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Hopefully Dr. Michael E. Mann Doesn't Sue Me For This Column

By Trevor Burrus

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The battle over climate-change science is heating up, so to speak, and it has moved to the courts. The defamation lawsuit brought by climatologist Dr. Michael E. Mann—one of the creators of the famed “hockey-stick graph” that shows a recent spike in world temperatures—has now moved to the District of Columbia Court of Appeals, the equivalent of a state supreme court for the district. Mann alleges that a blog post by Rand Simberg on the blog of the Competitive Enterprise Institute (CEI), and subsequently quoted by Mark Steyn at National Review Online, was libelous. The Cato Institute, joined by the Reason Foundation, the Goldwater Institute, and the Individual Rights Foundation, has filed an amicus brief supporting the defendants, arguing that courts should not be called upon to referee scientific disputes.

Because the climate-change debate is one of the most important and lively public policy debates of our time, stifling that debate with lawsuits will not only diminish our ability to have an open and honest discussion about climate change, it will hurt future discussions about anything controversial. Whatever you believe about climate change, you should hope that the D.C. Court of Appeals dismisses the case as soon as possible.

Specifically, 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.”

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. Words like “fraud,” “corrupt,” “misconduct,” and “manipulation” could feasibly be defamatory if they were alleging actual criminal misconduct, but, in this context, it is well-understood that those phrases are not alleging technical law-breaking. Instead, they are used to raise the rhetorical punch of a phrase.

The entire situation is silly. If this were a playground, Dr. Mann would be a tattletale who complains to the teacher that someone said mean things about him. After spending years arguing that climate-change skeptics are shills for big oil, Mann has apparently decided that the government should shut them up instead.

These lawsuits chill speech on matters of public importance—but maybe that’s the point. To use a highly relevant example: Given Dr. Mann’s obvious litigiousness, I decided to consult colleagues before calling him a “tattletale” in this column. In other words, this is a perfect example of how suits like Mann’s can chill innocuous speech about important public policy topics.

Nevertheless, Dr. Mann seems to think that, because the issue of climate change is so important, people shouldn’t be allowed to forcefully publicly disagree with him and to chide the validity of his research because there “is no room anymore to have a good faith discussion about whether the problem is real.” Perhaps Dr. Mann believes that People Who Are Right should get special legal protection from People Who Are Wrong and that courts should just take judicial notice of the fact that Dr. Mann is correct.

I’m sure that the Catholic Church believed the same thing when it prosecuted Galileo for believing in heliocentrism.

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. For example, here is a picture of Dr. Mann standing in front of a podium that proclaims to fight “the fakers” and to put “quacks, scams, and shams on the ropes.” In his book (pg. 141), Dr. Mann calls out the “bogus research” of climate-change skeptics, and, in an email to a N.Y. Times reporter, Dr. Mann called one skeptical paper “pure scientific fraud.”

Even those not involved in the climate-change debate should be scared. Paul Krugman, for example, has come out in favor of Dr. Mann’s suit because “he’s doing all of us a service.” As someone who is well-known for calling his opponents names, Krugman should be careful what he wishes for. Here, for example, is Krugman calling Paul Ryan’s tax plan a “fraud” on national television.

Some climatologists have long been frustrated that a persistent group of scientists have not yet fully accepted the theory of an impending climate-change catastrophe. For most normal scientists, the fact that there are others who disagree with them is not a problem. Disagreement in science, after all, is how science progresses. For some climate-change catastrophists, however, the fact that there are people who disagree with them is a reason to sue.

Hopefully I don’t get sued for this column.

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