SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

MICHAEL E. MANN PhD
Vs.
NATIONAL REVIEW, INC.

C.A. No. 2012 CA 008263 B

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure ("SCR Civ") 40-I, it is hereby **ORDERED** as follows:

(1) Effective this date, this case has assigned to the individual calendar designated below. All future filings in this case shall bear the calendar number and the judge's name beneath the case number in the caption. On filing any motion or paper related thereto, one copy (for the judge) must be delivered to the Clerk along with the original.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of serving on each defendant: copies of the Summons, the Complaint, and this Initial Order. As to any defendant for whom such proof of service has not been filed, the Complaint will be dismissed without prejudice for want of prosecution unless the time for serving the defendant has been extended as provided in SCR Civ 4(m).

(3) Within 20 days of service as described above, except as otherwise noted in SCR Civ 12, each defendant must respond to the Complaint by filing an Answer or other responsive pleading. As to the defendant who has failed to respond, a default and judgment will be entered unless the time to respond has been extended as provided in SCR Civ 55(a).

(4) At the time and place noted below, all counsel and unrepresented parties shall appear before the assigned judge at an Initial Scheduling and Settlement Conference to discuss the possibilities of settlement and to establish a schedule for the completion of all proceedings, including, normally, either mediation, case evaluation, or arbitration. Counsel shall discuss with their clients **prior** to the conference whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this Conference.**

(5) Upon advice that the date noted below is inconvenient for any party or counsel, the Quality Review Branch (202) 879-1750 may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. Request must be made not less than six business days before the scheduling conference date. No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each Judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website http://www.dccourts.gov/.

Chief Judge Lee F. Satterfield

Case Assigned to: Judge NATALIA COMBS GREENE
Date: October 22, 2012
Initial Conference: 9:00 am, Friday, January 25, 2013
Location: Courtroom 317
500 Indiana Avenue N.W.
WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

In accordance with the Medical Malpractice Proceedings Act of 2006, D.C. Code § 16-2801, et seq. (2007 Winter Supp.), "[a]fter an action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ("ISSC"), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC." D.C. Code § 16-2821.

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at https://www:dccourts.gov/pa/. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Both forms also are available in the Multi-Door Dispute Resolution Office, Suite 105, 515 5th Street, N.W. (enter at Police Memorial Plaza entrance). Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. *Pro se* Plaintiffs who elect not to eFile may file by hand in the Multi-Door Dispute Resolution Office.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following persons are required by statute to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case. D.C. Code § 16-2824.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is *pro se* may elect to file the report by hand with the Civil Clerk's Office. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Lee F. Satterfield

Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

Michael E. Mann, Ph.D.
Plaintiff

vs.

Mark Steyn
Defendant

0008263-12
Case Number

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

John B. Williams
Name of Plaintiff's Attorney
Cozen O'Connor
1627 I Street, NW, Ste., 1100
Address
Washington, D.C. 20006
202-912-4800
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date 10/22/2012

如需翻译,请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bài dịch, hãy gọi (202) 879-4828
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IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, *DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.*

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
Vea al dorso la traducción al español

TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL

500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Teléfono: (202) 879-1133

_____
Demandante

contra

Número de Caso: _____

_____
Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le require entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veinte (20) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

A usted también se le require presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que Usted le entregue al demandante una copia de la Contestación o en el plazo de cinco (5) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

SECRETARIO DEL TRIBUNAL

_____
Nombre del abogado del Demandante

Por: _____
Subsecretario

_____
Dirección

_____

_____
Teléfono

Fecha _____

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IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO, O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍAN RETENERLE SUS INGRESOS, O PODRÍAN TOMAR SUS BIENES PERSONALES O RAÍCES Y VENDERLOS PARA PAGAR EL FALLO. SI USTED PRETENDE OPONERSE A ESTA ACCIÓN, *NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO*.

Si desea converser con un abogado y le parece que no puede afrontar el costo de uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse de otros lugares donde puede pedir ayuda al respecto.

Vea al dorso el original en inglés
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Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

Michael E. Mann, Ph.D.
Plaintiff

vs.

National Review, Inc.
Defendant

0008263-12
Case Number

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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John B. Williams
Name of Plaintiff's Attorney
Cozen O'Connor
1627 I Street, NW, Ste., 1100
Address
Washington, D.C. 20006

202-912-4800
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date 10/22/2012

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DIVISIÓN CIVIL

500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Teléfono: (202) 879-1133

_____ Demandante

contra

Número de Caso: _____

_____ Demandado

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SECRETARIO DEL TRIBUNAL

_____
Nombre del abogado del Demandante

Por: _____
Subsecretario

_____
Dirección

_____

_____ Fecha _____
Teléfono

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Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

Michael E. Mann, Ph.D.
Plaintiff

vs.

Case Number 0008263-12

Rand Simberg
Defendant

SUMMONS

To the above named Defendant:

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John B. Williams
Name of Plaintiff's Attorney
Cozen O'Connor
1627 I Street, NW, Ste., 1100
Address
Washington, D.C. 20006

202-912-4800
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date 12/22/2012

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TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Teléfono: (202) 879-1133

_____
Demandante

contra

Número de Caso: _____

_____
Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le require entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veinte (20) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

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SECRETARIO DEL TRIBUNAL

_____
Nombre del abogado del Demandante

Por: _____
Subsecretario

_____
Dirección

_____

Fecha _____

_____
Teléfono

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Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

Michael E. Mann, Ph.D.
Plaintiff

vs.

Case Number 0008263-12

Competitive Enterprise Institute
Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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John B. Williams
Name of Plaintiff's Attorney
Cozen O'Connor
1627 I Street, NW, Ste., 1100
Address
Washington, D.C. 20006

202-912-4800
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date 10 | 22 | 2012

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_____
Demandante

contra

Número de Caso: _____

_____
Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le require entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veinte (20) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

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SECRETARIO DEL TRIBUNAL

_____
Nombre del abogado del Demandante

Por: _____
Subsecretario

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IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO, O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍAN RETENERLE SUS INGRESOS, O PODRÍAN TOMAR SUS BIENES PERSONALES O RAÍCES Y VENDERLOS PARA PAGAR EL FALLO. SI USTED PRETENDE OPONERSE A ESTA ACCIÓN, *NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.*

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Vea al dorso el original en inglés
See reverse side for English original

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

MICHAEL E. MANN, PH.D.,
Pennsylvania State University
Department of Meteorology
University Park, PA 16802

Plaintiff,

v.

