SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION

MICHAEL E. MANN, PH.D.,)
Plaintiff,) Case No. 2012 CA 008263 F) Judge: Alfred S. Irving, Jr.
V.	
NATIONAL REVIEW, INC., et al.,)
Defendants.)
)

PLAINTIFF'S PRAECIPE ON THE JURY VERDICT FORM

Plaintiff, Michael E. Mann, Ph.D., by and through his counsel of record, hereby submits his proposed revision to the jury verdict form, attached hereto as Exhibit A. This form sets out the questions as to each statement in suit, conforming to Defendant Simberg's request that "Plaintiff [] prove[] each element of defamation for each statement individually." Def. Simberg's Objs. To, & Mot. to Amend, Verdict Form at 3 (Jan. 11, 2024).

We believe we are close to agreement with counsel for Defendant Simberg. The principal remaining issue relates to the wording of the damage question(s). The wording set forth in the Court's November 22, 2023 Superseding Pretrial Order does not require a showing of "actual damage," which is the correct formulation in this case as presumed damages are requested. So that the jury instructions conform to the final jury charge, we are filing a motion to supplement the existing final instructions with an instruction on presumed damages.

We have not heard back from Defendant Steyn on the proposed verdict form.

Further, as this court is aware, Dr. Mann continues to object to sending the opinion issue to the jury.

Respectfully submitted,

Dated: February 4, 2024 /s/ John B. Williams

John B. Williams (No. 257667)
Fara N. Kitton (No. 1007793)
WILLIAMS LOPATTO PLLC
1629 K. Street, N.W., Suite 300
Washington D.C. 20006
Tel: (202) 296-1665
jbwilliams@williamslopatto.com
fnkitton@williamslopatto.com

Peter J. Fontaine (No. 435476) Amorie I. Hummel (*Pro Hac Vice*) COZEN O'CONNOR 1650 Market Street, Suite 2800 Philadelphia, PA 19103 Tel: (215) 665-2723 pfontaine@cozen.com ahummel@cozen.com

Patrick J. Coyne (No. 366841)
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 New York Ave. N.W.
Washington, DC 20003
Tel: (202) 256-7792
patrick.coyne@finnegan.com
Counsel for Plaintiff, Michael E. Mann, Ph.D.

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2024, I caused a copy of the foregoing Plaintiff's Praecipe on the Jury Verdict Form to be served via electronic filing on the following:

Victoria Weatherford BAKER & HOSTETLER LLP Transamerica Pyramid Center 600 Montgomery Street, Suite 3100 San Francisco, CA 94111 vweatherford@bakerlaw.com

Mark W. Delaquil
Andrew M. Grossman
David B. Rivkin, Jr.
Kristen Rasmussen
Renee M. Knudsen
BAKER & HOSTETLER LLP
1050 Connecticut Avenue NW,
Suite 1100
Washington, DC 20036
mdelaquil@bakerlaw.com
agrossman@bakerlaw.com
drivkin@bakerlaw.com
krasmussen@bakerlaw.com
rknudsen@bakerlaw.com

Mark I. Bailen
The Law Offices of Mark I. Bailen, PC
1250 Connecticut Avenue NW
Suite 700
Washington, DC 20036
mb@bailenlaw.com

Counsel for Defendant Rand Simberg

Melissa Howes
Email: melissa@ajpromos.com
Mark Steyn
Email: mdhs@marksteyn.com
H. Christopher Bartolomucci
Email: cbartolomucci@schaerr-jaffe.com

Defendant Mark Steyn

/s/ John B. Williams
John B. Williams

EXHIBIT A

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION

)
MICI	HAEL E	. MANN, PH.D.,	
		Plaintiff,) Case No 2012 CA 008263 B) Judge Alfred S. Irving, Jr.
	v.)))
NAT	IONAL	REVIEW, INC., et al.,	
		Defendants.)))
		DI AINTIEE'S DDAI	POSED REVISED VERDICT FORM
		ILAINTIFF STROI	OSED REVISED VERDICI FORM
WE	, THE JU	URY, in the above action, un	animously find the following:
		Statemer	ts by Defendant Simberg
<u>Defer</u>	ndant Si	mberg Liability	
1.	1. <u>Simberg Statement 1</u> : "[M]any of the luminaries of the 'climate science' community's shown to have been behaving in a most unscientific manner. Among them were Mic Mann, Professor of Meteorology at Penn State, whom the emails revealed had been engain data manipulation to keep the blade on his famous hockey-stick graph, which had been an icon for those determined to reduce human carbon emissions by any means necessar		
	A.	this statement from Defe	as proved, by a preponderance of the evidence, that ndant Simberg was defamatory, or that it had a t was intended by Mr. Simberg?
		YES	NO
	В.	the defamatory meaning co	has proved, by a preponderance of the evidence, that onveyed by Defendant Simberg's statement asserted the fact, or relied upon stated facts that are provably
		YES	NO
	C.	Do you find that Plaintiff I this statement was substant	has proved, by a preponderance of the evidence, that ially false?

