

1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

2 - - - - -

3 LEONARD POZNER,

4 Plaintiff,

5 vs.

Case No. 18CV3122

6 JAMES FETZER,
7 MIKE PALECEK,

7

Defendants.

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10

11

DEPOSITION OF DR. ROY LUBIT

12

VOLUME I, PAGES 1 - 114

13

OCTOBER 5, 2019

14

ORIGINAL

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17

(The following is the deposition of DR. ROY

18

LUBIT, taken pursuant to Notice of Taking Deposition,

19

at 165 West End Avenue, 3L, in the City of New York,

20

State of New York, commencing at approximately 12:19

21

o'clock p.m., October 5, 2019.)

22

23

24

EXHIBIT #1
Case #18CV3122
Date: 10/14/19
Circuit Court Branch 8

25

1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 Emily L. Stedman
4 QUARLES & BRADY LLP
4 411 East Wisconsin Avenue
Suite 2400
5 Milwaukee, Wisconsin 53202

6 On Behalf of Defendant James Fetzer:

7 Richard L. Bolton (via telephone)
Boardman & Clark, LLP
8 1 South Pinckney Street
Suite 410
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10

ALSO PRESENT:

11

Ronald M. Huber, Videographer

12

13

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WITNESS

EXAMINED BY

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Dr. Lubit

Ms. Stedman

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15

Mr. Bolton

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1 P R O C E E D I N G S

12:19:17

2 (Witness sworn.)

3 DR. ROY LUBIT,

4 Called as a witness, being first

5 duly sworn, was examined and

6 testified as follows:

7 DIRECT EXAMINATION

8 BY MS. STEDMAN:

12:19:35

9 Q. Good afternoon, Dr. Lubit. My name is Emily

12:19:38

10 Stedman, I'm an attorney at Quarles & Brady in

12:19:40

11 Milwaukee, and I represent Leonard Pozner in this

12:19:43

12 case.

12:19:43

13 For the purpose of the record, if there is

12:19:45

14 something that you do not understand, please ask me

12:19:50

15 and I will try to rephrase. If you do not tell me,

12:19:52

16 I'll assume you understand.

12:19:54

17 Is that okay?

12:19:54

18 A. Yes.

12:19:56

19 Q. Please state your full name.

12:19:58

20 A. Roy Lubit.

12:20:00

21 Q. And Mr. -- Dr. Lubit, can you explain to the

12:20:03

22 jury why you cannot appear in Madison for the trial in

12:20:07

23 this case?

12:20:08

24 A. A combination of personal and work reasons.

12:20:11

25 I am a single parent, it's a three-day weekend, the

12:20:14 1 trial starts during that weekend, and the following
12:20:19 2 week I have to be away for two trials. I can neither
12:20:23 3 do that much time away, and it's not fair to my family
12:20:25 4 and it would be exhausting, I wouldn't be in
12:20:28 5 good-enough shape for the second trials.

12:20:34 6 Q. Please tell the jury about your education
12:20:36 7 following high school.

12:20:37 8 A. I went to college at Cornell Medical School
12:20:39 9 at New York University. I then went to Yale to do
12:20:44 10 psychiatry. There's a year of internal medicine,
12:20:48 11 which I was at Greenwich Hospital, part of the Yale
12:20:51 12 program, and then three years of psychiatry in New
12:20:53 13 Haven. Then I spent two years in Boston at Boston
12:20:56 14 Children's, studying child psychiatry. Then I had an
12:21:01 15 Advanced Psychotherapy Fellowship.

12:21:03 16 I had been approached by the government
12:21:06 17 about doing work on foreign leaders, and I then, in
12:21:12 18 prelude to that, started taking some courses at the --
12:21:16 19 at Harvard in international relations, and then
12:21:18 20 decided to stay around and wound up doing a Ph.D.
12:21:21 21 program and practicing psychiatry during those years
12:21:23 22 part time.

12:21:26 23 Returned to New York in '97, did some work
12:21:33 24 in psychiatry. And then in 2001 I went back to
12:21:38 25 training and did a Forensic Psychiatry Fellowship at

12:21:40 1 St. Vincent's. St. Vincent's is the closest major
12:21:45 2 medical center to Ground Zero, and my boss, Spencer
12:21:51 3 Eth, happened to be an international expert on PTSD.
12:21:54 4 And so much of the time that year was spent dealing
12:21:58 5 with emotional trauma and writing papers, giving
12:22:06 6 lectures, going to symposium on emotional trauma.

12:22:13 7 Q. Did you specialize in anything while
12:22:15 8 obtaining your MD at NYU?

12:22:18 9 A. There is no specialization during medical
12:22:21 10 school.

12:22:22 11 Q. How long does medical school take?

12:22:24 12 A. Four years.

12:22:25 13 Q. And then you did a psychiatry residency.
12:22:30 14 How long did that take?

12:22:31 15 A. It's a year of either a rotating internship
12:22:35 16 or a year of medicine, which is what I did, and then
12:22:39 17 three years of psychiatry work.

12:22:40 18 Q. Did you work with adults during that time?

12:22:42 19 A. That first three years was entirely adults.

12:22:50 20 Q. How long did your child psychiatry residency
12:22:52 21 take?

12:22:52 22 A. That's two years.

12:22:54 23 Q. How long did your Advanced Psychotherapy
12:22:56 24 Fellowship take?

12:22:58 25 A. That was --

12:23:00 1 It was half-time for two years, and then the
12:23:04 2 first year I was also spending half-time on a
12:23:07 3 consultation liaison service, and the Advanced
12:23:11 4 Psychotherapy Fellowship was adult psychiatry.

12:23:12 5 Q. And what is a -- what is an Advanced
12:23:15 6 Psychotherapy Fellowship?

12:23:18 7 A. I'm not sure how to describe it other than
12:23:23 8 what the -- what the term is used. It's getting extra
12:23:26 9 training. So we saw a number of patients, we had lots
12:23:32 10 of supervision, lots of seminars. During a psychiatry
12:23:36 11 residency you do many different things. You certainly
12:23:39 12 do some psychotherapy, but a great deal of time is
12:23:42 13 spent admitting people to in-patient units, working on
12:23:46 14 in-patient units, diagnosis, prescribing medications.
12:23:52 15 Part of my time was working on medical wards, seeing
12:23:55 16 people who were having psychiatric problems. And the
12:23:59 17 Advanced Psychotherapy Fellowship I had more
12:24:01 18 experience treating patient -- outpatients one-on-one
12:24:04 19 than I did during my residency.

12:24:07 20 Q. And did you treat adults during your
12:24:09 21 Advanced Psychotherapy Fellowship?

12:24:11 22 A. Yes. That -- The two years of Advanced
12:24:15 23 Psychotherapy Fellowship and three years of psychiatry
12:24:17 24 at Yale were all adults.

12:24:19 25 Q. And you also mentioned a forensic psychiatry

12:24:23 1 fellowship.

12:24:23 2 A. Yes.

12:24:24 3 Q. What does that mean?

12:24:26 4 A. Forensic psychiatry is the part of

12:24:29 5 psychiatry in which you do evaluations for legal

12:24:32 6 purposes. So custody evaluations is in the rubric of

12:24:38 7 forensic psychiatry, personal injury evaluations, and

12:24:43 8 criminal issues, which can be things such as not

12:24:47 9 guilty by reason of insanity, whether someone is ready

12:24:49 10 to go on to trial, false confession issues. My area

12:24:54 11 is more heavily personal injury issues, emotional

12:25:00 12 trauma, some traumatic brain injury.

12:25:03 13 Q. And did you examine adults during your

12:25:05 14 forensic psychiatry fellowship?

12:25:08 15 A. That was entirely --

12:25:09 16 That was almost entirely adult work.

12:25:13 17 Q. Once you completed the education portion,

12:25:16 18 did you obtain any certifications?

12:25:20 19 A. Yes.

12:25:21 20 Q. Tell us about them.

12:25:22 21 A. Before I even began the child work, I took

12:25:26 22 the boards in psychiatry. To become board certified

12:25:30 23 you need to go through an accredited fellowship and

12:25:33 24 then take exams. So at the time that I was doing it

12:25:37 25 there was a written exam, and if you pass that, there

12:25:40 1 is an oral exam. And I passed that in -- a year or so
12:25:46 2 after I finished my adult training, before I finished
12:25:48 3 my child training. I was then board certified in
12:25:50 4 adult psychiatry. Then at the time that I was doing
12:25:57 5 child psychiatry people weren't bothering to get their
12:25:59 6 Boards, and I didn't afterwards. But after my
12:26:03 7 fellowship I was asked to stay on at New York Medical
12:26:07 8 College as an assistant professor, and then I was
12:26:10 9 hired away by Mount Sinai to come and teach and do
12:26:14 10 work on PTSD. And with those opportunities I then
12:26:20 11 went and took my Boards in child psychiatry and passed
12:26:24 12 them, and Boards in forensic psychiatry.

12:26:28 13 The first set of Boards -- At that point in
12:26:31 14 time they were for life, the general psychiatry. The
12:26:35 15 child and forensic boards are for 10 years. And I
12:26:40 16 took them, oh, a few years ago I recertified, and I'll
12:26:44 17 be having to do that again in about three years.

12:26:50 18 Q. And to the extent you haven't already done
12:26:52 19 so, can you describe for the jury your experience
12:26:55 20 related to trauma in adults?

12:27:00 21 A. I reviewed it pretty much, but the -- I mean
12:27:03 22 certainly there were traumatized individuals that I
12:27:06 23 saw during my adult training, people who had been
12:27:10 24 through various sorts of highly stressful events.
12:27:16 25 With the work at St. Vincent's it was very heavily

12:27:20 1 focused because again we're -- saw large numbers of
12:27:23 2 people from the World Trade Center. And then in the
12:27:28 3 years after, many of the people who have come to me
12:27:32 4 have had traumatic events and the -- probably more
12:27:37 5 than half of my work in forensic psychiatry is -- has
12:27:41 6 been doing personal injury evaluations, and those are
12:27:44 7 all people who -- some had near-death experiences,
12:27:49 8 some were sexually assaulted, various very stressful
12:27:57 9 experiences that fit the diagnostic criteria for PTSD.

12:28:02 10 Q. Have you conducted research and publications
12:28:05 11 on adult emotional trauma?

12:28:09 12 A. I've --

12:28:10 13 Most of my publications are on child trauma,
12:28:15 14 but child trauma is everything in adult trauma plus a
12:28:20 15 little bit more, because the diagnostic criteria for
12:28:23 16 young children are different. But the criteria for
12:28:28 17 adults are the same as for adolescents, but I also
12:28:32 18 have -- I am one of two authors on an article on PTSD
12:28:36 19 in adults.

12:28:39 20 Q. Can you describe for the jury what your
12:28:41 21 article, *Integrating Our Understanding of Classical*
12:28:44 22 *and Betrayal Trauma*, is about?

12:28:48 23 A. There -- The research in --

12:28:55 24 Let me start again with this. It's -- Most
12:28:59 25 diagnoses in psychiatry are based upon a constellation

12:29:03 1 of symptoms, so you -- if someone comes to you and
12:29:05 2 they have a low mood, can't enjoy things, difficulty
12:29:09 3 concentrating, sleep problems, appetite changes,
12:29:14 4 energy -- low energy, these individuals are going to
12:29:18 5 be diagnosed as depressed. How much of that is due to
12:29:24 6 biology, how much is due to recent stresses, how much
12:29:27 7 of that is due to childhood traumatic experiences that
12:29:31 8 are now affecting them is left out of the diagnostic
12:29:35 9 picture. And then people look to see, all right, what
12:29:38 10 can cause depression.

12:29:41 11 PTSD can appear very differently, and PTSD
12:29:45 12 has always been dependent upon having experienced a
12:29:51 13 set stressor. The exact definition of that stressor
12:29:55 14 has changed over time, but generally it is being
12:29:58 15 exposed to an incident which at least threatens --
12:30:03 16 which threatens or causes severe injury. With DSM-5
12:30:10 17 it changed to being exposed to, so that work -- people
12:30:16 18 who work with victims, and people who have a close
12:30:21 19 family member go through an event, they can also meet
12:30:26 20 diagnostic criteria. Because we were seeing that the
12:30:28 21 workers, particularly workers down at Ground Zero were
12:30:32 22 coming down with the same symptoms as those who had --
12:30:35 23 were in the building and almost died. So there's been
12:30:41 24 -- So that's the PTSD side of things.

12:30:46 25 Then various people have noticed that there

12:30:50 1 are experiences which do not fit those criteria but
12:30:53 2 which lead to similar symptoms. And some of that is
12:30:58 3 betrayal in a relationship can lead to similar
12:31:00 4 symptoms.

12:31:06 5 A third piece to this puzzle is the work of
12:31:08 6 a man named Symonds. He was a brilliant
12:31:12 7 psychoanalyst. He was a policeman turned
12:31:14 8 psychoanalyst, so he had -- in various contexts he had
12:31:18 9 seen many, many individuals who were traumatized. And
12:31:20 10 he had a theory that some of the symptoms that we
12:31:24 11 think are the result of the initial trauma are
12:31:27 12 actually not, but that they're due to the way people
12:31:33 13 treat the individual afterwards, and that we were
12:31:38 14 conflating the two because it was so common that --
12:31:44 15 that someone doesn't get the support they need, or
12:31:47 16 women who are raped are often treated very, very badly
12:31:51 17 by the legal system and the healthcare system with
12:31:57 18 people challenging them, invalidating them.

12:32:01 19 And so a number of people started writing
12:32:03 20 about this. And I tried to look at psychodynamically
12:32:11 21 what was underlying -- what was going on with the two,
12:32:13 22 what was similar about them. And I felt that there
12:32:15 23 were very similar psychological processes going on,
12:32:19 24 and that within what we think of just as betrayal
12:32:25 25 there are threats to the person's self. Maybe not to

12:32:28 1 their physical self, but the threat to who they are
12:32:31 2 and what their life is about, and that that was
12:32:34 3 causing some of the symptoms of betrayal, and that
12:32:39 4 many of the people that we see who suffer physical
12:32:43 5 threat, their symptoms are often due to the way
12:32:49 6 they're treated.

12:32:51 7 Now it's been known for quite awhile, I
12:32:54 8 remember it was back around the time -- not long after
12:32:57 9 9/11 that I started seeing articles that the amount of
12:33:02 10 stress one has after an event, and the amount of
12:33:05 11 support that an individual gets after a traumatic
12:33:09 12 event is as important as the nature of the event in
12:33:15 13 whether someone's going to have ongoing symptoms. So
12:33:18 14 people who get a lot of support, who -- where
12:33:20 15 stressors are kept down, they will do much, much
12:33:23 16 better than someone who doesn't get the support.

12:33:26 17 What is different about Symonds' work and
12:33:30 18 what I tried to say based on his work is that it's
12:33:37 19 actually a second injury. That term again is Symonds.
12:33:43 20 And that when people have been hurt, victimized, the
12:33:50 21 expectation is that people will rally around them.
12:33:53 22 They're in a very weakened position, and the hope is
12:33:56 23 that we live in a caring society and that people will
12:33:59 24 be good to those who are hurting, and that when the
12:34:03 25 opposite happens, even when just -- there's a com -- a

12:34:09 1 lack of support, it's shocking to the person. I
12:34:13 2 thought these people cared about me, I thought the
12:34:15 3 police would be nice to me, I've just been raped. And
12:34:18 4 the police then start invalidating the person, saying:
12:34:20 5 Are you sure it happened? Did you want it to happen?
12:34:23 6 You know, were you teasing the person? That's --
12:34:25 7 That's a -- That's not simply a lack of support, in my
12:34:29 8 belief, Symonds' belief, that's a second injury.

12:34:35 9 Q. You mentioned something, I believe DSM-5.

12:34:40 10 A. Yes.

12:34:41 11 Q. What is that?

12:34:43 12 A. DSM-5 is the *Diagnostic and Statistical*
12:34:47 13 *Manual of Mental Disorders*, it's produced by the
12:34:49 14 American Psychiatric Association. DSM-5 came out in
12:34:54 15 2013, I believe, and they've gone through, it's the
12:34:59 16 fifth generation, of course, and it gives the
12:35:02 17 diagnostic criteria of all diagnosable disorders, and
12:35:07 18 it also gives some information upon the course of the
12:35:10 19 illness, differential diagnosis, what things could
12:35:14 20 look like it.

12:35:17 21 Q. And you mentioned that something changed
12:35:19 22 with DSM-5?

12:35:21 23 A. Yes. With DSM-5 they said that -- they took
12:35:26 24 away one of the criteria in that the causal criteria
12:35:31 25 for DSM-4 you had to experience horror or great fear

12:35:38

1 --

12:35:38

2 Q. For PTSD?

12:35:39

3 A. Yes.

12:35:40

4 -- at the time of the event. You had to

12:35:42

5 have horror or great fear I think was the third one.

12:35:46

6 And that was -- that was removed, but more

12:35:51

7 substantially, they brought in -- they used the word

12:35:56

8 "exposure" as opposed to "experience."

12:35:59

9 So your child comes home and says, you know

12:36:05

10 -- You're called up and told that your child was hit

12:36:07

11 by a car and is injured. That parent can get PTSD.

12:36:15

12 They've always been able to get the symptoms, now

12:36:18

13 people will say we're going to call that PTSD also.

12:36:23

14 Q. How does the article, *Integrating Our*

12:36:26

15 *Understanding of Classical and Betrayal Trauma* relate

12:36:29

16 to your work generally?

12:36:34

17 A. I --

12:36:35

18 In my work doing evaluations I probably

12:36:38

19 spend more time than many of my colleagues looking at

12:36:42

20 how people were treated by their institutions. So

12:36:48

21 I've had many cases where women suffered sexual

12:36:52

22 harassment and then their bosses didn't believe them,

12:36:58

23 or they were treated very, very roughly by

12:37:03

24 investigators. I know this one case in which she was

12:37:09

25 not allowed to take a friend along, she had to sit in

12:37:11 1 a room with five men who started challenging her what
12:37:14 2 happened without a friend or a lawyer there. This was
12:37:17 3 a very harmful thing to do.

12:37:22 4 And I had noticed also with children who had
12:37:25 5 been abused that -- and colleagues of mine have told
12:37:28 6 me they have the same experience -- that they often
12:37:33 7 wind -- the trauma is often more when the parent
12:37:38 8 doesn't support -- when the other parent doesn't
12:37:40 9 support them afterwards, that -- or society doesn't
12:37:44 10 support them. You know, children who were abused by a
12:37:47 11 parent and the -- the Court, the law guardian, their
12:37:56 12 therapist doesn't get behind them and say we're going
12:37:59 13 to help protect you. They say, we don't believe you
12:38:01 14 and go back to this parent who you claim is abusing
12:38:04 15 you. And those kids often suffer more long-term harm
12:38:07 16 by that. You know, on first glance it doesn't make
12:38:10 17 sense. How could that be as serious. But I try in
12:38:14 18 the article to explain that it does actually make
12:38:17 19 sense.

12:38:19 20 We all know, from a relatively young age,
12:38:21 21 that there are some bad people in the world that can
12:38:24 22 hurt us and there are bad things that can happen. It
12:38:28 23 becomes concretized when something terrible does
12:38:33 24 happen. But we, at most times until something happens
12:38:37 25 we expect that the world is going to support us. We

12:38:40 1 expect that if something happens, our teachers, our
12:38:43 2 par -- both of our parents, the legal system, the
12:38:48 3 medical system is going to respond, and the community
12:38:52 4 that the person lives in is going to respond with
12:38:54 5 support, belief and wanting to give help. And -- But
12:39:01 6 that often -- But when that doesn't happen, and the
12:39:06 7 person finds themselves now in a situation where they're
12:39:09 8 not just faced with the concretization that there are
12:39:13 9 some bad people and bad events that can happen, but
12:39:16 10 the world is not what they thought it was. That they
12:39:19 11 had thought that they were living in a world filled
12:39:21 12 with lots of nice people who were going to be there
12:39:24 13 and take care of them if they needed care, and all of
12:39:29 14 a sudden they're on their own, where they can't rely
12:39:33 15 on authority figures, the community in general, and
12:39:37 16 the world is much more threatening.

