

FILED  
06-24-2024  
CIRCUIT COURT  
DANE COUNTY, WI  
2018CV003122

# EXHIBIT 1:

## Decision and Order Denying James Fetzner's Motion for Relief from Judgment

Judge Frank Remington  
(June 20, 2024)



## DECISION

### I. Liberally construing his papers, Fetzer seeks relief from judgment.

Before turning to his argument, I recognize that Fetzer represents himself. Courts liberally construe pro se litigants' filings. *bin-Rilla v. Israel*, 113 Wis. 2d 514, 520-21 (1983). However, “we have long required pro se litigants, just like those with an attorney, to act reasonably in defense of their rights.” *State ex rel. Wren v. Richardson*, 2019 WI 110, ¶24, 389 Wis. 2d 516, 936 N.W.2d 587. This means that “while we construe pro se petitions, motions, and briefs to make the most intelligible argument we can discern, we do not impute to pro se litigants the best argument they could have, but did not, make.” *Id.*, ¶25.

I next apply this standard to determine what sort of relief Fetzer seeks. On its face, Fetzer's motion seeks three principal remedies: he asks (1) that the 2019 judgment against him “must be vacated,” (2) that both myself and two of Pozner's attorneys be “sanctioned and subject to suitable penalties,” and (3) “the case remanded for trial on the merits.” Fetzer Mot., dkt. 599:26. Fetzer cites no legal authority that might entitle him to any of these remedies. Liberally construing his papers, however, it is clear that Fetzer alleges a wide-ranging conspiracy to commit fraud upon the court. *Id.* at 1 (“The extrinsic fraud was by FEMA, the media, and the Obama administration ....”). As best I can tell, the purpose of Fetzer's new papers are to submit evidence on which I should find the existence of a fraud upon the court and then grant relief from the 2019 judgment against him. I therefore construe the papers as a motion for relief from judgment.

### II. Legal standard for relief from judgment.

Wisconsin Stat. § 806.07(1) allows relief from judgment “upon such terms are just ....” To prevail, the moving party “bears the burden to prove that the requisite conditions existed.” *Connor v. Connor*, 2001 WI 49, ¶28, 243 Wis. 2d 279, 627 N.W.2d 182. After proving a reason for relief,

the movant must also show the motion was made “within a reasonable time ....” Wis. Stat. § 806.07(2). “Any credible evaluation of a motion’s timeliness will necessarily consider the reasons for the moving party’s delay as well as the prejudice visited upon the non-moving party.” *State ex rel. Cynthia M.S. v. Michael F.C.*, 181 Wis. 2d 618, 627, 511 N.W.2d 868 (1994).

In addition to the enumerated reasons for relief in § 806.07(1), the plain statutory text of § 806.07(2) also authorizes “an independent action, based on fraud upon the court, to set aside a judgment.” *Dekker v. Wergin*, 214 Wis. 2d 17, 20, 570 N.W.2d 861 (Ct. App. 1997) (citing *Walker v. Tobin*, 209 Wis. 2d 72, 79, 568 N.W.2d 303 (Ct. App. 1997)). Although the statutory text authorizes an “independent action,” courts have treated fraud upon the court as grounds for a motion for relief from judgment. *See* 11 Wright & Miller, *Federal Practice & Procedure Civ.* § 2868 (3d ed. 2024) (“A party is not bound by the label used in the party's papers. A motion may be treated as an independent action or vice versa as is appropriate.”); *see Bankers Mortg. Co. v. United States*, 423 F.2d 73, 78 (5<sup>th</sup> Cir. 1970) (explaining the history of the “independent action”); *see also Nelson v. Taff*, 175 Wis. 2d 178, 187, 499 N.W.2d 685 (Ct. App. 1993) (Wisconsin courts may rely on federal cases interpreting analogous rules).

A movant claiming fraud upon the court must prove five elements:

- (1) a judgment which ought not, in equity and good conscience, to be enforced;
- (2) a good defense to the alleged cause of action on which the judgment is founded;
- (3) fraud, accident, or mistake which prevented the appellant in the judgment from obtaining the benefit of his claim;
- (4) the absence of fault or negligence on the part of appellant; and
- (5) the absence of any remedy at law.

*Dekker*, 214 Wis. 2d at 21 (alterations omitted).