NATIONAL REVIEW, INC.
215 Lexington Avenue
New York, NY 10016,

- and -

COMPETITIVE ENTERPRISE INSTITUTE
1899 L Street, N.W.
Washington, D.C. 20036,

-and-

RAND SIMBERG.
c/o Competitive Enterprise Institute
1899 L Street, N.W.
Washington, D.C. 20036,

- and -

MARK STEYN
c/o National Review, Inc.
215 Lexington Avenue
New York, NY 10016,

Defendants.

Case No. 0008263-12

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Michael E. Mann, Ph.D., for his complaint against Defendants National Review Inc., Competitive Enterprise Institute, Rand Simberg, and Mark Steyn, alleges as follows:

INTRODUCTION

1. This is a defamation action brought by Michael E. Mann, Ph.D. against two publishers, the National Review Inc. and the Competitive Enterprise Institute, and two of their journalists, Rand Simberg and Mark Steyn, for their utterly false and defamatory statements against Dr. Mann—accusing him of academic fraud and comparing him to a convicted child molester, Jerry Sandusky, the disgraced former football coach at Pennsylvania State University.

2. Dr. Mann is a climate scientist whose research has focused on global warming. Along with other researchers, he was one of the first to document the steady rise in surface temperatures during the 20th Century and the steep increase in measured temperatures since the 1950s. As a result of this research, Dr. Mann and his colleagues were awarded the Nobel Peace Prize.

3. Nevertheless, the defendants, for business and other reasons, assert that global warming is a "hoax" and have accused Dr. Mann of improperly manipulating the underlying data to reach his conclusions. In response to these accusations, academic institutions and governmental entities alike, including the U.S. Environmental Protection Agency and the National Science Foundation, have conducted investigations into Dr. Mann's work, and found the allegations of academic fraud to be baseless. Every such investigation—and every replication of Dr. Mann's work—has concluded that Dr. Mann's research and conclusions were properly conducted and fairly presented.

4. Recognizing that they cannot contest the science behind Dr. Mann's work, the defendants, contrary to known and clear fact, and intending to impose vicious injury, have nevertheless maliciously accused him of academic fraud, the most fundamental defamation that can be levied against a scientist and a professor. Unsatisfied with their lacerations of his

professional reputation, defendants have also maliciously attacked Dr. Mann's personal reputation with the knowingly false comparison to a child molester.

5. It is one thing to engage in discussion about debatable topics. It is quite another to attempt to discredit consistently validated scientific research through the professional and personal defamation of a Nobel prize recipient. Responsible media reviews, including the Columbia Journalism Review, have described the defendants' attacks against Dr. Mann as "deplorable, if not unlawful." Responsible scientific publications, including Discover Magazine, have described these attacks as "slimy," "disgusting," and "defamatory." Even one of the defendants in this case, the Competitive Enterprise Institute, has conceded that at least a portion of its statements were "inappropriate," but continues to republish its allegations of academic fraud.

6. The defendants' statements against Dr. Mann are false, malicious, and defamatory per se. They are so outrageous as to amount to the intentional infliction of emotional distress. Dr. Mann seeks judgment against each and all of the defendants as set forth in the claims below and the award of compensatory and punitive damages against all defendants, jointly and severally.

PARTIES

7. Dr. Mann is a faculty member in the Departments of Meteorology and Geosciences within the College of Earth and Mineral Sciences at Pennsylvania State University. Dr. Mann is a resident of Pennsylvania.

8. Defendant National Review, Inc. (hereinafter "NRI") is a corporation having its principal place of business at 215 Lexington Avenue, New York, NY, 10016. NRI maintains an office at 233 Pennsylvania Ave, S.E., Washington D.C. 20003. NRI publishes *National Review*,

a bi-monthly print magazine, and *National Review Online*. Both publications tout themselves as "America's most widely read and influential magazine and website for Republican/conservative news, commentary and opinion." *National Review* and *National Review Online*, are widely read and circulated in the District of Columbia. Accordingly, NRI is transacting and doing business within the District of Columbia and is subject to the jurisdiction of this Court pursuant to DC Code §13-422.

9. Defendant Competitive Enterprise Institute (hereinafter "CEI") is a 501(c)(3) corporation having its principal place of business at 1899 L Street, N.W., Washington, DC 20036. CEI describes itself as a "non-profit public policy organization dedicated to advancing the principles of limited government, free enterprise, and individual liberty." CEI has been a tireless opponent of the mainstream climate change community. CEI publishes, among other things, OpenMarket.org. CEI's principal place of business is within the District of Columbia and as such it is transacting and doing business within the District of Columbia and subject to the jurisdiction of this Court pursuant to DC Code §13-422 and 13-423(a).

10. Defendant Rand Simberg, upon information and belief, is an adjunct scholar at CEI, a contributing editor to OpenMarket.org, and a resident of Idaho. Mr. Simberg's writings are widely read and circulated in the District of Columbia. Accordingly, Mr. Simberg is transacting and doing business within the District of Columbia and is subject to the jurisdiction of this Court pursuant to DC Code §13-423(a).

11. Defendant Mark Steyn, upon information and belief, is an author who among other things serves as a regular contributor to *National Review*. Mr. Steyn is a resident of Canada. Mr. Steyn's writings are widely read and circulated in the District of Columbia.

Accordingly, Mr. Steyn is transacting and doing business within the District of Columbia and is subject to the jurisdiction of this Court pursuant to DC Code §13-423(a).

12. Venue in this Court is proper as the District of Columbia has personal jurisdiction over defendants.

STATEMENT OF FACTS

Dr. Mann and the "Hockey Stick" Graph

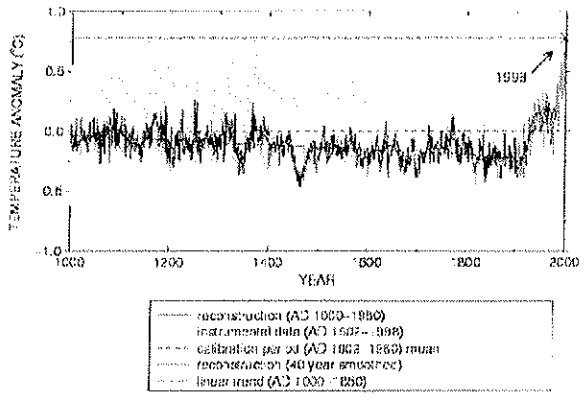
13. Dr. Mann received his undergraduate degrees in Physics and Applied Math from the University of California at Berkeley, an M.S. degree in Physics from Yale University, and a Ph.D. in Geology and Geophysics from Yale University. Dr. Mann's research focuses on the use of theoretical models and observational data to better understand our Earth's climate system. Prior to Dr. Mann's faculty appointment at Penn State, he was a faculty member within the University of Virginia's Department of Environmental Sciences and a faculty member within the University of Massachusetts's Department of Geosciences.