12:39:39 17 And some of this is captured within the PTSD
12:39:43 18 criteria and a change in one's view of one's self and
12:39:49 19 the world, and social withdrawal. And these are two
12:39:54 20 of the most damaging symptoms of PTSD. There are
12:39:57 21 many, many symptoms, some of them don't necessarily
12:40:04 22 interfere terribly with life. Someone who was in a
12:40:07 23 car accident and they avoid the exit that they were
12:40:14 24 on. The person can live with avoiding that exit -- ex
12:40:18 25 -- Sorry. The person can get along fine in life

12:40:21 1 avoiding that exit. It's not that -- It's an
12:40:24 2 inconvenience, but it doesn't really get in the way of
12:40:26 3 their life. But individuals who feel that they can no
12:40:30 4 longer trust other people and they're not safe in
12:40:33 5 general, and so they withdraw, their lives are
12:40:37 6 drastically different, and that's much more harmful
12:40:41 7 than, you know, a narrow avoidance of something that
12:40:44 8 reminds them of the original trauma.

12:40:49 9 Q. In addition to your articles, have you
12:40:51 10 written any books?

12:40:54 11 A. Published one book.

12:40:55 12 Q. And I believe the book is *Coping With Toxic*
12:41:00 13 *Managers and Subordinates*?

12:41:02 14 A. Yes.

12:41:03 15 Q. What is that book about?

12:41:06 16 A. Along the way, because of the work that I
12:41:10 17 had done in graduate -- in my graduate training which
12:41:14 18 is sort of on the borderline of political science and
12:41:17 19 psychology, not psychiatry, more organizational
12:41:21 20 dynamics, social psychology, I was asked to work for
12:41:28 21 PricewaterhouseCoopers, and I worked for them for two
12:41:31 22 years in a group that was entirely psychologists,
12:41:34 23 except for me. And then through that experience and
12:41:40 24 talking to some professors I was asked to write about
12:41:44 25 narcissistic managers and how they can affect

12:41:46 1 organizations, and then from that I was approached by
12:41:49 2 a publishing company who saw the article and said, how
12:41:52 3 about writing a book about this.

12:41:54 4 Q. How does that topic relate to adult trauma?

12:41:57 5 A. It's about high stress. It's about what
12:42:01 6 it's like to deal with a high-stress situation and how
12:42:04 7 it can affect you. It doesn't talk about, you know,
12:42:08 8 an incident that could be diagnosed as PTSD, but it's
12:42:13 9 still what does high stress -- what's it like to feel
12:42:16 10 threatened and bossed around all the time. So the
12:42:19 11 concepts are certainly related to what we're talking
12:42:22 12 about today.

12:42:24 13 Q. And sometimes do news outlets ask you for
12:42:27 14 your opinions about things?

12:42:28 15 A. Yes.

12:42:29 16 Q. Can you describe for the jury some of your
12:42:33 17 interviews or publications about the R. Kelly
12:42:39 18 situation?

12:42:40 19 A. With R. Kelly I was -- and it was NBC had me
12:42:48 20 come out to the studio, along with many, many other
12:42:51 21 people and asked a bunch of questions about it. I've
12:42:53 22 been on TV or radio a number of times talking about,
12:42:59 23 most commonly about traumatic emotional trauma issues.

12:43:03 24 Q. Including the recent occurrence regarding
12:43:06 25 the United States gymnasts?

12:43:09 1 A. I was asked about that, yes.

12:43:11 2 Q. And you've touched on it a little bit, but
12:43:14 3 can you describe a little more your work with and
12:43:17 4 around 9/11?

12:43:23 5 A. We --

12:43:24 6 There were phases of it. The first was
12:43:27 7 there was seeing the people immediately after the; the
12:43:31 8 day after, two days after, three days after. People
12:43:34 9 came to large centers and we spoke to people and tried
12:43:38 10 to give support and help them. Then there was a
12:43:43 11 massive amount of training. The *New York Times* gave
12:43:47 12 several million dollars for training, and like 30 full
12:43:50 13 days of training from basically the biggest names
12:43:52 14 around the world in emotional trauma. And then, you
12:43:58 15 know, we saw people and I also supervised people. We
12:44:03 16 put in a grant through SAMHSA, I don't think I can
12:44:08 17 remember the -- a government entity that deals with
12:44:11 18 mental health issues, Substance Abuse and Mental
12:44:16 19 Health, something like that, and got the grant. And
12:44:19 20 that paid for my next year at St. Vincent's, and then
12:44:24 21 I went on to -- to Mt. Sinai.

12:44:28 22 Q. You also mentioned a little bit about a
12:44:31 23 Ph.D. Can you describe your Ph.D. for the jury?

12:44:35 24 A. The Ph.D. was in political science, and the
12:44:39 25 dissertation was around studying how -- change of

12:44:43 1 opinions. In what situations do people change their
12:44:47 2 perspectives. And that was certainly not mainline
12:44:52 3 psychiatry by any means, but the skills that I learned
12:44:55 4 there I felt were really very important. In
12:45:00 5 psychiatry and psychology, including forensic work,
12:45:04 6 people often don't rigorously study situations. We're
12:45:11 7 supposed to have competing hypotheses, we're supposed
12:45:14 8 to explain why this hypotheses is stronger than
12:45:17 9 another, and that usually doesn't happen. I've got an
12:45:20 10 article that I just finished about bias in custody
12:45:25 11 evaluations, but it applies to all forensic
12:45:28 12 evaluations. And I think that at whatever level I
12:45:33 13 function in psychiatry that the political science
12:45:37 14 training is -- is integral to whatever level analytic
12:45:42 15 ability I have reached, because there we were required
12:45:45 16 to talk about different hypotheses, to argue, make
12:45:49 17 believe that we're on each side, argue back and forth,
12:45:53 18 use texts, find data to support it, and do the type of
12:45:57 19 work that now I'm doing in forensic psychiatry but in
12:46:03 20 a really rigorous, analytic way.

12:46:07 21 Q. What do you do today for -- for your living,
12:46:11 22 in terms of evaluating patients? Can you describe for
12:46:13 23 the jury a normal workday or work week?

12:46:17 24 A. There is no normal week. A certain amount
12:46:21 25 of time is -- I have some private patients that I see

12:46:27 1 in therapy, all adults at this time. A fair of my
12:46:33 2 time is being spent writing. I'm on a second book and
12:46:37 3 finishing up some articles, like on -- on bias, and
12:46:43 4 another article on emotional trauma. I do
12:46:48 5 evaluations, much -- evaluations are normally -- far
12:46:52 6 more time is spent reading documents than doing the
12:46:56 7 interview. So a certain amount of interviewing, a lot
12:47:00 8 of reviewing documents, pulling it together,
12:47:01 9 testifying.

12:47:03 10 Q. What percentage of your work is connected to
12:47:05 11 the legal system?

12:47:09 12 A. So a majority, and in terms of income,
12:47:12 13 overwhelming.

12:47:13 14 Q. Do you work for both plaintiffs and
12:47:15 15 defendants?

12:47:16 16 A. Yes.

12:47:17 17 Well I -- I work for the truth. I have been
12:47:23 18 retained by both plaintiff's side and defense side,
12:47:28 19 but I see my -- my job as working for the trier of
12:47:32 20 fact.

12:47:34 21 Q. Do you always render a favorable decision to
12:47:38 22 the side that retains you?

12:47:39 23 A. No. And I also turn down many cases. If I
12:47:44 24 -- If a side calls me and I think that my opinion --
12:47:47 25 there's a good chance it could go against them, or I

12:47:50 1 think they have a weak case I'll tell them that I'm
12:47:52 2 not the person they want.

12:47:55 3 Q. Now I'd like you to talk to the jury about
12:47:58 4 this case.

12:47:59 5 Can you explain how you got involved in this
12:48:01 6 case?

12:48:04 7 A. I believe Mr. Zimmerman first gave me a
12:48:08 8 call. I don't know how he got my name. And he told
12:48:12 9 me about the case, and I -- it seemed important to me,
12:48:18 10 and I agreed to do it. And I know the -- My
12:48:23 11 understanding is the firm is doing it pro bono, and I
12:48:26 12 then said that I would do it pro bono.

12:48:28 13 Q. What did we ask you to do in this case?

12:48:31 14 A. To do an evaluation of how Mr. Pozner was
12:48:37 15 affected by -- by the -- by events that occurred
12:48:44 16 afterwards; people claiming that Sandy Hook never
12:48:54 17 occurred, that he had -- didn't have a son, that he
12:48:58 18 faked his son's death certificate, that this was all a
12:49:03 19 fraud.

12:49:05 20 Q. And you may have mentioned this before, but
12:49:07 21 are we paying you for your services?

12:49:10 22 A. No. As I --

12:49:12 23 I agreed on the first phone call with Mr.
12:49:14 24 Zimmerman, when I heard that -- you know, what was
12:49:17 25 going on in the case, and -- that I would do it pro

12:49:23 1 bono. My general -- And it's not the first pro bono
12:49:27 2 case I've done, the first pro bono work I've done. If
12:49:31 3 you have a case that's important, and I feel it's
12:49:37 4 really an important cause and the person doesn't have
12:49:39 5 money, I'm -- I will do it without -- without being
12:49:44 6 paid.

12:49:45 7 Q. How much time would you estimate you've
12:49:47 8 spent on this case?

12:49:55 9 A. I've probably spent four or so hours talking
12:50:00 10 to Mr. Pozner, I have reviewed various -- some
12:50:06 11 documents. I had some time I know I talked to Mr.
12:50:14 12 Zimmerman. Probably less than ten hours.

12:50:18 13 Q. Does it matter to you what an attorney like
12:50:21 14 me, or Attorney Zimmerman want you to say?

12:50:25 15 A. No. Again my loyalty is to the truth. It's
12:50:35 16 -- It -- It would be a terrible thing for me to abuse
12:50:39 17 my credentials in psychiatry and say something that
12:50:46 18 was contrary to what I believed was the case to please
12:50:51 19 someone or to make money. It's hurting -- It hurts
12:50:59 20 people. Exactly who may get hurt by that I'm not
12:51:02 21 sure, but it's really damaging to society and that's
12:51:05 22 completely opposite to my oath as a doctor.

12:51:07 23 Q. You mentioned that you spoke to Mr. Pozner.
12:51:10 24 Can you describe those interactions for the jury?

12:51:13 25 A. They were by phone. I actually don't know

12:51:17 1 where he lives. Because of what happened I told him I
12:51:22 2 did not want to know where he lives, so that no -- if
12:51:25 3 anyone asked me, I could say, "I don't know." We
12:51:28 4 spoke extensively about what -- you know, what was the
12:51:34 5 flow of things from the tragedy until recently, and
12:51:41 6 also in detail about what symptoms he -- he has been
12:51:45 7 having and how he's changed.

12:51:48 8 Q. Are you Mr. Pozner's treating physician?

12:51:50 9 A. No. No. It's -- It's inappropriate to be
12:51:54 10 both a treating physician and a forensic evaluator.
12:51:58 11 Now a treating physician can -- can be asked to
12:52:02 12 testify about his work, but I was called in as a
12:52:05 13 forensic evaluator only, and so I can't treat.

12:52:10 14 Q. Does that prevent you from giving an opinion
12:52:11 15 in this case?

12:52:12 16 A. No, not at all.

12:52:15 17 Q. And you've spoken to and assessed patients
12:52:18 18 before?

12:52:20 19 A. Thousands of times.

12:52:22 20 Q. Can you describe your normal process for
12:52:24 21 doing that?

12:52:30 22 A. It --
12:52:30 23 I mean, it varies to some extent depending
12:52:32 24 upon, kids are very different from adults, and what
12:52:36 25 that person has been through affects things also, but

12:52:39 1 the basic -- when doing a personal injury evaluation
12:52:45 2 there are certain types of knowledge one wants to
12:52:48 3 have. One is to have some idea of what happened. Now
12:52:51 4 I tend to try to -- in this case I would say that it
12:52:57 5 was the original tragedy. I often tend to not ask a
12:53:01 6 lot about that. I can find out about that from other
12:53:03 7 sources and I may, you know, just check quickly that
12:53:09 8 this is what happened, but it's generally going to be
12:53:12 9 very stressful for the individual to go into that.
12:53:16 10 And since I'm not their therapist I don't want to open
12:53:19 11 up -- open them to painful feelings and memories that
12:53:22 12 I'm not going to be there to help them deal with
12:53:24 13 afterward, so I don't go into any more detail on that
12:53:28 14 than I need to. But then a lot of talk about, you
12:53:33 15 know, let's talk about what was their life like
12:53:34 16 before, what were they doing, how were they feeling,
12:53:36 17 what emotions did they have, what -- did they have any
12:53:39 18 psychiatric problems before, did they have other
12:53:41 19 stresses before that could be causing the symptoms
12:53:44 20 now. Are there -- What stresses are there in their
12:53:48 21 life that could be causing symptoms. Because you just
12:53:52 22 can't assume that symptoms that someone has after a
12:53:57 23 particular event are caused by that event.

12:54:02 24 I remember seeing someone many years ago who
12:54:04 25 I was asked to see because of a car accident and she

12:54:09 1 was depressed, but on speaking -- she was completely
12:54:11 2 honest and she wound up telling about how her child
12:54:14 3 had been sexually abused -- or sorry -- her
12:54:16 4 granddaughter had been sexually abused and she found
12:54:19 5 out after the car accident and that's when she got
12:54:21 6 depressed.

12:54:22 7 So it's critical to ask about what other
12:54:24 8 stresses there are that are going on in the person's
12:54:28 9 life, and we certainly talked about those. And we
12:54:33 10 talked about how -- about his emotions and what ways
12:54:39 11 he's changed, what symptoms he's having.

12:54:42 12 Q. So did you --

12:54:44 13 To the extent there is a normal process, did
12:54:46 14 you apply that in this case?

12:54:48 15 A. Yes. With the exception that I didn't -- he
12:54:52 16 wasn't sitting in front of me. I didn't see him. But
12:54:56 17 I don't think that that in any way has changed or
12:55:02 18 hindered the process. Because of the nature of the
12:55:07 19 symptoms, I would not necessarily have seen anything
12:55:09 20 unusual in his presentation.

12:55:12 21 You know, if a major issue was depre --
12:55:13 22 saying that he's terribly depressed, it would be nice
12:55:16 23 to see that in fact he -- there are signs in his
12:55:21 24 presentation. But he doesn't claim depression, and we
12:55:25 25 didn't talk much about depression symptoms.

12:55:30 1 Q. So talking to a patient on the phone doesn't
12:55:32 2 hinder your ability to render an opinion in this case.

12:55:35 3 A. No. I mean, I've done it before. It's not,
12:55:39 4 you know, the optimal best way, but I've certainly
12:55:42 5 done it before, and it's reasonable.

12:55:48 6 Q. How do you know anything about an adult like
12:55:52 7 Mr. Pozner who suffers following the loss of a child?

12:55:57 8 A. I'm afraid I don't understand the question.

12:55:59 9 Q. What --

12:56:03 10 Given your -- the background that you've
12:56:05 11 explained to the jury, and your experience, are you
12:56:12 12 able to speak about an adult like Mr. Pozner who
12:56:15 13 suffers following the loss of a child?

12:56:18 14 A. Yes, I can speak about him.

12:56:20 15 Q. And given your experience and your education
12:56:24 16 and your certifications, are you able to speak about
12:56:27 17 an adult like Mr. Pozner who suffers after being
12:56:32 18 accused of lying about losing a child?

12:56:35 19 A. Yes.

12:56:44 20 Q. And so you've talked a lot about your
12:56:46 21 background and education and your work generally. To
12:56:52 22 the extent not already covered, can you tell the jury
12:56:57 23 specifically about your work with respect to PTSD?

12:57:04 24 A. I'm not sure there's much to say other than
12:57:06 25 what we've covered before.

12:57:09 1 Q. And you mentioned earlier that there are a
12:57:11 2 variety of symptoms that someone suffering from PTSD
12:57:16 3 might display. Can you describe some of those
12:57:19 4 symptoms to the jury?

12:57:22 5 A. Yes. The symptoms of PTSD come into
12:57:26 6 categories, and in each category you need to have one
12:57:31 7 or two symptoms, you don't have to meet every possible
12:57:34 8 symptom in each category, you just have to have a
12:57:37 9 certain number within each category.

12:57:39 10 So -- And the first criteria is the causal
12:57:43 11 criteria, which is -- and the death of his child in a
12:57:49 12 mass shooting certainly meets his being exposed to an
12:57:53 13 incident that caused death in someone close.

12:57:58 14 The B criteria is intrusive recollections.
12:58:03 15 So the person has unwanted memories and thoughts about
12:58:10 16 the event, and there are -- you need one of these, and
12:58:15 17 there are a whole bunch that are possibilities. One
12:58:17 18 is nightmares about the event. He doesn't remember
12:58:20 19 his dreams. And that was significant to me because if
12:58:26 20 someone's going to fake their symptoms, the first
12:58:29 21 thing they're going to say is they have -- they have
12:58:31 22 nightmares about it, because that's something that we
12:58:34 23 can easily -- well understood. And if someone says
12:58:36 24 they don't have nightmares, that person is proba --
12:58:40 25 it's much more likely that they're credible, they're

12:58:43 1 not making anything up. Having thoughts about it
12:58:47 2 throughout the day come into their mind and disrupting
12:58:50 3 what they're doing, having very distressing feelings
12:58:57 4 if exposed to reminders. These are the most common.
12:59:04 5 And the loss is on his mind multiple times a
12:59:08 6 day, and also he needed to go -- he needs to go back
12:59:12 7 to his hometown, to the town of the tragedy because
12:59:17 8 that's where his son is buried, and he says it's very
12:59:20 9 difficult. He really -- They left the area after a
12:59:23 10 year or so, they didn't want to be there, they needed
12:59:26 11 to get away and not be there. That's a pretty
12:59:28 12 powerful indication of painful feelings when exposed
12:59:33 13 to reminders.
12:59:35 14 The C criteria is avoidance, and there are
12:59:38 15 two possible ways you can meet that criteria. One is
12:59:42 16 avoiding places that are reminders, so he meets that
12:59:45 17 criteria. The other is trying to a -- actively trying
12:59:49 18 to avoid thinking about it.
12:59:51 19 The next criteria -- now we're getting into
12:59:56 20 the things that are, you know, more disruptive to life
13:00:00 21 than -- than thinking about it, or even avoiding, you
13:00:07 22 know, his hometown. Negative alterations in mood and
13:00:17 23 cognition. One of the -- You need two out of the six
13:00:22 24 or seven criteria. One is, you know, not being able
13:00:28 25 to remember parts of what happened that one would

13:00:32 1 normally expect to remember.

13:00:34 2 Negative alterations in your view of the
13:00:36 3 world or yourself, and his view of the world has gone
13:00:42 4 more negative. Difficulty enjoying things. It's much
13:00:47 5 harder for him to enjoy things. Feeling detached from
13:00:52 6 people, cut off. He socially isolates himself for a
13:00:57 7 couple of reasons, which we can get into.