**III. Fetzer's motion fails under either procedure.**

Although it appears Fetzer actually seeks relief under the “independent action” procedure in § 806.07(2), I begin by examining Fetzer’s motion to see whether he can prove he is entitled to relief from judgment for any of the reasons set forth in § 806.07(1). Fetzer says a series of frauds occurred during this litigation in 2019, the proof of which was contained in a book he wrote in 2015. Fetzer Br., dkt. 599:19. For example, borrowing his words, Fetzer says the fraudulent complaint was “so manifestly defective that even a first-year law student would have rejected it ...” Fetzer Br., dkt. 599:17. But if these frauds occurred in 2019, and if Fetzer knew about them either because they were obvious to a first-year law student or because Fetzer had already written a book on the topic, then § 806.07(2) required Fetzer to explain some reason why his five-year delay in bringing a motion for relief from judgment was reasonable. He offers no such explanation, so I deny Fetzer any relief from judgment under § 806.07(1).

I turn, next, to the independent action procedure for relief from judgment in § 806.07(2). This inquiry goes nowhere because, beyond Fetzer’s repeated use of the phrase “fraud upon the court,” he addresses none of the elements of an independent action for relief from judgment. *See generally* Fetzer Br., dkt. 599. While I have liberally construed Fetzer’s motion to seek relief under this section, I cannot develop an argument for him. *Richardson*, 2019 WI 110, ¶25. In any event, an independent action based on fraud could never entitle Fetzer to relief unless he acted “seasonably” and “without inexcusable negligence in the action.” *Dekker*, 214 Wis. 2d at 22 (quoting *Laun v. Kipp*, 155 Wis. 347, 371 (1914)). Here, to repeat, Fetzer professes his belief in a massive conspiracy to commit fraud but, to the extent his new motion is not already precluded by previous litigation, Fetzer has sought no relief for five years. As a result, even if I believed that

“FEMA, the media, and the Obama administration” defrauded this court, I would still deny Fetzer’s motion because he inexplicably waited too long. *See, e.g., id.* at 19 (dismissing independent action under § 806.07(2) after plaintiff “failed to act in a timely or prudent fashion to protect his own interests ....”).

**ORDER**

For these reasons,

IT IS ORDERED that James Fetzer’s motions for relief from judgment are denied.

**This is a final order for purpose of appeal.**

# EXHIBIT 2:

## Plaintiff's Notice of Motion and Motion for Sanctions and Order to Show Cause

Emily Feinstein  
(June 20, 2024)





Leonard Pozner is an imposter<sup>1</sup>. In this Court and elsewhere, Fetzer has relentlessly pursued a strategy of publishing information to enable Fetzer's hoaxer followers to also harass and threaten Mr. Pozner.

Recently, Dr. Fetzer's cohorts, which include Wolfgang Halbig, who continues to email excerpts from Mr. Pozner's deposition video, and disbarred lawyer Alison Maynard, obtained Mr. Pozner's home address. True to form, Dr. Fetzer immediately filed (and then almost immediately withdrew) a frivolous brief at the United States Supreme Court that disclosed Mr. Pozner's home address.

Dr. Fetzer's most recent unhinged missive, filed with this Court on June 18, 2024, once again violates Wisconsin rules and statutes regarding filing protected information. Defendant Fetzer previously filed an unredacted image of Noah Pozner's passport. (*See* Doc. 85.) At the April 26, 2019 hearing, the Court Ordered Mr. Fetzer to not file the passport in its unredacted form. (Doc. 123 at 11:15-17.) The Court followed up on that oral directive with a written Order repeating the prohibition on filing protected information in unredacted forms. (*See* Doc. 129.) Despite those clear, unambiguous Orders, Dr. Fetzer has once again filed the unredacted passport image. (Doc. 603, Fetzer Aff., Exhibit O, at 139, 141.)

## **II. ARGUMENT**

### **A. Legal Standard**

Contempt for the violation of a court order arises from the court's inherent authority, but is constrained by, in this case, Wis. Stat. § 785 et seq. *See Frisch v Henrichs*, 304 Wis.2d 1, 19, 763 N.W.2d 85, 94-95 (2007). Contempt of court is defined to include intentional disobedience of

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<sup>1</sup>Given the fact that the Court-appointed expert concluded that Mr. Pozner is the father of Noah Pozner, Dr. Fetzer's argument that Noah Pozner is actually Noah's step-brother, Michael Vabner, is frivolous. (Doc. 231, at 86:23-87:2.)

the authority, process or order of a court. Wis. Stat. § 785.01(1)(b). Following notice and a motion and evidentiary hearing, a court may impose a remedial sanction. Wis. Stat. § 785.03(1)(a).

