

# **Critique and status of the Pozner vs Fetzer libel suit involving the alleged mass shooting at Sandy Hook**

by Ron Avery

Leonard Pozner sued Dr. James Fetzer and two other parties for libel back in November of 2018 claiming that Fetzer defamed him by writing in a book three times in one chapter and in a blog once that an incomplete death certificate of Pozner's son released to the public by Pozner was a fake. The other two parties were the co-editor of the subject book, *Nobody Died at Sandy Hook: It was a FEMA Drill to Promote Gun Control* and the publisher of said book.

I am interested in the case because the facts in this case involve the facts surrounding the alleged shooting at Sandy Hook Elementary school on 12/14/2012. This event was used to launch an aggressive campaign for unlawful disarmament of the American people in violation of the immutable second amendment to the U.S. Constitution. For that reason the results of this case impacts the rights of every American. I have one other interest that attracted me to this case. It's a libel case and I am familiar with libel law as I have been a Plaintiff in a libel suit against a large newspaper and its owner and lost and know how hard they are to win, especially in Texas. Both cases also involve mass media cartel narratives and their manipulation or creation of events which the courts may be unjustly protecting.

I was going to have a guest attorney on the show that knew the history of the case but after reading Wisconsin 4th Court of Appeals Opinion I discovered they were parties involved in some of the facts of the case. I do not want to involve anyone in this discussion of the case that has a stake of any kind other than their constitutional rights to keep and bear arms of all kinds to deter government tyranny according to the Preamble to the Bill of Rights. I may have this person on the show at some later date to discuss their own situation in this case. They are not parties to the lawsuit but only party to some of the facts and have suffered some damage as a result which I feel is appropriate for discussion in public.

A friend of mine said I should contact Dr. Fetzer, whom I had never heard of, because he was going to host a seminar with many guest speakers in New Orleans. I am a live streamer and have lots of equipment to do them and I am always looking for an event to livestream. Therefore I contacted Dr. Fetzer and learned of his event and defense in this lawsuit in progress at the time. I became interested in both and made a website to post all the important public filings in this lawsuit at <http://PostWTC.com/pvf.html>

Pozner filed a Motion for Summary Judgment in the Wisconsin Circuit or Trial Court claiming that four statements written by Dr. Fetzer were defamatory by law under the undisputed facts of the case. The judge of the Circuit Court granted the Motion and then called a jury to determine the extent of damages due Pozner. The damage trial was held and the jury found the amount of \$450,000.

During the discovery and proceedings of the circuit court Dr. Fetzer released some evidence that had been ruled confidential and he was found in contempt of court and fined several thousand dollars. At a later date he circulated some more of this confidential

material and was found in continual contempt and charged \$650,000 which happened to be the stated amount of Pozner's attorney fees. As of this date Dr. Fetzer owes \$1.1 million in this lawsuit. Dr. Fetzer appealed to the Wisconsin 4th Court of Appeals and they affirmed all the rulings of the Circuit court in a 58 page Opinion.<sup>1</sup> Dr. Fetzer is now preparing for his appeal to the Wisconsin Supreme Court.

I have reviewed this case and find some things to be simply repugnant to reason and find the appellate court affirmation to be shocking to the senses of any healthy impassionate person as I will explain. I also have an explanation for Dr. Fetzer's contempt of court which I think you will also see.

A summary judgment is a judicial tool used to bypass a trial by jury only if it is obvious that there are no alleged facts in dispute hence dispensing with the need for a fact finder which is the jury of ones peers. Now the other way to dispense with a jury to find the facts is to waive one's right to a trial by jury giving the judge the authority to determine both the facts and the law. In this case Dr. Fetzer did not waive his right to a jury trial to find the facts in obvious dispute. The circuit judge found that there were no relevant facts in dispute, that means he found that both parties agreed to the facts in the case and then the only thing left to rule upon was the law which only a judge can do anyway.

What is immediately outrageous in this case is that the judge found that there were no relevant facts in dispute. While a normal thinking individual could not read the pleadings of both parties in this case and determine that there were no relevant facts in dispute.

