

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**

MAY 23 2008

1 (Rule 8 (3))

S-083704

No. _____
Vancouver Registry

In the Supreme Court of British Columbia

Between

James Hoggan

Plaintiff

And

Terence Corcoran and
Canwest Media Inc. (d.b.a. "The National Post"),
Canwest Publishing Inc. Publications Canwest Inc., and John Doe

Defendants

WRIT OF SUMMONS

(Name and address of each plaintiff)

James Hoggan
510 - 1125 Howe Street
Vancouver, British Columbia V6Z 2K8

(Name and address of each defendant)

Terence Corcoran
300 - 1450 Don Mills Road
Don Mills, Ontario M3B 3R5

Canwest Media Inc. (d.b.a. "The National Post")
c/o Owen Bird, Three Bentall Centre
2900 - 595 Burrard Street
Vancouver, British Columbia V7X 1J5

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Canwest Publishing Inc. Publications Canwest Inc.
c/o Farris Vaughn Wills & Murphy
25th Floor – 700 West Georgia Street
Vancouver, British Columbia V7Y 1B3

John Doe
Address Unknown

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To the defendants:

Terence Corcoran, Canwest Media Inc. (d.b.a. “The National Post”), Canwest Publishing Inc. Publications Canwest Inc., and John Doe

TAKE NOTICE that this action has been commenced against you by the plaintiffs for the claims set out in this writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim that you wish to have taken into account at the trial, YOU MUST

- (a) GIVE NOTICE of your intention by filing a form entitled “Appearance” in the above registry of this court, at the address shown below, within the Time for Appearance provided for below and YOU MUST ALSO DELIVER a copy of the Appearance to the plaintiffs’ address for delivery, which is set out in this writ, and
- (b) if a statement of claim is provided with this writ of summons or is later served on or delivered to you, FILE a Statement of Defence in the above registry of this court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the plaintiffs’ address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- (a) YOU FAIL to file the Appearance within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

If this writ is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

If this writ is served on a person outside British Columbia, the time for appearance by that person after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, if the time for appearance has been set by order of the court, within that time.]

TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the plaintiff within 14 days after the later of

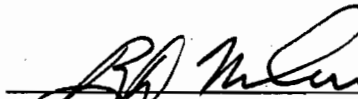
- (a) the time that the Statement of Claim is served on you (whether with this writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time for Appearance provided for above.

[or, if the time for defence has been set by order of the court, within that time.]

(1)	The address of the registry is: The Law Courts 800 Smithe Street Vancouver, British Columbia V6Z 2E1
(2)	The Plaintiff's ADDRESS FOR DELIVERY is: McConchie Law Corporation Suite 290 – 889 Harbourside Drive North Vancouver, British Columbia V7P 3S1 Attention: Roger D. McConchie Fax number for delivery: (604) 988-1610
(3)	The name and office address of the Plaintiff's solicitor is: Roger D. McConchie McConchie Law Corporation Suite 290 – 889 Harbourside Drive North Vancouver, British Columbia. V7P 3S1

The Plaintiff's claims are set out in the attached Statement of Claim.

DATED: May 22, 2008



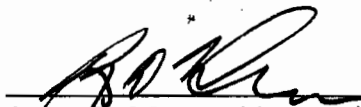
Roger D. McConchie
(McConchie Law Corporation)
Solicitor for the Plaintiff

Form 6

**ENDORSEMENT ON ORIGINATING PROCESS
FOR SERVICE EX JURIS**

The Plaintiff claims the right to serve this Writ of Summons outside British Columbia on the Defendant Terence Corcoran pursuant to the *Court Jurisdiction and Proceedings Transfer Act* without order on the grounds that there is a real and substantial connection between British Columbia and the facts on which this proceeding against the Defendant Terence Corcoran is based. The Plaintiff relies, *inter alia*, on the fact that this proceeding concerns a tort committed in British Columbia, namely publication of tortious expression about a Plaintiff ordinarily resident and domiciled in British Columbia to other persons in British Columbia.

