

Action No.: 0601-10387

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DR. TIMOTHY BALL

Plaintiff

- and -

**THE CALGARY HERALD, a division of CANWEST MEDIA WORKS PUBLICATIONS
INC., LORNE MOTLEY, TRENT ANDERSON, MONICA ZUROWSKI, DOUG FIRBY,
THE GOVERNORS OF THE UNIVERSITY OF LETHBRIDGE
and DR. DAN JOHNSON**

Defendants

STATEMENT OF CLAIM

1. The Plaintiff, Dr. Timothy Ball ("Ball"), is a retired professor who resides in the City of Victoria, in the Province of British Columbia, and is an author and environmental consultant with a special interest in climatology and is in demand as a speaker on the subject of global warming by government, industry, and public interest groups throughout Western Canada.

2. The Defendant, the Calgary Herald, a division of Canwest Media Works Publications Inc., publishes a daily newspaper ("the Calgary Herald") in the City of Calgary, in the Province of Alberta which has wide circulation in Calgary and throughout southern Alberta.

3. The Defendants, Trent Anderson, Lorne Motley, Monica Zurowski and Doug Firby are the acting publisher, deputy editors and editorial page editor respectively for the said Calgary Herald and all reside in the said City of Calgary.

Service of a true copy accepted this
____ day of _____
by: _____

(print name)
Counsel for the _____

4. The Defendant, The Board of Governors of the University of Lethbridge (the "University of Lethbridge") is the governing authority of the University of Lethbridge, a post-secondary institution located in the City of Lethbridge, in the Province of Alberta.

5. The Defendant, Dr. Dan Johnson ("Johnson") is a professor of environmental science in the department of geography at the University of Lethbridge who at all times material hereto was acting within the scope and duties of his employment and with the consent of the University of Lethbridge.

6. During the month of April 2006, Ball wrote an op-ed piece on global warming at the request of and for publication in the Calgary Herald and which in fact was published on Wednesday, April 19, 2006, on the op-ed page of the newspaper. In addition, this article was published online by the Calgary Herald on its website, www.canada.com/calgaryherald. A copy of this article, in its entirety, is attached hereto as Schedule "A" to the Statement of Claim.

7. Johnson wrote a letter to the editor for publication in the Calgary Herald which in fact was published in the Sunday, April 23, 2006 edition of the newspaper and online. This letter was in response to the Ball op-ed piece and made certain defamatory comments concerning Ball both personally and in his profession as an environmental consultant, author and speaker. The letter to the editor is attached hereto as Schedule "B" to the Statement of Claim.

8. The letter to the editor contains the follow statements which contain inaccuracies and are defamatory of Ball:

"...newspapers ought to report factual summaries of authors' credentials. You note he was 'was the first climatology PhD in Canada and worked as a professor of climatology at the University of Winnipeg for 28 years.'

Ball received a PhD in geography in the U.K. in 1982 on a topic in historical climatology. Canada already had PhDs in climatology, and it is important to recognize them in their research.

• • •

According to Ball's website, he was not a climatology professor at the University of Winnipeg for 28 years. How could he have

been? He did not even have an entry-level PhD until 1983, which would allow even assistant professor status.

During much of the 28 years, he was junior lecturer who rarely published, and then spent eight years as a geography professor.

His work does not show any evidence of research regarding climate and atmosphere and the few papers he has published concern other matters. There are great gains to be made in science from conjectures and refutations, but sometimes denial is nothing more than denial."

9. Some of the aforementioned statements are inaccurate. Ball was awarded a Degree of Doctor of Philosophy in the Faculty of Science at the University of London in Climatology in October of 1983. Ball has never had a website, but in any event, he was a professor at the University of Winnipeg from 1988 to the date of his retirement.

10. During his employment as a professor at the University of Winnipeg, Ball has produced many articles, columns, research and commentary on climate in Canada and elsewhere and has given many lectures to government, industry, and public forums and interest groups on climatology and the issue of global warming.

