Dr. Michael Mann, one of the country's leading climate scientists, has been harassed, threatened, and berated for his views that human actions are contributing to global climate change. But not just from anonymous commenters on websites — from leading publications like the National Review Online. After being compared to Jerry Sandusky and having the credibility of his work questioned, Mann finally has had enough. He is suing Rand Simberg of the Competitive Enterprise Institute (CEI) blog and Mark Steyn at National Review Online for defamation.


Can't defame this membrane, says
Dr. Mann.

So what is defamation and how do you prove it? To be sure, this is not my area of legal expertise. But the basics are fairly straightforward. As an overview, defamation means a public attack, based on false facts, on a person's professional character or standing on an issue of public interest. The attacks have to cause damage to the plaintiff.

You can defend yourself against charges that you defamed someone by proving that you spoke the "truth." You can also defend yourself by saying it was just an "opinion" as opposed to fact, although some jurisdictions have eliminated that distinction.

In this case:

> Mann alleged that four phrases in Simberg's post were defamatory: "data manipulation," "academic and scientific misconduct," "posterboy of the corrupt and disgraced climate science echo chamber," and accusing the Penn State professor of molesting his data and thus being the "Jerry Sandusky of climate science." He also cited a subsequent CEI press release that called his research "intellectually bogus."

Trevor Burris of Forbes penned a full-throated defense of National Review and the other defendants, arguing that their words amounted to nothing more than name-calling:

> While some of these phrases might be impolitic and unprofessional, they

> are not defamatory. Pugnacious rhetoric is still protected by the First Amendment, especially in matters of public debate.

Furthermore, he thinks the lawsuit will hurt the cause of climate change advocacy:

> Proponents of the theory of catastrophic climate change should think twice before they support Dr. Mann's lawsuit. In fact, anyone who engages in vigorous intellectual debate should be afraid that Mann's lawsuit wasn't immediately dismissed as a nuisance suit that is attempting to stifle First Amendment-protected speech. If Mann wins this lawsuit, he or his friends could easily find themselves on the other side of a defamation suit. Climate-change catastrophists consistently accuse climate-change "deniers" of intellectual and professional malfeasance.

I disagree. First, the comments against Mann aren't just name-calling — they are name-calling to further false challenges to Mann's work. They misleadingly call into question the accuracy of Mann's research and methodology. In reality, there's no real scientific debate on the overall facts. Sure, you can debate the scale of the warming and the precise amount of impact that human activity is having, but an astounding 97% of scientists have reached consensus on the overall issue. The courts should rightly investigate how factually plausible the challenges to Mann's work are.

But should climate advocates be afraid of riding the defamation tiger, in case it turns around and bites them, as Burris suggests? I think there's nothing to fear from judicial scrutiny if advocates label the fossil fuel-funded campaigns against their work phony and misleading. After all, a court wouldn't sanction someone for calling people crazy who deny that smoking causes lung cancer or HIV causes AIDS. These are areas of broad scientific consensus with overwhelming supportive evidence. The link between human-caused greenhouse gas emissions and global warming is as equally supported.

Burris also seems to miss the point that this is a debate about science and numbers — not just values or general opinions. He cites Paul Krugman as potentially slanderous for calling Paul Ryan's budget a "fraud," but Krugman has substantial evidence to back up his assertion that the Ryan budget was filled with misleading

numbers that contradicted its stated effect. Like the Ryan budget, the dispute over Mann’s work is based on hard numbers, not intangible values or perspectives. Courts should be well-suited to see through these kinds of ideologically motivated, phony attacks.

Most importantly, from a purely strategic perspective, a court victory here would be a major public relations win for climate change advocacy. For climate deniers to lose in court would send the signal to the public that they are not to be trusted. That’s a great headline and PR win for climate change advocates, confirming a narrative that advocates have been emphasizing for years. Of course, a court loss for Mann could have the opposite effect, but given the facts, I think Mann may be on safe ground here.

I’m all in favor of a debate about climate science, but it can’t be a debate where journalists intentionally print misleading and false attacks based on transparently phony evidence. That stenography of lies is precisely the dynamic that sets back climate advocacy — and not this lawsuit.