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07-31-2024  
CIRCUIT COURT  
DANE COUNTY, WI  
2018CV003122

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

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LEONARD POZNER,

Plaintiff,

vs.

Case No. 18CV3122

JAMES FETZER,

Defendant.

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### DEFENDANT'S REPLY

NOW COMES James H. Fetzer, Ph.D., Pro Se Defendant, with a Reply to the Response from Plaintiff's attorneys filed on July 24, 2024, to Dr. Fetzer's Motion to Recuse Judge Frank Remington Pursuant to Wis. Stats. 757.19(2)(g) filed July 9, 2024. Plaintiff's Response observes (correctly) that ruling against a party *per se* does not require a circuit court to recuse. But this case involves conduct by Judge Remington that has been egregiously biased in favor of the Plaintiff and against Dr. Fetzer, including (most recently) repeated violations of basic due process rights under Wisconsin Rules of Civil Procedure.

Plaintiff argues that Dr. Fetzer cannot meet his burden for recusal, alleging that there is not even the appearance of partiality and that there is no basis for objecting on due process grounds. Both are in blatant contradiction with Judge Remington's conduct in this case from the beginning, which Dr. Fetzer has previously documented and will (at least, in part) summarize here. All previous submissions in Case No. 18CV3122 are incorporated and adopted for the purpose of this Reply.

### BACKGROUND

Wis. Stats. Chapter 757. General Provisions Concerning Courts of Record, Judges, Attorneys and Clerks, under Section 757.19 Disqualification of judge, specifically 757.19

(2) asserts, *Any judge shall disqualify himself or herself from any civil or criminal action when one of the following situations occurs: (g) when a judge determines that, for any reason, he or she cannot, or it appears he or she cannot, act in an impartial manner* (emphasis added). In relation to the 26 exhibits A-Z supporting Dr. Fetzer's Motion to Open Judgment Pursuant to Extrinsic Fraud and Fraud Upon the Court filed on June 20, 2024 (cited below as "MOJ"), Dr. Fetzer submits the following proofs of clear bias and partiality by Judge Remington, who was acting in collusion with the Pozner attorneys.

### **ARGUMENT**

#### **(1) Judge Remington Suppressed the Affidavit of Kelley Watt**

Judge Remington's approach was to manufacture a predetermined outcome by finding that Dr. Fetzer had libeled Leonard Pozner by declaring a death certificate that Pozner himself had provided to Dr. Fetzer's research colleague, Kelley Watt, to be fake. It was done by substituting a different and complete death certificate in the Complaint. The published death certificate, unlike the substitution, had no file number nor state or town certification. Under CT law, not even parents are allowed to possess incomplete death certificates. Kelley Watt's Affidavit exposes the fraud and vitiates the case against Dr. Fetzer but was suppressed by Judge Remington in collusion with the Pozner attorneys (MOJ, Exhibits J, K, and V).

#### **(2) Judge Remington Dismissed Proof that Nobody Died at Sandy Hook**

Judge Remington excluded Dr. Fetzer's proof that nobody died at Sandy Hook on both legally and logically absurd grounds, when he declared that, "whether or not Sandy Hook ever happened or not is not relevant to this – the – the truthfulness or the accuracy of the death certificate". But the death certificate states the decedent died at Sandy Hook

on December 14, 2012, of “multiple gunshot wounds” (MOJ, Exhibit M). Once again, the proof amassed in Dr. Fetzer’s co-edited book, *Nobody Died At Sandy Hook: It was a FEMA Drill to Promote Gun Control* (2015; 2<sup>nd</sup> ed., 2016), was inconsistent with Pozner’s position, thereby producing disputed facts that, had they been admitted, required a jury.

### **(3) Judge Remington Set Aside Reports of Two Forensic Document Experts**

Having restricted the issue to the authenticity or truthfulness of the death certificate and having disallowed extensive and detailed proof Dr. Fetzer had submitted in defense, Dr. Fetzer provided reports of two (2) forensic document experts—Larry Wickstrom and A.P. Robertson—who found not only that the incomplete death certificate published by Dr. Fetzer was fake but that the complete death certificate attached to the Complaint was also fake (along with two others obtain from the Town of Newtown and from the State), Judge Remington simply dismissed them as “someone else’s opinion” and said, “I just don’t think they were helpful” (MOJ, Exhibit R, pages 163 and 165). Their uncontested reports (again) vitiated the case against Dr. Fetzer by proving his statements were true.

### **(4) Judge Remington denied Dr. Fetzer Discovery on his Counterclaims**

To ensure that Dr. Fetzer not discover more proof of the non-occurrence of mass murder or that the decedent had not died at Sandy Hook, Judge Remington took the further step of bifurcating the case to deny Dr. Fetzer discovery on his counterclaims of Abuse of Process, Fraud and Theft by Deception, and Fraud upon the Court, a deft maneuver to cut off Dr. Fetzer’s access to new evidence that might strengthen his case (MOJ, Exhibit N). This denial of Dr. Fetzer’s right to discovery has now been used to claim that Dr. Fetzer had not made allegations of Fraud upon the Court in a timely manner, brought about by Judge Remington’s denial of Dr. Fetzer’s discovery rights.

