

**FILED**

SEP - 5 2019

DANE COUNTY CIRCUIT COURT

**MINUTES**

LEONARD POZNER vs. JAMES FETZER, et al.  
Case No. 18CV3122

Final Pre-Trial  
September 5, 2019

Appearances: Attorneys Jacob Zimmerman, Genevieve M. Zimmerman, and Emily Feinstein for plaintiff Leonard Pozner. Attorney Richard Bolton for defendants James Fetzer and Mike Palecek.

**RE: JURY SELECTION**

- 1) Discussion re: having an anonymous jury. Neither party objects. Court indicates that is how we will proceed. If either party changes their mind, must notify the court by 9/13/19.
- 2) Discussion re: voir dire. If either party wants to have judge ask questions – let him know one week prior to trial.
- 3) Court will allow 3 strikes each. If atty Bolton requests more strikes, should file a brief by 9/13/19.

**RE: ORDER OF WITNESSES**

- 1) Pltf witnesses:
  - Pozner: 1 hour direct.
  - Dr. Lubit: 1 hour direct.
  - Fetzer: (Called adversely)1 hour
- 2) Defn witnesses:
  - Fetzer
  - Kelley Watt: 2 hour direct.
  - Larry Rivera: 2 hour direct.
  - Larry Wickstrom: 2 hour direct.
  - Anthony Mead: 1 ½ hour direct.
  - Robert Steele: 2 hour direct.
  - Palecek: 1 ½ hour direct.
- 3) Court is expecting defn to call first witness afternoon on Tuesday and be complete by Friday a.m.

**RE: PROPOSED JURY INSTRUCTIONS AND SPECIAL VERDICT**

- Pltf agrees to use the defns' version of special verdict.
- Argument re: actual vs. express malice. JI 2511 vs. JI 2513.
- Atty Bolton argues re: journalistic privilege. Argues the defn could have used that as a defense against SJ. Atty Feinsten argues it was not raised during SJ motion hearing. Court indicated he is not reopening SJ ruling.
- Court indicated he will not allow the jury to ask questions during testimony.
- Parties to discuss proposed jury instructions and create 3 separate packets: agreed, pltf proposed and defn proposed.

- Discussion re: introductory statement. Court made comments. Atty Bolton argues it is in appropriate. Pltf to redraft statement and send to atty Bolton to review. Court will then rule on any remaining objection. Should be filed with the court Friday prior to trial.

**DEFNS MIL**

1. Granted by agreement.
2. Court previously ruled.
3. Pltf agrees except wanting to ask questions during voir dire. Argument by counsel. Atty Bolton concedes. Court granted.

**PLTF MIL**

1. Argument by counsel. Court denied. Court will rule on objection as they arise.
2. Granted by agreement.
3. Argument by counsel. Court denied. Court will rule on objections as they arise.

**RE: CONFIDENTIALITY/CONTEMPT**

- Atty Zimmerman raises concern that defns shared video deposition of pltf to multiple individuals in violation of protective order and that it was confidential as well as the transcript.
- Court questioned what the remedies he is seeking. Request court investigate. Court indicated he cannot do that but can schedule a motion for contempt in which the defn can appear and testify.
- Court set hearing and Atty Bolton will accept service.