialized IT Training

Cisco trained IT
Numerous IT continuing education course certifications
Cyber Security course certifications
Advanced Professional Python Programmer

Professional Experience

Designer of Web utility software for Radio Stations
28 years web related experience

Currently Chief Engineer for Lead Recruiter Pro Web platforms and site properties. Managing and maintaining more than 12 commercial websites with familiarity with all facets of web marketing and WordPress technology.