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**Defamation Suit Against American Psychological Association, David Hoffman,  
and Sidley Austin LLP Expands**

*New lawsuit filed in Boston also accuses Massachusetts psychologist  
Stephen Soldz of ongoing defamation*

BOSTON – A defamation lawsuit against the American Psychological Association; Sidley Austin LLP, a law firm with a Boston office; and David Hoffman, a Sidley partner, has expanded with the filing of a new complaint in the Suffolk County, Massachusetts, Superior Court. In addition to providing new details about the involvement of Massachusetts residents, the complaint describes a continuing stream of defamatory attacks against the plaintiffs by Dr. Stephen Soldz, a professor at the Boston Graduate School of Psychoanalysis.

The plaintiffs are three retired military psychologists (Cols. (Ret.) Morgan Banks, Debra Dunivin, and Larry James) and two former APA officials (Dr. Stephen Behnke and Dr. Russ Newman). They are represented by Louis J. Freeh (counsel for Dr. Behnke), Dr. Bonny Forrest (counsel for the other plaintiffs), and Clyde Bergstresser, Scott Heidorn, and Richard Zabbo, Massachusetts counsel for all plaintiffs.

The lawsuit arises from false accusations against the plaintiffs in a report written by Hoffman for the APA in 2015. The APA hired Hoffman to investigate allegations that it had colluded with the military and the CIA after 9/11 to enable psychologists to participate in interrogations that included torture. Hoffman's report falsely claimed that the plaintiffs and others, even if they had no direct hand in torture, had worked together to avoid constraining psychologists from participating in abusive interrogations.

Although Hoffman was hired to conduct an objective, neutral review of the facts, he drew on his skills as a former prosecutor to construct a prosecutorial attack against the plaintiffs, under only the thinnest veneer of impartiality. As he told APA's governing body, he set out in the report to "make [the] case" to support his conclusions. Although Hoffman, Sidley, and the APA now claim the report describes only Hoffman's "opinions," which would be immune to a defamation claim, not purported facts, that claim is contradicted both by the terms of Hoffman's hiring and by Hoffman's own statements after the report's release.

The Massachusetts complaint alleges the evidence shows that:

When the Report was published, Hoffman and APA officials had in their possession documents and facts that proved his allegations to be false and that demonstrate those allegations were made with the knowledge they were false. In addition, other documents and facts contradicting Hoffman's allegations were easily available to him if he had not purposefully avoided following obvious leads, rather than hunting for "facts" to support his conclusions. Moreover, members of the APA Board who agreed to the Report's publication had been directly involved in the events it described. They therefore knew

Hoffman's conclusions to be false or acted in reckless disregard of their truth. (Complaint, page 2)

As to Soldz's role, the complaint says that his "years-long series of false and defamatory attacks against Plaintiffs has continued since the Report's release .... despite his having been provided with evidence that the statements are false." (Complaint, page 16)

On the basis of the evidence against Hoffman, Sidley, and the APA, the plaintiffs initially sued them in Ohio, where Col. James lives. The Ohio courts dismissed the suit on jurisdictional grounds, without reaching its substance, and the plaintiffs are continuing to appeal that dismissal. In the meantime, however, to preserve their rights they filed a suit in the District of Columbia, where the APA's headquarters is located. Sidley consented to be sued there in part because it hoped that a procedural maneuver it believed D.C. law authorized would dispose of the case regardless of its merits and without discovery. In Massachusetts and in Illinois, where the report was written, courts have found that maneuver denies plaintiffs their constitutional right to petition courts for a remedy when they have been wronged. The D.C. suit has been temporarily stayed pending the outcome of the Ohio appeal.

While these moves were taking place, more evidence emerged that Massachusetts residents had been deeply involved in the investigation, in the APA's approval of the report, and in its publishing. Those residents included Soldz and Nathaniel Raymond, who has joined with Soldz in years of attacks against the plaintiffs and the APA. Evidence has also emerged to suggest that, to garner greater publicity for the report, both Soldz and Hoffman separately leaked an advance copy to *The New York Times* journalist, James Risen, whose allegations initially prompted the investigation.

Predictably, and before those attacked had a chance be heard, that leak created a tsunami of destructive press coverage. The media furor was fueled by the APA's response, which members of its board have acknowledged was "impulsive and not thought through." In media interviews, the head of the APA committee overseeing the investigation threw the plaintiffs under the bus, despite her first-hand involvement in the events Hoffman described and, therefore, her knowledge that at least some of his conclusions were unfounded. In an interview with WBUR in Boston, for example, she called plaintiffs part of a "small underbelly" within the APA.

