

FILED

OCT 15 2019

DANE COUNTY CIRCUIT COURT

MINUTES

LEONARD POZNER vs. JAMES FETZER, et al.

Jury Trial

Case No. 18CV3122

October 15, 2019

Appearances: Attorneys Jacob Zimmerman, Genevieve Zimmerman, Emily Feinstein and Emily Stedman for plaintiff Leonard Pozner (also present in court). Attorneys Richard Bolton and Eric Baker for defendant James Fetzer (also present in court).

DAY 2

- Discussion re: jury instructions. No further instructions sought by either party. The agreed jury instructions that were filed will be used.
- Court revisited pltf's oral MILs that were raised yesterday. Argument by counsel. Court will rule on objections as they arise.
- Media request filed for video in the courtroom. Atty J. Zimmerman objected to request. Atty Bolton had no position. Court overruled objection and granted request.

9:14 Jury present.

Dr. Lubit – testified via video deposition.

Cross-examination played.

10:17 Jury excused for break.

- Media present. Court shared pltf's concern with the media representative regarding videotaping the image of the plaintiff but indicated it is not a court order.

10:44 Jury present.

Continued deposition of Dr. Lubit played.

Leonard Pozner - sworn and testified.

Direct exam by atty J. Zimmerman.

Ex 3 marked, offered, received and published by pltf.

Ex's 4 & 5 marked, offered, received and published.

Ex's 6 & 7 marked, offered and received.

(Counsel to provide court with tangible copy of exhibits (audio files)).

11:41 Jury excused for lunch.

12:50 Jury present.

Con't testimony of Leonard Pozner.

Cross exam by atty Bolton.

Ex 8 marked, offered, received and published.

Ex 9 marked and offered. Plaintiff objects. Court will rule outside the presence of the jury.
Witness excused.

Dr. James Fetzer – sworn and testified adversely.
Direct exam by Attorney Stedman.

1:37 Jury excused for break.

- Court addressed statements made by the witness indicating the court made a mistake in its prior ruling on the defamatory statements.
- Court took up objection to exhibit #9. Argument by counsel. Court denied Ex #9.

2:10 Jury present.

Court struck certain testimony of witness.
Con't direct exam.

Audio clip played of an interview given by Dr. Fetzer. (Counsel to provide court with tangible copy of audio file).

2:22 Jury excused for break.

- Atty J. Zimmerman moved to amend the pleadings to conform with the evidence presented. No objection by atty Bolton. Court granted.
- Discussion re: Ex's 1 & 2. Court will not receive.
- Plaintiff rested.
- Atty Bolton moved to dismiss. Court denied.

2:27 Jury present.

Con't testimony of Dr. James Fetzer.
Direct exam by Attorney Bolton.
Ex's 10 and 11 marked, offered and received.
No cross examination.
Witness excused.
Defense rested.

2:36 Jury excused for break.

- Court reviewed his ruling on the defn's motion to dismiss.
- Jury instruction conference held.

3:00 Jury present.

- Court read jury instructions.
- Closing argument by Atty G. Zimmerman.
- Closing argument by Atty Bolton.
- Rebuttal argument by Atty G. Zimmerman.
- Alternate jurors selected randomly and excused: #26 and #305.
- Clerk swore bailiff.

3:58 Jury excused for deliberations.

- Court indicated two issues remain: 1) defn's counterclaims, and 2) additional relief plead in the complaint as deemed appropriate by the court. Court will schedule a future hearing to address.
- Additional bailiff sworn.

4:28 Jury question. Marked as Ex #12.

4:37 Back on the record. (Defense counsel appeared by phone).

- Court addressed jury question. Ex 9 was not received by the court.
- Atty Bolton believed no exhibits should go back.
- Atty J. Zimmerman did not object to the exhibits going back. He believed they should all go back.
- Court drafted response. Ex's 8,10, & 11 were sent back to the jury.

7:25 Verdict reached.

- Date set for status/scheduling conference.

7:49 Jury present.

- Court read verdict.
- Court polled the jury.
- Court read final instruction to the jury.

7:52 Jury excused and court adjourned.