DATED: May 22, 2008



Roger D. McConchie
(McConchie Law Corporation)
Solicitor for the Plaintiff

Form 13

No. _____
Vancouver Registry

In the Supreme Court of British Columbia

Between

James Hoggan

Plaintiff

And

Terence Corcoran and
Canwest Media Inc. (d.b.a. "The National Post"),
Canwest Publishing Inc. Publications Canwest Inc., and John Doe

Defendants

STATEMENT OF CLAIM

THE PARTIES

1. The Plaintiff James Hoggan is the president and secretary of James Hoggan & Associates Inc. ["JHA"] and has an office and place of business at 510 - 1125 Howe Street, Vancouver, British Columbia, V6Z 2K8. He resides in North Vancouver.
2. The Plaintiff is and was at all material times a citizen of Canada who is domiciled and resident in British Columbia.
3. JHA is an independent public relations firm in Western Canada which focuses on media relations, corporate communications, community relations and public consultation, crisis communications, executive media training, investor communications and public issues management.
4. In his capacity with JHA and in his community activities, the Plaintiff has developed a high public profile in the Vancouver area and across Canada. Among other things, the Plaintiff acts as a Trustee of the Dalai Lama Center for Peace and Education, he is the Chair of the David Suzuki Foundation and a board member of the West Coast Environmental Law Society, and serves as Vice-President of the Urban Development Institute.

5. The Plaintiff is a co-founder of a website known as DeSmogBlog, which was established in 2005 to research and expose the questionable public relations tactics that were developed by the tobacco industry and are now being used to promote controversy about climate change, and to forestall individual and political actions that might adversely affect fossil-fuel company profits.

6. The Defendant Terence Corcoran ["Corcoran"] was at all material times employed by the Defendant Canwest Media Inc. (d.b.a. The National Post) ["Canwest"] as the Editor-in-Chief of *The Financial Post*, the business section of *The National Post* newspaper [the "Hardcopy National Post"]. The Defendant Corcoran has an office at the premises of Canwest at 300 - 1450 Don Mills Road, Don Mills, Ontario.

7. The Defendant Canwest is a company duly incorporated under the laws of Manitoba and is extra-provincially registered under the laws of the Province of British Columbia. The said Defendant has an attorney for service within British Columbia at Owen Bird, Three Bentall Centre, 2900 – 595 Burrard Street, Vancouver, British Columbia V7X 1J5. On February 4, 2008 the Defendant changed its name from Canwest MediaWorks Inc. to its current name.

8. The Defendant Canwest Publishing Inc. Publications Canwest Inc. ("Publishing") is a company duly incorporated under the laws of Canada and is extra-provincially registered under the laws of the Province of British Columbia. This defendant has an attorney for service within British Columbia at Farris Vaughn Wills & Murphy, 25th Floor, 700 West Georgia Street, Vancouver, British Columbia, V7Y 1B3. On February 26, 2008 the Defendant changed its name from Canwest MediaWorks Publications Inc. Publications Canwest MediaWorks Inc. to its current name.

9. The Defendant Canwest was at all materials times the publisher and proprietor of the Hardcopy National Post which is published daily except Sundays and circulates to readers throughout Canada. Copies of the Hardcopy National Post are also distributed in the United States of America and in other countries.

10. The Defendant Publishing at all material times owned and operated an Internet website located at <http://www.canada.com/nationalpost/> and at <http://www.financialpost.com> [the “National Post Internet Sites”].

11. Selected articles from each day’s edition of the Hardcopy National Post newspaper are published daily by the Defendant Canwest and by the Defendant Publishing on the National Post Internet Sites where they are available free of charge to anyone with access to the Internet and in many instances remain freely available indefinitely.

12. In addition, selected articles published on the National Post Internet Sites remain available indefinitely on <http://www.canada.com> and <http://www.financialpost.com> to paid 6-days/week subscribers to the Hardcopy National Post and to paid 6-days/week subscribers to the other hardcopy daily newspapers published by the Defendant Canwest and Publishing including the *Victoria Times Colonist*, *The Province* (Vancouver), the *Vancouver Sun*, the *Edmonton Journal*, the *Calgary Herald*, the *Regina Leader-Post*, the *Saskatoon Star-Phoenix*, the *Windsor Star*, the *Ottawa Citizen*, and *The Gazette* (Montreal).

13. Articles which appear in the Hardcopy National Post are also published by the Defendant Canwest and the Defendant Publishing on a pass-word protected electronic database operated under the name “FPinfomart.ca” which is accessible indefinitely on the Internet at <http://www.fpinfomart.ca> [the “Financial Post Database”]. The Financial Post Database is accessible to anyone for a fee, and is owned and operated by the Defendant Publications.

14. All of the acts and omissions of the Defendant Corcoran complained of in this Statement of Claim occurred during the course and scope of his employment by the Defendant Canwest.

15. The Defendant Canwest and the Defendant Publishing published the expression complained of in paragraphs 18, 21 and 24 of this Statement of Claim in the Hardcopy National Post, on the National Post Internet Sites and in the Financial Post Database with the prior knowledge, consent and authorization of the Defendant Corcoran.