13:01:02 8 Inappropriate guilt about what happened.
13:01:08 9 Guilt-related painful feelings, so a lot of depression
13:01:11 10 or anxiety. He doesn't report depression, but he's
13:01:15 11 certainly anxious about being outside. And the
13:01:21 12 clearest criteria and the most disruptive to him is
13:01:25 13 being detached from people and difficult -- you know,
13:01:30 14 loss of enjoyment and negative feelings about the
13:01:33 15 world.

13:01:34 16 The last criteria is trauma-related changes
13:01:40 17 in reactivity and arousal. So what happens here is
13:01:48 18 that, you know, people familiar with the fight/flight
13:01:51 19 reaction after -- in response to a danger situation,
13:01:56 20 it's actually fight, flight or freeze, and the work of
13:02:04 21 Chemtob talks about the fight/flight reaction gets
13:02:07 22 turned on and it doesn't turn off, that the experience
13:02:11 23 is so overwhelming that it sort of gets stuck for
13:02:15 24 various reasons, and I go into some of those reasons
13:02:18 25 in my writing. And --

13:02:23 1 So examples of that are difficulty sleeping,
13:02:25 2 difficulty concentrating, irritability, angry
13:02:30 3 outbursts, increased startle reaction, and being on
13:02:40 4 edge. And again, it's common to see increased
13:02:45 5 startle, most people say it. He says he doesn't have
13:02:48 6 it. And again it's sort of like if someone -- I asked
13:02:51 7 him more than once, because I was surprised. When
13:02:53 8 someone starts denying symptoms, especially when
13:02:56 9 they're suggested to them, that increases their
13:02:59 10 credibility. If he was faking this, the second time I
13:03:02 11 asked: Are you sure you don't have increased startle,
13:03:05 12 he would have said, you know, I probably do. But he
13:03:08 13 said he didn't. But he does have -- he gets very
13:03:12 14 annoyed by sounds, repetitive sounds, but he doesn't
13:03:17 15 jump.

13:03:17 16 He does --

13:03:21 17 Q. And when you say "he," you mean Mr. Pozner.

13:03:23 18 A. Yes. Yes. Sorry.

13:03:25 19 So concentration is significantly adversely
13:03:30 20 affected, irritability is a very big problem for him,
13:03:36 21 he said. He said sleep is not particularly affected.
13:03:42 22 And he is -- he is on edge when he's out.

13:03:45 23 Now a lot of being on edge has to do very --
13:03:52 24 you know, it's certainly greatly magnified by what
13:03:54 25 he's been through. He is very uncomfortable going out

13:04:00 1 because he has been threatened. There was a woman who
13:04:07 2 threatened his life. He is very concerned about
13:04:11 3 people recognizing him. He's had his -- his photo
13:04:14 4 posted when he's trying to be anonymous because people
13:04:19 5 come up and approach him and say things, and argue
13:04:23 6 with him, and tell him he's a terrible person, that he
13:04:25 7 is part of this hoax. That there was no shooting
13:04:30 8 there, that, you know, he's part of this conspiracy to
13:04:36 9 take away their guns, and he made this up.

13:04:40 10 So he's -- he's withdrawn from people, he
13:04:45 11 tries not to go out much more than he needs to, and
13:04:48 12 that's quite a huge change in one's life. He's -- The
13:04:55 13 withdrawal, he's, you know, pulled away from most
13:04:59 14 friendships.

13:05:02 15 We talked about his work, and he
13:05:07 16 historically has worked with computers, and he said
13:05:08 17 that he could not do the work that he used to do, that
13:05:13 18 he used to be very patient, and now if he was trying
13:05:17 19 to talk to a client and they weren't understanding he
13:05:20 20 said that he would just get so irritable he couldn't
13:05:23 21 do it, he could not function on his job, wouldn't be
13:05:26 22 possible.

13:05:27 23 We also talked about the -- the way his
13:05:33 24 symptoms varied over time, and that's something one
13:05:39 25 wants to ask also, because if -- to assess credibility

13:05:46 1 one of the things we look at is does it fit a pattern
13:05:48 2 we expect. Now credibili -- truthfulness is decided
13:05:52 3 by the jury, but it is appropriate for a forensic
13:05:55 4 evaluator, and we should comment on signs we see that
13:06:00 5 indicate greater -- greater credibility or lesser
13:06:05 6 credibility.

13:06:09 7 And he said that, you know, 14 months, very
13:06:13 8 roughly, 15 months after it happened he was doing
13:06:17 9 better, he was on the mend. I mean people never fully
13:06:21 10 get over these things. You know, he --

13:06:23 11 Q. Can you tell the jury what you mean by "it
13:06:26 12 happened"? Are --

13:06:28 13 A. The shooting, the massacre at his son's
13:06:33 14 school. His son being killed.

13:06:36 15 And, you know, the mourning process usually
13:06:42 16 takes a couple of years. You're never going to fully
13:06:47 17 get over if certainly if it's a child as opposed to a,
13:06:51 18 you know, parent, which is the normal course of
13:06:53 19 things, we expect to lose our parents, not our
13:06:55 20 children. And --

13:07:00 21 But then he started going downhill with --
13:07:06 22 when there were attacks on him, verbally, that he's
13:07:10 23 making up a hoax, his son -- he didn't have a son, his
13:07:14 24 son -- there never was a son, his son wasn't killed,
13:07:18 25 et cetera, et cetera, and people started harassing him

13:07:22 1 in various ways. You know, I would have expected,
13:07:27 2 again, that if nothing had happened I would have
13:07:32 3 expected, you know, in two to three years that the
13:07:35 4 person would be, although forever sad around holidays
13:07:39 5 and reminders, but they'd be able to -- to
13:07:43 6 concentrate, to work again, to have friends again, to
13:07:46 7 be back to life in most ways. And if someone said
13:07:54 8 that, no, they hadn't and nothing else had intervened
13:07:57 9 I'd start wondering what's going on, because it
13:08:00 10 doesn't make sense.

13:08:01 11 You know, I've spoken to people at Parkland,
13:08:03 12 I've spoken to other people in Newtown, and it's
13:08:07 13 around two to three years that people are, you know,
13:08:10 14 getting back to things pretty thoroughly.

13:08:13 15 So he was getting, you know -- he was
13:08:15 16 pulling out of things, doing better, and then the
13:08:19 17 harassment and accusations occurred and he felt worse
13:08:25 18 and he continues to have symptoms. The symptoms I
13:08:28 19 described are the symptoms that we spoke about
13:08:31 20 yesterday, that he currently has.

13:08:34 21 Q. That you spoke about with Mr. Pozner?

13:08:36 22 A. Pozner. Yesterday, yes.

13:08:38 23 And he --

13:08:46 24 I mentioned earlier that we had found out
13:08:51 25 for -- known for awhile that the secondary stresses

13:08:54 1 and the amount of support someone gets after a tragic
13:08:59 2 event are as important as the nature of the trauma in
13:09:04 3 whether a person heals. And -- So to me it -- I think
13:09:10 4 it's very understandable that these events, the
13:09:15 5 harassments in various forms, is the reason that he
13:09:20 6 went from healing to having more symptoms, and that
13:09:24 7 now, seven years later, he, you know, meets all
13:09:31 8 criteria for Post-Traumatic Stress Disorder, and that
13:09:37 9 it's really deeply affecting his life. I mean people
13:09:41 10 can have PTSD but sort of -- it takes away from much
13:09:45 11 of their life but still they can go on. It's really
13:09:50 12 -- His socialization, his -- his work are all very
13:09:56 13 deeply affected.

13:10:02 14 Q. Can you describe for the jury how the idea
13:10:06 15 of a second injury plays a role in this case?

13:10:11 16 A. The second injury concept comes from
13:10:15 17 Symonds, and what he spoke about was that when people
13:10:23 18 don't give the support that people expect, they
13:10:26 19 experience that as a second injury. Since that time
13:10:31 20 there's, you know, literature about invalidation and
13:10:35 21 how destructive that is to people. And this goes back
13:10:40 22 to the things I was saying about when a woman who's
13:10:43 23 raped, when the police or the hospital personnel
13:10:48 24 challenge them, you know -- you know, challenge did it
13:10:52 25 really happen, did they -- you know, did they -- did

13:10:55 1 they lead the person on, et cetera.

13:10:57 2 And in this case it goes beyond it. This is

13:11:05 3 -- this is people out there threatening him. He --

13:11:12 4 You know, trying to make him a pariah, where they're

13:11:17 5 spreading false rumors about what -- about him and

13:11:24 6 that he's part of this hoax to take away their civ --

13:11:27 7 their basic rights, and people are threatening him.

13:11:30 8 And it's pretty scary -- I would assume it would be

13:11:35 9 pretty scary to have people calling up and -- or going

13:11:39 10 to his home and -- and threatening him. I know he

13:11:45 11 mentioned there was someone, I think in Florida, who

13:11:48 12 went to jail for threatening his life.

13:11:53 13 Q. So after reviewing this case, and documents,

13:11:58 14 and speaking with Mr. Pozner, did you reach any

13:12:00 15 opinions about Mr. Pozner?

13:12:01 16 A. Yes.

13:12:02 17 Q. Did you reach an opinion as to any

13:12:05 18 psychological injury that Mr. Pozner suffers from

13:12:09 19 because he was publicly accused of having falsely

13:12:12 20 claimed he lost a child?

13:12:14 21 A. Yes. He -- He would not now --

13:12:20 22 If that had not happened, if there -- if

13:12:24 23 people just left him alone, he would not now be

13:12:27 24 suffering from PTSD. So as a result of what they did,

13:12:34 25 his trauma symptoms not only ceased to heal, but got

13:12:43 1 worse.

13:12:45 2 Q. Can you talk to the jury a little bit about
13:12:49 3 humiliation in this type of situation?

13:12:55 4 A. Humiliation doesn't have a very solid
13:12:59 5 definition within psychiatry and psychology, but
13:13:03 6 basically the concept is that, you know, the general
13:13:08 7 community looks on the person in a very negative way
13:13:14 8 that they have done something very bad, and so they're
13:13:20 9 -- the person is going to be -- you expect the
13:13:25 10 community to reject you, to think little of you.

13:13:29 11 There -- I believe that we're hardwired by evolution
13:13:34 12 to care deeply about what others think about us, that
13:13:41 13 embarrassment can be quite painful, and having people
13:13:46 14 around rejecting you, thinking badly of you, is -- is
13:13:50 15 quite painful.

13:13:57 16 And what he's experiencing is certainly --
13:14:01 17 there's -- I can't -- I don't quite know the right
13:14:05 18 word for it, but it is certainly related to what
13:14:11 19 happens in embarrassment and humiliation in that large
13:14:14 20 numbers of people think very negatively of you, and
13:14:18 21 we're wired by evolution to -- to find that very
13:14:22 22 painful. That's what kept people to -- that pain,
13:14:28 23 when people dislike us, drives us to behave in ways
13:14:31 24 that are acceptable to the community, and therefore
13:14:34 25 people behave in -- per social ways and thus

13:14:39 1 communities survive.

13:14:41 2 Q. What happens when a person suffers from that
13:14:45 3 level of humiliation, or becomes a pariah or outcast?

13:14:51 4 A. Well it's painful to look around and know
13:14:56 5 there are lots of people out there who think very
13:14:58 6 badly of you. And again, I don't know if the word
13:15:02 7 humiliation -- it's not -- there's no formal
13:15:06 8 psychiatric definition of it, and what one is -- he's
13:15:11 9 suffering something that's sort of related to that. I
13:15:14 10 don't know a good term -- a good term for it. But the
13:15:23 11 invalidation is certainly there.

13:15:25 12 Q. And can you give us a definition of
13:15:29 13 invalidation?

13:15:33 14 A. It could be saying that the person -- that
13:15:35 15 you don't believe the person had this experience, or
13:15:40 16 that they're really -- that it actually bothers them.
13:15:49 17 Invalidation is generally very destructive after a
13:15:53 18 traumatic event, and it could be as little as sort of
13:15:57 19 questioning: Are you sure it's that bad? Or: Oh,
13:16:03 20 you'll get over it. It wasn't that terrible. You'll
13:16:06 21 be okay. You'll get over it. It's not that big a
13:16:09 22 deal. These things make the pain much worse.

13:16:17 23 Q. So you've provided your expert opinion in
13:16:22 24 this case about Mr. Pozner. How do you confirm or
13:16:25 25 test that opinion?

13:16:30 1 A. Well I've discussed some of the reasons why,
13:16:32 2 to a reasonable degree of medical certainty, I find
13:16:35 3 that he has Post-Traumatic Stress Disorder and that
13:16:39 4 his continuing to have it is the result of the
13:16:43 5 harassment, invalidation, denials that this occurred.

13:16:49 6 And again the ultimate decision is that of
13:16:51 7 the jury. So I don't confirm it, I point out to the
13:16:56 8 trier of fact things which increase the likelihood or
13:17:01 9 decrease the likelihood that the person is actually
13:17:07 10 having these symptoms.

13:17:09 11 There are a number of things we look at to
13:17:11 12 see if someone might be making something up. One is
13:17:16 13 do they have psychopathic features. Another is do
13:17:19 14 they have a history of suing people for wronging them.
13:17:23 15 Another is, does the problem fit a pattern that we
13:17:33 16 expect. And so -- And I mentioned that before that,
13:17:38 17 you know, if he wouldn't have told me that during the
13:17:42 18 first 15 months it wasn't getting at all better, it
13:17:46 19 was just as bad at 15 months as at the start, it would
13:17:49 20 be, that doesn't quite make sense, that's not what --
13:17:52 21 you expect there to be healing. If there was some
13:17:56 22 very minor events, you know, if one person, let's say,
13:18:01 23 had gone to him and said, I don't believe you, and he
13:18:07 24 were to say that that alone is why he's having
13:18:09 25 problems now, I wouldn't -- I'd find that dubious.

13:18:15 1 Do the symptoms the person presents, does it
13:18:19 2 meet a known pattern? And yes, it meets PTSD. I also
13:18:26 3 have to look at does the person, you know, deny
13:18:29 4 certain problems, do they -- that they could easily
13:18:31 5 have claimed. Because people who are faking usually
13:18:35 6 talk about all sorts of things, they -- they'll say
13:18:38 7 yes to everything that one could. He says he's not
13:18:41 8 depressed. That's an unlikely thing to say. I mean,
13:18:47 9 not everyone who has PTSD is depressed, so it's not
13:18:50 10 surprising to me that he's not depressed, but a great
13:18:54 11 number of people with PTSD are depressed, and if he
13:18:57 12 was faking he'd probably say he was depressed, and he
13:19:00 13 would probably have said that he had nightmares, and
13:19:03 14 probably said that he had increased startle reaction
13:19:05 15 if he was faking it, but he didn't. And so this all
13:19:09 16 adds credibility to -- it increases the likelihood
13:19:14 17 that what he's telling us about his symptoms are in
13:19:17 18 fact accurate. And also that -- that the stressor
13:19:19 19 that he's faced, that it makes sense, from our
13:19:23 20 knowledge of psychiatry, that this could be doing
13:19:25 21 this.

13:19:28 22 Q. So is this the type of an opinion that the
13:19:31 23 medical and psychiatric communities would generally
13:19:35 24 accept?

13:19:37 25 A. I think so. I mean, I hold the opinion to a

13:19:40 1 reasonable degree of medical certainty, and I think
13:19:42 2 that -- I think that other experts in, you know,
13:19:47 3 emotional trauma, if they heard my opinion, would say
13:19:50 4 it makes complete sense.

13:19:54 5 Q. In your work on this case and in evaluating
13:19:56 6 Mr. Pozner, have you found any other alternative
13:20:01 7 explanations or sources of the harm he suffers?

13:20:07 8 A. There have been some other stresses, but --
13:20:10 9 his marriage broke up, but that was a number of years
13:20:19 10 ago. It was after the tragedy, but it was still -- I
13:20:23 11 think it was around -- I think it was around 2014, and
13:20:26 12 there -- they broke up, got together, broke up again.
13:20:30 13 But he said that he's -- remains good friends with his
13:20:35 14 spouse, there's no hassle about visitation with the
13:20:38 15 children. And in that situation I would not expect it
13:20:42 16 to be giving significant symptoms, or any symptoms.
13:20:48 17 When people have problems years later it's because
13:20:51 18 they're in a battle with their spouse, usually that
13:20:53 19 they're -- where maybe their spouse had cheated on
13:20:56 20 them, and I know nothing about that, or that they're
13:20:59 21 having trouble having access to their kids, and
13:21:01 22 there's none of that. So I think that was -- how much
13:21:08 23 it added to the stress at the time, I'm not sure, but
13:21:11 24 it probably did, but I do not think that it's an issue
13:21:14 25 at this point.

13:21:15 1 There was some frustration that his
13:21:22 2 brother-in-law was -- got very active and started
13:21:29 3 going on TV and talking about it, and it was
13:21:32 4 frustrating for awhile, but that ceased. And what
13:21:38 5 he's told me and what -- how he's described it makes
13:21:41 6 sense, that this is -- that's trivial and a nonissue
13:21:44 7 at this time.

13:21:45 8 But his mentioning these things, I mean he
13:21:50 9 can have easily -- again increases the credibility.
13:21:52 10 He could easily have not told me that he was very
13:21:55 11 frustrated that his brother-in-law was going on TV and
13:21:58 12 talking about it when he didn't even really know his
13:22:03 13 child that much. And to mention those -- that stress,
13:22:07 14 he would have withheld that if -- in all likelihood he
13:22:11 15 would have withheld that information if he was making
13:22:15 16 things up.

13:22:19 17 Q. And this case is about a set of statements
13:22:21 18 or a statement made by Dr. Fetzer. Can you explain to
13:22:25 19 the jury how Dr. Fetzer's statements impact Mr.
13:22:30 20 Pozner?

13:22:32 21 A. Are you going to mention specific ones, or
13:22:34 22 in general?

13:22:35 23 Q. Well this case is about the -- the specific
13:22:40 24 defamatory statement is a statement by Dr. Fetzer that
13:22:46 25 Mr. Pozner created and distributed a fake death

13:22:50 1 certificate.

13:22:56 2 A. That has caused him a great deal of distress
13:23:00 3 in various ways. I mean, it's part of a campaign to
13:23:05 4 -- to invalidate him, to -- to say that he's, you
13:23:09 5 know, an enemy of good people, that he is trying to
13:23:13 6 take away -- that he's -- he's trying to manipulate
13:23:17 7 people and to falsely allege things that have
13:23:22 8 happened. He's trying to fool everyone, to take away
13:23:25 9 their gun rights. And -- So it's part of that, but
13:23:32 10 the -- this is also sort of like nulli -- it's
13:23:38 11 destroying his son's memory. It's, you never even had
13:23:42 12 a son, your son didn't exist. That's painful.

13:23:48 13 I don't know if I can quite explain why. I
13:23:51 14 can understand it on an emotional level myself that it
13:23:54 15 would be, it makes complete sense to me. But to
13:23:59 16 explain the mechanism by which it works, I might have
13:24:03 17 to think more about that. But I know that -- And he
13:24:06 18 also pointed that out, that -- and I've heard that
13:24:08 19 sort of thing in other places also. Denying that this
13:24:11 20 person existed, denying is taking away its -- it's
13:24:17 21 almost like taking away his son a second time.

13:24:21 22 Q. And what happens when a person like Mr.
13:24:31 23 Pozner continues to suffer from those types of
13:24:35 24 statements? Are there long-term effects?