		YES	NO
	D.		Plaintiff has proved, by clear and convincing evidence, that erg published the statement with either:
		a. Knov	vledge of the falsity of that fact?
		YES	NO
		disre state	less disregard for whether that fact was false? [Reckless gard for the truth means that the Defendant published the nent while entertaining serious doubts about its truth or that he high degree of awareness that the statement was probably false.]
		YES	NO
		Have you answered question in 1(D)?	"Yes" to <u>all</u> of questions 1(A) through 1(C) and "Yes" to <u>any</u>
		YES	NO
2.	clima	,	Mann has become the posterboy of the corrupt and disgraced mber. No university whitewash investigation will change that
	A.	this statement f	Plaintiff has proved, by a preponderance of the evidence, that rom Defendant Simberg was defamatory, or that it had a cation that was intended by Mr. Simberg?
		YES	NO
	B.	the defamatory r	Plaintiff has proved, by a preponderance of the evidence, that neaning conveyed by Defendant Simberg's statement asserted vably false fact, or relied upon stated facts that are provably
		YES	NO
	C.	•	Plaintiff has proved, by a preponderance of the evidence, that is substantially false?
		YES	NO

	t Simberg published the sta	atement with either:
a.	Knowledge of the falsity	of that fact?
YES _		NO
b.	disregard for the truth statement while entertain	whether that fact was false? [Reckless means that the Defendant published the ning serious doubts about its truth or that he reness that the statement was probably false.]
YES _	_	NO
E. Have you an question in 2	<u> </u>	estions 2(A) through 2(C) and "Yes" to any
YES _	<u></u>	NO
to cover up he Should we sup academic and so A. Do you fi this state	einous crimes, and even le opose, in light of what we scientific misconduct, with and that Plaintiff has prove	d, by a preponderance of the evidence, that mberg was defamatory, or that it had a
YES_	•	NO
the defan	natory meaning conveyed	d, by a preponderance of the evidence, that by Defendant Simberg's statement asserted relied upon stated facts that are provably
YES_	_	NO
	and that Plaintiff has prove ment was substantially falso	d, by a preponderance of the evidence, that e?
YES _	_	NO

3.

•	dant Simberg published the st	atement with either:
	a. Knowledge of the falsity	of that fact?
YE	s	NO
	disregard for the truth statement while entertain	whether that fact was false? [Reckless means that the Defendant published the ning serious doubts about its truth or that he reness that the statement was probably false.]
YE	s	NO
E. Have you question	<u>-</u>	estions 3(A) through 3(C) and "Yes" to any
YE	s	NO
the service nation and A. Do yo this s	of politicized science that couplanet." u find that Plaintiff has prove	hildren, he has molested and tortured data in ld have dire economic consequences for the d, by a preponderance of the evidence, that mberg was defamatory, or that it had a ended by Mr. Simberg?
	S	NO
the de	famatory meaning conveyed plied a provably false fact, or	d, by a preponderance of the evidence, that by Defendant Simberg's statement asserted relied upon stated facts that are provably
YE	s	NO
	ou find that Plaintiff has prove atement was substantially false	d, by a preponderance of the evidence, that e?
YE	S	NO

4.

	D.		nd that Plaintiff has proved, by clear and convincing evidence, that Simberg published the statement with either:
		a.	Knowledge of the falsity of that fact?
		YES	NO
		b.	Reckless disregard for whether that fact was false? [Reckless disregard for the truth means that the Defendant published the statement while entertaining serious doubts about its truth or that he had a high degree of awareness that the statement was probably false.]
		YES	NO
	E.	Have you ans question in 40	swered "Yes" to <u>all</u> of questions 4(A) through 4(C) and "Yes" to <u>any</u> (D)?
		YES	NO
	e pro	ceed to questio	question $I(E)$, or question $2(E)$, or question $3(E)$, or question $4(E)$, in 5. If you answered "No" to all of these questions please proceed to
Defen	<u>ıdant</u>	Simberg Dam	nages
5.	Co	mpensatory D	<u>amages</u>
	A.	-	nd that Plaintiff has proved, by a preponderance of the evidence, that Simberg's defamatory statement(s) caused Plaintiff to suffer
		YES	NO
			question $5(A)$, please proceed to question $5(B)$. If you answered "No" to ceed to question 7.
	B.		ount of compensatory damages do you award to Plaintiff against Simberg? \$
	•		o dollar amount for question $5(B)$, please proceed to question 6 . If you stion $5(B)$, please proceed to question 7 .