16. The identity of the Defendant John Doe is not yet known to the Plaintiff. As soon as his identity becomes known, the Plaintiff will apply to this Honourable Court to amend the

style of cause to substitute that Defendant's true name for "John Doe" in the Writ of Summons and the Statement of Claim in this action.

THE CONTEXT OF THIS ACTION

17. The Plaintiff is entitled to protection of his good reputation from unjustified invasion and wrongful injury from false and defamatory statements.

18. In or about August or early September, 2006 the Defendant Corcoran became enraged by the diligent, honest and effective initiatives of the Plaintiff which unmasked various unqualified, non-credible and unreliable purported scientific sources (the "Sources") relied upon by the said defendant and by the energy industry in its North American campaign to convince the public that: (i) global warming is not occurring, or (ii) if global warming is occurring, anthropogenic activity is not contributing or causing global warming; or (iii) if global warming is occurring and if man is causing or contributing to global warming it is not serious enough to justify efforts to mitigate or adapt or, there is nothing man can do to mitigate, slow, stop or reverse global warming.

19. In early September, 2006 the Defendant Corcoran, employing the resources of the *Financial Post* section of the *National Post* newspaper, embarked on a campaign of vilification in order to discredit the Plaintiff by false statements impugning the Plaintiff's character and reputation.

20. The Plaintiff commenced this lawsuit to vindicate his reputation only as a last resort, after numerous unsuccessful attempts commencing on November 29, 2007 to persuade the Defendants: (i) to publish a full and fair retraction and apology for the defamatory expression complained of in this Statement of Claim; and (ii) to permanently remove the defamatory expression from the National Post Internet Sites and from the Financial Post Database.

21. All of the defamatory expression complained of by the Plaintiff in this Statement of Claim continues to be published by the Defendants on the National Post Internet Sites and in the Financial Post Database.

THE DEFAMATORY EXPRESSION

The September 16 Article

22. On or about Saturday, September 16, 2006, the Defendants Canwest, Publishing and Corcoran libeled the Plaintiff by publishing or causing to be published in the Hardcopy National Post, on the National Post Internet Sites and in the Financial Post Database, certain false and malicious words of and concerning the Plaintiff in an article authored by the Defendant Corcoran and titled "Global cooling effect" (the "September 16 Article"). Particulars of the false and malicious words of and concerning the Plaintiff are as follows:

Global cooling effect

...Timothy Ball, the former University of Manitoba climatologist and frequent contributor to the idea that official government science is ignoring the role of the sun and that global cooling may be looming, not warming ... for his thoughts, has become the victim of a slanderous campaign by David Suzuki and his associate, Vancouver public relations guru James Hoggan. ...

Mr. Hoggan and Mr. Suzuki appear to be the leading backers of a major disinformation campaign run out of the Vancouver offices of James Hoggan & Associates.

23. The September 16 Article in the Hardcopy National Post was prominently displayed above the fold on page FP15.

24. In their natural and ordinary meaning, and in the context of the September 16 Article as whole, the false, malicious and defamatory words in the September 16 Article meant and were understood to mean that the Plaintiff had disseminated a series of intentionally false and slanderous accusations concerning Timothy Ball for the purpose of destroying Ball's reputation. That meaning is false.

25. As of the date of filing this Statement of Claim, the defamatory expression described in paragraphs 18 and 19 appears on Internet search reports generated by popular search engines including Google.

The November 16 Article

26. On or about Thursday, November 16, 2006, the Defendants Canwest, Publishing and Defendant Corcoran libeled the Plaintiff by publishing or causing to be published in the Hardcopy National Post, on the National Post Internet Sites and in the Financial Post Database, certain false and malicious words of and concerning the Plaintiff in an article authored by the Defendant Corcoran and titled "Who is James Hoggan?" (the "November 16 Article"). Particulars of the false and malicious words of and concerning the Plaintiff are as follows:

Who is James Hoggan?

To viewers of last night's edition of CBC-TV's The Fifth Estate, a "documentary" titled The Denial Machine, the name James Hoggan will be familiar. Mr. Hoggan is the talking head who loomed late in the program ... His main role ... was to provide a Canadian link in the program's grand conspiracy theory about scientists who are skeptical of global warming. For non-viewers of last night's presentation, here's a hint of the show's theme: Exxon did it.

Not much was said about Mr. Hoggan. He's mostly just allowed to run on with his story, which by no coincidence is exactly the story The Fifth Estate told. For a first-rate demonstration of dishonest manipulation masquerading as investigative journalism, it's hard to beat The Denial Machine. Using smear-a-minute techniques, host Bob McKeown, under executive producer David Studer, advances the idea that one or two U.S. global warming science skeptics -- particularly Fred Singer and Pat Michaels -- have single-handedly turned the media, plus the Bush and Harper governments, into climate change deniers.

