

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

MICHAEL E. MANN, PH.D.,	)	
	)	
Plaintiff,	)	Case No. 2012 CA 008263 B
	)	Judge: Alfred S. Irving, Jr.
v.	)	
	)	
NATIONAL REVIEW, INC., <i>et al.</i> ,	)	
	)	
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.

Dated: February 4, 2024

Respectfully submitted,

/s/ John B. Williams

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2024, I caused a copy of the foregoing Plaintiff's

Praeceptum on the Jury Verdict Form to be served via electronic filing on the following:

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*Counsel for Defendant Rand Simberg*

/s/ John B. Williams  
John B. Williams

# **EXHIBIT A**



YES \_\_\_\_

NO \_\_\_\_

D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant 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 answered “Yes” to all of questions 1(A) through 1(C) and “Yes” to any question in 1(D)?

YES \_\_\_\_

NO \_\_\_\_

2. **Simberg Statement 2:** “Mann has become the posterboy of the corrupt and disgraced climate science echo chamber. No university whitewash investigation will change that simple reality.”

A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement from Defendant Simberg was defamatory, or that it had a defamatory implication that was intended by Mr. Simberg?

YES \_\_\_\_

NO \_\_\_\_

B. Do you find that Plaintiff has proved, by a preponderance of the evidence, that the defamatory meaning conveyed by Defendant Simberg’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_\_

NO \_\_\_\_

C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_\_

NO \_\_\_\_

D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant 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 answered “Yes” to all of questions 2(A) through 2(C) and “Yes” to any question in 2(D)?

YES \_\_\_\_

NO \_\_\_\_

3. **Simberg Statement 3**: “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?”

A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement from Defendant Simberg was defamatory, or that it had a defamatory implication that was intended by Mr. Simberg?

YES \_\_\_\_

NO \_\_\_\_

B. Do you find that Plaintiff has proved, by a preponderance of the evidence, that the defamatory meaning conveyed by Defendant Simberg’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_\_

NO \_\_\_\_

C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_\_

NO \_\_\_\_

D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant 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 answered “Yes” to all of questions 3(A) through 3(C) and “Yes” to any question in 3(D)?

YES \_\_\_\_

NO \_\_\_\_

4. **Simberg Statement 4**: “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.”

A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement from Defendant Simberg was defamatory, or that it had a defamatory implication that was intended by Mr. Simberg?

YES \_\_\_\_

NO \_\_\_\_

B. Do you find that Plaintiff has proved, by a preponderance of the evidence, that the defamatory meaning conveyed by Defendant Simberg’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_\_

NO \_\_\_\_

C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_\_

NO \_\_\_\_



D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant 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 answered “Yes” to all of questions 4(A) through 4(C) and “Yes” to any question in 4(D)?

YES \_\_\_\_

NO \_\_\_\_

*If you answered “Yes” to question 1(E), or question 2(E), or question 3(E), or question 4(E), please proceed to question 5. If you answered “No” to all of these questions please proceed to question 7.*

**Defendant Simberg Damages**

**5. Compensatory Damages**

A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that Defendant Simberg’s defamatory statement(s) caused Plaintiff to suffer damages?

YES \_\_\_\_

NO \_\_\_\_

*If you answered “Yes” to question 5(A), please proceed to question 5(B). If you answered “No” to question 5(A), please proceed to question 7.*

B. What amount of compensatory damages do you award to Plaintiff against Defendant Simberg? \$ \_\_\_\_\_

*If you provided a non-zero dollar amount for question 5(B), please proceed to question 6. If you answered “zero” for question 5(B), please proceed to question 7.*

**6. Punitive 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 \_\_\_

*If you answered “Yes” to question 6(A), please proceed to question 6(B). If you answered “No” to question 6(A), please proceed to question 7.*

- B. What amount of punitive damages do you award to Plaintiff against Defendant Simberg? \$ \_\_\_\_\_

**Statements by Defendant Steyn**

**Defendant Steyn Liability**

7. **Steyn Statement 1**: “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.”

- 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, that the defamatory meaning conveyed by Defendant Steyn’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_ NO \_\_\_

- C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_ NO \_\_\_

- D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant Steyn 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 answered “Yes” to all of questions 7(A) through 7(C) and “Yes” to any question in 7(D)?

YES \_\_\_\_

NO \_\_\_\_

**8. Steyn Statement 2: “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.”**

- A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement from 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, that the defamatory meaning conveyed by Defendant Steyn’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_\_

NO \_\_\_\_

- C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_\_

NO \_\_\_\_

- D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant Steyn 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 answered “Yes” to all of questions 8(A) through 8(C) and “Yes” to any question in 8(D)?

YES \_\_\_ NO \_\_\_

9. **Steyn Statement 3:** “Michael Mann was the man behind the fraudulent climate-change ‘hockey-stick’ graph, the very ringmaster of the tree-ring circus.”

A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement from 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, that the defamatory meaning conveyed by Defendant Steyn’s statement asserted or implied a provably false fact, or relied upon stated facts that are provably false?

YES \_\_\_ NO \_\_\_

C. Do you find that Plaintiff has proved, by a preponderance of the evidence, that this statement was substantially false?

YES \_\_\_ NO \_\_\_

D. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant Steyn 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 answered “Yes” to all of questions 8(A) through 8(C) and “Yes” to any question in 8(D)?

YES \_\_\_\_

NO \_\_\_\_

*If you answered “Yes” to question 7(E), or question 8(E), or question 9(E), please proceed to question 10. If you answered “No” to all of these questions please stop here, sign and date this verdict form, and return to the Court.*

**Defendant Steyn Damages**

**10. Compensatory Damages**

- A. Do you find that Plaintiff has proved, by a preponderance of the evidence, that Defendant Steyn’s defamatory statement(s) caused Plaintiff to suffer damages?

YES \_\_\_\_

NO \_\_\_\_

*If you answered “Yes” to question 10(A), please proceed to question 10(B). If you answered “No” to question 10(A), please stop here, sign and date this verdict form, and return to the Court.*

- B. What amount of compensatory damages do you award to Plaintiff against Defendant Steyn? \$\_\_\_\_\_

*If you provided a non-zero dollar amount for question 10(B), please proceed to question 11. If you answered “zero” for question 10(B), please stop here, sign and date this verdict form, and return to the Court.*

**11. Punitive Damages**

- A. Do you find that Plaintiff has proved, by clear and convincing evidence, that Defendant Steyn’s conduct in publishing his defamatory statement(s) showed maliciousness, spite, ill will, vengeance or deliberate intent to harm Plaintiff?

YES \_\_\_\_

NO \_\_\_\_

*If you answered “Yes” to question 11(A), please proceed to question 11(B). If you answered “No” to question 11(A), please stop here, sign and date this verdict form, and return to the Court.*

- B. What amount of punitive damages do you award to Plaintiff against Defendant Steyn? \$\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Jury Foreperson