Pozner claimed that his son was a student at Sandy Hook Elementary School and killed there on 12/14/2012 by Adam Lanza and that his death certificate was not a fake and Dr. Fetzer said it was a fake. Mr. Pozner proffered evidence in support of his allegations. On the other side Dr. Fetzer claimed that no one died at Sandy Hook Elementary School on 12/14/2012 as it had been closed in 2008 and used to enact a FEMA mass casualty drill Involving Children that was marketed by the media as a real event in order to disarm the American People via "gun control legislation" and therefore any death certificate from said event must be a fake. Dr. Fetzer proffered a plethora of evidence in support of his allegations of fact.

Now certainly. if the shooting event did not happen and no one died at that event then any death certificate of one said to have been killed there that day is a fake and Dr. Fetzer did not lie when he said it was a fake, even if he said it was fake for other additional erroneous reasons. What led Dr. Fetzer to question the authenticity of the death certificate in the first place was the mounds of evidence, unrelated to death certificates, that the Sandy Hook Shooting never happened.

The first glaring error by the circuit court is finding there was no relevant facts in dispute in the case. I have never seen facts in a case so in dispute in my life; the plaintiff saying his son died in a mass shooting and the defendant saying the mass shooting never happened at all but was rather a FEMA drill or exercise.

Now how could one say that there are no relevant facts in dispute? That's possible but not in this case under the alleged facts in evidence. Let's say Dr. Fetzer was on trial for

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<sup>1</sup> <http://postwtc.com/pvf-coa-opinion.pdf>

calling Mr. Pozner a child molester with no modification of all the facts filed in this case. All of Dr. Fetzer's evidence that Sandy Hook never happened becomes irrelevant to the charges and a summary judgment can be granted. But none of the evidence filed in support of Dr. Fetzer's allegation that Sandy Hook never happened is irrelevant to the claim that the death certificate of Pozner's son is real or not.

The second glaring error of the appellate court is that in a summary judgment, to make sure the rights of the non-movant are protected and not cheated out of trial by jury to find the facts, the judge must weigh any fact question in favor of the non-movant, or in this case Dr. Fetzer. And further the judge must make all reasonable inferences from the facts alleged by the non-movant. Therefore, the only way a summary judgment can stand against Dr. Fetzer is if all the facts alleged by Dr. Fetzer are taken as true and all inferences of those facts are applied. It is impossible to accept the facts alleged by Dr. Fetzer and supported with evidence that the Sandy Hook Elementary mass shooting never took place, and at the same time, find that a death certificate for a victim of that event is not fake.

In a summary judgment the judge is required to review and consider all pleadings and evidence submitted in support of those pleadings on file. The court record in this case is replete with evidence in support of Dr. Fetzer's allegation of fact that the Sandy Hook Shooting did not take place and no one was killed there that day. Let's take a look at just some of this evidence on file:

The 400 page book edited by Dr. Fetzer entitled *Nobody Died At Sandy Hook: IT WAS A FEMA DRILL TO PROMOTE GUN CONTROL*:

- A 20 page *FEMA Manual For Sandy Hook: Site Activation Call-down Drill Exercise Plan*<sup>2</sup> with exercise date of 12/14/12 (the same day of the alleged Sandy Hook Shooting).
- The FBI report *CRIME In The United States 2012*<sup>3</sup> showing no murders or non-negligent Manslaughter in Newtown Connecticut in 2012.
- Wayback Machine evidence<sup>4</sup> showing the cessation of internet activity from Sandy Hook Elementary in 2008 and restarting long after the alleged Sandy Hook Shooting event.
- Investigation showing that the person in charge of the alleged crime scene at Sandy Hook Elementary did not know who if any one cleaned up the blood, saying upon inquiry "what blood?" Apparently the gun shot victims at Sandy Hook did not bleed.
- Receipts showing that cafeteria food was prepared and sent to Sandy Hook Elementary at the address of another school that had been closed earlier beginning in May of 2012. This supports the notion that Sandy Hook Elementary was closed for a long period surrounding the shooting event day of 12/14/12 and the students were going to another school at that time namely, Chalk Hill Middle School.<sup>5</sup>

That alone is enough factual evidence to support Dr. Fetzer's claim that the so-called Sandy Hook Elementary School Shooting never took place and requires a fact finding jury of one's peers to determine if the death certificates were or were not fake, thus precluding the use of summary judgment. But further, Dr. Fetzer provided the testimony

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<sup>2</sup> <http://postwtc.com/pvf-fema-manual-exh-a.pdf>