13:24:40 25 A. When PTSD goes on for this long it's

13:24:43 1 generally going to be there indefinitely. I mean, so
13:24:48 2 if --

13:24:50 3 Well I went online last night to learn -- to
13:24:55 4 see a bit more about this, and there are things up now
13:24:59 5 by Mr. Fetzer, Dr. Fetzer, denying this, and -- and
13:25:08 6 bringing up Mr. Pozner. So it hasn't stopped. And
13:25:14 7 it's -- also it I think can create a terrible feeling
13:25:20 8 of powerlessness and -- and a lack of support in
13:25:25 9 general from society that he can't stop this, that he
13:25:29 10 can't stop someone making, you know, terrible false
13:25:34 11 allegations about him. He can't stop someone making
13:25:38 12 allegations that have been -- lead people to threaten
13:25:41 13 him. And this is an ongoing danger for him, in not
13:25:46 14 wanting to go out, not wanting people to know where he
13:25:49 15 is, his having to move. And his last move was largely
13:25:57 16 -- He said there were some other factors, but a large
13:26:00 17 part of it was -- was because of -- wanting to stay --
13:26:07 18 be anon -- as anonymous as possible and not having
13:26:11 19 people harass him.

13:26:13 20 Q. In terms of the psychological harm, can you
13:26:19 21 describe what Mr. Pozner faces every day?

13:26:29 22 A. I don't know if "harm" is the best word. I
13:26:35 23 mean, he -- he faces stress and emotional suffering
13:26:39 24 every day and a constriction of his life. I mean the
13:26:42 25 harm is what's happened, and then there are the

13:26:45 1 ongoing effects.

13:26:48 2 Q. And what's the overall impact of those

13:26:51 3 effects and potential symptoms on Mr. Pozner?

13:26:56 4 A. Well it takes away from one's ability to

13:26:59 5 have a reasonably happy life, it adds a great deal of

13:27:04 6 suffering to it. It -- I mean the stress of PTSD we

13:27:13 7 know is bad for the brain, it's bad for health in

13:27:16 8 general. PTSD leads to, because of the cortisol that

13:27:22 9 tends to be released, there is damage to the

13:27:25 10 hippocampus, and the anterior cingulate and corpus

13:27:25 11 callosum.

13:27:36 12 Q. And just on a -- on a basic level, how bad

13:27:39 13 is this really for Mr. Pozner?

13:27:42 14 MR. BOLTON: Object to the form of the

13:27:43 15 question, calls for speculation.

13:27:50 16 Q. Based on your experience talking to Mr.

13:27:56 17 Pozner, on your experience evaluating Mr. Pozner, and

13:27:59 18 your knowledge of PTSD and the associated symptoms,

13:28:04 19 how bad is it really for someone like Mr. Pozner?

13:28:10 20 A. It's --

13:28:10 21 MR. BOLTON: Objection. Same objection.

13:28:14 22 A. I don't know how to answer "how bad." It --

13:28:20 23 You know, if we think about is it a minor impact on

13:28:22 24 his life or a moderate or big impact, it's not so

13:28:29 25 overwhelming that he -- I mean he's not in bed all day

13:28:32 1 unable to do anything, but it certainly takes away
13:28:40 2 greatly from his ability to enjoy life. He can't do
13:28:44 3 the same work that he used to do because he's too
13:28:49 4 irritable and the concentration is a problem, and
13:28:52 5 there's a great deal of distress, emotional distress
13:28:55 6 where there would likely have been pleasurable times,
13:28:59 7 or at least peaceful times.

13:29:11 8 Q. Based on your experience and knowledge in
13:29:15 9 the medical and psychiatric fields, how difficult is
13:29:19 10 it to lose a child in the way Mr. Pozner did?

13:29:24 11 A. Well, and I think the death of a child is a
13:29:29 12 tremendous trauma that one never fully gets over, but
13:29:32 13 again, people generally get back to -- you know, to
13:29:36 14 doing most aspects of life after, you know, a couple
13:29:41 15 of years, three years. In his case it's -- he hasn't
13:29:49 16 because of the added stress and danger from things
13:29:57 17 that Mr. Fetzer was part of, Dr. Fetzer was part of.

13:30:04 18 Q. And how difficult is it, based on your
13:30:07 19 experience in the field and from talking to Mr.
13:30:10 20 Pozner, when someone accuses you of making up that
13:30:13 21 loss?

13:30:15 22 A. I mean, I -- it's --

13:30:16 23 MR. BOLTON: Objection; form of the
13:30:18 24 question, calling for speculation.

13:30:23 25 A. I -- How --

13:30:25 1 The word "how difficult," I don't know how
13:30:28 2 to -- I don't know how to answer. I don't know how to
13:30:32 3 respond to that type of question, "how difficult."

13:30:34 4 It's -- And I think people -- I'm concerned
13:30:39 5 about it because I think people could interpret you --
13:30:42 6 it very, very differently. I mean, it's -- I can talk
13:30:46 7 more about, you know, how likely someone would have
13:30:49 8 this reaction and what does it actually do, but
13:30:54 9 quantifying "how difficult" is -- what some person may
13:31:02 10 think is very difficult, some other person would maybe
13:31:05 11 say, yeah, it's difficult but it's not that difficult.
13:31:08 12 So I'm concerned it will more confuse the issue than
13:31:10 13 just saying, you know, how likely something is and
13:31:15 14 what does -- what's the impairment.

13:31:38 15 Q. In your opinion, does Mr. Pozner continue to
13:31:43 16 suffer harm?

13:31:48 17 A. I mean, he has -- he has ongoing PTSD and
13:31:51 18 it's chronic, and I would expect it to continue
13:31:54 19 indefinitely. And I think that the continuation of
13:31:59 20 having -- of people being encouraged to believe, you
13:32:07 21 know, that he's committed this hoax, that that's an
13:32:12 22 ongoing thorn in his side, and ongoing -- impairs his
13:32:18 23 ability to feel safe in the world.

13:32:20 24 Q. Do you hold this opinion to a reasonable
13:32:22 25 degree of medical certainty?

13:32:24 1 A. Yes.

13:32:26 2 Q. Thank you.

13:32:30 3 MS. STEDMAN: I have no further questions.

13:32:34 4 MR. BOLTON: Attorney Stedman, would this
13:32:35 5 be a good time for just a brief break?

13:32:39 6 THE WITNESS: Yes.

13:32:42 7 THE REPORTER: Thank you. Off the record.

13:32:56 8 (Discussion off the record.)

13:32:56 9 (Recess taken from 1:32 to 1:51 p.m.)

13:32:56 10 MR. BOLTON: Okay. Thank you.

13:32:56 11 CROSS-EXAMINATION

13:32:56 12 BY MR. BOLTON:

13:51:55 13 Q. Dr. Lubit, my name is Rich Bolton, and I'm
13:51:57 14 the lawyer representing Dr. Fetzer in this proceeding,
13:52:02 15 and I appreciate your accommodating us on a Saturday
13:52:06 16 afternoon for -- to present your testimony, and I
13:52:11 17 appreciate as well your accommodation of me. I am
13:52:17 18 questioning you from Madison, Wisconsin, and I -- I
13:52:20 19 had some commitments this weekend that prohibited me
13:52:23 20 from traveling to -- to see you in New York, so I
13:52:28 21 appreciate -- I appreciate the accommodation.

13:52:28 22 A. And I appre --

13:52:32 23 Q. And hopefully you'll be able to hear me
13:52:35 24 clearly, and we'll -- we'll proceed with our
13:52:37 25 questioning then.

13:52:38 1 Are you ready, doctor?

13:52:40 2 A. And I appreciate your accommodation that I
13:52:42 3 could do it this way instead of what would have -- you
13:52:45 4 know, the problems it would have caused for my family
13:52:47 5 and other work if I had to be in Wisconsin on what's a
13:52:52 6 holiday here.

13:52:54 7 Q. Oh, we're -- it is not a -- it is not a
13:52:58 8 problem from my perspective, so.

13:53:00 9 Doctor, let me -- let me begin then just by
13:53:03 10 getting to my questions, and then hopefully we can get
13:53:06 11 folks on to their other commitments as well.

13:53:09 12 Doctor, as a -- as a forensic -- or your
13:53:14 13 work in the forensic area of psychiatry, are you
13:53:16 14 familiar with the concept of secondary gain?

13:53:20 15 A. Yes.

13:53:22 16 Q. Can you --

13:53:23 17 Can you explain for the jury what that --
13:53:26 18 what you understand that concept to mean in the area
13:53:29 19 of forensic psychiatry?

13:53:32 20 A. The concept, well throughout psychiatry, not
13:53:35 21 just forensic work, is that the person has some
13:53:39 22 benefit from having symptoms. So it could be someone
13:53:44 23 who's depressed who doesn't really want to work and
13:53:48 24 this gives them an excuse not to work. In forensic
13:53:52 25 psychiatry I don't know if I've -- you know, it would

13:53:55 1 apply, I guess, to someone having symptoms may have a
13:54:00 2 benefit by -- if they have a suit, by getting more
13:54:03 3 money.

13:54:07 4 Q. And so, for instance, involvement in pending
13:54:12 5 litigation would be a -- a situation in which you
13:54:18 6 would consider the concept of secondary gain.

13:54:21 7 A. Yes. That's why I went through in some
13:54:24 8 detail before the things that I look like -- I look at
13:54:29 9 so that I can, you know, tell the jury the things that
13:54:32 10 indicate that the person is being accurate or not
13:54:35 11 being accurate.

13:54:40 12 Q. And then related, and perhaps simply
13:54:46 13 synonymous, but the concept of malingering PTSD, is
13:54:49 14 that a -- is that a concept that you're familiar with?

13:54:51 15 A. Yes, it is. People can malingering, you know,
13:54:57 16 almost any psychiatric disorder, but certainly PTSD
13:55:00 17 people can malingering.

13:55:03 18 Q. And then are you familiar with the concept
13:55:05 19 of confirmation bias?

13:55:08 20 A. I write on it. Yes.

13:55:11 21 Q. I'm sorry, doctor. I didn't hear you.

13:55:12 22 A. I'm very familiar with it because I deal
13:55:15 23 with it in my recent articles.

13:55:19 24 Q. Can you explain to the jury the concept of
13:55:22 25 confirmation bias?

13:55:24 1 A. Confirmation bias occurs when an individual
13:55:29 2 spins and vets and remembers data which -- in a way
13:55:36 3 that supports what they believe. So if you have a
13:55:42 4 situation where there was data for and against a
13:55:46 5 certain hypothesis, someone who is engaging in
13:55:50 6 confirmation bias would tend to think that the data
13:55:55 7 that contradicted their hypothesis was flawed. They
13:56:04 8 would forget it and not remember it by the time they
13:56:08 9 were drawing their conclusions, and they could also
13:56:10 10 spin it to mean things that are different from what
13:56:13 11 people -- how people would normally interpret the
13:56:16 12 information.

13:56:21 13 Q. With regard to the -- the present engagement
13:56:24 14 by yourself, the initial contact, as I understand it,
13:56:29 15 was made by Attorney Zimmerman; is that correct?

13:56:33 16 A. That's my recollection.

13:56:35 17 Q. And then with regard to the -- the
13:56:42 18 engagement that you were asked to -- to do, what do
13:56:50 19 you recall specifically about the scope of the -- of
13:56:54 20 your engagement?

13:56:58 21 A. I don't recall the conversation, but I
13:57:02 22 basically do the same sort of thing in personal injury
13:57:06 23 cases, which I am told that there was an event that
13:57:10 24 may have adversely affected the individual, and then I
13:57:15 25 look at -- I gather information about their

13:57:18 1 functioning over time, stresses they faced over time,
13:57:23 2 problems they've had, to try to assess whether the
13:57:27 3 event in question had a negative impact on them, how
13:57:33 4 much of a negative impact, and is it a continuing
13:57:36 5 negative impact.

13:57:40 6 Q. And with respect to the present engagement,
13:57:44 7 do you recall what -- what event you were asked to
13:57:48 8 evaluate?

13:57:50 9 A. The impact of the actions of Dr. Fetzer and
13:58:00 10 the harassment that surrounded it, on Mr. Pozner.

13:58:08 11 Q. And when you say, the statements of Mr. --
13:58:13 12 or of Dr. Fetzer, you've also, as I -- if I heard your
13:58:20 13 testimony correctly, talked generally about what I'll
13:58:30 14 call the -- the materials published by Sandy Hook
13:58:41 15 doubters or skeptics.

13:58:42 16 Are you familiar with that broader concept?

13:58:44 17 A. One more time, please? I couldn't quite
13:58:47 18 hear it.

13:58:49 19 Q. I'm sorry. Let me -- I'm looking to see.

13:58:55 20 With respect to your -- your testimony, you
13:59:01 21 -- as I understood your testimony, you spoke at one
13:59:06 22 point generally about the effect of dealing with
13:59:13 23 people who questioned whether the event, the Sandy
13:59:17 24 Hook event itself occurred. Is -- Was that -- Was
13:59:22 25 that part of the scope of the event that you

13:59:25 1 evaluated?

13:59:27 2 A. Yes.

13:59:31 3 Q. And with respect to specific statements by
13:59:37 4 Dr. Fetzter, do you -- do you recall specifically
13:59:41 5 anything about Dr. Fetzter's statements?

13:59:47 6 A. The denial --

13:59:52 7 Mr. Pozner was particularly affected by sort
13:59:57 8 of the erasing -- attempt to erase his son, saying
14:00:02 9 that his son never existed, and that was something
14:00:08 10 that stood out, but also just --

14:00:08 11 Q. Did the --

14:00:14 12 A. -- the general -- the various ways of
14:00:16 13 harassment and the calls that he was perpetrating a
14:00:23 14 fraud on the American people.

14:00:27 15 Q. And with respect to harassment, I don't
14:00:32 16 understand your testimony, though, to be that Dr.
14:00:36 17 Fetzter engaged in any direct harassment of Mr. Pozner;
14:00:39 18 is that correct?

14:00:40 19 A. I'm --

14:00:43 20 I do not have a detailed knowledge of what
14:00:47 21 each person did or how each person's actions lead to
14:00:53 22 the actions of others. It's my understanding that Dr.
14:00:57 23 Fetzter was a key person in launching accusations that
14:01:08 24 the ma -- that there was no massacre, and that -- that
14:01:20 25 the pictures were faked, that -- and that Mr. Pozner

14:01:28 1 had -- the death certificate was faked.

14:01:33 2 I read one of the chapters of -- I don't

14:01:36 3 know whether it's the first or the second book -- in

14:01:39 4 which he attacks the information and attacks Mr.

14:01:44 5 Pozner.

14:01:47 6 Q. And was the book that you're referring to

14:01:51 7 entitled no one died at Sandy Hook?

14:01:54 8 A. I'm not sure whether it was the first or the

14:01:56 9 second version. I know that the second one had a

14:01:59 10 slight different title, I believe. But it was one of

14:02:02 11 the --

14:02:03 12 Q. Did you read any of the other chapters in

14:02:04 13 the book?

14:02:05 14 A. No.

14:02:09 15 Q. And do you know whether --

14:02:11 16 Do you know whether the other chapters were

14:02:13 17 similar to the chapter that you -- that you read in

14:02:16 18 terms of supporting the -- the idea that Sandy Hook

14:02:26 19 did not occur, that it was a FEMA exercise?

14:02:30 20 A. I don't know about the other chapters. I

14:02:32 21 read that one because it directly related to Mr.

14:02:36 22 Pozner, and I did not read the whole book.

14:02:41 23 Q. And in regard to the chapter that you read,

14:02:45 24 do you know how many references, if any, there were

14:02:47 25 specifically to Mr. Pozner?

14:02:56 1 A. The chapter had certainly a great deal about
14:02:58 2 him because he was -- they were saying that the birth
14:03:02 3 certificate was false, it was -- it seemed to be --
14:03:12 4 Mr. Pozner seemed to be a significant focus of that
14:03:14 5 chapter.

14:03:17 6 Q. And in terms of -- in terms of the -- the
14:03:24 7 harassment that you -- that you talked about, what --
14:03:29 8 what type of harassment specifically are you referring
14:03:33 9 to?

14:03:36 10 A. Well there was a woman who threatened his
14:03:40 11 life and went to jail. He has gotten electronic
14:03:46 12 contacts. He feels that he has to -- I don't recall
14:03:56 13 specifics about people approaching him, but he is --
14:04:00 14 but he has certainly been approached in various ways
14:04:03 15 with attacks on -- on who he is and what he's doing
14:04:07 16 and how he's perpetrating this fraud.

14:04:13 17 Q. When you --
14:04:13 18 The reference about threats on his life; do
14:04:20 19 you know whether -- and I think you said that someone
14:04:23 20 may have gone to jail for those threats. Did I hear
14:04:25 21 you correctly?

14:04:26 22 A. Yes.

14:04:29 23 Q. Do you know whether that incident occurred
14:04:35 24 before or after any publication that's at issue in
14:04:42 25 this case by Mr. Fetz -- by Dr. Fetzner?

14:04:46 1 A. I don't --

14:04:47 2 I do not know the date of it.

14:04:56 3 But it's also that --

14:04:58 4 Q. Can you begin --

14:04:59 5 A. -- Mr. Fet -- Dr. Fetzer -- the -- his

14:05:01 6 statements about Mr. Pozner are not only contained in

14:05:05 7 the book. I went on the internet yesterday and I saw

14:05:10 8 a website by Mr. -- by Dr. Fetzer continuing to say

14:05:17 9 negative things about Mr. Pozner.

14:05:22 10 Q. When did you --

14:05:23 11 When did you first read the chapter that

14:05:26 12 you're referencing?

14:05:27 13 A. That was in the last few days.

14:05:31 14 Q. I'm sorry. Pardon me?

14:05:32 15 A. That was in the last few days.

14:05:44 16 Q. And do the statements in the -- that you

14:05:46 17 read in -- in the particular chapter, do they -- are

14:05:53 18 they a basis for your opinions in today's testimony?

14:06:01 19 A. Well they are to the extent that it's

14:06:05 20 consistent with what Mr. Pozner had told me, that the

14:06:11 21 -- that he had allegedly faked the death certificate,

14:06:17 22 and that Dr. Fetzer denied that this occurred, and Dr.

14:06:24 23 Fetzer was specifically speaking about him.

14:06:33 24 Q. The opinions that you're offering in today's

14:06:36 25 testimony -- Well, let me back up.

14:06:40 1 My understanding from your earlier testimony
14:06:42 2 is that when you -- when you are engaged in a forensic
14:06:46 3 evaluation you do not always reach a conclusion that
14:06:53 4 is supportive of the individual that initially engaged
14:06:58 5 you. Is that correct?

14:06:59 6 A. Yes. There are times when early on I see
14:07:04 7 that my opinion is likely to go against the party that
14:07:07 8 approached me and I tell them and suggest they go
14:07:09 9 elsewhere. But I have, at times, been in a situation
14:07:14 10 where I could not leave, where I was sort of declare
14:07:17 11 -- you know, announced as the psychiatrist for a side
14:07:21 12 and my opinion went against the people that retained
14:07:25 13 me.

14:07:28 14 Q. And in the particu -- in this particular
14:07:30 15 case, when did you advise Attorney Zimmerman that you
14:07:41 16 felt that you could, in good faith, testify as a
14:07:47 17 witness for Mr. Pozner?

14:07:53 18 A. I don't -- I mean --

14:07:56 19 What he told me in terms of what had been
14:07:59 20 done to Mr. Pozner made sense to me that this would
14:08:03 21 cause someone some degree of emotional distress, and
14:08:08 22 then I spoke with Mr. Pozner and he reported emotional
14:08:13 23 distress, and I obtained significantly more details
14:08:19 24 about the specific symptoms in the last few days, but
14:08:22 25 I had an opinion before that he had been harmed. The

14:08:27 1 amount of harm was going to wait until the final
14:08:31 2 interview.