**B. Dr. Fetzer's Egregious Violation Justifies A Severe Sanction Under § 805.03**

Dr. Fetzer was aware of the Court's Order regarding Wis. Stat. § 801.19 and that he was prohibited from filing Noah Pozner's unredacted passport. A failure to follow a court order under Wis. Stat. § 805.03 need not be ongoing, but instead even a single act can give rise to a sanction, including dismissal of an action. *Morrison v. Rankin*, 305 Wis. 2d 240, 257, 738 N.W.2d 588, 596 (Ct. App. 2007).

**C. The Court Can Find Defendant Fetzer is in Contempt and Issue a Remedial Sanction under Wis. Stat. § 785.03**

Dr. Fetzer is in contempt and therefore the Court may impose a remedial sanction for his intentional violation of the Court's Order. Wisconsin Stat. § 804.12(2)(a)(4) allows the Court to treat the failure to obey a court order as a contempt of court. Contempt of court is governed by Wis. Stat. § 785.03.

Remedial sanctions under Wis. Stat § 785.03 focus on ending the harm to the victim resulting from noncompliance with the order. *Christensen v. Sullivan*, 307 Wis. 2d 754, 765, 746 N.W.2d 553, 559 (Wis. Ct. App. 2008), rev'd on other grounds, 320 Wis. 2d 76, 768 N.W.2d 798. Here, the harm that a remedial sanction for contempt should seek to end is the ability of Dr. Fetzer to file documents in violation of the Wisconsin Rules of Civil Procedure.

Wisconsin Stat. § 785.04 sets forth potential remedial sanctions for contempt. Those sanctions include (a) payment of money sufficient to compensate a party for a loss or injury suffered by the party as a result of a contempt of court; (b) imprisonment while the contempt is ongoing for up to six months; (c) forfeiture of up to \$2000 per day while the contempt continues; (d) and order designed to ensure compliance with a prior order; and (e) a sanction of than those

specified if the Court finds those sanctions would be ineffectual to terminate a continuing contempt. *Id.* In addition, the Court may award attorney fees and other litigation costs. *See Town of Seymour v. City of Eau Claire*, 112 Wis. 2d 313 (Ct. App. 1983).

**1. Defendant Fetzer's Violation is Ongoing**

Defendant Fetzer's contempt is ongoing. He has repeatedly filed Noah Pozner's unredacted passport in spite of clear, unequivocal orders prohibiting him from doing so. That has occurred as part of an overarching, pervasive strategy whereby Dr. Fetzer uses e-filing systems to spread confidential and protected information through absurdly frivolous filings.

**2. A Meaningful Remedial Sanction Will Encourage Defendant Fetzer To Secure Compliance**

Monetary sanctions will not secure Dr. Fetzer's compliance. A jury already awarded Mr. Pozner \$450,000. The Court awarded costs. (*See* Doc. 355.) As the Court is aware from Plaintiff's various garnishment and turnover actions, Dr. Fetzer is essentially judgment-proof. While incarceration is certainly a possibility, it is not clear that it would cause Dr. Fetzer to comply.

Given the paucity of options to secure compliance, Plaintiff requests that the Court order Fetzer to not file any document without first seeking review by either Plaintiff's counsel or the Court to ensure that the filing complies with the Wisconsin Rules of Civil Procedure, relevant statutes, and other prior court orders. Plaintiff also requests that the Court's purge condition require Defendant Fetzer to pay the costs and the attorney fees for time expended related to this motion.

**III. CONCLUSION**

Defendant Fetzer intentionally violated the plain, unambiguous language of the Court's April 26, 2019, Order. Accordingly, Plaintiff asks the Court for an order requiring Defendant Fetzer to show cause why he should not be held in contempt and why a sanction should not be imposed.

Dated: June 20, 2024

QUARLES & BRADY LLP

*Electronically signed by Emily M. Feinstein*

Emily M. Feinstein (WI SBN: 1037924)

emily.feinstein@quarles.com

33 East Main Street

Suite 900

Madison, WI 53703-3095

(608) 251-5000 phone

(608) 251-9166 facsimile

MESHBESHER & SPENCE LTD.