...

**SUB-HEADING THE CBC GAVE HOGGAN A PLATFORM TO
SMEAR REPUTABLE SCIENTISTS**

...

This brings us back to Mr. Hoggan. The Fifth Estate follows the currently hot green story line -- science skeptics are funded by corporations, therefore science skeptics are dishonest fronts who cannot be trusted. Scores of reports from green groups and leftist media in Canada and abroad have pushed the idea. Earlier this year, The Globe and Mail ran a lengthy piece by Charles

Montgomery, featuring Mr. Hoggan, claiming that the oil industry was behind Canadian climate skeptic Tim Ball. Essentially the same story, also featuring Mr. Hoggan, appeared in This Magazine, home of Canada's left. Headline: "Playing dirty: Coming clean on climate change spin -- how the PR industry sold the 'made in Canada' solution to global warming."

Mr. Hoggan told This Magazine writer Zoe Cormier and the Globe's Charles Montgomery (who rents space in Mr. Hoggan's office) the same message. Essentially, "ethical" public relations firms and corporations should not be engaged in "manipulating public opinion" in important matters of public policy. If corporations do try to fight policy, they run a risk. "If you don't want to end up looking like those cigarette executives standing in front of Congress a few years ago ... don't fight something that you are inevitably going to lose." It is no surprise that the cigarette executive image is a visual tipping point in The Denial Machine's nasty little piece.

The essence of Mr. Hoggan's message is that PR agencies and corporations should not be able to support and fund climate science that runs contrary to the official global government science. "I don't think that the people who are involved in this should be able to get away with it."

So who is James Hoggan? He's a public relations man, based in Vancouver. His firm, James Hoggan and Associates, is positioned as a feel-good local operation with clients in all the "right" public and private sectors. He also sits on the board of the David Suzuki Foundation.

One of his side efforts is a blog operated out of Hoggan and Associates. Funded by retired Internet bubble king John Lefebvre, the blog has one full-time and three part-time staff. They spend their time tracking down and maliciously attacking all who have doubts about climate change and painting them as corporate pawns.

There has been no mention on the blog, nor on The Fifth Estate, of James Hoggan's client list. They include or have included the National Hydrogen Association, Fuel Cells Canada, hydrogen producer QuestAir, Naikun Wind Energy and Ballard Fuel Cells. Mr. Hoggan, in other words, benefits from regulatory policy based on climate change science.

But it is as a climate commentator that Mr. Hoggan gets carried away. On The Denial Machine, Mr. Hoggan is allowed to go on at

some length about how climate skeptics are not true scientists, are not qualified, or have no expertise.

That takes some gall. Here's a totally unqualified small-town PR guy making disparaging comments about scientists he says are unqualified ...

At the end of The Denial Machine, Mr. Hoggan confidently declares that most of the 60 scientists who signed a letter earlier this year asking Prime Minister Stephen Harper to reopen the climate science issue are science hacks. The letter was first published on this page last April 6. ...

Through the whole episode, The Fifth Estate did not do one bit of science verification. ... Without spending one second looking at the science, the CBC crew smeared and discredited the skeptical scientists with corporate associations. Exxon did it. James Hoggan, however, is the real villain.

27. The version of the November 16 Article published in the Hardcopy National Post appeared on page FP19, above and below the fold, and was illustrated with a prominent photograph of the Plaintiff in the form of a video-capture from The Fifth Estate episode. The left-hand column contained a prominent sub-heading: "THE CBC GAVE HOGGAN A PLATFORM TO SMEAR REPUTABLE SCIENTISTS." Readers were directed to the November 16 Article by a notice on page FP1 "Coreoran, CBC's platform to smear science skeptics."

28. In their natural and ordinary meaning, and in the context of the November 16 Article as whole, the false, malicious and defamatory words in the November 16 Article meant and were understood to mean:

- a. That the Plaintiff, for the sole or primary purpose of personal financial gain, knowingly disseminated intentionally false and defamatory accusations concerning scientists who are skeptical of global warming;
- b. That the Plaintiff knowingly disseminated intentionally false and defamatory accusations concerning the US global warming science skeptics Fred Singer and Pat Michaels;

- c. That the Plaintiff, for the sole or primary purpose of personal financial gain, directed employees of JH&A to publish intentionally false and malicious defamatory accusations concerning scientists who are skeptical about global warming;
- d. That the Plaintiff knowingly disseminated intentionally false and defamatory accusations concerning 60 scientists who signed a letter to Prime Minister Stephen Harper asking him to reopen the climate science issue; and/or
- e. One or more of the above.