**(5) Judge Remington Refused to Admit Proof that Noah Pozner is a Fiction**

Dr. Fetzer repeatedly advanced proof that the alleged decedent, Noah Pozner, was not a real person but a legal fiction created out of photographs of his purported older half-brother, Michael Vabner. Dr. Fetzer raised the issue by moving to expand DNA testing to include, not just Noah Pozner and Leonard Pozner, but Michael Vabner and Reuben Vabner, whom Dr. Fetzer had concluded to be the basis for “Noah” and for “Leonard” (MOJ, Exhibit O). This fact has now been substantiated by the Affidavit of Brian Davidson, P.I., who has also established that the party who testified as “Leonard Pozner” in Madison is not the same person as the “Leonard Pozner” of Sandy Hook, whose image has appeared millions of times around the world (MOJ, Exhibits W, X, and Y). This has enormous importance, not least of all because it implicates Pozner’s attorneys in the subornation of perjury.

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

To lower the bar for finding Dr. Fetzer liable, Judge Remington declined to rule that Dr. Fetzer had media standing as an investigative journalist, even though Dr. Fetzer had submitted a brief laying out his experience as an investigative journalist/reporter for decades, including paid assignments (MOJ, Exhibit U). Even more blatantly, Dr. Fetzer was being sued over three sentences in a book he had co-edited and another in a separate publication to which he had contributed. *How could Judge Remington, who insisted that he read every document submitted to the court, have missed this?*

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

Among the most important tells that Judge Remington was acting in concert with the Pozner attorneys is that, when Dr. Fetzer attempted to expose the party who had testified under the name of “Leonard Pozner” as an impostor (because

he was too young and too small to be the Sandy Hook Pozner), Dr. Fetzer sent the video deposition to Wolfgang Halbig for confirmation. Judge Remington took offense and held Dr. Fetzer in Contempt of Court, adding attorney fees in the amount of \$650,000 to the \$450,000 that would be awarded by the jury for his purported defamation of Leonard Pozner, thereby protecting himself and the Pozner attorneys, when Dr. Fetzer had told the truth (MOJ, pages 11-15).

Judge Remington has been so eager to avoid his exposure that he has now violated Dr. Fetzer's due process rights by abandoning the Wisconsin Rules of Civil Procedure, Chapter 802, not once or twice, but three times: (1) by rejecting Dr. Fetzer's Motion to Open Judgment Pursuant to Extrinsic Fraud and Fraud upon the Court filed on June 20, 2024; (2) by rejecting Dr. Fetzer's Request for Relief from Judgment or Order filed on June 20, 2024, and (3) by granting Plaintiff's Motion to Seal or Redact a Court Record filed on June 24, 2024.

The Pozner Response thus fails. It was not making decisions *per se* that deprived Dr. Fetzer of his legal rights but the decisions that Judge Remington made. The pattern of ruling to deny Dr. Fetzer's motions and facts to produce no disputed facts when the case was factually contradictory from the beginning reveals that Judge Remington was acting with partiality and bias—of a rather extreme variety given he manufactured the absence of disputed facts to apply Summary Judgment—in a case that had to be sent to a jury for fact resolution. This goes far beyond the *appearance* of partiality and bias.

Judge Remington, together with the Pozner attorneys in opposition—including Jake Zimmerman (*Pro Hac Vice*), Genevieve Zimmerman (WI #1100693), and Emily M. Feinstein (WI SBN: 1037924)—acted in concert to deprive Dr. Fetzer his right to present a valid defense

by violating the Wisconsin Rules of Civil Procedure and denying Dr. Fetzer his right to a trial by jury. They (separately and jointly) sabotaged these proceedings by going so far as to suborn perjury by an impostor witness. And when Dr. Fetzer attempted to expose the fraud, he was (in no uncertain terms) smacked down by Judge Remington, lest the deception become known. They don't want to be held to account for multiple violations of Supreme Court Rules and Rules of Civil Procedure whereby they committed Fraud upon the Court (*Dekker*, 214 Wis. 2d at 21) by eliminating disputed facts and fabricating a case against him.

### RELIEF SOUGHT

By suppressing the Affidavit of Kelley Watt, dismissing proof that nobody died at Sandy Hook and that Noah Pozner was a legal fiction, setting aside the reports of two forensic document experts, denying Dr. Fetzer discovery on his counterclaims, failing to acknowledge Dr. Fetzer as a media person and holding him in contempt when he sought to expose the impostor witness—together with his more recent procedural violations to suppress the proof of his egregious misconduct as quickly as possible—Judge Remington has egregiously violated Wis. Stats. Chapter 757. General Provisions Concerning Courts of Record, Judges, Attorneys and Clerks, under Section 757.19(2)(g) Disqualification of Judge. Dr. Fetzer therefore again moves that Judge Remington recuse himself from this case and any further associated proceedings.

Respectfully submitted,

Electronically signed by:

/s/ James H. Fetzer, Ph.D.

James H. Fetzer, Ph.D.  
Pro Se Defendant  
800 Violet Lane  
Oregon, WI 53575  
(608) 835-270  
[jfetzer@d.umn.edu](mailto:jfetzer@d.umn.edu)

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