Genevieve M. Zimmerman (WI #1100693)

1616 Park Avenue South

Minneapolis, MN 55404

Phone: (612) 339-9121

Fax: (612) 339-9188

Email: gzimmerman@meshbesh.com

THE ZIMMERMAN FIRM LLC

Jake Zimmerman (*Pro Hac Vice*)

15 Crocus Hill

Saint Paul, MN 55102

Phone: (651) 983-1896

Email: jake@zimmerman-firm.com

*Attorneys for Plaintiff Leonard Pozner*

EXHIBIT 3:  
Motion to Seal or Redact  
a Court Record

Emily Feinstein  
(June 20, 2024)

FILED  
06-20-2024  
CIRCUIT COURT  
DANE COUNTY, WI  
2018CV003122

Enter the name of the county in which this case is filed. **STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY**

Enter the Petitioner/Plaintiff's full name. **Petitioner/Plaintiff:**  
Leonard Pozner  
First name Middle name Last name

Enter the Respondent/Defendant's full name. **Respondent/Defendant:**  
James Fetzer  
First name Middle name Last name

Enter the Respondent/Defendant's full name.

Enter the case number.

This form is used for all case types. Some information may not apply to your case.

**Motion to Seal or Redact a Court Record**

Case No. 18-CV-3122

In #1, enter the name and date of the documents that you wish to have sealed.  
Use GF-242A to request redaction of Social Security, driver license, financial accounts, and other protected numbers to the court.

1. I request that the following document(s) be sealed:

Name of Document	Date of Filing
Motion to Reopen Judgment	6-17-2024
Exhibit W to Motion to Reopen Judgment	6-17-2024

Some documents are confidential by law and do not require a motion to seal. See GF-244 for information about these documents.

In #2, describe the type of info you wish to have redacted. For example, "Petitioner's home address", date of the documents and exact location of the information. Note every place where the information appears. The court is not responsible for finding the information in other places. Do NOT put the actual information to be redacted on this form. Use form GF-245 to provide the information to the court.

2. I request that the following type of information be redacted from the court record:

Location in the Court Record		
Type of Information to be Redacted	Date of Proceeding	Page and Line Number

3. I am filing form GF-245 to provide the sealed or redacted information to the court.
4. I am making this request based on the following law and facts:  
Mr. Pozner is a crime victim, has faced threats to himself and his children, and could face more if his address is publicly available.

In #5, if you are not a party or the attorney for a party, describe your relationship to this case.  
Sign and print your name and date the document.

5. I am not an attorney or a party to this case. I am interested because:

▶ Electronically signed by Emily M. Feinstein  
Signature  
Emily M. Feinstein  
Print or Type Name  
Attorney for Plaintiff  
Relationship to Case  
6/20/2024  
Date

DISTRIBUTION:  
1. Court  
2. Parties  
3. Petitioner, if not a party

# EXHIBIT 4:

## Order on Motion to Seal or Redact a Court Record

Judge Frank Remington  
(June 22, 2024)

FILED  
06-21-2024  
CIRCUIT COURT  
DANE COUNTY, WI  
2018CV003122

BY THE COURT:

DATE SIGNED: June 21, 2024

Electronically signed by Frank D Remington  
Circuit Court Judge

Enter the name of the county in which this case is filed.	STATE OF WISCONSIN, CIRCUIT COURT, <u>DANE</u> COUNTY		
Enter the Petitioner/Plaintiff's full name.	<b>Petitioner/Plaintiff:</b> <u>Leonard</u> <u>Pozner</u> First name Middle name Last name		<b>Order on Motion To Seal or Redact a Court Record</b>
Enter the Respondent/Defendant's full name.	<b>Respondent/Defendant:</b> <u>James</u> <u>Fetzer</u> First name Middle name Last name		
Enter the case number.			Case No. <u>18-CV-3122</u>

A motion to seal or redact a court record or transcript has been filed with the court.

**THE COURT ORDERS:**

The motion to

- 1. seal the requested information is granted for the reasons set forth in this motion. The clerk shall seal the following documents:

Motion to Reopen Judgment  
Exhibit W to Motion to Reopen Judgment

Access to view document(s):

- Petitioner/Plaintiff  Respondent/Defendant  Social Worker  Guardian
- Attorney  Guardian ad Litem  Probation
- Other: \_\_\_\_\_

- 2. redact the requested information is granted for the reasons set forth in this motion. The clerk shall redact the following information:

Access to view document(s):

- Petitioner/Plaintiff  Respondent/Defendant  Social Worker  Guardian
- Attorney  Guardian ad Litem  Probation
- Other: \_\_\_\_\_

The clerk shall perform the redaction as identified in this motion for previously filed documents.

The parties shall omit or redact this information from all documents subsequently filed.

- 3. seal or redact is denied because

- A. the request lacks a sufficient legal basis.
- B. the requester has not made a sufficient factual showing.
- C. Other: \_\_\_\_\_

- 4. Other: \_\_\_\_\_

DISTRIBUTION:  
1. Court  
2. Parties  
3. Petitioner, if not a party