11. In addition to the factual inaccuracies aforesaid, the words referred to in paragraph 8 of the Statement of Claim, are defamatory in their plain and ordinary meaning and in their innuendo which suggests that:

- (a) Ball has falsified his professional and academic credentials;
- (b) that his "entry level PhD" is something less than a full PhD and is not a PhD in climatology;
- (c) he does not have the academic background and qualifications to make serious comments on global warming;
- (d) he has not done sufficient research, study or publication of articles in the area of climate and atmosphere to give serious opinions with respect to global warming;
and

- (e) he is denying that global warming is occurring on the basis of denial alone and not on the basis of evidence of any scientific research.

12. Johnson's letter to the editor did not speak at all to the issues raised in Ball's op-ed piece, but amounted to a false and malicious attack on Ball's reputation as a noted climatologist and authority on global warming.

13. Ball says that the Defendants Calgary Herald, Motley, Anderson, Zurowski and/or Firby were negligent in publishing this letter to the editor, without first checking with Ball or other sources to determine if the allegations in the letter to the editor denigrating Ball's professional and academic qualifications were accurate.

14. The Defendants knew or ought to have known that the letter to the editor and the opinions expressed therein would and in fact did attract republication in other media outlets in Canada, for example, the Tyee, a newspaper circulated in British Columbia and ORATO blog, an easily accessible blog website appearing throughout North America on the internet.

15. As a result of the publication of the letter to the editor, Ball was questioned following a speech he gave in the Town of Fernie, in the Province of British Columbia with respect to the accuracy of his Curriculum Vitae. The Defendants knew or ought to have known that the letter to the editor published by them would and did attract republication of the libel both in other newspapers and on the internet and would be widely available to and read by members of the public.

16. As a result of the publication of the letter to the editor as aforesaid, Ball has suffered damages to his reputation as an environmental consultant, public speaker and author and has suffered damages to his income earning capacity as a sought after speaker with respect to global warming.

17. Ball seeks punitive and/or exemplary damages in respect of the Defendants false and malicious attack on his academic and professional qualifications to speak on matters relating to climatology and global warming.

18. Ball states further that notwithstanding the notice of his complaints made in a letter to the Defendants dated May 11, 2006, the Defendants have refused to retract and/or apologize for the publication of the inaccuracies and the defamatory statements contained in the letter to the editor.

19. The Plaintiff seeks a trial by jury before the Court of Queen's Bench, at the City of Calgary, in the Province of Alberta and says that the trial of this action is not expected to take longer than 25 days.

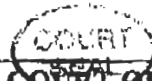
WHEREFORE THE PLAINTIFF CLAIMS AGAINST THE DEFENDANTS AND EACH OF THEM:

- (a) General damages for defamation in the amount of \$250,000.00;
- (b) Special damages for future loss of income in an amount to be proven at trial;
- (c) Punitive and/or aggravated damages in the amount of \$75,000.00;
- (d) Interest pursuant to the *Judgment Interest Act*;
- (e) Costs of this action on a solicitor and his own client basis; and
- (f) Such further and other relief as this Honourable Court may deem just.

Dated at the City of Calgary, in the Province of Alberta this 1 day of Sept, 2006 and DELIVERED BY Messrs. Fraser Milner Casgrain LLP, 30th Floor, 237 - 4th Avenue S.W., Calgary, Alberta, T2P 4X7, solicitors for the Plaintiff, whose address for service is in care of the said solicitors.

ISSUED out of the Office of the Clerk of the Court of Queen's Bench of Alberta, Judicial District of Calgary, this 1st day of Sept, 2006.

VA BRANDT
CLERK OF THE COURT OF QUEEN'S
BENCH OF ALBERTA





Friday » September
1 » 2006

Aussies' Suzuki heavier on rhetoric than on science

Tim Ball
For The Calgary Herald

Wednesday, April 19, 2006

Unknown to most Canadians until this week, Australians have their very own David Suzuki, a self-promoting zoologist who has garnered a large and loyal following for his sensationalist views on climate change.

Like Suzuki, Aussie zoologist Tim Flannery has no professional credentials in the field and so blunders regularly while pushing governments to save the world from global warming.