14. Dr. Mann was a lead author on the *Observed Climate Variability and Change* chapter of the Intergovernmental Panel on Climate Change (IPCC) Third Scientific Assessment Report in 2001 and was the organizing committee chair for the National Academy of Sciences *Frontiers of Science* in 2003. Dr. Mann has received numerous honors and awards including, in 2002, the National Oceanic and Atmospheric Administration's outstanding publication award and selection by *Scientific American* as one of the fifty leading visionaries in science and technology. In 2012, Dr. Mann was inducted as a Fellow of the American Geophysical Union and awarded the Hans Oeschger Medal of the European Geosciences Union.

15. Dr. Mann is well known for his work regarding global warming and the so-called "Hockey Stick Graph." In 1998 and 1999, together with Raymond S. Bradley and Malcolm K.

Hughes, Dr. Mann published two research papers showing a steady rise in surface temperature during the 20th Century and a steep increase in measured temperatures since the 1950s (the "1998 Paper" and the "1999 Paper"). These papers concluded that the recent 20th century rise in global temperature is likely unprecedented in at least the past millennium, and that the temperature rise correlates with a concomitant rise in atmospheric concentrations of CO_2—a gas whose heat-trapping properties have long been established—primarily emitted by the combustion of fossil fuels.

16. The 1999 Paper included the following graph depicting the 20th century rise in global temperature:



The graph came to be known as the "Hockey Stick," due to its iconic shape—the "shaft" reflecting a long-term cooling trend from the so-called "Medieval Warm Period" (from approximately 1050 AD to 1450 AD) through the "Little Ice Age" (approximately 1550 AD to 1900 AD), and the "blade" reflecting a dramatic upward temperature swing during the 20th century that culminates in anomalous late 20th century warmth.

17. The work of Dr. Mann and the IPCC has received considerable accolades within the scientific community. In 2007, Dr. Mann shared the Nobel Peace Prize with the other IPCC authors for their work in climate change, including the development of the Hockey Stick Graph.

18. However, Dr. Mann's research and conclusions have been and continue to be attacked by certain individuals and organizations who do not accept the concept that the Earth is becoming warmer. This resistance has been characterized not by a serious challenge to the actual science underlying Dr. Mann's conclusions, but rather by invective and personal attacks against Dr. Mann and his integrity—often by those with economic interests and political agendas tied to maintaining the status quo and the current regulatory structure with respect to climate policy.

The Theft of Emails from CRU

19. In November 2009, thousands of emails were stolen from a computer server at the Climate Research Unit ("CRU") at the University of East Anglia in the United Kingdom. The CRU emails, some of which were exchanged between Dr. Mann and researchers at the CRU and other climate change research institutions, were posted anonymously on the World Wide Web shortly before the United Nation's Global Climate Change Conference in Copenhagen, Denmark in December 2009. A few of those emails were then taken out of context, mischaracterized, and misrepresented by climate change deniers to falsely imply impropriety on the part of the scientists involved, including Dr. Mann.

20. The climate change deniers went on to claim that the CRU emails proved that global warming is a hoax perpetrated by scientists from across the globe and that these scientists were colluding with government officials to somehow reap financial benefits. In fact, and as discussed below, these emails reflected only the commonplace and legitimate give and take of academic debate and inquiry.

The Exoneration of Dr. Mann

21. Following the publication of the CRU emails, Penn State and the University of East Anglia (in four separate instances) and five governmental agencies (the U.K. House of Commons Science and Technology Committee, the U.K. Secretary of State for Energy and Climate Change, the Inspector General of the U.S. Department of Commerce, the U.S. Environmental Protection Agency, and the National Science Foundation) have conducted separate and independent investigations into the allegations of scientific misconduct against Dr. Mann and his colleagues. Every one of these investigations has reached the same conclusion: there is no basis to any of the allegations of scientific misconduct or manipulation of data.

22. Notably, in July 2010, CEI, a defendant in this case, and others, filed a request entitled *Petitions to Reconsider the Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act.* In response,the Environmental Protection Agency published a summary of its findings, entitled "Myths vs. Facts: Denial of Petitions for Reconsideration of the Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act," which stated:

> **Myth**: The University of East Anglia's Climatic Research Unit (CRU) emails prove that temperature data and trends were manipulated.
>
> **Fact**: Not true. Petitioners say that emails disclosed from CRU provide evidence of a conspiracy to manipulate data. The media coverage after the emails were released was based on email statements quoted out of context and on unsubstantiated theories of conspiracy. The CRU emails do not show either that the science is flawed or that the scientific process has been compromised. *EPA carefully reviewed the CRU emails and found no indication of improper data manipulation or misrepresentation of results.*
>
> **Myth**: The jury is still out on climate change and CRU emails undermine the credibility of climate change science overall.
>
> **Fact**: Climate change is real and it is happening now. The U.S. Global Change Research Program, the National Academy of Sciences, and the Intergovernmental

> Panel on Climate Change (IPCC) have each independently concluded that warming of the climate system in recent decades is "unequivocal." This conclusion is not drawn from any one source of data but is based on multiple lines of evidence, including three worldwide temperature datasets showing nearly identical warming trends as well as numerous other independent indicators of global warming (e.g., rising sea levels, shrinking Arctic sea ice). Some people have "cherry-picked" a limited selection of CRU email statements to draw broad, unsubstantiated conclusions about the validity of all climate science.

U.S. Environmental Protection Agency, "Decision Document, Denial of Petitions for Reconsideration of Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act" (July 29, 2010). Available at http://epa.gov/climatechange/endangerment/petitions/decision.html.

23. In August 2011, the Inspector General of the National Science Foundation ("NSF"), an independent agency of the United States government tasked with promoting the progress of science in this country, reported on the outcome of its independent review of charges of misconduct against Dr. Mann. NSF concluded that:

> Although [Dr. Mann's] data is still available and still the focus of significant critical examination, no direct evidence has been presented that indicates [Dr. Mann] fabricated the raw data he used for his research or falsified his results. Much of the current debate focuses on the viability of the statistical procedures he employed, the statistics used to confirm the accuracy of the results, and the degree to which one specific set of data impacts the statistical results. These concerns are all appropriate for scientific debate and to assist the research community in directing future research efforts to improve understanding in this field of research. Such scientific debate is ongoing but does not, in itself, constitute evidence of research misconduct. Lacking any direct evidence of research misconduct, as defined under the NSF Research Misconduct Regulation, we are closing this investigation with no further action." .