14:08:36 3 Q. Is it fair to say, then, that you had -- had
14:08:40 4 reached at least tentative conclusions before you ever
14:08:43 5 read the chapter in the last couple of days that you
14:08:46 6 referenced?

14:08:48 7 A. I had a tentative conclusion that he had
14:08:50 8 been harmed by the events he described. If I had
14:08:56 9 found out that the events he described had not
14:08:58 10 occurred, I don't think we would be speaking today, I
14:09:01 11 would have withdrawn.

14:09:08 12 Q. Do you have any opinion as to whether any of
14:09:15 13 the chapters in the book that you referenced denying
14:09:19 14 Sandy Hook were -- would also be harmful to Mr.
14:09:25 15 Pozner?

14:09:27 16 A. I didn't read the rest of the book, so I
14:09:30 17 don't know how the rest of it may have affected him.

14:09:36 18 Q. Do you know whether Mr. -- or Dr. Fetzner
14:09:38 19 ever had any -- you know, whether he sought out or
14:09:43 20 initiated any contact with -- with Mr. Pozner?

14:09:54 21 A. I spoke with...

14:09:59 22 I think they had had some contact, yes.

14:10:04 23 Q. And do you know who initiated the contact?

14:10:11 24 A. My impression, from speaking with Mr.

14:10:13 25 Pozner, was that the calls were primarily from -- that

14:10:19 1 -- I don't know who made the first call, but I think
14:10:26 2 they both -- each called -- I'm guessing here. I
14:10:31 3 think --

14:10:31 4 My assumption has been that they both --
14:10:33 5 each of them had to some extent initiated, and
14:10:36 6 certainly both were willing to talk to a certain
14:10:38 7 extent. I didn't hear that either one forced the
14:10:43 8 other one to stay on the phone.

14:10:48 9 Q. Do you know whether Dr. Fetzer ever made any
14:10:51 10 physical threats against Mr. Pozner?

14:10:56 11 A. I am not aware of that, and it -- I have not
14:11:01 12 -- I -- my opinion is in no way based on my believing
14:11:04 13 that he had. I had -- I have assumed that he hadn't
14:11:06 14 because I was not told that he had.

14:11:13 15 Q. When did you --

14:11:17 16 Do you recall when your first -- the first
14:11:20 17 contact from Mr. Zimmerman was in regard to this
14:11:22 18 potential -- in regard to a potential engagement in
14:11:25 19 this matter?

14:11:28 20 A. I -- I don't recall. It was a number of
14:11:31 21 months ago, and since I was doing it pro bono, I
14:11:35 22 haven't kept time records of -- of things. I don't
14:11:42 23 know when the first call was made, and I'm not --
14:11:45 24 don't remember the date of the first interview.

14:11:50 25 Q. Okay. Do you know, to the best of your

14:11:54 1 recollection, whether the initial contact would have
14:11:56 2 been made sometime in the year 2019?

14:12:04 3 A. I think it was before that, but I -- I
14:12:07 4 really -- I really don't remember. I -- I -- It's
14:12:10 5 possible it could have been 2018. I really don't
14:12:13 6 remember when I was first contacted. It could have
14:12:17 7 been 2018, 2019.

14:12:22 8 Q. Did you -- Did you make notes of your
14:12:28 9 contacts either with -- either/or with Mr. Zimmerman
14:12:34 10 and Mr. Pozner?

14:12:36 11 A. With Mr. Zimmerman, no, and I don't recall
14:12:42 12 really the -- much of the content of that. I have --
14:12:46 13 I certainly do have notes of my interviews with Mr.
14:12:48 14 Pozner.

14:12:50 15 Q. And did you review those notes prior to
14:12:52 16 today's testimony?

14:12:54 17 A. Yes, I did.

14:12:56 18 Q. And do you -- do you recall when your first
14:13:02 19 telephone contact or interview with Mr. Pozner was?

14:13:09 20 A. I'm afraid I don't. Unfortunately -- I mean
14:13:11 21 I looked for that. Unfortunately, I didn't write it
14:13:14 22 down. I usually do, but I, for some reason, neglected
14:13:19 23 to write it down on the sheet, on the notepad.

14:13:24 24 Q. Do you know how many telephone interviews
14:13:27 25 you had with Mr. Pozner?

14:13:30 1 A. There was a -- my recollection is that first
14:13:33 2 interview, extensive talked yesterday, and then a few
14:13:39 3 minutes this morning.

14:13:46 4 Q. And do you re -- do you recall approximately
14:13:50 5 how long your initial interview with Mr. Pozner would
14:13:53 6 have been?

14:13:57 7 A. It was certainly more than an hour. My,
14:13:59 8 it's just a guess, is about two hours. I have fairly
14:14:03 9 extensive notes.

14:14:07 10 Q. Do you recall about how long you talked with
14:14:09 11 Mr. Pozner the day before your testimony?

14:14:16 12 A. Roughly an hour, maybe -- maybe more.

14:14:16 13 Q. Okay.

14:14:25 14 A. Again, I --

14:14:26 15 It could have easily been an hour and a
14:14:28 16 half. I'm not sure.

14:14:32 17 Q. And then do you recall about how long you
14:14:33 18 spoke with him this morning?

14:14:37 19 A. Less than half an hour.

14:14:43 20 Q. And then have you ever had any face-to-face
14:14:47 21 contact with Mr. Pozner?

14:14:48 22 A. No.

14:14:57 23 Q. In addition to the -- the telephonic
14:15:00 24 communications that you've had with Mr. Pozner, what
14:15:03 25 else did you rely upon in forming any -- in performing

14:15:08 1 this evaluation?

14:15:11 2 A. I looked at the Complaint, looked at the
14:15:21 3 chapter, I skimmed over parts of his deposition, and
14:15:24 4 then this morning I asked if -- to double-check
14:15:30 5 because I wasn't seeing anything about -- that was
14:15:32 6 discussed about his emotional impact of what happened,
14:15:38 7 and he said he did not recall being asked about that
14:15:40 8 and so I then did not complete reading his deposition.

14:15:50 9 Q. My understanding is that your work in this
14:15:55 10 matter has been strictly forensic; is that correct?

14:15:57 11 A. Yes. What -- What else could it be?

14:16:03 12 Q. You are not --

14:16:06 13 You are not treating Mr. Pozner in any
14:16:08 14 capacity; is that correct?

14:16:09 15 A. No. I couldn't, for various reasons. It
14:16:14 16 would be inappropriate to both be the treating doctor
14:16:18 17 and the forensic, and I do not believe he lives in New
14:16:25 18 York or California, and those are the two states in
14:16:28 19 which I have a license, and so I could -- and I can't
14:16:31 20 treat someone unless I have a license in the state
14:16:35 21 that they are in.

14:16:40 22 Q. And Mr. Pozner, in any event, has never
14:16:43 23 asked you -- asked to engage you in a -- in a treating
14:16:48 24 capacity; is that correct?

14:16:50 25 A. That --

14:16:50 1 He has never asked that, no.

14:16:53 2 Yes, that is correct.

14:16:55 3 Q. Did you re --

14:16:56 4 Okay. Thank you.

14:16:57 5 Did you review any -- any other -- any

14:17:01 6 medical records or psychiatric records for Mr. Pozner?

14:17:07 7 A. I don't recall seeing any of the psychiatric
14:17:08 8 records.

14:17:11 9 Q. And do you -- were you told, one way or the
14:17:14 10 other, whether any such records exist?

14:17:19 11 A. And I usually ask about it. I don't have a
14:17:21 12 concrete -- It's my -- sort of my question standard
14:17:25 13 question, but I don't have a concrete recollection one
14:17:30 14 way or the other.

14:17:34 15 Q. In performing an evaluation for litigation,
14:17:39 16 would it be your practice to review any existing
14:17:43 17 medical or psychiatric records for an individual?

14:17:47 18 A. I will generally ask about them, and if
14:17:49 19 they're obtainable, I would -- I would see them, yes.

14:17:55 20 Q. And for what -- would -- would the review of
14:18:00 21 such records, if there were any, be something in which
14:18:03 22 you would potentially rely in forming your opinions?

14:18:10 23 A. It -- It would --

14:18:13 24 I would certainly factor the material in.

14:18:17 25 Usually I wind up doing a more detailed evaluation

14:18:23 1 than anyone has done, and -- but I would use the
14:18:28 2 records to primar -- primarily to see if the story
14:18:33 3 that he's giving is consistent with what he has told
14:18:38 4 others.

14:18:42 5 Q. And in this case am I correct that there's
14:18:46 6 -- you do not have any records or other information
14:18:50 7 available to you confirming or -- or verifying what
14:18:59 8 Mr. Pozner has told you, I think what was it -- the
14:19:03 9 story that Mr. Pozner has told you?

14:19:06 10 A. I don't recall seeing psychiatric records,
14:19:08 11 and -- I mean I can go through my file and
14:19:11 12 double-check everything that I have. If -- If there
14:19:15 13 are psychiatric records and I for some reason, I
14:19:18 14 missed them, that would certainly be an oversight.
14:19:21 15 But again, their -- their use would be simply to see
14:19:28 16 if he was -- gave the same report to somebody else as
14:19:31 17 he was giving -- as given to me. Since he -- I doubt
14:19:37 18 that he's spoken to a psychiatrist in-depth in the
14:19:43 19 last 24 hours, and so I -- my data is the most up to
14:19:48 20 date that probably exists from a psychiatrist.

14:19:53 21 Q. So at least as far as you know, no one -- no
14:19:58 22 other medical professional, psychiatrist or otherwise,
14:20:03 23 has given any diagnosis for Mr. Pozner; is that
14:20:09 24 correct?

14:20:10 25 A. I'm not aware of anyone else giving a di --

14:20:14 1 evaluating him or giving a diagnosis.

14:20:17 2 Q. And is it -- is it correct also that you're
14:20:20 3 not aware of any treatment that Mr. Pozner has -- has
14:20:27 4 received at any time?

14:20:29 5 A. I'm not aware of any treatment.

14:20:40 6 Q. Is it fair to say that in reaching your
14:20:46 7 conclusions, then, the information on which you rely
14:20:50 8 is -- is based upon your assessment of the credibility
14:20:56 9 of Mr. Pozner?

14:21:01 10 A. My assessment is based on what he told me.
14:21:06 11 The -- In ter -- of his symptoms. In terms of his
14:21:12 12 credibility, there are a number of aspects which I
14:21:16 13 discussed on direct which strongly support
14:21:23 14 credibility, but the -- the final assessment of
14:21:28 15 whether he's telling the truth or not is the job of
14:21:32 16 the trier of fact. And in general forensic
14:21:37 17 psychiatrists and psychologists are forbidden from
14:21:41 18 making a clear statement about whether what someone is
14:21:49 19 saying is true or false, that's the right and the
14:21:51 20 burden of the jury, not of the forensic psychiatrist.

14:21:58 21 Q. With respect to -- Let me -- Before I change
14:22:04 22 topics a little bit, but.

14:22:06 23 Did you rely upon any information provided
14:22:09 24 by Mr. Zimmerman in reaching the opinions that you've
14:22:13 25 given today?

14:22:18 1 A. I'm trying to remember if -- what I was told
14:22:22 2 except by Mr. Pozner. I'm not -- I mean I normally do
14:22:32 3 not rely on anything the lawyers tell me, and there is
14:22:38 4 really no information that came from him other than
14:22:41 5 that -- that I recall, other than that Mr. Pozner was
14:22:45 6 his client, that his child had died at -- in the
14:22:52 7 Newtown massacre, and that Mr. Fetzer had been
14:22:58 8 involved in making statements that Mr. Pozner had
14:23:03 9 concocted this. And I think I -- he may have told --
14:23:08 10 I think he probably told me that someone had
14:23:10 11 threatened Mr. Pozner's life.

14:23:18 12 Q. Did Mr. Pozner tell you that -- that he has
14:23:23 13 been involved in any other litigation relating to
14:23:27 14 Sandy Hook?

14:23:30 15 A. I think he is involved with litigation
14:23:34 16 against a Mr. Jones, InfoWars.

14:23:43 17 Q. And -- And do you know who -- who Mr. Jones
14:23:48 18 is?

14:23:50 19 A. What I recall being told is that he speaks a
14:23:54 20 lot, that he has a website or podcast and that he
14:24:01 21 speaks a lot about these issues.

14:24:05 22 Q. When you say "these issues," what do you
14:24:08 23 mean by that?

14:24:09 24 A. Sandy Hook, and I believe other -- other
14:24:13 25 things which he believes are hoaxes.

14:24:18 1 Q. And you made reference to "InfoWars." What
14:24:22 2 is that?

14:24:24 3 A. I think that's the name of the web -- maybe
14:24:27 4 the name of his website? I mean I heard that term
14:24:33 5 once or twice, but I -- the -- and I think it was --
14:24:38 6 refers to the website. But the main thing was that
14:24:42 7 Mr. -- that the gentleman had spread the ideas of Mr.
14:24:50 8 Fetzer.

14:24:53 9 Q. I'm sorry. "Spread the ideas of Mr.
14:24:55 10 Fetzer," is that what you said?

14:24:56 11 A. Of Dr. Fetzer. Yes.

14:24:58 12 Q. And then was -- was -- was information about
14:25:02 13 Mr. Jones and InfoWars, was that -- that information
14:25:07 14 provided to you by -- by Mr. Pozner?

14:25:13 15 A. That's my only recollection. I mean -- I --
14:25:16 16 Mr. Zimmerman may have said something about it, but my
14:25:19 17 recollection is that doc -- Mr. Pozner told me that --
14:25:26 18 on our talk yesterday, that the primary generator of
14:25:35 19 the ideas was Dr. Fetzer, and that Mr. Jones had been
14:25:42 20 active in sort of spreading them through his media
14:25:45 21 outlets, and speaking.

14:25:50 22 Q. And when you say primary generator of -- of
14:25:54 23 Mr. Pozner's -- Mr. Fetzer's positions, are you
14:26:00 24 talking about -- are you stating then generally in
14:26:05 25 regard to that -- that the event Sandy Hook itself did

14:26:11 1 not occur?

14:26:11 2 A. Could I have the question again, please,
14:26:13 3 because I think you may have switched names, but
14:26:16 4 please repeat the question.

14:26:20 5 Q. Right.

14:26:21 6 You made reference then that -- that Mr.
14:26:25 7 Pozner indicated that Alex Jones was a primary
14:26:30 8 generator of Mr. Fetzer's ideas.

14:26:36 9 MS. STEDMAN: Objection, mischaracterizes.

14:26:38 10 Q. My question is: When you say primary
14:26:40 11 generator of Mr. Fetzer's ideas, are you talking
14:26:43 12 generally about denying the occurrence of Sandy Hook
14:26:47 13 as an event?

14:26:49 14 MS. STEDMAN: Objection. I believe that
14:26:51 15 mischaracterizes the prior testimony.

14:26:58 16 A. I don't know what exact --

14:26:59 17 Q. And I guess --

14:27:01 18 A. I don't know what --

14:27:02 19 Q. Go ahead. Go ahead.

14:27:03 20 A. You're going beyond what I said.

14:27:05 21 I don't know exactly what ideas Mr. Jones
14:27:12 22 has -- has spread. I don't know whether he has the
14:27:17 23 same opinion of things as Dr. Fetzer. I
14:27:22 24 overwhelmingly spoke with Mr. Pozner about Dr. Fetzer,
14:27:28 25 but I recall him -- Mr. Pozner telling me that -- in

14:27:35 1 general that Mr. Jones acted through his media outlets
14:27:41 2 to spread ideas about hoaxes.

14:27:44 3 In terms of this particular case, I don't
14:27:46 4 know what Mr. Jones has specifically said in terms of
14:27:51 5 Mr. Pozner. I don't know whether he believes that the
14:27:55 6 massacre did or didn't occur, or that -- or what
14:28:00 7 involvement he felt that Mr. Pozner had, just that --
14:28:06 8 a general statement that he was a major player in
14:28:10 9 spreading these ideas. In spreading the --

14:28:10 10 Q. Have you reached --

14:28:15 11 A. -- ideas in general about hoaxes.

14:28:19 12 Q. I'm sorry. I didn't hear you, doctor.

14:28:20 13 A. That he was a significant figure in
14:28:22 14 spreading ideas about hoaxes, and there was -- and
14:28:26 15 that he said some things about Sandy Hook, but what he
14:28:29 16 said, I do not know.

14:28:34 17 Q. Have you reached any -- any opinions as to a
14:28:42 18 diagnosis of Mr. Pozner's condition?

14:28:45 19 A. As I mentioned before, that he has Chronic
14:28:49 20 Post-Traumatic Stress Disorder.

14:28:58 21 Q. And is it --

14:28:59 22 Am I correct, though, that in terms of the
14:29:03 23 initial stress -- stressor in this case, you're not
14:29:08 24 contending, for instance, that -- Well, I'm sorry.

14:29:11 25 Let me -- Let me ask the threshold question. What --

14:29:15 1 With respect to the diagnosis of
14:29:17 2 Post-Traumatic Stress Disorder, what do you identify
14:29:22 3 as the -- the stressor event?

14:29:28 4 A. The initial commencement of this was the --
14:29:33 5 the massacre, his son being killed; but were it not
14:29:40 6 for the denial of the death of his son, the
14:29:49 7 harassments and threats, he would have healed and been
14:29:57 8 having a relatively normal life several years ago and
14:30:01 9 he wouldn't continue to have Post-Traumatic Stress
14:30:07 10 Disorder.

14:30:12 11 Q. With regret --

14:30:13 12 With respect to the denial information that
14:30:20 13 you just referenced, that's not information, though --
14:30:23 14 that's not -- that's not an event that you are
14:30:26 15 identifying as satisfying the first criteria for a
14:30:30 16 diagnosis of Post-Traumatic Stress Disorder; is that
14:30:32 17 correct?

14:30:35 18 A. Correct. That does not meet criteria for
14:30:39 19 Post-Traumatic Stress Disorder, but it is certainly a
14:30:43 20 stressful thing in and of itself, and in forensic
14:30:48 21 psychiatry the issue is not so much diagnosis as
14:30:52 22 impact. Something doesn't have to meet the diagnostic
14:30:56 23 criteria to adversely -- for someone to be harmed.
14:31:04 24 Sometimes things don't fit into the specific criteria
14:31:08 25 created by psychiatry.

14:31:12 1 Q. But in terms of the DSM-5 criteria for
14:31:16 2 diagnosis of Post-Traumatic Stress Disorder, you are
14:31:19 3 not identifying, then, Mr. Pozner --

14:31:22 4 Or, I'm sorry. I apologize.

14:31:25 5 -- Dr. Fetzer as -- as causing any diagnosis
14:31:31 6 of Post-Traumatic Stress Disorder; is that correct?

14:31:37 7 A. This is depending upon how people use the
14:31:39 8 word "cause," and I -- people could understand that
14:31:47 9 word differently. The best I can do is to explain my
14:31:50 10 thi -- my -- really to repeat my statement, which is
14:31:54 11 that were it not for the actions of Dr. Fetzer and the
14:32:00 12 other things that got stirred up from it, I believe
14:32:03 13 that Mr. Pozner would have healed a few years ago,
14:32:09 14 would have been able to go on, enjoy life, have
14:32:12 15 relationships, be close to people, continue whatever
14:32:15 16 work he wanted, and that it is the actions of Dr.
14:32:22 17 Fetzer are a key part of why he is still suffering and
14:32:32 18 at this time meets the criteria for Post-Traumatic
14:32:34 19 Stress Disorder.