Sadly, both men have considerable influence over politicians and their unscientific rhetoric is treated with reverence by a gullible public who rarely compare their doomsday assertions with real world climate science.

Director of the South Australian Museum, Flannery completes his Canadian book tour with presentations in Hamilton today, Toronto on Thursday and Ottawa on Saturday.

His latest effort, *The Weather Makers*, labelled "unimpeachable in its authority" on his promotional website, has been roundly supported by environmentalists, Australian media and politicians.

However, Australian climate scientists have debunked it thoroughly, Prof. Bob Carter of James Cook University in Queensland describing the book as "the best written work of Australian fiction since Tim Winton's *Cloudstreet*."

Saturday's climate doomsday show will focus on human-produced greenhouse gases, specifically carbon dioxide (CO₂), as the primary agent of climate change, a view generally referred to as anthropogenic global warming.

While it is true that greenhouse gases keep the planet about 33 degreesC warmer than it would be without them, the hypothesis that an increase in one of them, CO₂, will lead to catastrophic warming is highly speculative at best.

Water vapour is by far the most significant greenhouse gas and is responsible for about 30 degreesC of the warming while CO₂ contributes only 1.2 degrees.

Wired News quotes Flannery: "The climate system is full of positive feedback loops -- things that tend to reinforce an existing trend. . . . The indisputable conclusion that you can draw is that all the climate modelling we've produced so far is deeply conservative. Things are worse than the climate models are suggesting."

But such remarks are in stark contrast with the facts.

A climate system full of positive feedback loops would be one in which it would be exceptionally difficult for life to have flourished.

Also, climate models are anything but conservative. Actual conditions are far better than the models forecasted in every 'prediction' to date.

Print Story - canada.com network

NASA's James Hansen, the "father" of human-induced greenhouse effect and still its pre-eminent proponent, said, "The forcings that drive long-term climate change are not known with an accuracy sufficient to define future climate change."

Stephen Schneider, author of the Sierra Club-sponsored book *Global Warming* and a longtime AGW advocate, said, "Uncertainty about important feedback mechanisms is one reason why the ultimate goal of climate modelling -- forecasting reliably the future of key variables such as temperature and rainfall patterns -- is not reliable."

Phil Jones, who produced the 130-year temperature record that is used as proof of warming and is the basis of the models, and Tom Wigley, longtime advocate for AGW, wrote, "Many of the uncertainties surrounding the causes of climate change will never be resolved because the necessary historical data are lacking."

Kevin Trenberth, another AGW advocate, sums up, "It's very clear we do not have a climate observing system . . . This may come as a shock to some people who assume that we do know adequately what's going on with climate, but we don't."

So, how do such simulations still form the foundation of Kyoto and other greenhouse gas reduction plans?

The simple answer is politics. There's a strong belief that humans and especially their technology are destroying the planet.

As Maurice Strong put it: "Isn't the only hope for the planet that the industrialized nations collapse? Isn't it our responsibility to bring that about?"

Prove that a byproduct of technology, CO₂, is causing potentially catastrophic climate change and you can undermine the energy source of the great engine that is technology and capitalism.

Schneider told *Discover Magazine*: "We have to offer up scary scenarios, make simplified dramatic statements and make little mention of doubts we may have."

Flannery's book and message is yet one more in the long line of political positions masquerading as science.

He is not as foolish as the former Liberal government, which believed we could, and should, stop global climate change, but his proposal to "stabilize world climate" is equally unattainable. Climate fluctuates naturally all the time.

In advertising *The Weather Makers*, we are told "rarely has there been a time when the fate of every one of the Earth's inhabitants has been in peril. Such is our present age.

"This generation of decision makers and consumers will, one way or another, decide the future of the planet."

Compare this with what, 30 years ago, Lowell Ponte wrote about the impact of what was then believed to be the coming global cooling catastrophe, "It is cold fact global cooling presents humankind with the most important social, political, and adaptive challenge we have had to deal with for 10 thousand years. Your stake in the decisions we make concerning it is of ultimate importance; the survival of ourselves, our children and our species."