6.	<u>Punit</u>	ive Damages			
	A.	Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant Simberg's conduct in publishing his defamatory statement(s) showed maliciousness, spite, ill will, vengeance or deliberate intent to harm Plaintiff?			
		YES	NO		
		ed "Yes" to question, please proceed to	on $6(A)$, please proceed to question $6(B)$. If you answered "No" to question 7.		
	B.		ounitive damages do you award to Plaintiff against Defendant		
			Statements by Defendant Steyn		
<u>Defen</u>	dant St	teyn Liability			
7.	7. <u>Stevn Statement 1</u> : "Mann could be said to be the Jerry Sandusky of climate science, e that instead of molesting children, he has molested and tortured data in the servi politicized science that could have dire economic consequences for the nation and pla		g children, he has molested and tortured data in the service of		
	A.	Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement republished by Defendant Steyn was defamatory, or that it had a defamatory implication that was intended by Mr. Steyn?			
		YES	NO		
	B. Do you find that Plaintiff has proved, by a preponderance of the evidence the defamatory meaning conveyed by Defendant Steyn's statement assert implied a provably false fact, or relied upon stated facts that are provably				
		YES	NO		
	C.	=	Plaintiff has proved, by a preponderance of the evidence, that substantially false?		
		YES	NO		
	D.		Plaintiff has proved, by clear and convincing evidence, that published the statement with either:		
		a. Know	ledge of the falsity of that fact?		
		YES	NO		

			atement while entertaining serious doubts about its truth or that he ad a high degree of awareness that the statement was probably false.]
		YES	NO
	E.	Have you answer question in 7(D)	ered "Yes" to <u>all</u> of questions 7(A) through 7(C) and "Yes" to <u>any</u> o?
		YES	NO
8.			"Not sure I'd have extended that metaphor all the way into the locker- juite the zeal Mr. Simberg does, but he has a point."
	A.	this statemen	that Plaintiff has proved, by a preponderance of the evidence, that t from Defendant Steyn was defamatory, or that it had a defamatory nat was intended by Mr. Steyn?
		YES	NO
	B.	the defamato	that Plaintiff has proved, by a preponderance of the evidence, that ry meaning conveyed by Defendant Steyn's statement asserted or vably false fact, or relied upon stated facts that are provably false?
		YES	NO
	C.	•	that Plaintiff has proved, by a preponderance of the evidence, that t was substantially false?
		YES	NO
	D.	•	that Plaintiff has proved, by clear and convincing evidence, that eyn published the statement with either:
		a. K	nowledge of the falsity of that fact?
		YES	NO
			eckless disregard for whether that fact was false? [Reckless isregard for the truth means that the Defendant published the

b. Reckless disregard for whether that fact was false? [Reckless disregard for the truth means that the Defendant published the

statement while entertaining serious doubts about its truth or that he had a high degree of awareness that the statement was probably false.]

		YES	_	NO
		Have you ans question in 8		estions 8(A) through 8(C) and "Yes" to any
		YES	_	NO
9.			3: "Michael Mann was aph, the very ringmaster o	the man behind the fraudulent climate-change f the tree-ring circus."
	A.	this statem	<u> </u>	d, by a preponderance of the evidence, that a was defamatory, or that it had a defamatory . Steyn?
		YES	<u> </u>	NO
	В.	the defam	atory meaning conveyed	ed, by a preponderance of the evidence, that by Defendant Steyn's statement asserted or ed upon stated facts that are provably false?
		YES	_	NO
	C.	•	nd that Plaintiff has prove ent was substantially fals	ed, by a preponderance of the evidence, that e?
		YES	_	NO
	D.	-	nd that Plaintiff has prove Steyn published the state	ed, by clear and convincing evidence, that ment with either:
		a.	Knowledge of the falsity	of that fact?
		YES	_	NO
		b.	disregard for the truth statement while entertain	whether that fact was false? [Reckless means that the Defendant published the ning serious doubts about its truth or that he reness that the statement was probably false.]
		YES	_	NO

		Have you answered question in 8(D)?	"Yes" to <u>all</u> of questions 8(A) through 8(C) and "Yes" to <u>any</u>
		YES	NO
quesi	tion 10.	-	on $7(E)$, or question $8(E)$, or question $9(E)$, please proceed to $9(E)$ or these questions please stop here, sign and date this ourt.
<u>Defe</u>	ndant S	Steyn Damages	
10.	Com	pensatory Damage	<u>5</u>
	A.	•	Plaintiff has proved, by a preponderance of the evidence, that s defamatory statement(s) caused Plaintiff to suffer damages?
		YES	NO
			on $10(A)$, please proceed to question $10(B)$. If you answered "No" re, sign and date this verdict form, and return to the Court.
	В.	What amount of Defendant Steyn?	compensatory damages do you award to Plaintiff against \$
answ	-	ero" for question 10	r amount for question $10(B)$, please proceed to question 11 . If you (B) , please stop here, sign and date this verdict form, and return
11.	<u>Puni</u>	tive Damages	
	A.	Defendant Steyn	Plaintiff has proved, by clear and convincing evidence, that s conduct in publishing his defamatory statement(s) showed te, ill will, vengeance or deliberate intent to harm Plaintiff?
		YES	NO
			on $11(A)$, please proceed to question $11(B)$. If you answered "No" re, sign and date this verdict form, and return to the Court.
	В.	What amount of Steyn? \$	ounitive damages do you award to Plaintiff against Defendant
Da	ited:		
			Jury Foreperson