<sup>3</sup> [https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/8tabledatadecpdf/table-8-state-cuts/table\\_8\\_offenses\\_known\\_to\\_law\\_enforcement\\_by\\_connecticut\\_by\\_city\\_2012.xls](https://ucr.fbi.gov/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/8tabledatadecpdf/table-8-state-cuts/table_8_offenses_known_to_law_enforcement_by_connecticut_by_city_2012.xls)

<sup>4</sup> [https://web.archive.org/web/20040801000000\\*/newtown.k12.ct.us/~sh](https://web.archive.org/web/20040801000000*/newtown.k12.ct.us/~sh)

<sup>5</sup> page 28 at <http://postwtc.com/pvf-trial-exh-h-sh-collected-memoranda.pdf> (*Sandy Hook Truth* cited in Fetzer's Answer in paragraph 15).

of, not one but two, experts on document credibility. Both found all the death certificate versions that cropped up during the trial, including the one in question, to be fake. Pozner did not submit any experts on document authenticity but did offer the testimony of a funeral home director that said he filled out part of it. Once again, only two options are available, denial of summary judgment because of obvious relevant facts in dispute or decide in favor of the non-movant that the death certificates very well could be fake. Both options require the denial of a summary judgment against Dr. Fetzer.

Now let us review the Opinion of the Wisconsin 4th Court of Appeals to see how they ruled:

The very first thing they say is: "There is no reasonable dispute regarding the following facts":

"On December 14, 2012, a mass shooting occurred at Sandy Hook Elementary School in Newtown, Connecticut. Tragically, twenty-six people were killed, including six staff members and twenty children who were aged six and seven. *See, e.g., Jones v. Heslin*, No. 03-19-00811-CV, 2020 WL 1452025, at \*1, \*4 (Tex. Ct. App. Mar.25, 2020) (stating "Neil Heslin's son...was killed in the Sandy Hook Elementary School Shooting in December 2012" and rejecting the substantial truth doctrine as a basis to dismiss Heslin's defamation claim related to statements disputing Heslin's assertion that he held his deceased son in his arms); *Soto v. Bushmaster Firearms Int'l, LLC*, 202 A.3d 262, 272 (Conn. 2019) ("On December 14, 2012, twenty year old Adam Lanza forced his way into Sandy Hook Elementary School in Newtown and, during the course of 264 seconds, fatally shot twenty first grade children and six staff members, and wounded two other staff members."). Pozner's six-year-old son, N., was one of the children killed during the Sandy Hook shooting."

Whoa, whoa, whoa there cowboys! What!!! I don't want to sound disrespectful but that's just a bald-faced lie! From Fetzer's first Answer to his last filing claimed that the Sandy Hook Shooting never happened and no one died there on 12/14/12 and his evidence in support of that conclusion is what led him to believe the death certificate was fake. This kind of lie right out of the gate puts this whole opinion under a dark prejudicial cloud. Obviously, the parties would have to agree to the quoted set of facts above for the summary judgment finding against Fetzer. But Fetzer never agreed to those facts and he has disputed them with an overwhelming supply of evidence to support his claim which the courts have been unwilling to acknowledge much less examine. This ruling is the worst judicial mutilation I have seen in my life.

The circuit court judge determined those facts which he cannot do. A jury is required to find those facts. And to say those facts are undisputed between the parties is an outrage that should result in the disbarment of every judge so finding such a conclusion. How can anyone say that those facts are undisputed when they are the main areas of dispute. One says his kid was killed at the Sandy Hook shooting and the other says the Sandy Hook shooting never happened and hence no one was killed there. That is the whole issue to be decided. If Dr. Fetzer had agreed to those set of facts at anytime he would never have claimed that the death certificate was a fake. And Dr. Fetzer maintains that position from his first declaration until today in this lawsuit. Neither the circuit court nor the appellate court has cited at what time and by what instrument Dr. Fetzer changed his mind in regard to the facts and accepted the facts quoted from the opinion above.

This type of judicial mutilation exhibited from the beginning of this case is a slap in the face of every thinking human being. It is intolerable! The willingness of this judiciary

to cheat the defendant shown through out this case must lead to contempt wherein the victim of such judicial torture reaches out for help from others outside the proceedings.