Each of these meanings is false.

29. As of the date of filing this Statement of Claim, the defamatory expression described in paragraphs 21 and 22 appears on Internet search reports generated by popular search engines including Google.

The November 22 Article

30. On or about Wednesday, November 22, 2006, the Defendants Canwest, Publishing and Corcoran libeled the Plaintiff by publishing or causing to be published in the Hardcopy National Post, on the National Post Internet Sites and in the Financial Post Database, certain false and malicious words of and concerning the Plaintiff in an article authored by the Defendant Corcoran and titled "*Hoggan 'misspoke' himself; CBC should issue correction*" (the "November 22 Article"). Particulars of the false and malicious words of and concerning the Plaintiff are as follows:

Tonight on the fifth estate, CBC Television, 9 p.m. ET: Forget the show, look for the answer to this question: Will the CBC run a correction of a major error?

Readers will recall last week's episode, a special titled The Denial Machine, starring Vancouver PR man James Hoggan. Mr. Hoggan made a number of disparaging remarks about a group of 60 scientists who signed a letter to Prime Minister Steven Harper

urging him to review the science of climate change. According to Mr. Hoggan, the scientists who signed are not to be trusted. ...

... Mr. Hoggan's statement, along with a few others, formed the basis for The Denial Machine's major theme, which was a claim that scientists who are skeptical of official global warming theory are part of an oil industry front that is made up of the same hack scientists who acted in the tobacco industry debacle a decade earlier. The Hoggan comments were a clinching anchor in the report. It even included a mock-up of the Financial Post, where the scientists' letter first appeared last April.

Mr. Hoggan has yet to personally correct his mistakes. However, on the climate blog run through his office (<http://www.desmogblog.com/national-posts-corcoran-pops-his-cork>) there's a dismissive acknowledgement of the error. "Yes," says a posting, "Jim misspoke himself."

Misspoke himself seems a touch too innocent. How about: Mangled the facts? Got it all wrong? Warped the truth? Invented information to suit his message?

One can see where Mr. Hoggan might not want to publicly confess to having seriously misled the fifth estate's audience, and to having misrepresented the reputations of the scientists who signed the letter.

31. The version of the November 22 Article* published in the Hardcopy National Post appeared on page FP19, and was illustrated with a prominent image of the CBC logo.

32. In their natural and ordinary meaning, and in the context of the November 22 Article as whole, the false, malicious and defamatory words in the November 22 Article meant and were understood to mean that the Plaintiff knowingly made intentionally false statements about the 60 signatories of a letter published in the Financial Post section of the National Post which urged Prime Minister Stephen Harper to review the science of climate change for the dishonest purpose of misleading the public about their scientific credentials and bona fides. That meaning is false.

The March 8, 2008 Posting

33. On or about Saturday, March 8, 2008, the Defendants Corcoran and John Doe, and each of them, libelled the Plaintiff by maliciously publishing or causing to be published on

the DeSmogBlog Internet Site certain false and defamatory words of and concerning the Plaintiff in a posting submitted anonymously under the pseudonym "Wilbert" entitled www.DeSmogBlog.com by James (the "March 8 2008 Posting"). Particulars of the false and malicious words of and concerning the Plaintiff are as follows:

So who is James Hoggan? He's a public relations man, based in Vancouver. His firm, James Hoggan and Associates, is positioned as a feel-good local operation with clients in all the "right" public and private sectors. He also sits on the board of the David Suzuki Foundation.

One of his side efforts is a blog operated out of Hoggan and Associates. Funded by retired Internet bubble king John Lefebvre, the blog has one full-time and three or four part-time staff. They spend their time tracking down and maliciously attacking all who have doubts about climate change and painting them as corporate pawns.

There has been no mention on the blog, nor on The Fifth Estate, of James Hoggan's client list. They include or have included the National Hydrogen Association, Fuel Cells Canada, hydrogen producer QuestAir, Naikun Wind Energy and Ballard Fuel Cells. Mr. Hoggan, in other words, benefits from regulatory policy based on climate change science.

But it is as a climate commentator that Mr. Hoggan gets carried away. On The Denial Machine, Mr. Hoggan is allowed to go on at some length about how climate sceptics are not true scientists, are no qualified, or have no expertise.