Flannery merely echoes Ponte, substituting fear of the effects of global cooling with today's fashionable global warming rhetoric.

There is no more reason to believe Flannery now that there was Ponte in 1976.

Tim Ball is a Victoria-based environmental consultant. He was the first climatology PhD in Canada and worked as a professor of climatology at the University of Winnipeg for 28 years.

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CLOSE WINDOW

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Schedule "B"

Vital statistics

Calgary Herald
Published: Sunday, April 23, 2006

Ball - Whatever one may feel about Tim Ball's denial of climate-change science, newspapers ought to report factual summaries of authors' credentials. You note he "was the first climatology PhD in Canada and worked as a professor of climatology at the University of Winnipeg for 28 years."

Ball received a PhD in geography in the U.K. in 1982, on a topic in historical climatology. Canada already had PhDs in climatology, and it is important to recognize them and their research.

Examples include McGill's Kenneth Hare, who received his PhD in 1950. Climatologist Andre Robert (PhD, McGill, 1965) conducted research that laid the groundwork in atmospheric models and climate.

Timothy Oke, a leader in the study of urban climate, received his PhD from McMaster in 1967. According to Ball's website, he was not a climatology professor at the University of Winnipeg for 28 years. How could he have been? He did not even have an entry-level PhD until 1983, which would allow even assistant professor status.

During much of the 28 years, he was a junior lecturer who rarely published, and then spent eight years as a geography professor.

His work does not show any evidence of research regarding climate and atmosphere and the few papers he has published concern other matters. There are great gains to be made in science from conjectures and refutations, but sometimes denial is nothing more than denial.

Dan Johnson,
Lethbridge

Dan Johnson is a professor of environmental science in the University of Lethbridge's geography department, and a Canada research chair in sustainable grassland ecosystems.

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NOTICE

TO: THE CALGARY HERALD, a division of CANWEST MEDIA WORKS PUBLICATIONS INC., LORNE MOTLEY, TRENT ANDERSON, MONICA ZUROWSKI, DOUG FIRBY, THE GOVERNORS OF THE UNIVERSITY OF LETHBRIDGE and DR. DAN JOHNSON

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THE CALGARY HERALD, a division of CANWEST MEDIA WORKS PUBLICATIONS INC., LORNE MOTLEY, TRENT ANDERSON, MONICA ZUROWSKI, DOUG FIRBY, THE GOVERNORS OF THE UNIVERSITY OF LETHBRIDGE and DR. DAN JOHNSON

Defendants

You have been sued. You are the Defendants. You have only 15 days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of Queen's Bench in Calgary, Alberta.

You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

WARNING: If you do not do both things within 15 days, you may automatically lose the law suit. The Plaintiff may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff, or do either thing late.

This Statement of Claim is issued by FRASER MILNER CASGRAIN LLP, Barristers and Solicitors, solicitors for the Plaintiff, and whose address for service is in care of said solicitors at:

c/o FRASER MILNER CASGRAIN LLP
Barristers and Solicitors
30th Floor, Fifth Avenue Place
237 - 4th Avenue S.W.
Calgary, Alberta
T2P 4X7

The Lawyer to contact at FRASER MILNER CASGRAIN LLP is G. Neil McDermid, Q.C., telephone (403) 268-7180 at which address service of subsequent proceedings in this action may be served as effectively as if served upon the Plaintiff personally.

STATEMENT OF CLAIM

This Statement of Claim is issued by FRASER MILNER CASGRAIN LLP, Solicitors for the Plaintiff who resides at:

Victoria, British Columbia

and whose address for service is in care of said solicitors at:

30th Floor, Fifth Avenue Place
237 - 4th Avenue S.W.
Calgary, Alberta
T2P 4X7

and is addressed to the Defendants whose residence as far as known to the Plaintiff is:

Calgary, Alberta and Lethbridge, Alberta

Solicitor: G. Neil McDermid, Q.C.
Telephone: (403) 268-7180
Facsimile: (403) 268-3100
File: 525462-1

CLERK OF THE COURT
SEP - 1 2006
CALGARY, ALBERTA