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ZEN AND THE ART OF



WINNING IN COURT

By Christopher Hamacher

Studying cults can be depressing—just listen to a survivor’s tearful testimonial or read many of the news briefs at the back of *ICSA Today*. In the legal field, with so many barriers to justice, the whole endeavor may sometimes feel hopeless. So today I’d like to share a story with a happy ending. It’s the account of how this humble ICSA member was taken to court by an aggressive cult leader—and won.

The story begins when I wrote a paper in the early 2010s about two Zen teachers accused of abusing their students. One was a Japanese monk named Eido Shimano living in New York, and the other a long-time Zen practitioner and gynecologist named Klaus Zernickow residing in Berlin. Nobody in America had heard of Zernickow, but rumors of his misconduct, mostly anonymous blog posts, had circulated in Germany. In my research, I had gotten to know some of Zernickow’s accusers and was convinced they were telling the truth. They struck me as earnest spiritual seekers whose trust had been exploited, sometimes shockingly, by a teacher whose power seemed to have gone to his head. Despite it being the students’ word against the master’s, I felt that the allegations were credible enough to justify publishing to a wider audience.

It wasn’t an easy decision to put Zernickow’s name on what had been, until that point, anonymous online rumors. After all, the accusations against him included making false claims about his credentials, exploiting his members financially, and even sexually preying on his patients. One doesn’t just put things like that in print, especially about a rich and powerful doctor in the capital of Germany. But I decided that if I drafted the paper carefully enough and stayed on the fence about whether the allegations were actually true, the paper could still be worthwhile. And so I did: I wrote it, presented it at the 2012 ICSA conference in Montreal, and put it online on a variety of Buddhist websites. It got a few mentions (including in *ICSA Today*), generated some positive discussion in the Zen community, and that was the end of it.

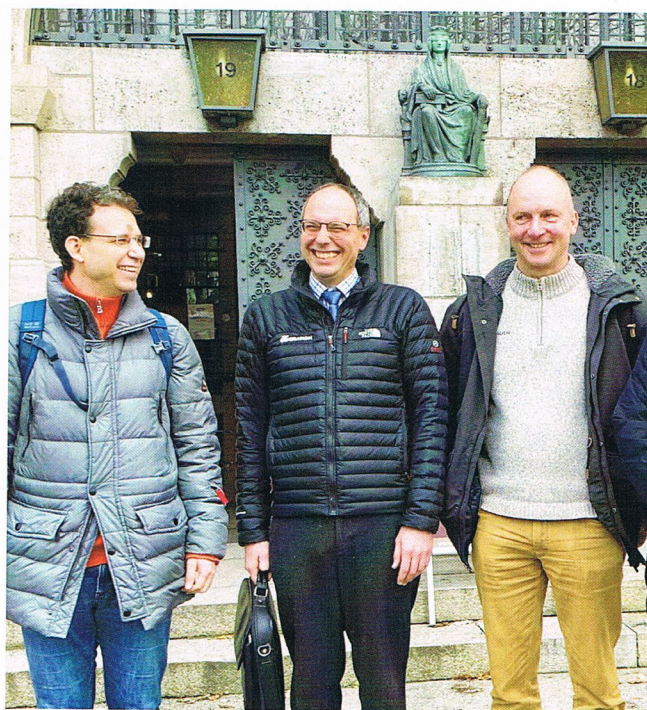
Fast-forward to 2020 and the beginning of the COVID-19 scare. The whole world was in a panic, people in Europe were dying in droves, and Germany was in full lockdown. My small Zen center in Munich was closed by government order (along with everything else), so I was only dropping in once a week to water the plants. When I saw an envelope from a law firm in Rostock in my mailbox, that old ICSA paper was the last thing on my mind. But as I skimmed the letter, it dawned on me: Almost ten years later—and in the middle of a pandemic—Dr. Klaus Zernickow was actually suing me for defamation.

Despite all my careful wording at the time, Zernickow’s lawyers pronounced the paper a vicious lie and demanded its immediate removal. At the very least, they wanted eleven pages stricken from the published version. They even suggested that the ex-members interviewed (and kept anonymous for their own protection) didn’t exist. In page after page of legalese, my paper was called “pseudo-academic,” a “smear campaign,” “fabricated,” and aimed solely at ruining Zernickow’s impeccable reputation. Yet despite all the

aggressive rhetoric, they didn’t seem to be providing much actual evidence to support their position. I remained cautiously optimistic, especially after finding out—a few frantic emails later—that my own sources were all still available and willing to testify if needed.

So today I’d like to share a story with a happy ending. ... how this humble ICSA member was taken to court by an aggressive cult leader—and won.