Not only are those set of facts quoted from the opinion in hot dispute, in contradiction to their being undisputed, but they are not facts at all in this case but merely facts implied by the death certificate. Pozner has not offered any evidence to support the implied fact that the death certificate is valid. Pozner cannot make every fact to the contrary disappear because he says he has five different versions of a death certificate of his son whom he says was killed at that event. All evidence filed by Dr. Fetzner must be looked at showing that the Sandy Hook Shooting did not happen in order to prove that his evidence was insufficient for Dr. Fetzner to rely on and then knowingly state in writing that the death certificate is a fake when the greater weight of evidence shows that it is likely real and that Pozner's son really did die there as a victim in the alleged shooting.

The citing of two cases does not find the facts in this case. The implication by the court of appeals that what they say are the undisputed facts in this case is also *res judicata* from other cases filed by other parties is showing great prejudice against the appellant. These same facts have never been tried and I doubt seriously that the record in those two cases ever held or tried the evidence before the circuit court or court of appeals in this case.

Neither the circuit judge nor the appellate court in this case can find the facts in two other cases to be the facts in this instant case. We need not go any further to see the violation of the rules of summary judgment and how the facts of this case are made an absurdity by ruling that the Sandy Hook Shooting happened via two other unrelated cases that never reached the question of the reality of the Sandy Hook Shooting on 12/14/12.<sup>6</sup>

Why on earth would Dr. Fetzner say that the death certificate of Pozner's son was a fake unless he had done a lot of research and found lots of evidence suggesting that Sandy Hook didn't happen and the death certificate couldn't be real. Dr. Fetzner had two government documents that showed it didn't happen namely, the FEMA Manual for Sandy Hook scheduled for 12/14/12 and the FBI report saying no one was murdered in Newtown in 2012. This alone is enough to make a reasonable person wonder about the authenticity of a death certificate from that event. And the opinion of this appellate court would make any reasonable person wonder if we have lawful courts in our nation any longer.

In a way this whole suit is a matter of whose documents carry the most weight, the various conflicting versions of the alleged death certificate of Pozner's son or two uncontested government documents from the FBI and FEMA? Pozner never challenged the authenticity of the FEMA and FBI documents proving that the Sandy Hook Shooting on 12/14/12 never happened. Which would you believe? Or can we believe anything anymore? Why would we expect any person to put more weight in an alleged incomplete death certificate than in two government agency documents both of which rule out any such death occurring?

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<sup>6</sup> Paragraph 7 of the Dr. Fetzner's Motion for Reconsideration of the Appellate Opinion shows that these cases cited by the Appellate never answered the question: Did the Sandy Hook Shooting actually happen? I confirmed this by contacting Dr. Fetzner's attorney who researched the cases. <http://postwtc.com/pvf-coa-mfr.pdf>

In fact, if there is any undisputed evidence in this case, it is that the one death certificate in question is incomplete. When do incomplete documents become authentic? Dr. Fetzner called an incomplete death certificate a fake. And now Dr. Fetzner owes Mr. Pozner \$1.1 for calling the incomplete death certificate Pozner published a fake.

It appears that Pozner has convinced the Wisconsin courts that all you need to make an event happen by law is produce a copy of a death certificate. Does having a death certificate negate Dr. Fetzner's evidence showing the Sandy Hook school was closed in 2008 and never reopened until it was torn down and rebuilt long after the alleged shooting? Does this death certificate negate hard evidence of Sandy Hook lunches being sent to another school for months surrounding 12/14/12? Does the death certificate negate hard evidence that internet service was stopped at Sandy Hook in 2008? Does Pozner's death certificate negate the FEMA document for the Sandy Hook Mass Casualty Drill Involving Children scheduled on 12/14/12? Does Pozner's death certificate negate the FBI Crime Report for Newtown in 2012 showing no murders? We cannot allow the courts to cover up acts of pretended harm to alter the immutable Second Amendment to the Constitution. This is still disarmament terrorism even if it is only pretended harm marketed as real.

It's easy to get lost in a case where the facts relate to a shocking national or international event. But the case is very simple in reality. The Court allowed Mr. Pozner and others to introduce into evidence numerous copies of paper purporting to be a death certificate for Mr. Pozner's son that were not the same as the copy in Dr. Fetzner's book. Expert opinion was submitted by Dr. Fetzner showing that all copies were fake. These expert opinions that the Pozner death certificates were fake created a question of fact that should have precluded a summary judgment against Dr. Fetzner. However, the only death certificate at issue is the copy Dr. Fetzner included in his book which was an incomplete one. The other copies are irrelevant to the Pozner defamation claim except to show that the one at issue is not as complete as others. It is bad policy to allow incomplete documents to carry the same authority as complete documents. And it's a very small step, if any at all, to claim an incomplete document is a fake document. The Appellate Opinion suggests that the complete death certificate could have been released by Pozner and then altered by Dr. Fetzner. But this too is a fact question, once again, precluding a summary judgment.