That takes some gall. Here's a totally unqualified small-town PR guy making disparaging comments about scientists he says are unqualified while he lectures the rest of us on the science. "If you look at the scientific literature, there is no debate," he tells Mr. McKeown. It doesn't seem to both Mr. McKeown that Mr. Hoggan has no expertise. It is also a little rich to have a member of the Suzuki Foundation board pronounce other scientists unfit and unqualified for climate assessments, while geneticist David Suzuki roams the world issuing barrages of climate change warnings at every opportunity.

Yes indeed leave the science to scientists.

34. In their natural and ordinary meaning, the false, malicious and defamatory words in the March 8, 2008 Posting meant and were understood to mean:

- a. That the Plaintiff, for the sole or primary purpose of personal financial gain, knowingly disseminated intentionally false and defamatory accusations concerning scientists who are skeptical of global warming;
- b. That the Plaintiff, for the sole or primary purpose of personal financial gain, directed employees of JH&A to publish intentionally false and malicious defamatory accusations concerning scientists who are skeptical about global warming; and/or
- c. One or more of the above.

Each of these meanings is false.

COPYRIGHT AND MORAL RIGHTS - INFRINGEMENT

35. On or about Friday, November 24, 2006, the Plaintiff Hoggan caused a letter to the editor to be sent by fax to the Defendants Canwest, Publishing and Hoggan (the "Plaintiff's Letter to the Editor") which reads as follows:

I must respond to a series of unwarranted attacks by Financial Post Editor Terence Corcoran on me personally and on a weblog (DeSmogBlog.com) that I run, independent of my business (James Hoggan & Associates).

I acknowledge, without reservation, that I made an error in a fifth estate television interview broadcast on Nov. 15, 2006. In discussing an anti-climate-change petition submitted in April to Prime Minister Stephen Harper, I overstated how many of the 60 signatories were also involved in the tobacco industry's well-documented campaign to deny the harmful effects of second-hand smoke.

I recognize that this error may have given offence to the legitimate experts who signed that petition – people like University of Alberta mathematician Dr. Gordon Swaters (who has said since that he was persuaded to add his name under false pretences). I would like to apologize to those individuals unreservedly.

I object, however, that Mr. Corcoran is attempting to use this mistake to deny that certain self-proclaimed climate experts are participating in a war on science, trying to confuse the public

about climate change. Even the prestigious Royal Society of London has complained to ExxonMobil for paying “experts” who deny that climate change is a problem.

Having worked for 30 years to maintain a high ethical standard, I feel the public has a right to know that a number of industry-funded “experts” are not performing science; they are participating in a public relations campaign that brings shame to my chosen profession.

That’s why I’m speaking out. That’s why I started the DeSmogBlog; and will continue to use it to show when the public is being misled. That, finally, is why I object so strenuously to the bias in the pages of the Financial Post.

James Hoggan
www.DeSmogBlog.com
James Hoggan & Associates

[bolding and underlining have been added to this statement of claim for emphasis and for the purpose of identification relevant to paragraph 29 below.]

36. At all material times, the Plaintiff was the owner of copyright in the Plaintiff’s Letter to the Editor and had a right to the integrity of the Plaintiff’s Letter to the Editor, pursuant to subsection 14.1(1) of the *Copyright Act*, RSC 1985, c. C-42 as amended.

37. The Plaintiff’s Letter to the Editor expressly stated that it was subject to the following condition: “NOTICE: JAMES HOGGAN CONSENTS TO PUBLICATION OF THIS LETTER IN ITS ENTIRETY – NO ADDITIONS, DELETIONS, OR OTHER ALTERATIONS ARE PERMITTED EXCEPT WITH THE EXPRESS PRIOR WRITTEN CONSENT OF JAMES HOGGAN.”

38. Without the express written consent of the Plaintiff, and without giving any prior notice to the Plaintiff, the Defendant Corcoran or alternatively the Defendant Canwest maliciously made deletions and other alterations to the Plaintiff’s Letter to the Editor and published the altered version [hereinafter the “Corcoran Alteration”] in the *Financial Post* section of the Hardcopy National Post, on the National Post Internet Site and in the Financial Post Database on Saturday, November 25, 2006. The Corcoran Alteration did not contain the

words which are bolded and underlined in the Plaintiff's Letter to the Editor set out in paragraph 35 of this Statement of Claim.

39. The Defendant Corcoran or alternatively the Defendant Canwest made the alterations and the deletions for the malicious and improper purpose of depriving readers of the Hardcopy National Post, the National Post Internet Sites and the Financial Post Database of important information which impeached the defamatory imputations about the Plaintiff conveyed by the November 22 Article, and for the improper purpose of conveying the false impression that the Plaintiff accepted the truth of those defamatory imputations.