Report available at http://www.nsf.gov/oig/search/A09120086.pdf.

24. All of the above investigations found that there was no evidence of any fraud, data falsification, statistical manipulation, or misconduct of any kind by Dr. Mann. All of the above reports and publications were widely available and commented upon in the national and

international media. All were read by the Defendants. To the extent there was ever any question regarding the propriety of Dr. Mann's research, it was laid to rest as a result of these investigations.

The Defamatory Statements

25. Nevertheless, despite the fact that CEI's claims of data manipulation were labeled a "myth" by the EPA in 2010, and despite the fact that NSF deemed the allegations of scientific misconduct "closed" in 2011, the climate-change deniers saw an opportunity to work themselves up once again in the wake of the publication of the results of an investigation at Penn State conducted by Louis Freeh (the former director of the Federal Bureau of Investigation) regarding the university's handling of the Jerry Sandusky child abuse scandal. Mr. Sandusky had been convicted of molesting ten young boys. The Freeh Report concluded that senior officials at Penn State had shown "a total and consistent disregard" for the welfare of the children, had worked together to conceal Mr. Sandusky's assaults, and had done so out of fear of bad publicity for the university. For the climate change skeptics, the Sandusky scandal presented a new avenue to castigate Dr. Mann and impugn his reputation and integrity, evidently on the theory that a different investigative panel of the university had cleared Dr. Mann of misconduct.

26. On July 13, 2012, an article authored by Defendant Rand Simberg entitled "The Other Scandal In Unhappy Valley" appeared on OpenMarket.org, a publication of CEI. Purporting to comment upon Penn State's handling of the Sandusky scandal, Mr. Simberg hearkened his readers back to "another cover up and whitewash" that occurred at the university. Mr. Simberg and CEI stated as follows:

> perhaps it's time that we revisit the Michael Mann affair, particularly given how much we've also learned about his and others' hockey-stick deceptions since. *Mann could be said to be the Jerry Sandusky of climate science, except for instead of molesting children, he has molested and tortured data in the service of*

> *politicized science* that could have dire economic consequences for the nation and planet.

(Emphasis added). Mr. Simberg and CEI went on to state that after the leaking of the CRU emails,

> many of the luminaries of the "climate science" community were shown to have been behaving in a most unscientific manner. *Among them were Michael Mann, Professor of Meteorology at Penn State, whom the emails revealed had been engaging in data manipulation* to keep the blade on his famous hockey-stick graph, which had become an icon for those determined to reduce human carbon emissions by any means necessary.
>
> * * * *
>
> *Mann has become the posterboy of the corrupt and disgraced* climate science echo chamber. No university whitewash investigation will change that simple reality.
>
> * * * *
>
> We saw what the university administration was willing to do to cover up heinous crimes, and even let them continue, rather than expose them. Should we suppose, in light of what we now know, they would do any less to hide *academic and scientific misconduct*, with so much at stake?

See Exhibit A (emphasis added).

27. After this publication was released, the editors of Openmarket.org removed the sentence stating that "Mann could be said to be the Jerry Sandusky of climate science . . .," stating that the sentence was "inappropriate."

28. On July 15, 2012, an article entitled "Football and Hockey" appeared on *National Review Online*. *See* Exhibit B. The article, authored by Defendant Mark Steyn, commented on and extensively quoted from Mr. Simberg's piece on Openmarket.org. Mr. Steyn and NRI reproduced the following quote:

> I'm referring to another cover up and whitewash that occurred [at Penn State] two years ago, before we learned how rotten and corrupt the culture at the university was. But now that we know how bad it was, perhaps it's time that we revisit the Michael Mann affair, particularly given how much

> we've also learned about his and others' hockey-stick deceptions since. Mann could be said to be the Jerry Sandusky of climate science, except that instead of molesting children, he has molested and tortured data in the service of politicized science that could have dire economic consequences for the nation and planet.

Perhaps realizing the outrageousness of Mr. Simberg's comparison of Dr. Mann to a convicted child molester, Mr. Steyn conceded: "Not sure I'd have extended that metaphor all the way into the locker-room showers with quite the zeal Mr. Simberg does, but he has a point." Mr. Steyn and NRI went on to state that "*Michael Mann was the man behind the fraudulent climate-change 'hockey-stick' graph, the very ringmaster of the tree-ring circus.*"

29. Mr. Steyn and NRI reproduced the defamatory statements of Mr. Simberg and CEI verbatim, even after CEI's acknowledgment that at least some of those statements were inappropriate. The full quote from Mr. Simberg and CEI remains visible on *National Review Online*, in spite of the fact that CEI had already removed the self-described "inappropriate" statements from OpenMarket.org.

30. In the wake of these attacks on Dr. Mann, a number of respectable and well-regarded journalists chose to weigh in on the matter, describing these new attacks on Dr. Mann as deplorable, untruthful, and outrageous. The *Columbia Journalism Review*, perhaps the most highly regarded media authority, stated that Mr. Steyn's and NRI's accusations of "academic fraud" "dredg[ed] up a discredited charge" and ignored "almost half a dozen investigations [that had] affirmed the integrity of Mann's research." *See* Brainard, Curtis. (2012, July 25). 'I don't bluff': Michael Mann's lawyer says *National Review* must retract and apologize. *Columbia Journalism Review*. Retrieved from http://www.cjr.org/the_observatory/michael_mann_national_review_m.php?page=2. The Columbia Journalism Review further commented that Dr. Mann has endured "witch hunts and death threats in order to defend his work" and that "the low to which Simberg and Steyn stooped

is certainly deplorable, if not unlawful." *Id.* Similarly, the scientific publication *Discover Magazine* described the attacks as "slimy," "disgusting," and "defamatory." *See* Plait, Phil. (2012, July 23). Deniers, disgust, and defamation. *Discover Magazine.*, Retrieved from http://blogs.discovermagazine.com/badastronomy/2012/07/23/deniers-disgust-and-defamation/. Further, the Union of Concerned Scientists, through its program manager, Michael Halpern, stated that it was "aghast" at these attacks, describing them as "disgusting," "offensive," and a "defamation of character." *See* Halpern, Michael. (2012, July 23). Union of Concerned Scientists. *Ecowatch*. Retrieved from http://ecowatch.org/2012/think-tank-climate-scientist/.