14:32:36 20 Q. And the criteria for -- the DSM criteria for
14:32:40 21 Post-Traumatic Stress Disorder, the first criteria
14:32:43 22 that we're talking about is "exposure to death,
14:32:49 23 threatened death, actual or threatened serious injury,
14:32:52 24 or actual or threatened sexual violence"; is that
14:32:55 25 correct?

14:32:55 1 A. Yes.

14:32:57 2 Q. And that criteria requires direct exposure,

14:33:01 3 witnessing such trauma, learning that a relative or

14:33:04 4 close friend was exposed to a trauma, or indirect

14:33:09 5 exposure to aversive details of the trauma. Are those

14:33:14 6 -- Do you --

14:33:15 7 Are you familiar with those as part of the

14:33:16 8 criteria for a diagnosis of PTSD?

14:33:19 9 A. Yes. Those are -- I'm not going to swear

14:33:22 10 every single word, but it sounds pretty much word for

14:33:26 11 word of what DSM says.

14:33:28 12 Q. And is it --

14:33:29 13 And as I understand your testimony, the --

14:33:32 14 the statements that are at issue in this lawsuit do

14:33:38 15 not meet the criteria -- that first criteria for a

14:33:40 16 diagnosis of PTSD; is that correct?

14:33:49 17 A. We get into a difficult area because having

14:33:54 18 one's life threatened I think would certainly meet the

14:34:01 19 diagnostic criteria for PTSD.

14:34:07 20 Q. And -- And the having one's life threatened,

14:34:10 21 I think you're referring to the incident that we've

14:34:12 22 discussed a little bit where someone, I think you

14:34:17 23 said, may have gone to jail for the -- for the event?

14:34:20 24 A. Yes.

14:34:22 25 Q. Okay. And so that --

14:34:26 1 But you're not attribut -- but that -- that
14:34:29 2 incident, as far as you know, was not perpetrated by
14:34:32 3 Dr. Fetzer; is that correct?

14:34:35 4 A. He was not the one to call him up and
14:34:37 5 threaten Mr. Pozner's life, but the -- you know, I
14:34:45 6 think it's up -- it's a legal issue, and not a
14:34:50 7 psychiatric one, to decide on what blame is attributed
14:34:57 8 to each person, but what --

14:35:03 9 Q. And is it --

14:35:05 10 A. -- but what I am --

14:35:06 11 Q. I'm sorry. Go ahead.

14:35:07 12 A. What I'm saying is were it not for Dr.
14:35:11 13 Fetzer's actions, Mr. Pozner would not have PTSD and
14:35:19 14 would be having a much better life.

14:35:33 15 Q. Were there -- Are you --

14:35:34 16 With respect to the -- the event at Sandy
14:35:39 17 Hook, what you refer to as the massacre, is it your
14:35:41 18 testimony, then, that -- that that event itself --

14:35:47 19 Well let me ask you. Did that --

14:35:49 20 That event itself would satisfy the criteria
14:35:52 21 -- the first criteria for a DSM-5 diagnosis of PTSD;
14:35:56 22 is that correct?

14:35:56 23 A. Yes.

14:36:00 24 Q. And did that event cause any -- any unwanted
14:36:06 25 or upsetting memories with respect to Mr. Pozner?

14:36:10 1 A. Yes. I mean -- My belief is that he did get
14:36:15 2 PTSD from that, but he was on the mend, and what then
14:36:20 3 happened was that the stress of the various things we
14:36:29 4 were talk -- the harassment, et cetera, the
14:36:31 5 accusations, added greatly to his stress and lead him
14:36:36 6 to become worse, and -- but that in addition, even
14:36:42 7 without -- even if he had totally recovered, having
14:36:50 8 someone threaten your life, having people harass you
14:36:57 9 and -- with a constant concern that some of these
14:37:04 10 people may again either threaten you or try to
14:37:07 11 physically hurt you or your family, that that by
14:37:12 12 itself can cause PTSD.

14:37:16 13 Now separating out to what extent he has
14:37:21 14 PTSD because of the massacre, to what extent because
14:37:27 15 he was threatened, to what extent it's because he
14:37:31 16 didn't heal -- wasn't able to finish healing because
14:37:35 17 of the harassment and threats and false statements,
14:37:41 18 that is very difficult, and I -- from a forensic point
14:37:49 19 of view, unnecessary. The crucial thing, from a
14:37:51 20 forensic point of view, is how would he be functioning
14:37:55 21 were it not for this event, and had it not been for
14:37:58 22 the -- Dr. Fetzer and the connected harassment and
14:38:08 23 threats and invalidation, he would be doing well, but
14:38:15 24 --

14:38:15 25 Q. And you --

14:38:16 1 And is it your opinion that, to a reasonable
14:38:19 2 degree of professional certainty, that -- that people
14:38:24 3 in the absence of, for instance, the statements that
14:38:27 4 you're attributing to Mr. Fetzer, that -- that people
14:38:31 5 who experience, in this case, the death of a child
14:38:36 6 through a -- what you've described as a massacre, that
14:38:41 7 those people, to a reasonable degree of professional
14:38:44 8 certainty, would -- would -- would always recover?

14:38:51 9 A. I am not -- I am not going to say --

14:38:55 10 Well first of all, the question is what one
14:38:58 11 means by "recovery." There -- In general, people will
14:39:07 12 recover to the extent that they would not meet the
14:39:12 13 diagnostic criteria and that they would be functioning
14:39:16 14 fairly well in life. I think that anyone who's lost a
14:39:19 15 child is likely to find themselves distressed at all
14:39:23 16 holidays and whenever there is something that triggers
14:39:27 17 a memory. So is the person going to be as if it never
14:39:32 18 occurred? No, I'm not saying that. But would people
14:39:37 19 normally, in two to three years, get to a position in
14:39:42 20 which they're able to enjoy things again, as social --
14:39:48 21 almost as social as they used to be, able to
14:39:50 22 concentrate and be calm enough and not have problems
14:39:56 23 with irritability so that they could do their work?
14:39:59 24 Yes. I would expect people to go back to relatively
14:40:02 25 normal lives, which would be -- have certainly moments

14:40:07 1 of sadness and loss of enjoyment in certain activities
14:40:12 2 that remind them of the loss.

14:40:18 3 But what we have here is a very different
14:40:20 4 situation. We have someone who was recovering, who
14:40:23 5 then went downhill because of the stress and the
14:40:30 6 threat he has experienced to himself and concern for
14:40:35 7 his family members' safety.

14:40:41 8 Q. Can you describe Mr. Pozner's condition
14:40:48 9 prior to any publication by anything by Mr. Fetz -- by
14:40:53 10 Dr. Fetzner?

14:40:54 11 A. He reported to me that he was doing
14:40:58 12 significantly better than in the initial months, that
14:41:03 13 he had not, you know, fully pulled out of things but
14:41:08 14 he was significantly better, and then he went downhill
14:41:12 15 after this -- the publications and the allegations
14:41:15 16 were coming out.

14:41:19 17 Q. And did he tell you when the publication
14:41:25 18 occurred?

14:41:27 19 A. Oh, about -- I think about -- the -- the
14:41:31 20 publication, I'm not sure. The -- He told me that the
14:41:38 21 challenges to whether it occurred and him were around
14:41:50 22 -- those added things came arou -- started coming
14:41:53 23 around 16 months or so after, I don't think it's just
14:41:58 24 what I call a massacre, I think what -- I don't know
14:42:00 25 what you would call it, but I think it's hard to not

14:42:03 1 call it a massacre.

14:42:11 2 Q. In terms of satisfying any DSM criteria,

14:42:21 3 it's the DSM criteria for PTSD, is that the only

14:42:25 4 criteria that -- that you are offering an opinion on

14:42:28 5 as to Mr. Pozner?

14:42:34 6 A. I am certainly using the criteria, but once

14:42:37 7 again, it is not cent -- the specific diagnosis is not

14:42:45 8 central in forensic psychiatry. It's useful in

14:42:51 9 various ways. One of the ways is whether -- to see

14:42:55 10 whether the symptom pattern fits a known pattern,

14:42:58 11 which affects your assessment of credibility. But

14:43:01 12 what is important is the way the -- what the symptoms

14:43:06 13 are, how severe they are, and how they affect this

14:43:11 14 person's lifestyle.

14:43:14 15 It's theoretically possible that -- not just

14:43:19 16 theoretically possible, it happens that someone

14:43:21 17 doesn't meet every single criteria, and we then say

14:43:25 18 they have sub-syndromal PTSD. Those people can be

14:43:31 19 almost as impaired as someone who has PTSD, and

14:43:36 20 there's a wide range of what PTSD can do to people in

14:43:42 21 terms of how much it impairs their lives, or a wide

14:43:46 22 range of what major depression can do. Everything

14:43:50 23 from the person feels pretty yucky and can't enjoy

14:43:54 24 things very much, to the person is trying to kill

14:43:56 25 themselves or unable to do anything but lie in bed.

14:43:59 1 What's critical is not the specific
14:44:02 2 diagnosis, what's critical is the specific symptoms
14:44:06 3 and how that affects --

14:44:06 4 Q. And with regard --

14:44:07 5 A. -- this individual.

14:44:08 6 Q. -- to the sympt --

14:44:11 7 With regard to Mr. Pozner and the symptoms
14:44:14 8 that you -- that he has described to you, would you
14:44:20 9 expect that someone with that level of symptoms would
14:44:23 10 be receiving treatment?

14:44:29 11 A. More often than not people don't. People --
14:44:36 12 You know, part of -- as we discussed, avoidance is one
14:44:43 13 of the symptoms of PTSD, avoiding talking about it.
14:44:48 14 And many people do not seek treatment. In fact,
14:45:00 15 probably more than half the people I see don't -- you
14:45:02 16 know, who I see for a forensic way do not seek
14:45:05 17 treatment.

14:45:08 18 Q. Did Mr. Pozner talk to you about that issue,
14:45:14 19 why or why he did not or has not sought any treatment?

14:45:18 20 A. I don't recall discussing it, and I didn't
14:45:20 21 see anything in my notes. It was an oversight to not
14:45:23 22 ask, but it doesn't change my ultimate assessment, and
14:45:30 23 again it would only be significant if it somehow
14:45:35 24 invalidated what he was saying. I mean, if I were to
14:45:38 25 read that, you know, a year after the events he was

14:45:41 1 completely recovered, or if I were to find out that,
14:45:46 2 you know, he in no way, you know, got worse after the,
14:45:58 3 you know, attacks on him came out, that would be an
14:46:02 4 issue -- that would affect the credibility assessment,
14:46:04 5 but then that's, again, information that I would be
14:46:07 6 providing to the jury so they could make their
14:46:09 7 assessment.

14:46:13 8 Q. Is it fair to say that in terms of the role
14:46:18 9 of a psychiatrist as a forensic evaluator, are you
14:46:25 10 offering any opinions as to causation?

14:46:32 11 A. Causation of what?

14:46:35 12 Q. Causation of -- in -- in terms of the injury
14:46:41 13 that you're testifying to.

14:46:49 14 A. All I can really do is repeat myself,
14:46:51 15 counselor, that he would not -- to a reasonable degree
14:46:58 16 of medical certainty he would not be suffering from
14:47:00 17 PTSD now had the events -- the actions of Dr. Fetzer
14:47:06 18 and the sort of related actions of people, had those
14:47:11 19 things not occurred, he would not now have
14:47:16 20 Post-Traumatic Stress Disorder. And, you know, the
14:47:22 21 symptoms he's having is a combination of -- the
14:47:26 22 symptoms he's having at this time are a combination of
14:47:28 23 the tremendous stress, invalidation, negation --
14:47:33 24 attempt to negate his son, turning him into a pariah
14:47:38 25 that Dr. Fetzer has engaged in, plus the -- as a

14:47:49 1 result of that, at least or in part as a result, or at
14:47:52 2 least partly because of that, the fact that people
14:47:55 3 have threatened him, and having -- being threatened is
14:48:01 4 sufficient to cause PTSD.

14:48:09 5 Q. You talked about avoidance both in your
14:48:13 6 earlier discussion with Attorney Stedman, and -- and
14:48:18 7 with myself. Can you -- Can you talk a -- tell us a
14:48:22 8 little bit more about what you mean by "avoidance"?

14:48:25 9 A. There are two types of avoidance that are
14:48:28 10 designated in the diagnostic criteria for PTSD. You
14:48:34 11 need only to have one of them. And one is avoidance
14:48:40 12 of places or activities or things that remind you of
14:48:49 13 the event, and certainly there is avoidance of. He
14:48:57 14 left Newtown. He would rather not go back, but makes
14:49:05 15 himself because his son is buried there, and there may
14:49:09 16 be some other activities perhaps, but he doesn't want
14:49:11 17 to go. And the other is avoidance of -- could be
14:49:17 18 avoidance of thinking about it, could be efforts to
14:49:20 19 avoid talking about it.

14:49:27 20 Q. Trauma-related reminders?

14:49:29 21 A. Yes.

14:49:31 22 Q. And in this particular case, would -- would
14:49:33 23 the statements by Dr. Fetzner, or Mr. Jones, would they
14:49:41 24 be trauma-related reminders?

14:49:47 25 A. Yes.

14:49:50 1 Q. I'm sorry. I didn't hear you, sir.

14:49:52 2 A. Yes.

14:49:53 3 Q. Okay. And do you know whether or not Mr.

14:49:57 4 Pozner has engaged in avoidance of trauma-related

14:50:02 5 reminders?

14:50:04 6 A. Well he's tried to get them off the

14:50:10 7 internet. He's tried to get it --

14:50:10 8 Q. And how does he --

14:50:14 9 A. -- to stop.

14:50:19 10 Q. And when he does that, does he then -- does

14:50:22 11 he -- does he --

14:50:24 12 Well first of all, let me ask you this: How

14:50:26 13 do you know that he does that?

14:50:27 14 A. I'm taking his word for it that he's made

14:50:30 15 actions to try to get false content removed.

14:50:36 16 Q. And do you know whether he spends a

14:50:39 17 considerable amount of effort in trying to locate

14:50:43 18 trauma-related reminders?

14:50:46 19 A. I believe he does.

14:50:50 20 Well wait. Stop. Let me -- Let me take

14:50:52 21 that back. Wait.

14:50:53 22 Trying to locate trauma -- No. Let me take

14:50:56 23 that back. I spoke too quickly.

14:50:58 24 He spends significant time trying to get

14:51:00 25 false content off the web.

14:51:04 1 Q. And the content that you're talking about,
14:51:06 2 though, is what we've -- is essentially trauma-related
14:51:10 3 reminders, at least in this particular instance;
14:51:14 4 correct?

14:51:14 5 A. It is a trauma-related reminder, and you're
14:51:17 6 trying to create concepts with words that
14:51:24 7 scientifically do not hold up.

14:51:26 8 The fact that he goes on the internet and
14:51:30 9 looks for stuff that's very upsetting to him to get
14:51:33 10 rid of it, that does -- in no way does that invalidate
14:51:37 11 PTSD. And as I said before, one does not have to have
14:51:45 12 both types of avoidance. One only needs one type of
14:51:48 13 avoidance, and he has avoidance of the area. And it
14:51:52 14 doesn't -- there's no requirement that you try to
14:51:56 15 avoid any type of reminder that might exist, simply
14:52:02 16 that there is avoidance of some reminders. It doesn't
14:52:05 17 have to be every type of reminder that exists, it just
14:52:08 18 has to be some type of reminders.

14:52:13 19 Q. The criteria itself, though, talks about
14:52:15 20 avoidance of trauma-related stimuli after the trauma
14:52:19 21 in the following ways: Trauma-related thoughts or
14:52:22 22 feelings, and trauma-related reminders.

14:52:24 23 Does that sound correct to you?

14:52:28 24 A. I -- I would rather pull the DSM myself
14:52:32 25 and -- and see the exact words. Would you like me to

14:52:35 1 do that?

14:52:37 2 Q. Sure.

14:52:40 3 THE WITNESS: Can we pause a minute while I
14:52:42 4 get my DSM?

14:53:13 5 THE REPORTER: Off the record, please.

14:53:15 6 (Recess taken from 2:53 to 2:57 p.m.)

14:57:57 7 THE REPORTER: Would you like me to read
14:58:02 8 the pending question?

14:58:06 9 MS. STEDMAN: I'll -- Why don't I just
14:58:09 10 begin with a new one.

14:58:10 11 THE REPORTER: Thank you.

14:58:11 12 BY MS. STEDMAN:

14:58:11 13 Q. Doctor, can you hear me okay?

14:58:13 14 A. Yes, I can.

14:58:14 15 Q. Doctor, my understanding is that while we
14:58:17 16 were just previously discussing the DSM criteria for
14:58:23 17 PTSD, or the DSM-5 criteria, you -- we took a break
14:58:31 18 and you were going to find the actual criteria for
14:58:36 19 that. Did you -- Were you able to find -- find that?

14:58:39 20 A. Yes.

14:58:43 21 Q. And the -- how many -- how many criteria are
14:58:49 22 identified officially in the DSM?

14:58:53 23 A. From beginning to end, all of them? There
14:58:57 24 are the ones we talk --

14:58:58 25 Q. I'm just asking right now how -- I'm sorry?

14:59:01 1 A. Altogether there's A through H.

14:59:05 2 Q. Okay. And one of those that we were talking
14:59:07 3 about was the -- I think it may be referred to as the
14:59:11 4 C criterion relating to avoidance; is that correct?

14:59:15 5 A. Yes.

14:59:18 6 Q. And that -- and -- and --

14:59:22 7 And that particular criteria, you said,
14:59:24 8 requires one of the -- one of two specified criteria
14:59:31 9 be satisfied. It says: Avoidance of trauma-related
14:59:35 10 stimuli after the trauma, in the following way(s):
14:59:39 11 Trauma-related thoughts or feelings," or
14:59:41 12 trauma-related reminders.

14:59:42 13 Did I read that correctly?

14:59:44 14 A. Well "external reminders," people, places,
14:59:47 15 et cetera.

14:59:50 16 Q. Okay. And with respect to the information
14:59:57 17 on the internet that Mr. Pozner has undertaken to try
15:00:03 18 and have removed, would you describe that as avoidance
15:00:10 19 behavior?

15:00:12 20 A. That's -- That's very complex. I could see
15:00:17 21 it -- people talking about it in various ways. On the
15:00:21 22 one hand he is certainly going out to the internet to
15:00:28 23 find it; on the other hand he's trying to -- he's
15:00:30 24 doing it to get rid of it. And so I think that people
15:00:32 25 could -- you know, the word "avoidance" doesn't really

15:00:40 1 fit in that situation. But clearly he le -- he left
15:00:44 2 Newtown, in large part because of the reminders and
15:00:52 3 doesn't want to go there. And I have treated large
15:00:55 4 numbers of people with PTSD, and, you know, you rarely
15:01:00 5 have anyone who avoids every possible reminder in
15:01:05 6 every way. And it's very clear here. You don't have
15:01:11 7 to avoid external reminders at all. It could be, you
15:01:18 8 know, internal remind -- you know, memories, thoughts,
15:01:21 9 or it could be external reminders, and it doesn't say
15:01:25 10 avoidance or efforts -- it doesn't say "avoidance," it
15:01:29 11 says "avoidance or efforts to avoid," and it doesn't
15:01:32 12 say "all" external reminders. It says "reminders,"
15:01:39 13 not "all." Otherwise then you woul -- what -- if --
15:01:46 14 The way you're defining it, then anyone who
15:01:49 15 goes into therapy could not have PTSD because they're
15:01:55 16 going to talk about it and they'll know they'll talk
15:01:59 17 about it in therapy. And there are many people who do
15:02:01 18 avoid therapy, but by your analysis, anyone who goes
15:02:05 19 for therapy could not possibly have PTSD, at which
15:02:09 20 point all the research on PTSD treatment is invalid
15:02:13 21 because anyone who would go for treatment couldn't
15:02:16 22 have it.
15:02:19 23 Q. So with regard to Mr. Pozner's, though,
15:02:28 24 searching the internet for the material he wants to
15:02:32 25 have removed, is that -- is that behavior, though,

15:02:34 1 that you considered at all in your evaluation of Mr.
15:02:41 2 Pozner?