If nothing else, we can say that Dr. Fetzner had good reason to suspect and conclude that any death certificate for a victim of the Sandy Hook Shooting on 12/14/12 is fake as most evidence he obtained shows it did not happen.

We can also conclude that the reports made by the Connecticut police were so bad and incomplete and poorly prepared and overloaded with irrelevant inconclusive data that no one could determine the event even happened from reading them. If indeed Sandy Hook happened it has been so miserably investigated by state and federal officials that no one should be held responsible for concluding or strongly suspecting it did not happen. We cannot find Dr. Fetzner guilty of suspecting and concluding that Sandy Hook did not happen with the useless reports provided by officials surrounding the alleged Sandy Hook Shooting of 12/14/12. We cannot allow an environment to swallow the nation wherein we must all simply accept the incompetent official reports to support the mass media cartel's narrative. These reports must show us the hard evidence of the events that are going to

alter our lives including gory horrifying pictures of the crime scene. What is the purpose of such reports to start with? It is not simply to fill up boxes at the police station but to show the public that the event happened just as we were told by the media and if not we can challenge those who could use events to rule our nation. If there is anyone to blame for Mr. Pozner's alleged post traumatic stress disorder it is the completely incompetent and inconclusive official investigation reports for Sandy Hook.

I want to make one other observation about the Wisconsin 4th Court of Appeals Opinion. I don't think one can fumble their way out of their pleadings and waive all their pleadings in hearings. A summary judgment is only appropriate where the rights of the non-movant are secured at the same time ruling correctly on the point of law in question. The purpose of a summary judgment is not to intimidate or train prose litigants nor is it to weed out incompetent attorneys of non-movants but rather to deliver justice to all parties expeditiously. For that reason all the non-movant's filings must be taken into consideration and any sloppy handling decided in the non-movant's favor.

This summary judgment does not protect the rights of the non-movant and ignores their pleadings and statements in court and weighs any questions between the parties in favor of Pozner the movant instead of Dr. Fetzer, the non-movant, as required. Neither does any court so far in this case draw any inferences from the facts alleged by the non-movant as they are required. This summary judgment should be used in law schools nationwide to show students what not to do!

Any lawful summary judgment against Dr. Fetzer must sound like this:

We take Dr. Fetzer's allegations of fact as true and all questions of fact are resolved in his favor and all inferences from his facts are made showing that the mass shooting at Sandy Hook Elementary did not happen on 12/14/12. We now find that Dr. Fetzer defamed Mr. Pozner when he published statements that the death certificate of Pozner's son, the victim of that event, was fake.

Do we now see how impossible it is for a summary judgment to find Dr. Fetzer guilty of defamation under the allegation of facts supported with evidence by the parties in this case? And do we now see why a litigant could become contemptuous of his treatment in the court and take action he would not otherwise have taken and end up suffering more brutality from the court than he has suffered from the manifestly corrupt summary judgment. It is outrageous that the circuit court has charged Dr. Fetzer more damages than his peers found against him for the original charge of defamation. Dr. Fetzer owes Pozner \$450,000 for defamation plus \$650,000 for contempt of court. And it is unconscionable that the Wisconsin Court of Appeals has affirmed this judicial war against Dr. Fetzer and the citizens of America and attempt to block the only way evidence of a major crime can come to the light of the public for the preservation of civilized society. If Sandy Hook happened so let a jury determine that from the evidence in this case. Both sides may present their evidence. But no summary judgment can stand against the defendant under disputed facts in this case.

Are we to suppose that an Opinion, that gets this summary judgment so wrong straight out of the gate, is going to be able to give a sound and compelling argument in favor of \$650,000 for contempt of court even if "continuing?" The Wisconsin Supreme Court must review this case and overturn the contempt of court rulings and the summary judgment and remand this case for a full trial by jury on the facts plead by both parties.

This case deserves the attention of every American and it should be invested in by every American and every company in America. We cannot let courts determine the existence of events supported by so little reliable evidence. No human being or company is safe in this judicial climate.