The Refusal to Apologize or Retract the Statements

31. After the publication of the above statements, Dr. Mann demanded retractions and apologies from both NRI and CEI. Dr. Mann advised NRI and CEI that their allegations of misconduct and data manipulation were false and were clearly made with the knowledge that they were false. Dr. Mann further stated that it was well known that there have been numerous investigations into the issue of academic fraud in the wake of the disclosure of the CRU emails, and that every one of these investigations has concluded that there is no basis to these allegations and no evidence of any misconduct or data manipulation.

32. On August 22, NRI published a response from its editor Rich Lowry on *National Review Online* entitled "Get Lost." *See* Exhibit C. While NRI refused to apologize for or retract "Football and Hockey", Mr. Lowry did not deny the falsity of the defamatory statements, nor its knowledge of their falsity. Rather, Mr. Lowry's defense was that his publication had not intended to accuse Dr. Mann of fraud "in the criminal sense." Nevertheless, Mr. Lowry then proceeded to repeat the defamatory charges, stating that Dr. Mann's research was "intellectually

bogus," another accusation which is actionable in and of itself. Semantics aside, the allegation that Dr. Mann's research was "intellectually bogus" is yet another allegation of academic fraud.

33. On August 24, 2012, CEI issued a press release entitled "*Penn State Climate Scientist Michael Mann Demands Apology from CEI: CEI Refuses to Retract Commentary.*" *See* Exhibit D. In its statement, CEI linked to and adopted Mr. Lowry's response.

COUNT I
(Libel per se against all defendants)

34. Each of the preceding paragraphs 1 through 33 hereby incorporated herein by reference.

35. The aforementioned written statements by the defendants accusing Dr. Mann of academic fraud are defamatory per se and tend to injure Dr. Mann in his profession because they falsely impute to Dr. Mann academic corruption, fraud, and deceit as well as the commission of a criminal offense, in a manner injurious to the reputation and esteem of Dr. Mann professionally, locally, nationally, and globally.

36. The aforementioned statements proximately caused Dr. Mann damages in the form of injury to his reputation throughout the United States and internationally.

37. By publishing the aforementioned statements, defendants knew they would be republished and read by the general public throughout the United States and elsewhere. The statements were in fact republished and read by members of the general public throughout the United States and elsewhere as a direct, natural, probable, and foreseeable consequence of their publications.

38. The aforementioned statements are false, and were false when made. Defendants knew or should have known the statements were false when made.

39. Defendants made the aforementioned statements with actual malice and wrongful and willful intent to injure Dr. Mann. The statements were made with reckless disregard for their truth or falsity or with knowledge of their falsity and with wanton and willful disregard of the reputation and rights of Dr. Mann.

40. The aforementioned statements were made of and concerning Dr. Mann, and were so understood by those who read defendants' publications of them.

41. The aforementioned statements have been widely published throughout the United States and elsewhere.

42. Defendants knew or should have known that the statements were injurious to Dr. Mann's career and reputation.

43. As a proximate result of the aforementioned statements and their publications Dr. Mann has suffered and continues to suffer damages in an amount to be determined at trial but not less than the jurisdictional minimum of this Court. The full nature, extent and amount of these damages is currently unknown, but this Complaint will be amended at trial to insert said information if deemed necessary by the Court.

44. The aforementioned false and defamatory statements were made by the defendants with actual malice and either with knowledge of their falsity or in reckless disregard of the truth or falsity of the statements.

45. Defendants cooperated among themselves in publishing the false and defamatory statements by, among other acts, republishing and endorsing the defamations of their co-defendants. They are joint tortfeasors and as such jointly and severally liable to Dr. Mann for damages.

46. In making the defamatory statements, defendants acted intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit defendants. Defendants are liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

COUNT II
(Libel per se against CEI and Rand Simberg)

47. Each of the preceding paragraphs 1 through 46 is hereby incorporated herein by reference.

48. Mr. Simberg's statements, published by CEI on Openmarket.org, that Dr. Mann had engaged in "data manipulation, "academic and scientific misconduct," and was "the posterboy of the corrupt and disgraced climate science echo chamber" are defamatory per se and tend to injure Dr. Mann in his profession because they falsely impute to Dr. Mann academic corruption, fraud and deceit as well as the commission of a criminal offense, in a manner injurious to the reputation and esteem of Dr. Mann professionally, locally, nationally, and globally.

49. The aforementioned statements proximately caused Dr. Mann damages in the form of injury to his reputation throughout the United States and internationally.

50. By publishing the aforementioned statements, CEI and Simberg knew they would be republished and read by the general public throughout the United States and elsewhere. The statements were in fact republished and read by members of the general public throughout the United States and elsewhere as a direct, natural, probable, and foreseeable consequence of CEI's and Simberg's publication.

51. The aforementioned statements are false and were false when made. CEI and Simberg knew or should have known the statements were false when made.

52. CEI and Simberg made the aforementioned statements with actual malice and wrongful and willful intent to injure Dr. Mann. The statements were made with reckless disregard for their truth or falsity or with knowledge of their falsity and with wanton and willful disregard of the reputation and rights of Dr. Mann.

53. The aforementioned statements were made of and concerning Dr. Mann, and were so understood by those who read CEI's and Simberg's publications of them.

54. The aforementioned statements have been widely published throughout the United States and elsewhere, including to all persons who subscribed to or read OpenMarket.Org.

55. CEI and Simberg knew or should have known that the statements were injurious to Dr. Mann's career and reputation.

56. As a proximate result of the aforementioned statements and their publications Dr. Mann has suffered and continues to suffer damages in an amount to be determined at trial but not less than the jurisdictional minimum of this Court. The full nature, extent and amount of these damages is currently unknown, but this Complaint will be amended at trial to insert said information if deemed necessary by the Court.

57. The aforementioned false and defamatory statements were made by CEI and Simberg with actual malice and either with knowledge of their falsity or in reckless disregard of the truth or falsity of the statements.

58. In making the defamatory statements, CEI and Simberg acted intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit CEI and Simberg. Accordingly, CEI and Simberg are liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

COUNT III
(Libel per se against NRI and Mark Steyn)

59. Each of the preceding paragraphs 1 through 58 is hereby incorporated herein by reference.

60. Mr. Steyn's statement, published by NRI on *National Review Online*, that Dr. Mann "was the man behind the fraudulent climate-change "hockey-stick" graph, the very ringmaster of the tree-ring circus" is defamatory per se and tends to injure Dr. Mann in his profession because it falsely imputes to Dr. Mann academic corruption, fraud and deceit as well as the commission of a criminal offense, in a manner injurious to the reputation and esteem of Dr. Mann professionally, locally, nationally, and globally.

61. The aforementioned statement proximately caused Dr. Mann damages in the form of injury to his reputation throughout the United States and internationally.