40. The Corcoran Alteration distorted, mutilated or otherwise modified the Plaintiff's Letter to the Editor thereby causing prejudice to the honour and/or reputation of the Plaintiff.

41. Publication of the Corcoran Alteration constituted an infringement of the copyright of the Plaintiff in the Plaintiff's Letter to the Editor, and the Plaintiff relies on s. 27 of the *Copyright Act* in this regard. The said publication also constituted an infringement of the moral rights of the Plaintiff in the Plaintiff's Letter to the Editor, and in this regard the Plaintiff relies on s. 28 of the *Copyright Act*.

42. As a consequence of the aforesaid infringement of copyright and infringement of moral rights, the Plaintiff has suffered loss, damage and expense, including special damages, particulars of which will be provided on request.

43. Further, in consequence of the aforesaid infringement of copyright and infringement of moral rights, the Defendants Corcoran and Canwest have earned unwarranted profits, and the Plaintiff seeks an Order for an accounting and the delivery up of such profits.

44. The aforesaid infringement of copyright and moral rights of the Plaintiff by the Defendants Canwest and Corcoran has continued without interruption by virtue of the continued publication of the Corcoran Alteration on the National Post Internet Site and on the Financial Post Database and will continue unless restrained by an Order of this Honourable Court.

45. In the alternative to a claim for damages or the profits earned by the Defendant Canwest and the Defendant Corcoran, the Plaintiff reserves the right to elect at any time before

final judgment is rendered, for an award of statutory damages pursuant to s. 38(1) of the *Copyright Act*.

EXPRESS MALICE

46. The Defendant Corcoran was actuated by express malice in the publication of the September 16 Article, the November 16 Article and the November 22 Article which conveyed the aforesaid defamatory imputations which the Defendant Corcoran knew to be untrue, or alternatively did not care whether they were true or false. The predominant purpose of the Defendant Corcoran was to harm the reputation of the Plaintiff by exposing him to hatred, ridicule and contempt and causing him to be shunned.

47. On or about the 28th day of November, 2006, the Plaintiff asked the Defendants Canwest and Corcoran to publish a retraction and apology for the September 16 Article, the November 16 Article and the November 22 Article. Although this request was specifically reiterated by the Plaintiff on or about December 15, 2006 and January 16, 2007, the Defendants have refused or neglected to publish an adequate, full and fair retraction or apology.

48. On or about the 27th day of March, 2008, the Plaintiff again asked the Defendants to remove the September 16 and the November 16 Article from the National Post Internet Sites and from the Financial Post Database. On April 1, 2008, the Defendants informed the Plaintiff that the aforesaid articles would not be removed from the Internet.

49. Also on or about the 28th day of November, 2006 the Plaintiff asked that the Defendants Canwest and Corcoran publish an apology for publishing the Corcoran Alteration and that they publish the Plaintiff's Letter to the Editor in full at the earliest opportunity. The said Defendants neglected or refused to do so until December 19, 2006 when the Plaintiff's Letter to the Editor was finally published in full in the Hardcopy National Post and (only for a very brief period) on the National Post Internet Sites.

50. In the course of publishing the Corcoran Articles, the Defendant Corcoran turned a blind eye to generally-accepted journalistic principles and standards, by *inter alia*: (i) refusing or neglecting to verify the scientific credentials of his sources; (ii) consciously publishing the

views of unqualified, incredible and unreliable purported scientific sources; and/or (iii) misrepresenting the qualifications and/or credentials of purported scientific sources.

51. The Defendant Corcoran's savage personal attack on the Plaintiff, which manifested itself in the abusive text and hysterical tone of the November 16, 2006 Article, and was a product of the said Defendants' personal hatred of the Plaintiff which hatred continues to be expressed in the conduct of the said Defendant to the date of filing of this Statement of Claim.

52. Further, the Defendant Corcoran maliciously published his aforesaid libellous publications for an improper purpose, and/or with the predominant purpose of causing injury to the Plaintiff.

REPUBLICATION ON THE INTERNET

53. The Defendants Canwest, Publishing and Corcoran, and each of them, knew, intended, and expected that the aforesaid defamatory expression published on the National Post Internet Site and/or the Financial Post Database would be republished by third parties to the whole world on the Internet, which as in fact occurred. Such republication has occurred at the following locations on the Internet, among others:

- (a) <http://www.cbcwatch.ca/>
- (b) http://www.regrettheerror.com/2006/11/national_post_a.html
- (c) <http://www.canadianvalues.ca/issues.aspx?aid=266>
- (d) <http://coral.aoml.noaa.gov/pipermail/coral-list/2006-November/003866.html>
- (e) <http://blogs.news.com/au/heraldsun/andrewbolt/index.php/heraldsun/2007/02/P15> and/or
- (f) other websites..