15:02:43 3 A. Yes, I've thought about it.

15:02:46 4 Q. And did you -- did you give it any
15:02:48 5 significance?

15:02:53 6 A. His desire to get rid of this material, show
15:03:07 7 -- is a strong indi -- very strong indication of how
15:03:10 8 upsetting -- upset he is by it, and supports his
15:03:20 9 statements that it's terribly upsetting.

15:03:27 10 Q. Let me go back to something we talked about
15:03:29 11 at the very beginning in terms of confirmation bias.
15:03:34 12 Is the concept of confirmation bias simply applicable
15:03:38 13 to the individual being evaluated, or is that a -- is
15:03:40 14 that a -- is that an issue that may also affect the
15:03:45 15 evaluator?

15:03:46 16 A. I do not understand what you're -- what you
15:03:49 17 think it means. I don't understand how you're using
15:03:52 18 it. It affect -- everyone --

15:03:57 19 Confirmation bias can affect everyone.

15:04:06 20 Q. And in your evaluation --

15:04:12 21 As I understand it, confirmation bias is
15:04:14 22 basically when people in any context basically view
15:04:21 23 information in a way that supports their -- some
15:04:27 24 preexisting conclusion.

15:04:30 25 A. Yes.

15:04:34 1 Q. In this particular case, in the case of Mr.
15:04:38 2 Pozner, you've -- you've -- you've discussed
15:04:42 3 information and -- and reasoning that you have
15:04:50 4 considered and concluded supports your conclusions.
15:04:53 5 I'm interested in whether or not there was any
15:04:55 6 information that you considered and concluded that it
15:05:02 7 -- that it did not support your ultimate opinions.
15:05:06 8 Was there anything -- Was there anything on the other
15:05:09 9 side of the ledger?

15:05:16 10 A. I could answer that in a way that would I
15:05:19 11 think be of value, but I can't directly answer. I've
15:05:22 12 got to tal --

15:05:23 13 May I talk about it for a minute to try to
15:05:25 14 explain my thinking? I can't -- I can't give a --
15:05:30 15 it's --

15:05:30 16 Q. I'll tell you what --

15:05:32 17 A. I certainly considered --

15:05:34 18 Q. Sure. You may -- you may, but try to be
15:05:38 19 focused in terms of --

15:05:39 20 A. Yes.

15:05:40 21 Q. -- your answer, if you can.

15:05:43 22 A. I appreciate the flexibility, counsel,
15:05:45 23 because my aim is to be as succinct as possible and
15:05:48 24 give you the answer to your question as well as
15:05:51 25 possible.

15:05:52 1 The -- In doing a personal injury suit it's
15:06:01 2 -- it's not -- he is injured/he's not injured. That's
15:06:08 3 usually not the question. Usually there is some level
15:06:12 4 of problem or the lawyers wouldn't have brought you
15:06:14 5 the case, though I have certainly found people to be
15:06:18 6 malingering, and I have turned to lawyers who want --
15:06:23 7 plaintiff lawyers and said, "I don't believe your
15:06:25 8 clients." So I've certainly done that. But usually
15:06:32 9 there's -- there's this broad area of is he affected a
15:06:36 10 little, a moderate amount, a lot, and how much is it
15:06:43 11 affecting him. And so if we -- there's certainly data
15:06:52 12 that indicates -- that I've considered, that's very
15:06:55 13 important to me, that he's not totally wiped out. He
15:07:02 14 -- He has -- He has a purpose. He is -- He goes on
15:07:07 15 the internet, he's fighting the abuse of victims. And
15:07:17 16 so he's not lying in bed all day doing nothing. He
15:07:26 17 was able to talk with me about it. He isn't so
15:07:31 18 impaired that he couldn't begin to -- that he began to
15:07:34 19 cry and stop the subject immediately. And yes, if --
15:07:41 20 that certainly was very important to me that he's not
15:07:45 21 nonfunctional.

15:07:49 22 So I considered informa -- if you...

15:07:56 23 So I considered information that shows that
15:07:59 24 he is not affected to the maximum extent possible, and
15:08:06 25 I have not said that he is affected to the maximum

15:08:09 1 extent possible. I'm not saying he can't do anything,
15:08:12 2 I'm not saying that he is -- needs to be hospitalized,
15:08:18 3 that he can't begin to function in life. I have not
15:08:20 4 said that. What I've said is that his life is -- this
15:08:28 5 significantly takes away from his life.

15:08:34 6 Q. The --

15:08:37 7 When we talked about the absence of any
15:08:42 8 information about treatment, at least as -- as a
15:08:47 9 consideration, is that something -- is that a -- is
15:08:52 10 that a factor that impacts, or that you consider in
15:08:59 11 reaching your opinions?

15:09:02 12 A. I almost always ask about it, it was an
15:09:05 13 oversight. It mostly affects my assessment of
15:09:11 14 credibility, to see whether it's consistent or not,
15:09:15 15 but I have seen many people with -- who are
15:09:20 16 significantly compromised by PTSD who do not get
15:09:23 17 therapy and don't want to begin to talk -- to talk
15:09:27 18 about it or deal with it or don't believe in therapy,
15:09:31 19 and I've seen people who do get therapy, so --

15:09:36 20 Q. And with regard to --

15:09:38 21 I'm sorry. Go ahead.

15:09:38 22 A. So it doesn't -- it doesn't -- whether
15:09:45 23 someone or not gets therapy doesn't -- I do not find
15:09:49 24 that, in general, to be terribly reliable information
15:09:55 25 in assessing how serious the PTSD is.

15:10:07 1 Q. With respect to your interactions with Mr.
15:10:12 2 Pozner, did he seem reluctant to interact with you and
15:10:16 3 to provide information to you?

15:10:21 4 A. He seemed quite open.

15:10:24 5 Q. I'm sorry, I didn't hear you.

15:10:26 6 A. He seemed open. He spoke well. He was
15:10:30 7 thoughtful.

15:10:42 8 Q. In terms of Mr. Pozner's condition prior to
15:10:49 9 the -- what you're -- what you attribute to Mr. -- or
15:10:54 10 to Dr. Fetzner, do you -- what can you tell me about
15:10:56 11 his prior functioning and -- and after -- but after
15:11:02 12 the Sandy Hook shooting?

15:11:06 13 MS. STEDMAN: Objection, asked and
15:11:07 14 answered.

15:11:11 15 A. I am not sure I can say much more than
15:11:14 16 before, which is that he was certainly deeply affected
15:11:17 17 by the loss of his son, that he was doing better than
15:11:22 18 he was in the initial months, he was on the mend, and
15:11:25 19 that he went downhill after he was confronted with
15:11:33 20 denials of what had happened.

15:11:39 21 Q. And in terms of the going downhill, what
15:11:45 22 changed?

15:11:48 23 A. He became more stressed, more symptomatic.
15:11:51 24 I didn't discuss specifically the different symptoms,
15:11:55 25 but in general he felt worse, and then I did go into

15:11:59 1 detail about the specific symptoms that he was having
15:12:01 2 at this time, as we discussed before.

15:12:09 3 Q. Have you ever evaluated a case for PTSD
15:12:14 4 where the -- one of the stressors that you're caus --
15:12:24 5 or finding was a remote cause such as something that
15:12:30 6 was -- something that was appearing on the internet?

15:12:38 7 A. I don't recall -- Well...

15:12:48 8 I don't recall another case where something
15:12:49 9 just appearing on the internet lead to PTSD, but this
15:12:58 10 is not just a question of something appearing on the
15:13:01 11 internet. There's a -- It's my understanding that the
15:13:07 12 work that -- "work" -- that the actions that Dr.
15:13:12 13 Fetzer took lead to various events, including a threat
15:13:18 14 to kill him, harassment, et cetera. It's -- The issue
15:13:26 15 is not just the thing that triggered things, it's the
15:13:33 16 whole thing. I mean, if -- if someone gets shoved off
15:13:39 17 a curb and hit by a car, you know, one can't say that,
15:13:45 18 oh well, you can't blame the -- it was just a shove.
15:13:48 19 Have you ever -- Has someone ever gotten PTSD before
15:13:51 20 from a shove? Well it started with the shove, but the
15:13:54 21 shove lead to the person to be hit by a car. And the
15:13:58 22 internet and book and whatever lead to a cascade of
15:14:04 23 events that were, in themselves, sufficient to cause
15:14:09 24 PTSD.

15:14:11 25 Q. And when you say that this was set in motion

15:14:14 1 by the actions of Dr. Fetzter, and -- and not just the
15:14:22 2 publication -- publications, what do you mean by that?

15:14:27 3 A. Okay. I think it's outside of --

15:14:35 4 I think it's a legal question more than a
15:14:38 5 psychiatric one to say exactly what -- where
15:14:45 6 responsibility for each of the series of chain of
15:14:50 7 things began. It's my understanding that Dr. Fetzter's
15:14:52 8 actions were a key issue leading to other events;
15:15:00 9 harassments, denials, invalidation, life threat. I
15:15:08 10 mean if Dr. Fetzter --

15:15:08 11 Q. Have you ever gone --

15:15:09 12 A. -- had written --

15:15:12 13 If Dr. Fetzter had written the book and no
15:15:14 14 one had read it and no one else knew anything about
15:15:18 15 it, then Mr. Pozner wouldn't have been affected just
15:15:24 16 because there happened to be a book that existed that
15:15:27 17 no one read.

15:15:30 18 It's -- And it's a legal question whether
15:15:34 19 writing the book, when it leads to events that would
15:15:38 20 not otherwise have occurred, what responsibility to
15:15:42 21 give to that book.

15:15:49 22 Q. With regard to the concept of validation
15:15:51 23 that you've talked about, and you indicated that --
15:15:59 24 that someone does not provide support or validation
15:16:04 25 for basically a trauma -- someone who has experienced

15:16:09 1 trauma, in your experience has that usually involved
15:16:13 2 immediate family members or people that the -- that
15:16:18 3 the individual has direct contact, rather than sort of
15:16:21 4 a -- a -- an external media or internet presence?

15:16:33 5 A. Most of the cases that I have personally had
15:16:37 6 dealt with -- you know, involve contact with someone
15:16:42 7 where, you know, a nurse, a police person, a district
15:16:48 8 attorney, a teacher, a law guardian says, in one way
15:16:56 9 or another, I don't believe this happened, or it's no
15:16:58 10 big deal, get over it.

15:17:04 11 Q. Did Mr. Pozner have any predisposition to
15:17:12 12 PTSD, any factors or flags that would -- would suggest
15:17:19 13 a predisposition?

15:17:22 14 A. I'm not aware of any, and even if he did,
15:17:28 15 you know, there is the issue -- I'm not aware of any
15:17:31 16 -- any predisposition, but even if it did, legally
15:17:35 17 it's -- it's just an eggshell case then, it doesn't
15:17:37 18 really matter whether he was vulnerable to it or not,
15:17:40 19 from a legal perspective.

15:17:42 20 Q. Did you --

15:17:45 21 Did you do any family -- any inquiry
15:17:49 22 regarding family history?

15:17:51 23 A. Things that had happened around the event,
15:17:55 24 yes, but no, I did not ask his parents -- if his
15:17:59 25 parents had diagnoses, or anyone had depression

15:18:01 1 before. From a legal --

15:18:01 2 Q. In any --

15:18:06 3 A. -- point of view --

15:18:07 4 From a forensic point of view, a legal point

15:18:10 5 of view it's irrelevant, really, to -- to the issues

15:18:16 6 that I'm asked to opine on. Whether someone had --

15:18:19 7 was more vulnerable than average or less vulnerable

15:18:23 8 than average in my understanding is -- is legally

15:18:26 9 irrelevant.

15:18:28 10 Q. Okay. You're not a lawyer, though; is that

15:18:30 11 correct?

15:18:31 12 A. That is correct.

15:18:33 13 Q. And you're not a judge; is that correct?

15:18:36 14 A. I think since I'm not a lawyer, I can't be a

15:18:38 15 judge. I think you're aware of that.

15:18:42 16 Q. And so in terms of --

15:18:45 17 My question is really more narrow, then. Is

15:18:49 18 the question about family history, though, something

15:18:52 19 that you would -- that a mental health professional

15:18:55 20 would typically ask someone that they are evaluating?

15:19:02 21 A. In a --

15:19:03 22 In a psychiatric situation one may ask it

15:19:09 23 because it may have treatment implications. In a

15:19:12 24 forensic evaluation it does not have significance. If

15:19:24 25 -- In a treatment situation if you found that someone

15:19:27 1 -- you know, both their parents had suffered major
15:19:29 2 depressions or recurrence and their -- two of their
15:19:32 3 siblings have and that they all responded to the same
15:19:36 4 antidepressant, that can be very useful information.
15:19:41 5 In a forensic case the issue is has this person been
15:19:47 6 depressed before, has -- was this person depressed at
15:19:51 7 the time when the event occurred, and would this
15:19:55 8 person be depressed were -- if this event hadn't
15:20:00 9 occurred. It's a different set -- it's a different
15:20:02 10 evaluation, you're looking for different things so
15:20:04 11 that not every question is the same.

15:20:10 12 Q. Did Mr. Pozner experience any -- any
15:20:13 13 symptoms -- any Post-Traumatic Stress Disorder
15:20:20 14 symptoms attributable -- that you would attribute
15:20:23 15 exclusively to the event at massacre -- at Sandy Hook,
15:20:28 16 the massacre that you described?

15:20:31 17 A. Well before the denial and harassments he
15:20:40 18 didn't have symptoms because of the denial and
15:20:43 19 harassments. So -- But after, the fact he is
15:20:51 20 continuing to have symptoms that meet the diagnosis is
15:20:54 21 a result of the actions of Dr. Fetzer and the
15:21:00 22 subsequent events.

15:21:03 23 Q. Specifically what -- what stands out in your
15:21:06 24 mind in terms of the lingering complaints or symptoms
15:21:13 25 that Mr. Pozner complains of?

15:21:16 1 A. All of them. As I said before, it's
15:21:22 2 established that secondary stress and support are as
15:21:28 3 important usually as the initiating event in whether
15:21:32 4 someone continues to have symptoms. And so I would
15:21:38 5 have expected his symptoms to largely go away, I would
15:21:44 6 have expected him to be as social as he had been
15:21:46 7 beforehand, I would have expected him to -- to become
15:21:50 8 patient again, to be able to concentrate again, and to
15:21:55 9 be able to be close to people and to be able to -- to
15:22:01 10 not be on edge when he goes out and avoiding going out
15:22:06 11 and around. I would have expected all of those to
15:22:10 12 have -- none of those to be there if it were not for
15:22:14 13 the actions of Dr. Fetzer and what followed.

15:22:19 14 Q. And the existence of these -- the existence
15:22:25 15 and the -- of these symptoms, though, is not anything
15:22:27 16 that you have verified or confirmed otherwise than
15:22:32 17 through what Mr. Pozner has told you; is that correct?

15:22:38 18 A. The way he has told me, the way -- the way
15:22:45 19 it fits known patterns of symptoms, the fact that he
15:22:52 20 denied various symptoms that I would have expected
15:22:54 21 someone who was malingering to -- to claim that they
15:22:59 22 had, I picked up on no sign of exaggeration. So those
15:23:11 23 are the ways that a forensic psychiatrist assesses. I
15:23:18 24 have not hired a private investigator to go out and
15:23:21 25 see if there's evidence that -- that he doesn't

15:23:27 1 actually have the symptoms that he has.

15:23:33 2 Q. Did you consider any non-defamatory -- When
15:23:38 3 I say "non-defamatory," do you know what that means,
15:23:42 4 at least in this particular case?

15:23:44 5 MS. STEDMAN: Objection, calls for a legal
15:23:45 6 conclusion.

15:23:50 7 Q. Let me ask: Do you know specifically what
15:23:55 8 the statements are that are at issue in this
15:23:57 9 particular lawsuit?

15:24:03 10 A. A very significant one is -- to Mr. Pozner
15:24:07 11 is the denial of the death certificate, denying at one
15:24:15 12 point that he didn't even have a son, which he saw as
15:24:21 13 eras -- sort of erasing his son from existence, that
15:24:27 14 he perpetrated this fraud.

15:24:31 15 Q. Did you consider whether or not more general
15:24:36 16 statements that Sandy Hook did not occur, did you --
15:24:40 17 did you consider whether or not such statements had
15:24:45 18 any effect on causing injury to Mr. Pozner?

15:24:51 19 A. Well I think the denial of the event is part
15:24:57 20 of denial. I can't -- I think that's part of it. You
15:25:04 21 know, denying that it occurred is then saying that
15:25:10 22 he's part of concocting this hoax on the -- and fraud
15:25:15 23 on the American people. And it's like, then where is
15:25:21 24 his son? Did he never have a son, then, since Sandy
15:25:25 25 Hook never occurred? It's...

15:25:31 1 Q. Do you know whether there are denials of
15:25:34 2 Sandy Hook that are out there on the internet or
15:25:39 3 elsewhere that are -- that are not defamatory?

15:25:44 4 A. I do not -- I do not know what you...

15:25:51 5 I don't understand the question. I mean,
15:25:53 6 could you give me an example of a denial that you
15:25:55 7 would see as non-defamatory?

15:26:00 8 Q. Well, for instance, would you -- would you
15:26:02 9 consider a statement that Sandy Hook was a -- was a --
15:26:12 10 was a FEMA exercise, would you consider that to be a
15:26:17 11 denial that would contribute to Mr. Pozner's
15:26:21 12 condition?

15:26:25 13 A. I think all denials would bring some stress,
15:26:35 14 but -- and I think all those denials will be much more
15:26:39 15 painful once an individual has been singled out as a
15:26:48 16 major player in the -- in creating what Dr. Fetzer
15:26:54 17 thinks is a fraud.

15:27:02 18 Q. How did Alex Jones come up in your -- in
15:27:05 19 your discussion with Mr. Pozner yesterday?

15:27:09 20 A. I don't -- I don't recall --

15:27:10 21 MS. STEDMAN: Objection, asked and
15:27:11 22 answered.

15:27:15 23 A. I don't recall the specific -- I don't
15:27:20 24 recall any more than what I said before, that --

15:27:24 25 Q. Okay.

15:27:24 1 A. -- I was told that Dr. Fetzer is
15:27:27 2 particularly important in creating da -- material, and
15:27:35 3 that Mr. Jones is particularly important in
15:27:40 4 propagating it. The degree to which Mr. Jones creates
15:27:43 5 it, I do not know.

15:27:46 6 Q. Is there any specific test that you're aware
15:27:50 7 of to diagnose PTSD?

15:27:56 8 A. Seeing if the person fits the DSM criteria.

15:28:01 9 Q. But there's not -- there's no -- there's no
15:28:06 10 -- there's no physical testing, for instance, there's
15:28:08 11 no -- Is that correct?

15:28:10 12 A. Well -- Okay. There -- Some people think
15:28:14 13 that you can look at, you know, skin conductance and
15:28:19 14 that may say something about the hyper-reactivity
15:28:24 15 symptoms, but that's -- it's -- I've never seen it
15:28:30 16 used clinically, it's research, and that's just one
15:28:32 17 set of symptoms. It doesn't say anything about, you
15:28:37 18 know, the other symptoms. The diagnosis --

15:28:41 19 Q. And there's no -- there's no --

15:28:43 20 I'm sorry. Go ahead.