Louis J. Freeh, the counsel for Dr. Behnke, said "The damage inflicted by this incomplete and deficient so-called 'investigation' was compounded when the report was leaked to *The New York Times* before those attacked had a fair chance to respond to its allegations against them. It was further compounded by the inaccurate comments to the media made by a senior APA officer, despite the conflict created by that officer's own involvement in the very events being examined for the APA."

Beneath the ongoing legal actions lie some stark facts about the intentional distortion of the truth and the damage it caused:

- Hoffman collaborated with Soldz and others who had launched a self-righteous, damn-the-facts crusade against anyone who thought psychologists could play a role in preventing abusive interrogations. In his report, Hoffman concocted a false story designed to support that crusade.
- So clear were the report's falsities that even members of the APA Board acknowledged that it contained "inaccuracies," and the Board actually rehired Hoffman to review his own work, despite the obvious conflict. The results of that review have never emerged. The most cogent summary of Hoffman's behavior came in an unsolicited letter from an APA member who had initially supported the review, had first-hand knowledge of the events he investigated, and had supported the ban against psychologists' participation in interrogations that Hoffman claims the plaintiffs colluded to block: "I am stunned by the misinformation, mischaracterization, and biased presentation of this report."
- As a result of the report's leak and the APA's response, which Board members have admitted was "impulsive and not thought through," two plaintiffs immediately lost their jobs and all had their until-then stellar professional reputations unfairly damaged.
- Contrary to Hoffman's narrative, as reports of the horrific abuses at interrogation sites emerged, the military – in contrast to the CIA – began to take steps to end the abuses. Those steps included sending the military plaintiffs to interrogation sites with explicit orders to prevent abuses and report any that occurred. They acted on those orders both by implementing policies established by regional military commanders that rigorously restricted how interrogations were to be conducted and by intervening directly to stop abuses. For example, as a Judge Advocate General's lawyer who served with Col. Banks in Afghanistan has stated in a sworn affidavit, when an interrogator took away some of a detainee's blankets overnight and slapped him in the stomach, Col. Banks had the interrogator removed from the interrogation facility permanently.
- Those efforts to stop abuses were supported by the APA's 2005 guidelines for psychologists involved in interrogations, guidelines that are at the core of Hoffman's claims that the APA colluded with the military. Although Hoffman claims the guidelines were too loose to be effective, their explicit language – language he ignores – incorporated the then-current regional military policies that specified a limited number of acceptable interrogation methods and prohibited abuses. One of those policies was drafted by two of the military Plaintiffs.
- The damage done by Hoffman's false accusations was compounded by his use of terminology such as "joint venture" and "joint enterprise" ordinarily reserved for criminal RICO (Racketeer Influenced and Corrupt Organizations) and war-crimes prosecutions. Yet Hoffman told APA officials privately that he found no evidence of criminal wrongdoing. And, as Hoffman knew but did not report, when Raymond and Risen had submitted much the same material he reviewed to the FBI, the FBI said it found no criminal violations.
- The consequences of his choice of terms and his failure to state publicly that he found no evidence of criminal acts was as destructive as it was predictable. Much of the media

coverage went beyond even the report's false accusations, echoing claims by Soldz and others that the plaintiffs had committed acts for which they should be criminally prosecuted. Soldz and his allies continue to push for criminal prosecution, a triumph of blind persistence over facts.

- As soon as the report was published in 2015, documents and testimony began to emerge that contradicted its conclusions. Person after person has now come forward to assert that Hoffman distorted the results of his interviews with them or ignored offers of information that might have contradicted his views. Fifteen have provided sworn affidavits to that effect; others have provided similar statements that have not yet been turned into affidavits, in some cases because of intimidation by APA officials, including its general counsel. They have threatened to exclude those providing affidavits from the meetings of the APA's Council, its governing body, even as they allow Dr. Soldz to continue to participate in those meetings despite his ongoing attacks against the plaintiffs.

The Plaintiffs – all members or former members of the APA – have repeatedly offered to discuss settling this dispute rather than continuing the litigation. Those offers have been rejected or ignored. So the litigation continues achieving no end except increasing the multi-million-dollar fees for the APA's and Sidley's lawyers and miring APA in ongoing dissension and disruption.

The Massachusetts lawsuit case number is 1884CV01968 and a copy is available here:  
<http://www.hoffmanreportapa.com/Massachusetts-Litigation.php>

The complaint and more information about the lawsuits and their background be found at  
[www.hoffmanreportapa.com](http://www.hoffmanreportapa.com)

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