



Defamation Suit by Inventor of Climate Change 'Hockey Stick' Graph Proceeds

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The Supreme Court refused to throw out a 7-year-old defamation lawsuit that climate scientist Michael E. Mann brought against National Review, after the magazine accused the inventor of the famous "Hockey Stick" graph that purported to show a dramatic increase in world temperatures over the previous half-century of "misconduct" and data "manipulation."

This means the lawsuit, which has been stalled in District of Columbia courts, may now move forward. The Competitive Enterprise Institute, a free-market think tank, also is involved in the D.C. litigation.

The case is important because it tests the limits of protected speech in the realm of scientific debates, and critics worry that the D.C. courts may allow a jury in the case to impose liability for defamation on speakers for expressing sincere, subjective criticism on matters of vital public interest. This may, in turn, chill speakers from vigorously participating in the public exchange of views necessary for self-government.

If National Review loses the suit, a jury could impose defamation liability on it for "opining that the risks of climate change were being overhyped by misleading statistical analyses," the magazine argued in its petition to the high court.

As is its custom, the Supreme Court didn't provide reasons for denying National Review's appeal in its Nov. 25 decision, but Justice Samuel Alito took the unusual step of filing an 8-page dissent explaining why he would have agreed to hear the case.

The case raises First Amendment concerns, Alito said, "that go to the very heart of the constitutional guarantee of freedom of speech and freedom of the press: the protection afforded to journalists and others who use harsh language in criticizing opposing advocacy on one of the most important public issues of the day."

Mann, who is a Distinguished Professor of Atmospheric Science at Pennsylvania State University, told CNN he was "pleased with this nearly unanimous decision by the Supreme Court to deny the appeal" and that he was "looking forward to the trial."

Critics accuse Mann of dishonesty, although a probe at his own university found no wrongdoing by him.

Mann “was implicated in the famous ‘Climategate’ scandal, when hackers obtained emails from the Climate Research Unit at the University of East Anglia,” according to the Cato Institute. “One of those emails described ‘Mike’s [Michael Mann’s] nature trick,’ referring to the splicing together of different temperature data to ‘hide the decline’ in global temperatures.”

Author Mark Steyn, who also is a defendant in the D.C.-level litigation, didn’t participate in the petition to the Supreme Court, but pointedly noted in his own friend-of-the-court brief that Mann falsely claimed to be a recipient of the Nobel Peace Prize, a fact that was widely reported.

“Michael Mann is a public figure and political activist who, in his original complaint in this case, falsely claimed to be a recipient of the Nobel Peace Prize. That claim was later removed after the Nobel Committee confirmed he was not, in fact, a Nobel prizewinner.”

National Review, a conservative publication founded in 1955 by William F. Buckley Jr., stated online that it had “no intention of abandoning this fight; not yesterday, not today, not tomorrow.” But the publication said it was “frustrated that the nation’s highest court has elected to punt on the question, and thereby to guarantee that it will roll on without end in sight.”

A group of 21 Republican U.S. senators, including Mitch McConnell of Kentucky, John Cornyn and Ted Cruz of Texas, Marsha Blackburn of Tennessee, Tom Cotton of Arkansas, Josh Hawley of Missouri, Jim Inhofe of Oklahoma, and Mitt Romney of Utah, had filed a friend-of-the-court brief urging the high court to take up the case.

“By allowing juries to punish subjective statements of political or scientific opinion as defamatory statements of fact, the decision below will shut down crucial debates on matters of public concern,” the senators stated.