62. By publishing the aforementioned statement, NRI and Steyn knew the statement would be republished and read by the general public throughout the United States and elsewhere. The statement was in fact republished and read by members of the general public throughout the United States and elsewhere as a direct, natural, probable, and foreseeable consequence of NRI's and Steyn's publication.

63. The aforementioned statement is false, and was false when made. NRI and Steyn knew or should have known the statement was false when made.

64. NRI and Steyn made the aforementioned statement with actual malice and wrongful and willful intent to injure Dr. Mann. The statement was made with reckless disregard for its truth or falsity or with knowledge of its falsity and with wanton and willful disregard of the reputation and rights of Dr. Mann.

65. The aforementioned statement was made of and concerning Dr. Mann, and was so understood by those who read NRI's and Steyn's publication of it.

66. The aforementioned statement has been widely published throughout the United States and elsewhere, including to all persons who subscribed to or read *National Review Online*.

67. NRI and Steyn knew or should have known that the statement was injurious to Dr. Mann's career and reputation.

68. As a proximate result of the aforementioned statement and its publication, Dr. Mann has suffered and continues to suffer damages in an amount to be determined at trial but not less than the jurisdictional minimum of this Court. The full nature, extent and amount of these damages is currently unknown, but this Complaint will be amended at trial to insert said information if deemed necessary by the Court.

69. The aforementioned false and defamatory statement was made by NRI and Steyn with actual malice, and either with knowledge of its falsity or in reckless disregard of the truth or falsity of the statement.

70. In making the defamatory statement, NRI and Steyn acted intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit NRI and Steyn. Accordingly, NRI and Steyn are liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

COUNT IV
(Libel per se against NRI)

71. Each of the preceding paragraphs 1 through 70 is hereby incorporated herein by reference.

72. Mr. Lowry's statement, published by NRI on *National Review Online*, calling Dr. Mann's research "intellectually bogus" is defamatory per se and tends to injure Dr. Mann in his

profession because it falsely imputes to Dr. Mann academic corruption, fraud and deceit as well as the commission of a criminal offense, in a manner injurious to the reputation and esteem of Dr. Mann professionally, locally, nationally, and globally.

73. The aforementioned statement proximately caused Dr. Mann damages in the form of injury to his reputation throughout the United States and internationally.

74. By publishing the aforementioned statement on the Internet, NRI knew it would be republished and read by the general public throughout the United States and elsewhere. The statement was in fact republished and read by members of the general public throughout the United States and elsewhere as a direct, natural, probable, and foreseeable consequence of NRI's publication.

75. The aforementioned statement is false, and was false when made. NRI knew or should have known the statement was false when made.

76. NRI made the aforementioned statement with actual malice and wrongful and willful intent to injure Dr. Mann. The statement was made with reckless disregard for its truth or falsity or with knowledge of its falsity and with wanton and willful disregard of the reputation and rights of Dr. Mann.

77. The aforementioned statement was made of and concerning Dr. Mann, and was so understood by those who read NRI's publications of it.

78. The aforementioned statement has been widely published throughout the United States and elsewhere, including to all persons who subscribed to or read *National Review Online*.

79. NRI knew or should have known that the statement was injurious to Dr. Mann's career and reputation.

80. As a proximate result of the aforementioned statement and its publication, Dr. Mann has suffered and continues to suffer damages in an amount to be determined at trial but not less than the jurisdictional minimum of this Court. The full nature, extent and amount of these damages is currently unknown, but this Complaint will be amended at trial to insert said information if deemed necessary by the Court.

81. The aforementioned false and defamatory statement was made by NRI with actual malice, and either with knowledge of its falsity or in reckless disregard of the truth or falsity of the statement.

82. In making the defamatory statement, NRI acted intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit NRI. Accordingly, NRI is liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

COUNT V
(Libel per se against CEI)

83. Each of the preceding paragraphs 1 through 82 is hereby incorporated herein by reference.

84. CEI's press release adopted and republished Mr. Lowry's defamatory statement calling Dr. Mann's research "intellectually bogus." The aforementioned statement is defamatory per se and tends to injure Dr. Mann in his profession because it falsely imputes to Dr. Mann academic corruption, fraud and deceit as well as the commission of a criminal offense, in a manner injurious to the reputation and esteem of Dr. Mann professionally, locally, nationally, and globally.

85. The aforementioned statement proximately caused Dr. Mann damages in the form of injury to his reputation throughout the United States and internationally.

86. By publishing the aforementioned statement on the Internet, CEI knew it would be republished and read by the general public throughout the United States and elsewhere. The statement was in fact republished and read by members of the general public throughout the United States and elsewhere as a direct, natural, probable, and foreseeable consequence of CEI's publication.

87. The aforementioned statement is false, and was false when made. CEI knew or should have known the statement was false when made.

88. CEI made the aforementioned statement with actual malice and wrongful and willful intent to injure Dr. Mann. The statement was made with reckless disregard for its truth or falsity or with knowledge of its falsity and with wanton and willful disregard of the reputation and rights of Dr. Mann.

89. The aforementioned statement was made of and concerning Dr. Mann, and was so understood by those who read CEI's publications of them.

90. The aforementioned statement has been widely published throughout the United States and elsewhere.

91. CEI knew or should have known that the statement was injurious to Dr. Mann's career and reputation.

92. As a proximate result of the aforementioned statement and its publications Dr. Mann has suffered and continues to suffer damages in an amount to be determined at trial but not less than the jurisdictional minimum of this Court. The full nature, extent and amount of these damages is currently unknown, but this Complaint will be amended at trial to insert said information if deemed necessary by the Court.

93. The aforementioned false and defamatory statement was made with actual malice, and either with knowledge of its falsity or in reckless disregard of the truth or falsity of the statement.

94. In making the defamatory statement, CEI acted intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit CEI. Accordingly, CEI is liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

COUNT VI
(Intentional infliction of emotional distress against all defendants)

95. Each of the preceding paragraphs 1 through 94 is hereby incorporated herein by reference.

96. CEI's and Simberg's statement, and NRI's and Steyn's republication thereof, that Dr. Mann "could be said to be the Jerry Sandusky of climate science, except for instead of molesting children, he has molested and tortured data in the service of politicized science that could have dire economic consequences for the nation and planet" occurred intentionally with a desire to harm Dr. Mann.

97. The manner by which defendants sought to harm Dr. Mann, including the steps described herein, was extreme and outrageous.

98. As a result of the actions of defendants, including, inter alia, besmirching Dr. Mann's reputation and comparing him to a convicted child molester, Dr. Mann has experienced extreme emotional distress.

