

STATE OF WISCONSIN

COURT OF APPEALS

LEONARD POZNER

CASE TYPE: DEFAMATION

Plaintiff

v.

No. 2018-CV-17-003122

JAMES FETZER,

MIKE PALECEK,

WRONGS WITHOUT WREMEDIES,

Defendants

---

MOTION BY DEFENDANTS JAMES FETZER AND MIKE PALECEK TO AMEND THEIR  
APPLICATION FOR INTERLOCUTORY APPELLATE REVIEW  
PURSUANT WIS. STAT. 808.08(3)

---

Defendants, James Fetzer, pro se, and Mike Palecek, pro se, submit this Motion to Amend Application for Interlocutory Appellate Review under Wis. Stat. §808.03(2). In support of this Motion, the defendants state as follows:

1. The Defendants are defendants in a defamation matter in Dane County, in which the trial judge ruled on summary judgment on June 17, 2019, that we had defamed the plaintiff. Under these circumstances, we now have no opportunity to defend ourselves at trial and must face a damages trial, even though it is a cause of action almost always tried by the jury.
2. Under Wisconsin law, a party may apply for interlocutory review of a non-final decision such as the summary judgment decision within fourteen (14) days of entry of the order or decision appealed from.
3. Although the trial judge made a summary judgment decision in favor of plaintiff, the trial judge has not memorialized his decision in writing. The transcript of the four (4) hour summary judgment hearing, which Transcript was entered on the docket on June 18, 2019, was made available to defendants on June 19, 2019.
4. The Transcript of the summary judgment hearing is 171 pages long, plus exhibits.

5. As pro se defendants, it is difficult enough to oppose the plaintiff, who had three separate counsel in appearance with him at the summary judgment hearing. It took the defendants several days just to read the Transcript of the summary judgment hearing to try and determine precisely what the judge ruled, and why he might have made those rulings.

6. As a result of the burden of not only trying to appeal a court order but attempting to determine precisely what the court order entailed and the reasoning upon which it was based, the defendants were hard pressed to prepare an appropriate appeal.

7. The failure of the trial judge to memorialize his summary judgment decision thus placed defendants in an extremely precarious position. We face a \$1,000,000 damages trial for an allegation against which we cannot defend, where our ability to file an application for interlocutory appeal was seriously obstructed.

8. Up against the fourteen (14) day deadline, the defendants did submit an Application for Interlocutory Review to the Appeals Court on July 2, 2019, which was within the fourteen (14) day deadline. As inexperienced pro se defendants, the Application for Interlocutory Appellate Review was non-compliant with the rules and lacking in legal citations.

9. In the meanwhile, the defendants have benefitted from the assistance of a lawyer whose license is not active. We therefore beg this Court to accept the Amended Application for Interlocutory Review attached hereto, in place of, and in substitution for, the Application for Interlocutory Review that defendants electronically filed on July 2, 2019.

**IN WITNESS WHEREOF**, Defendants respectfully request that their Motion to Amend Application for Interlocutory Review be granted.

Dated: 6 July 2019

Signed: */s/ James Fetzer*

James Fetzer, Pro Se

Dated: 6 July 2019

Signed: */s/ Mike Palecek*

Mike Palecek, Pro Se

NOTE: This petition was prepared with the assistance of an attorney whose license is not active, Alison Maynard, Colorado Bar Registration No. 16561.