Of course, even though I was pretty sure of my case, there is always a risk that a judge will see things differently, and litigation can be very expensive even if one does end up winning. That’s why many survivors of cults and other abusive situations never to go to a lawyer in the first place. Groups like Scientology—or in my case, the rich gynecologist—know this and use the courts to silence their accusers accordingly. I was lucky to have a lawyer friend who believed in my case and was willing to represent me for free. Without him, I most likely would have had to give up as well and delete the paper, no matter how confident I was about the underlying facts.



Christopher Hamacher (middle) celebrates with witnesses in front of the courthouse in Berlin on Dec. 14, 2021.

But as it was, over the course of the next year and a half I was able to properly defend myself. My lawyer filed all the detailed testimonials, patiently describing the various kinds of harm that Zernickow had inflicted on his students. We showed that the accusations were deemed credible by outside experts. We cited witness after witness to prove all the authoritarianism and hypocrisy, all the information control, and all the sexual misconduct. And in a cult-like manner, Zernickow continued to deny everything, based on no evidence other than his own word. His position seemed literally to be that my entire 54-page paper was false, simply because he said so.

...it was as if Zernickow and his lawyers had never even heard of the #metoo debate. Thankfully, the judges apparently had...

The hearing took place in Berlin in December 2021. To my great relief, the three judges announced right off the bat that Zernickow would be best advised to drop his case altogether. For whatever reason, his lawyers refused, and twenty minutes later it was all over: The suit had been thrown out, and I had won. The court ruled that although Zernickow had a right to defend his reputation, it had to be balanced against the public's right to know the truth about him. Given the context of the case, the statements that I had made were all within reason. On the one hand, the passages that accused him of "abuse," "manipulation," or "censorship" were all value judgments covered by my freedom of opinion. And on the other hand, whenever I had made an actual statement of fact, i.e., when it was my word against his, the judges found that, considering the evidence in the file, there was no reason to assume that my version was not essentially correct. This was especially true because Zernickow had mostly failed to provide any alternative explanations at all.

For example, I had written, "On more than one occasion, Zernickow himself told students about the firearm he allegedly carried at all times." The court found that it wasn't enough for him to simply deny the statement because it remained "unclear whether the plaintiff never carried a firearm, or only in a few cases, or whether the plaintiff only did not express this to his students, or at least not on several occasions. [...] The plaintiff's submission is limited solely to the negation of the alleged fact. Thus, he has not met his burden of proof" (LG Berlin, 2021).

This pattern was repeated throughout the case. Zernickow's stubborn rejection of dozens of varied and detailed statements—by flatly saying "it's all not true"—was simply

not credible, so the court dismissed the suit outright, without even bothering to call witnesses.

A typical cult mindset was obvious in another aspect as well. In the paper I had written that Zernickow had been accused, among other things, of sexually abusing his students. He of course took particular offense at this, repeatedly claiming that such a "monstrous accusation" could never be true, because the sex with his patients and students—which he freely admitted—had all been based on "mutual consent." The argument was frankly embarrassing; it was as if Zernickow and his lawyers had never even heard of the #metoo debate. Thankfully, the judges apparently had, because they ruled that the "existing power differential" was indeed enough to qualify the sex as abusive.

To sum up, the whole process ended happily for me in almost every way: Not only did I have the satisfaction of winning and knowing that my paper was now unassailable for all time, but Zernickow was also ordered to pay my legal fees. The only thing lacking was that neither the "master himself" nor any of his remaining disciples had bothered to show up for the hearing, so I wasn't able to see their reactions in person. But I do know that they are at least aware of how it turned out, because the following bizarre statement has been posted on their website (www.mumon-kai.de) ever since:

If Hamacher were as tall as his accusations on the internet are untrue,

while, without any understanding of ZEN, publishing discriminatory information about others,

then he could shake hands with the man in the moon while kneeling.

And that's the moral of the story. □

The English version of Christopher's paper can be downloaded at <https://www.academia.edu/29679611> An English translation of the court judgment (LG Berlin, Urt. v. 14.12.2021 – 27 O 422/20) is available upon email request to christopher@zen-ostbahnhof.de

About the Author



Christopher Hamacher has been practicing Zen Buddhism since the late 1990s. Prompted by incidents of student abuse by Zen teachers, Christopher has been spreading awareness thereof among the Zen community and exposing cult-like elements within it; he presented a paper on that topic at the 2012 ICSA conference. Christopher lives and runs a Zen center in Munich, Germany. He works part-time as a translator and may be reached at christopher@zen-ostbahnhof.de □