Alternatively, such republication on the Internet was the natural and probable result of the Defendants' publication of the September 16 Article, the November 16 Article, the November 22 Article and the Corcoran Alteration on the National Post Internet Sites and/or the Financial Post Database.

DAMAGES AND INJUNCTIVE RELIEF

54. The September 16 Article, the November 16 Article, and the November 22 Article were deliberately calculated by the Defendant Corcoran to cause injury, loss and damage to the Plaintiff including injury in particular to his professional and civic reputation, to cause persons to shun the Plaintiff and to refrain from dealing with him.

55. The September 16 Article, the November 16 Article, and the November 22 Article exposed the Plaintiff to contempt, ridicule and hatred, and were calculated to lower the Plaintiff in the estimation of right thinking persons generally, and have thereby severely damaged the Plaintiff's reputation, and have caused and will in future continue to cause damage, loss, and injury to the Plaintiff.

56. The Defendants and each of them have been guilty of reprehensible, insulting, high-handed, spiteful, malicious and oppressive conduct, as particularized above, and such conduct by the Defendants justifies the court in imposing a substantial penalty of exemplary damages on the Defendants and an award of special costs in favour of the Plaintiff, in addition to the award of general damages for injury to reputation. The Plaintiff will rely upon the entire conduct of the Defendants before and after the commencement of this action to the date of judgment.

57. The Defendant Corcoran was motivated in publishing the defamatory expression complained of in this Statement of Claim by actual and express malice, which increased the injury to the Plaintiff, and by increasing the mental distress and humiliation of the Plaintiff.

58. The Defendants have demonstrated a persistent and engrossing intention to expose the Plaintiff to hatred, ridicule and contempt by continuing to publish on the Internet the aforesaid defamatory expression. To add further insult and injury to the Plaintiff's reputation, the Defendants deliberately did not publish on the Internet, when it might be seen by persons

reading the Internet articles, the full text of the Plaintiff's letter to the editor of the National Post responding to unwarranted defamatory attacks on the Plaintiff by the Defendant Corcoran.

59. The Plaintiff says that the Defendants Canwest, Corcoran and Publishing will continue to publish the September 16 Article, the November 16 Article, the November 22 Article and the Corcoran Alteration on the National Post Internet Site and on the Financial Post Database unless the Defendants are restrained from doing so by Order of this Honourable Court.

RELIEF CLAIMED

The Plaintiff therefore claims against the Defendants, jointly and severally, as follows:

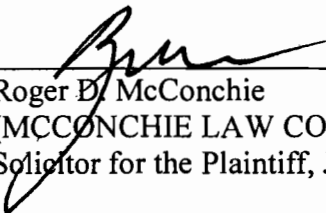
- (a) general damages;
- (b) aggravated damages;
- (c) exemplary damages;
- (d) special damages
- (e) an accounting for profits for infringement of copyright and moral rights;
- (f) an interlocutory and permanent injunction to restrain the Defendants, by themselves or by their agents, servants, employees, directors, or otherwise, directly or indirectly, from any further publication of the defamatory expression complained of in this Statement of Claim, or expression to the same effect;
- (g) an Order requiring the Defendants to permanently remove the September 16 Article, the November 16 Article, the November 22 Article and the Corcoran Alteration from any electronic database where they are accessible, including without limiting the generality of the foregoing, the National Post Internet Site and the Financial Post Database;
- (h) an Order requiring the Defendants to assist the Plaintiff in obtaining the removal from Internet Search engine caches of electronic copies of the

September 16 Article, the November 16 Article, the November 22 Article and the Corcoran Alteration from any electronic database where they are accessible, and from other Internet websites operated by third parties, whether or not they have been given a license by the Defendants or one or more of them to reproduce the aforesaid articles;

- (i) an injunction requiring the Defendants to publish a full and complete retraction of the expression complained of in the Hardcopy National Post, on the National Post Internet Site and the Financial Post Database, and that they also publish in the newspaper a fair and accurate report of the final judgment of the Court in this action;
- (j) interest pursuant to the Court Order Interest Act;
- (k) special costs plus disbursements; and
- (l) such further and other relief as to this Honourable Court may seem just.

Place of trial: Vancouver, British Columbia

DATED: May 22, 2008



Roger D. McConchie
(MCCONCHIE LAW CORPORATION)
Solicitor for the Plaintiff, James Hoggan