15:28:43 21 A. The diagnosis is made based on the symptoms.
15:28:49 22 There is no test that --

15:28:51 23 Q. And there's no --

15:28:51 24 A. There's no test that can be done that I have
15:28:54 25 any awareness of that could reliably say this person

15:28:58 1 has it, this person doesn't have it. I've seen it
15:29:00 2 alleged by one particular person who was pushing his
15:29:03 3 research, but I -- it's -- I don't think it's -- gives
15:29:12 4 reliable evidence of -- you can't diagnose PTSD with
15:29:18 5 it or without it.

15:29:27 6 Q. Is the book that you're working on regarding
15:29:29 7 forensics -- forensic evaluations --

15:29:31 8 A. I didn't say the book was on forensic
15:29:32 9 evaluations. It's not.

15:29:34 10 Q. I'm sorry. Pardon me?

15:29:34 11 A. It's not on forensic evaluations.

15:29:37 12 Q. Oh, I'm sorry. Are you --

15:29:39 13 Are you presently working on a book?

15:29:41 14 A. It's on emotional intelligence.

15:29:46 15 Q. And I may have misunderstood.

15:29:48 16 Have you written a book or written on
15:29:51 17 forensics evaluations?

15:29:53 18 A. Yes. I published -- It was a chapter -- I
15:29:56 19 was first author on a chapter in -- I think it was --
15:30:01 20 I think it was Child and Adolescent Clinics of North
15:30:04 21 America on the forensic evaluation of PTSD, and other
15:30:09 22 chapters on PTSD, and also in *eMedicine*, a chapter on
15:30:13 23 PTSD in adults.

15:30:18 24 Q. And then I --

15:30:20 25 Are you aware that at least in some areas,

15:30:25 1 for instance in worker comp area and in VA disability
15:30:29 2 context, that at least there's some concern that false
15:30:34 3 PTSD claims are being made?

15:30:36 4 MS. STEDMAN: Objection, calls for
15:30:38 5 speculation and a legal conclusion.

15:30:43 6 A. There is no question in my mind that there
15:30:46 7 are false claims at times. I mean I had said earlier
15:30:48 8 that there were cases which law -- which plaintiff
15:30:51 9 lawyers brought to me and I said, I think the person
15:30:53 10 is malingering.

15:31:01 11 MR. BOLTON: Doctor, thank you very much.
15:31:02 12 I have no other questions for you at this time.

15:31:05 13 THE WITNESS: Thank you, counselor.

15:31:06 14 MS. STEDMAN: I will have a few questions,
15:31:08 15 Rich. I'll need a couple minutes. Let's -- Is a
15:31:12 16 10-minute break okay for everyone?

15:31:16 17 THE REPORTER: Certainly for me.

15:31:17 18 MR. BOLTON: That's fine. That's fine.
15:31:20 19 You know what, I need to -- and I apologize. I need
15:31:23 20 to make a quick reconnect with my family, let them
15:31:27 21 know what my schedule is. Can we maybe make it 13
15:31:30 22 minutes?

15:31:30 23 MS. STEDMAN: Great. I'm actually going to
15:31:32 24 hang up from the conference line and I'll know we're
15:31:35 25 ready when you rejoin.

15:31:38 1 MR. BOLTON: I'm sorry. Say that again.

15:31:40 2 What should I do?

15:31:41 3 MS. STEDMAN: Just hang up, and then rejoin
15:31:43 4 the conference line when you're ready.

15:31:45 5 MR. BOLTON: Oh, okay. I got it. Just
15:31:47 6 call back in then.

15:31:59 7 THE REPORTER: Off the record.

15:32:00 8 (Recess taken from 3:32 to 3:58 p.m.)

15:32:00 9 REDIRECT EXAMINATION

15:32:00 10 BY MS. STEDMAN:

15:58:54 11 Q. Dr. Lubit, you've provided a lot of
15:58:56 12 testimony today. Can you, for the jury, give your
15:59:00 13 opinion in this case as succinctly as possible?

15:59:04 14 A. Yes.

15:59:07 15 The massacre, the tragedy that occurred at
15:59:10 16 the school, the death of Mr. Pozner's child, you know,
15:59:17 17 certainly caused him symptoms, caused him to have
15:59:21 18 PTSD, but he was doing significantly better after a
15:59:26 19 year, 15, 16 months, and then went downhill because of
15:59:33 20 the events/the actions of Dr. Fetzer and the aftermath
15:59:38 21 of things that followed from his behavior. And it
15:59:42 22 makes sense clinically, it fits with how we understand
15:59:46 23 human behavior interactions; the invalidation, denial,
15:59:51 24 the turning someone to attacking them publicly is --
15:59:56 25 is very serious stress.

15:59:59 1 The other is that he was also threatened by
16:00:04 2 those actions that now there was a death threat, which
16:00:07 3 is sufficient to cause PTSD de novo, from scratch.
16:00:12 4 He's concerned about the safety of his children,
16:00:14 5 understandably. You lose one child and all of a
16:00:17 6 sudden people are making threats and trying to find
16:00:19 7 out where you live. This is very scary. So that also
16:00:23 8 can cause it.

16:00:25 9 Can I say how much of his current symptoms
16:00:28 10 are because of the stress preventing him from healing
16:00:35 11 from the initial PTSD and making it worse, versus the
16:00:39 12 threat that was created by this material being online
16:00:44 13 and him being threatened? I can't say how much from
16:00:49 14 each of those two, but both of those are the result of
16:00:55 15 the actions of Dr. Fetzer and the things that
16:01:00 16 followed, and he would not -- had it not been for Dr.
16:01:03 17 Fetzer's actions and what followed, I can say to a
16:01:06 18 reasonable degree of medical certainty that he would
16:01:09 19 have recovered as much as a parent ever does. He
16:01:11 20 would not come close to making PTSD criteria, he'd be
16:01:14 21 basically functioning. And that's what really counts
16:01:18 22 in forensic psychiatry, not the specific diagnosis,
16:01:22 23 but the impact on the person, and that the things he
16:01:26 24 said, the way he described it all support that he is
16:01:31 25 giving a fairly accurate conclusion. It's for the

16:01:36 1 jury to decide -- if there are medical records, the
16:01:39 2 jury should hear what they say, and if there's a
16:01:41 3 drastic contradiction between what the record says and
16:01:44 4 what he says, that's important. But that's for the
16:01:46 5 jury to decide, it doesn't change -- I know that my
16:01:50 6 information is the latest because I spoke to him the
16:01:53 7 day before this taping, and -- and I do a -- probably
16:01:59 8 a much more thorough evaluation than a therapist
16:02:02 9 would. Therapists who do evaluations for PTSD
16:02:06 10 generally don't do very thorough evaluations because
16:02:10 11 treatment is different than an evaluation for legal
16:02:12 12 purposes.

16:02:16 13 Q. Does mutual contact between Mr. Pozner and
16:02:22 14 Dr. Fetzer change your opinion in any way?

16:02:25 15 A. No. The avoidance issue is --

16:02:34 16 You do not need to avoid everything that
16:02:36 17 could possibly be a reminder. I don't recall ever
16:02:38 18 seeing anyone who avoided all aspects. If -- If that
16:02:46 19 was required, then no one would have PTSD, would fill
16:02:50 20 the -- fulfill the criteria. For example, any parent
16:02:53 21 that goes to the -- to the cemetery where their child
16:03:00 22 is buried, you couldn't diagnose them with PTSD
16:03:04 23 because they're not avoiding the cemetery.

16:03:09 24 There are a number of people who have become
16:03:14 25 involved in causes, mothers for drunk drivers, people

16:03:19 1 who've lost children in Parkland, a number of whom
16:03:24 2 I've spoken to, as well as other parents in Newtown,
16:03:28 3 they've become advocates for gun control. I do not
16:03:34 4 think it's accurate to say these people can't have
16:03:36 5 PTSD because they're doing something that reminds them
16:03:41 6 of it. It's -- It's a complex thing. There needs to
16:03:48 7 be some avoidance, but people go on causes. I mean
16:03:54 8 mothers for drunk drivers, I can't imagine, you know,
16:03:57 9 a mother who decides to campaign to keep -- so it
16:04:01 10 doesn't happen to another family, so other people
16:04:04 11 don't lose children. I don't think we can say this
16:04:06 12 person cannot possibly have PTSD because they are
16:04:10 13 choosing to campaign to -- to prevent it from
16:04:14 14 happening to others. And that's where I see with Mr.
16:04:20 15 Pozner that this -- his work to try to stop this is a
16:04:26 16 way he can organize himself, but he avoids, when he
16:04:29 17 can. But his work at this point is to try to stop
16:04:37 18 this from happening to others, and it's a way of
16:04:41 19 organizing oneself, it's a way of keeping one's child
16:04:48 20 -- I can't say keeping one's child alive. It's giving
16:04:51 21 his child's life meaning. For his child to be erased
16:04:55 22 from history by -- and this is sort of the term that I
16:05:00 23 hear, for him to be erased from history to like not
16:05:05 24 have existed, that is very painful to Mr. Pozner, and
16:05:10 25 this is what he felt was being done by Dr. Fetzer.

16:05:16 1 And he is, in certain ways, keeping his son alive.
16:05:22 2 Giving his son's life and death meaning by helping
16:05:26 3 others does not negate PTSD, it is a -- it is a -- it
16:05:35 4 is a sign of just how significant and overwhelming it
16:05:40 5 was. If he was not deeply affected, he wouldn't be
16:05:44 6 fighting against the type of things Dr. Fetzer is
16:05:47 7 doing. If he wasn't deeply affected by that, maybe
16:05:50 8 he'd argue for gun control. But he's fighting against
16:05:54 9 what Dr. Fetzer is doing because that's where he sees
16:05:58 10 --

16:05:58 11 MR. BOLTON: Objection, narrative.

16:06:06 12 THE WITNESS: I don't know what to do with
16:06:07 13 the objection.

16:06:08 14 MS. STEDMAN: You may continue to answer.

16:06:10 15 THE WITNESS: Okay.

16:06:11 16 A. I believe that his -- and we've discussed
16:06:14 17 this. I've discussed this specifically with Dr. --
16:06:17 18 with Mr. Pozner, that this is -- means that his son is
16:06:24 19 not being erased, that his son has meaning, and that
16:06:27 20 it's not all in vain. And that does not mean the
16:06:31 21 person isn't suffering from the loss of their child,
16:06:34 22 it indicates a focus on this issue, and that this
16:06:39 23 issue has been very painful to them and they think
16:06:42 24 it's something that desperately needs to change. And
16:06:46 25 some of the parents are working on gun control, he's

16:06:49 1 working on the wrong that he sees Dr. Fetzer doing,
16:06:54 2 and that shows that this is something that he sees as
16:06:59 3 very destructive, and very destructive because it
16:07:02 4 caused him so much pain and causes him so much pain,
16:07:05 5 and his way to deal is to fight against it.

16:07:08 6 MR. BOLTON: Objection, narrative and
16:07:11 7 redundant.

16:07:29 8 Q. Is --

16:07:29 9 Is the DSM-5 a reliable source?

16:07:35 10 A. It is the --

16:07:37 11 Yes. I mean, it is the diagnostic criteria,
16:07:40 12 and it also has, you know, statements and information
16:07:44 13 about the different diagnostic criterias. But once
16:07:48 14 again it is absolutely clear that it is not a
16:07:53 15 constraint on forensic psychiatry, that our task is to
16:07:58 16 look at the harm that's done, not what diagnos -- what
16:08:03 17 the diagnosis is. It's the symptoms and how that
16:08:05 18 affects the particular person, and not -- and not what
16:08:15 19 diagnosis.

16:08:16 20 One other thing -- I'd like to throw in one
16:08:20 21 last thing about the avoidance. I mentioned I believe
16:08:23 22 a woman who had a car accident and was avoiding a
16:08:26 23 specific exit. I was on the defense in that case, on
16:08:29 24 the defense side, and I said she had PTSD. I said
16:08:33 25 that, you know, she avoids this exit, that's

16:08:38 1 avoidance. Someone -- I mean I -- by the -- if it was
16:08:44 2 to -- had to be total avoidance I'd say, hey, she --
16:08:47 3 cars have to be a reminder, she was in a terrible car
16:08:50 4 accident, it just happened to be by this exit, but
16:08:54 5 she's willing to get in a car. She doesn't like
16:08:56 6 getting in her car --

16:08:58 7 MR. BOLTON: Objection, narrative and
16:08:59 8 cumulative.

16:09:01 9 MS. STEDMAN: I would direct you to just
16:09:02 10 answer the question that was asked.

16:09:04 11 THE WITNESS: Okay.

16:09:05 12 A. That it --

16:09:06 13 So even though I was on the other side I
16:09:08 14 said, this is sufficient. This avoidance, which is a
16:09:12 15 lot less than the avoidance of Mr. Pozner, which is
16:09:17 16 avoiding his -- the town they lived in. She's
16:09:22 17 avoiding the exit. And I felt, though I was on the
16:09:25 18 defense side of the case, that this is sufficient
16:09:27 19 avoidance to diagnose PTSD. And the fact that she
16:09:32 20 drives a car does not mean she doesn't have PTSD after
16:09:34 21 this bad accident.

16:09:37 22 MR. BOLTON: Objection, narrative and
16:09:38 23 cumulative.

16:09:42 24 MS. STEDMAN: Objection -- Objection noted.

16:09:50 25 Q. Is the DSM-5 a --

16:09:53 1 How do forensic psychiatrists use the DSM-5
16:09:59 2 in evaluating patients or people within a legal case
16:10:07 3 for PTSD?

16:10:09 4 A. Let me just start by saying the people we
16:10:12 5 evaluate are not our patients, --

16:10:13 6 Q. Correct.

16:10:14 7 A. -- they're people we're evaluating.

16:10:18 8 And we're generally asked if the person
16:10:20 9 meets the diagnostic criteria, and so we answer that
16:10:25 10 question. But again, it -- the crucial issue is the
16:10:30 11 amount of symptoms, because you can have a very
16:10:34 12 varying amount of PTSD; you can have, depending upon
16:10:39 13 the symptoms, how the symptoms interact with the
16:10:42 14 individual's life, it can be, you know, a huge issue
16:10:48 15 or not a big issue.

16:10:51 16 If someone avoids cars, let's say, entirely
16:10:54 17 because of a car accident, if that person lives in a
16:10:58 18 city and doesn't need -- and doesn't use cars, uses
16:11:01 19 the subway and walks, it's much less of a problem than
16:11:05 20 for someone who lives in a house and their -- there's
16:11:09 21 no work within five miles and their job is 20 miles
16:11:13 22 away, that person's -- and they have to get -- and
16:11:17 23 they have to drive their kids to school in the
16:11:20 24 morning. It has tremendous --

16:11:20 25 MR. BOLTON: Objection; nonresponsive,

16:11:22 1 narrative and cumulative.

16:11:23 2 Q. Again the question is: How do forensic
16:11:27 3 analysts use the DSM-5 when evaluating --

16:11:27 4 A. We're asked --

16:11:32 5 Q. -- plaintiffs or defendants, parties to
16:11:35 6 litigation?

16:11:35 7 A. We're asked about diagnoses, we use it to
16:11:38 8 see if it fits the diagnoses. The other is that the
16:11:41 9 diagnoses are known patterns, and if a set of symptoms
16:11:45 10 meets a known pattern, that's evidence -- that

16:11:52 11 increases the credibility a bit. More seriously,
16:11:56 12 though, if it doesn't meet a known pattern that makes
16:11:58 13 you start wondering about the symptoms very seriously.

16:12:02 14 Q. And is it your opinion in this case that Mr.
16:12:09 15 Pozner meets the DSM-5 criteria for PTSD?

16:12:12 16 A. Absolutely.

16:12:13 17 Q. Do you hold that --

16:12:14 18 MR. BOLTON: Objection, leading.

16:12:15 19 Q. Do you hold that opinion to a reasonable
16:12:18 20 degree of medical certainty?

16:12:21 21 A. To a reasonable degree of medical certainty
16:12:24 22 Mr. Pozner has chronic PTSD and will continue to have
16:12:28 23 the symptoms indefinitely very likely for the rest of
16:12:32 24 his life. They may ease somewhat, but he's likely to
16:12:36 25 have them to a significant degree impairing his

16:12:40 1 function for the rest of his life.

16:12:42 2 MS. STEDMAN: Thank you. I have no further

16:12:44 3 questions.

16:12:46 4 MR. BOLTON: Just a couple of follow-up

16:12:51 5 requests.

16:12:51 6 RE-CROSS-EXAMINATION

16:12:51 7 BY MR. BOLTON:

16:12:52 8 Q. Doctor, you're not blaming Dr. Fetzer,
16:12:55 9 though, for the original stressor, the Sandy Hook
16:13:01 10 event; are you?

16:13:03 11 A. I do not blame --

16:13:04 12 Well that was a compound question and -- or
16:13:08 13 you made a statement in there that's not accurate,
16:13:11 14 because as I was saying earlier, there are two
16:13:16 15 stressors. The first stressor was the massacre, the
16:13:22 16 second stressor was people harassing him and -- to the
16:13:27 17 point of someone threatening his life. And it is up
16:13:31 18 to -- it is a legal issue for the Court and the jury
16:13:35 19 to decide to what extent he may be responsible for the
16:13:41 20 harassment and threats that followed his claiming that
16:13:49 21 Sandy Hook never occurred and that Mr. Pozner didn't
16:13:54 22 -- didn't have a son, or that his son didn't die there
16:13:57 23 and that he was perpetrating a fraud on the American
16:13:59 24 people.

16:14:05 25 Q. Doctor, during the -- during the break

16:14:08 1 between my cross-examination of you and the redirect,
16:14:12 2 did you have an opportunity then to talk with counsel
16:14:14 3 for Mr. Pozner before -- before the redirect?

16:14:18 4 A. Yes, we did.

16:14:21 5 Q. And did you talk with Mr. Zimmerman as well?

16:14:24 6 A. No.

16:14:26 7 Q. Pardon me?

16:14:27 8 A. No, I did not.

16:14:29 9 Q. I didn't hear you. I'm sorry, sir.

16:14:30 10 A. No, I did not.

16:14:33 11 Q. Okay. And -- And during that interval, did

16:14:37 12 you -- did you provide some information in terms of

16:14:40 13 questions that would be useful to ask on redirect?

16:14:46 14 A. I said that the one thing that I -- that I

16:14:50 15 thought that could be useful to ask me to say more

16:14:53 16 about avoidance.

16:15:01 17 MR. BOLTON: I have no further questions,

16:15:02 18 doctor.

16:15:03 19 THE WITNESS: Thank you.

16:15:05 20 MS. STEDMAN: I have no further questions

16:15:06 21 as well.

16:15:09 22 MR. BOLTON: Okay. Thank you.

16:15:10 23 Doctor, thank you very much for -- for

16:15:13 24 coming in today, and for your patience throughout.

16:15:16 25 THE WITNESS: My pleasure.

16:15:20

1

Are we still on the air, or?

16:15:21

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THE REPORTER: Off the record, please.

16:15:34

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(Deposition concluded at 4:15 p.m.)

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C E R T I F I C A T E

I, Debby J. Campeau, hereby certify that I am qualified as a verbatim shorthand reporter; that I took in stenographic shorthand the testimony of DR. ROY LUBIT at the time and place aforesaid; and that the foregoing transcript consisting of 113 pages is a true and correct, full and complete transcription of said shorthand notes, to the best of my ability.

Dated at Lino Lakes, Minnesota, this 7th day of October, 2019.

Debby J. Campeau
DEBBY J. CAMPEAU

Notary Public