99. As a result of the actions of defendants, the character and reputation of Dr. Mann were harmed, his standing and reputation among the community were impaired, he suffered financially, and he suffered mental anguish and personal humiliation.

100. Defendants cooperated among themselves in the republication and endorsement of these statements. They are joint tortfeasors and as such are jointly and severally liable to Dr. Mann for damages.

101. As a direct and proximate result of the actions of defendants, Dr. Mann has been materially and substantially damaged. Furthermore, the actions of defendants were made intentionally, maliciously, willfully and with the intent to injure Dr. Mann, or to benefit defendants. Accordingly, defendants are liable to Dr. Mann for punitive damages in an amount in accordance with proof at trial.

WHEREFORE, Plaintiff Michael Mann demands judgment, jointly and severally against Competitive Enterprise Institute, National Review, Inc., Rand Simberg and Mark Steyn for: (1) compensatory damages in an amount to be proven at trial; (2) punitive damages in an amount to be proven at trial; (3) all costs, interest, attorneys' fees, and disbursement to the highest extent permitted by law; and (4) such other and further relief as this Court may deem just and proper.

DATED: October 22, 2012

Respectfully submitted,

COZEN O'CONNOR

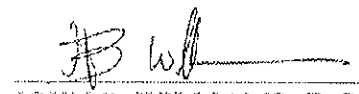


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EXHIBIT A

 Dodd-Frank's Democratic Dissenters — From Brian Schweitzer To Debbie Wasserman Schultz

OpenMarket.org

The Other Scandal In Unhappy Valley

by Rand Simberg on July 13, 2012 · 56 comments

in Global Warming, Transparency

So it turns out that Penn State has covered up wrongdoing by one of its employees to avoid bad publicity.

But I'm not talking about the appalling behavior uncovered this week by the Freeh report. No, I'm referring to another cover up and whitewash that occurred there two years ago, before we learned how rotten and corrupt the culture at the university was. But now that we know how bad it was, perhaps it's time that we revisit the Michael Mann affair, particularly given how much we've also learned about his and others' hockey-stick deceptions since.

To review, when the emails and computer models were leaked from the Climate Research Unit at the University of East Anglia two and a half years ago, many of the luminaries of the "climate science" community were shown to have been behaving in a most unscientific manner. Among them were Michael Mann, Professor of Meteorology at Penn State, whom the emails revealed had been engaging in data manipulation to keep the blade on his famous hockey-stick graph, which had become an icon for those determined to reduce human carbon emissions by any means necessary.

As a result, in November of 2009, the university issued a press release that it was going to undertake its own investigation, independently of one that had been launched by the National Academy of Sciences (NAS) in response to a demand from Congressman Sherwood Boehlert (R- N.Y.). In July of the next year, the panel set up to investigate declared him innocent of any wrongdoing:

> Penn State Professor Michael Mann has been cleared of any wrongdoing, according to a report of the investigation that was released today (July 1). Mann was under investigation for allegations of research impropriety that surfaced last year after thousands of stolen e-mails were published online. The e-mails were obtained from computer servers at the Climatic Research Unit of the University of East Anglia in England, one of the main repositories of information about climate change.
>
> The panel of leading scholars from various research fields, **all tenured professors at Penn State**, began its work on March 4 to look at whether Mann had "engaged in, directly or indirectly, any actions that seriously deviated from accepted practices within the academic community for proposing, conducting or reporting research or other scholarly activities."

My emphasis.

Despite the fact that it was completely internal to Penn State, and they didn't bother to interview anyone except Mann himself, and seemingly ignored the contents of the emails, the warm mongers declared him exonerated (and the biggest victim in the history of the world). But many in the skeptic community called it a whitewash:

> This is not surprising that Mann's own university circled the wagons and narrowed the focus of its own investigation to declare him ethical.
>
> The fact that the investigation cited Mann's 'level of success in proposing research and obtaining funding' as some sort of proof that he was meeting the 'highest standards', tells

> you that Mann is considered a sacred funding cash cow. At the height of his financial career, similar sentiments could have been said about Bernie Madoff.
>
> Mann has become the posterboy of the corrupt and disgraced climate science echo chamber. No university whitewash investigation will change that simple reality.

Richard Lindzen of MIT weighed in as well:

> "Penn State has clearly demonstrated that it is incapable of monitoring violations of scientific standards of behavior internally," Lindzen said in an e-mail from France.

But their criticism was ignored, particularly after the release of the NAS report, which was also purported to exonerate him. But in rereading the NAS "exoneration," some words stand out now. First, he was criticized for his statistical techniques (which was the basis of the criticism that resulted in his unscientific behavior). But more importantly:

> The OIG also independently reviewed Mann's emails and PSU's inquiry into whether or not Mann deleted emails as requested by Phil Jones in the "Climategate" emails (aka Allegation 2). The OIG concluded after reviewing the the published CRU emails and **the additional information provided by PSU** that "nothing in [the emails] evidenced research misconduct within the definition of the NSF Research Misconduct Regulation." Furthermore, the OIG accepted the conclusions of the PSU inquiry regarding whether Mann deleted emails and agreed with PSU's conclusion that Mann had not.

Again, my emphasis. In other words, the NAS investigation relied on the integrity of the university to provide them with all relevant material, and was thus not truly independent. We now know in hindsight that it could not do so. Beyond that, there are still relevant emails that we haven't seen, two years later, because the University of Virginia continues to stonewall on a FOIA request, and it's heading to the Supreme Court of the Commonwealth of Virginia.

Michael Mann, like Joe Paterno, was a rock star in the context of Penn State University, bringing in millions in research funding. The same university president who resigned in the wake of the Sandusky scandal was also the president when Mann was being ~~whitewashed~~ investigated. We saw what the university administration was willing to do to cover up heinous crimes, and even let them continue, rather than expose them. Should we suppose, in light of what we now know, they would do any less to hide academic and scientific misconduct, with so much at stake?

It's time for a fresh, truly independent investigation.

Two inappropriate sentences that originally appeared in this post have been removed by the editor.

Tenney Naumer July 14, 2012 at 2:06 pm

> This is one of the most disgusting and amoral attempts to smear an honest and courageous scientist's reputation that I have ever seen. Dr. Mann has been cleared of any sort of

EXHIBIT B

NATIONAL REVIEW ONLINE www.nationalreview.com PRINT

The Corner

The one and only.

Football and Hockey

By Mark Steyn

July 15, 2012 8.22 P.M.

