



#### Client

Dr. Michael Mann



## DEFENDING CLIMATE SCIENCE

In two landmark decisions, Cozen O'Connor achieved significant legal victories on behalf of noted climate scientist Dr. Michael Mann. In April 2014, the Virginia Supreme Court ruled, in a precedential matter impacting the rights of scientists under the Freedom of Information Act (FOIA), that the University of Virginia (UVA) properly protected from disclosure the email correspondence of its former faculty member, Dr. Mann, now a professor of meteorology at Pennsylvania State University. Dr. Mann has done pioneering research on global warming and was a member of the intergovernmental panel on climate change that received the 2007 Nobel Peace Prize. In 2011, a conservative group opposed to environmental regulations filed a FOIA request demanding that UVA produce thousands of Dr. Mann's private email exchanges with research colleagues throughout the world. When Cozen O'Connor joined the case, UVA was just about to produce the requested emails under a protective order. Not only was the firm able to successfully secure Dr. Mann's intervention in the case, Cozen O'Connor's Peter Fontaine worked closely with UVA's attorneys to convince the trial court to expunge the protective order on the grounds that any release of emails would violate Dr. Mann's rights and harm the UVA. That proved to be a turning point. Virginia's high court later affirmed that the state's public university faculty have the right to conduct research in a zone of privacy that protects free thought and expression. "The importance of this ruling cannot be overstated," said Dr. Mann. "Scientists need to know that they can bounce ideas off each other, deliberate, discuss hypotheses, and run preliminary data analyses past each other," without fear of harassment or intimidation by outside groups. "The entire scientific community owes Pete and Cozen O'Connor a great debt of gratitude."

In 2016, Cozen O'Connor achieved a second precedential victory on behalf of climate scientists when the District of Columbia Court of Appeals ruled that The National Review and Competitive Enterprise Institute were not protected under Washington, D.C.'s new anti-SLAPP law for allegedly false statements they made accusing Dr. Mann of manipulating data in his ground-breaking research and calling him the "Jerry Sandusky of climate science," who molested data instead of children. The publications attempted to get the suit dismissed under the anti-SLAPP law, which is intended to ban private interests from stifling comment or dissent by common citizens. The Court of Appeals agreed with Cozen O'Connor's argument that Dr. Mann is likely to succeed on the merits: "[t]arnishing the personal integrity and reputation of a scientist important to one side may be a tactic to gain advantage in a no-holds-barred debate over global warming. That the challenged statements were made as part of such debate provides important context and requires careful parsing in light of constitutional standards. But if the statements assert or imply false facts that defame the individual, they do not find shelter under the First Amendment simply because they are

#### CASE STUDIES INDEX

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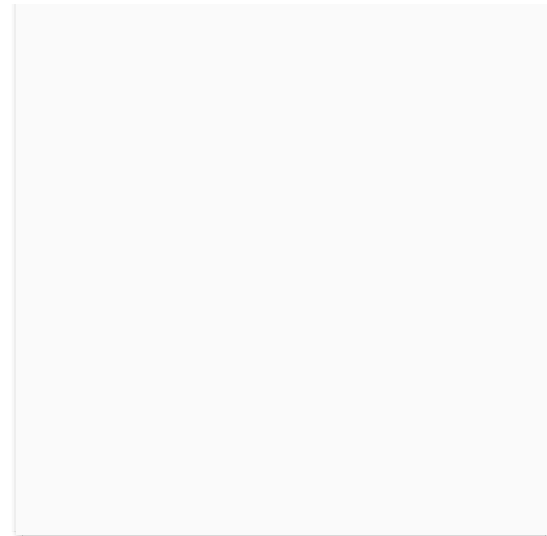
### CAPABILITIES

Utility & Energy

embedded in a larger policy debate . . . [o]n the current record, where the notion that the emails support that Dr. Mann has engaged in misconduct has been so definitively discredited, a reasonable jury could, if it so chooses, doubt the veracity of appellants' claimed honest belief in that very notion. A jury could find, by clear and convincing evidence, that appellants "in fact entertained serious doubts" or had a "high degree of awareness" that the accusations that Dr. Mann engaged in scientific misconduct, fraud, and deception, were false, and, as a result, acted "with reckless disregard" for the statements' truth when they were published."

Click [here](#) to read the 2016 appellate court opinion.

Click [here](#) to read the 2014 Virginia Supreme Court decision.



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