In the wake of Louis Freeh's report on Penn State's complicity in serial rape, Rand Simberg writes of Unhappy Valley's other scandal:

> I'm referring to another cover up and whitewash that occurred there two years ago, before we learned how rotten and corrupt the culture at the university was. But now that we know how bad it was, perhaps it's time that we revisit the Michael Mann affair, particularly given how much we've also learned about his and others' hockey-stick deceptions since. Mann could be said to be the Jerry Sandusky of climate science, except that instead of molesting children, he has molested and tortured data in the service of politicized science that could have dire economic consequences for the nation and planet.

Not sure I'd have extended that metaphor all the way into the locker-room showers with quite the zeal Mr Simberg does, but he has a point. Michael Mann was the man behind the fraudulent climate-change "hockey-stick" graph, the very ringmaster of the tree-ring circus. And, when the East Anglia emails came out, Penn State felt obliged to "investigate" Professor Mann. Graham Spanier, the Penn State president forced to resign over Sandusky, was the same cove

who investigated Mann. And, as with Sandusky and Paterno, the college declined to find one of its star names guilty of any wrongdoing.

If an institution is prepared to cover up systemic statutory rape of minors, what won't it cover up? Whether or not he's "the Jerry Sandusky of climate change", he remains the Michael Mann of climate change, in part because his "investigation" by a deeply corrupt administration was a joke.

Permalink

EXHIBIT C

NATIONAL REVIEW ONLINE www.nationalreview.com PRINT

Get Lost

By Rich Lowry

August 22, 2012 1:15 P.M.

So, as you might have heard, Michael Mann of Climategate infamy is threatening to sue us.

Mann is upset — very, very upset — with this Mark Steyn Corner post, which had the temerity to call Mann's hockey stick "fraudulent." The Steyn post was mild compared with other things that have been said about the notorious hockey stick, and, in fact, it fell considerably short of an item about Mann published elsewhere that Steyn quoted in his post.

So why threaten to sue us? I rather suspect it is because the Steyn post was savagely witty and stung poor Michael.

Possessing not an ounce of Steyn's wit or eloquence, poor Michael didn't try to engage him in a debate. He sent a laughably threatening letter and proceeded to write pathetically lame chest-thumping posts on his Facebook page. (Is it too much to ask that world-renowned climate scientists spend less time on Facebook?)

All of this is transparent nonsense, as our letter of response outlines.

In common polemical usage, "fraudulent" doesn't mean honest-to-goodness criminal fraud. It means intellectually bogus and wrong. I consider Mann's prospective lawsuit fraudulent. Uh-oh. I guess he now has another reason to sue us.

Usually, you don't welcome a nuisance lawsuit, because it's a nuisance. It consumes time. It costs money. But this is a different matter in light of one word: discovery.

If Mann sues us, the materials we will need to mount a full defense will be extremely wide-ranging. So if he files a complaint, we will be doing more than fighting a nuisance lawsuit; we will be embarking on a journalistic project of great interest to us and our readers.

And this is where you come in. If Mann goes through with it, we're probably going to call on you to help fund our legal fight and our investigation of Mann through discovery. If it gets that far, we may eventually even want to hire a dedicated reporter to comb through the materials and regularly post stories on Mann.

My advice to poor Michael is to go away and bother someone else. If he doesn't have the good sense to do that, we look forward to teaching him a thing or two about the law and about how free debate works in a free country.

He's going to go to great trouble and expense to embark on a losing cause that will expose more of his methods and maneuverings to the world. In short, he risks making an ass of himself. But that hasn't stopped him before.

— *Rich Lowry is the editor of* NATIONAL REVIEW.

Permalink

EXHIBIT D

Competitive Enterprise Institute
Free Markets and Limited Government

Penn State Climate Scientist Michael Mann Demands Apology From CEI

CEI Refuses to Retract Commentary

By Christine Hall
August 24, 2012
Print Email Share

Washington, D.C., August 24, 2012 – The Competitive Enterprise Institute received a letter on August 21 from an attorney representing Penn State University Professor Michael E. Mann that demands that CEI retract and apologize for a post on CEI's blog, Openmarket.org, written by CEI adjunct scholar Rand Simberg. The letter also threatens that they "intend to pursue all appropriate legal remedies on behalf of Dr. Mann."

"The Other Scandal in Unhappy Valley," the July 13, 2012 blog post at issue, criticized Professor Mann, a climate scientist who in recent years has become a leading advocate in the public debate for global warming alarmism. Mann was the lead author of research that fabricated the infamous hockey stick temperature graph. The hockey stick was featured in the UN Intergovernmental Panel on Climate Change's Third Assessment Report (2001), but was dropped in its Fourth Assessment Report (2007). E-mails from and to Professor Mann featured prominently in what became known as the Climategate scandal.

In response to the letter from Mann's attorney, CEI offered the following statements.

Statement by CEI General Counsel Sam Kazman:

This week CEI received a letter from Michael Mann's attorney, John B. Williams of Cozen O'Connor, demanding that CEI fully retract and apologize for a July 13th OpenMarket blog post concerning Mann's work. Shortly after that post was published in mid-July, CEI removed two sentences that it regarded as inappropriate. However, we view the post as a valid commentary on Michael Mann's research. We reject the claim that this research was closely examined, let alone exonerated, by any of the proceedings listed in Mr. Williams's letter.

National Review, which earlier got a similar letter from Mann's attorney, has expertly summed up the matter in a response by the editor and the publication's attorney.

And regardless of how one views Mann's work, his threatened lawsuit is directly contrary to First Amendment law regarding public debate over controversial issues. Michael Mann may believe we face a global warming threat, but his actions represent an unfounded attempt to freeze discussion of his views.

In short, we're not retracting the piece, and we're not apologizing for it.

Statement by Myron Ebell, Director of CEI's Center for Energy and Environment:

Penn State Professor Michael Mann's lawyer claims that nine investigations of academic fraud have all exonerated Professor Mann. Most of these investigations did not examine Professor Mann's conduct or even mention him, and Penn State University's investigation was typical of that institution's unfortunate tendencies.

The fact that Professor Mann's hockey stick research is still taken seriously in the public debate is an indication that people haven't read the Wegman Report to the House Energy and Commerce Committee, the National Research Council's report, or the analysis of Stephen McIntyre and Ross McKitrick.

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MEDIA APPEARANCES

By Christopher C. Horner
Obama Administration Least Transparent in 50 Years October 11, 2012

» See All Media Appearances

Professor Mann's political advocacy is no more reliable than his scientific research. His recent book, *The Hockey Stick and the Climate Wars: Dispatches from the Front Lines*, repeats numerous factual errors, some of them about CEI.

Related Files: Michael Mann attorney letter.pdf

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