

An Open Letter to the APA Membership
February 24, 2018

An update to our January 10, 2018, Release

Defamation Suit Against Hoffman, Sidley, and APA Drags On
With No End in Sight

More than two years ago, soon after the Hoffman Report first appeared and APA members began to point out its pervasive mischaracterizations of the events it described, we offered APA's then-outside counsel the chance to resolve this dispute without litigation, simply through a statement correcting the Report's falsifications. That offer and later offers to avoid litigation went nowhere. Instead, APA's and Sidley's lawyers have been waging a war of attrition in the courts in the apparent belief that we will be unable to keep up.

That strategy is not working. We and our lawyers are in this case for the long haul, no matter how many years it takes to clear our names and repair the financial damage wreaked by the loss of jobs and the damage to our reputations. It is now abundantly clear that the Report was wrong about our actions, as some APA Board members have admitted: we were working to prevent abuses, not collude to enable them. It has also become clear that Hoffman's investigation was deeply flawed, and that the APA Board reacted to the Report too hastily (as Board members have also admitted). Given the facts that have emerged since the Report was issued, why are APA and Sidley persisting down the litigation path?

That persistence does nothing but run up the fees for APA's lawyers, who work for the APA General Counsel's previous law firm, and fuel ongoing acrimony among APA members. It also prevents APA from publicly acknowledging what the Report got wrong, and therefore allows the damage to APA's reputation – not only ours – to continue. Persisting in litigation is especially baffling because APA's insurance policies will amply cover APA's share of the only compensation we ask for – our *actual* financial losses.

In the meantime, the ongoing support of many APA members sustains our commitment to seeing the record corrected. We continue to receive affidavits from APA members stating that their first-hand knowledge of the facts contradicts the Hoffman Report's "facts," that Hoffman mischaracterized what he was told in interviews, and that he was clearly pursuing an agenda on behalf of our critics. We are especially grateful for all this support because of the General Counsel's continued attempts to silence APA members who speak in our defense or question the Report's false conclusions.

It is now time for common sense and psychologists' respect for evidence, not the lawyers' appetite for litigation, to prevail. The role of APA's lawyers should be to advise and support APA leadership, not to pursue a strategy without regard for the truth and the Association's best interests.

Here is a summary of where the litigation now stands (with apologies for the technical detail):

As our previous release reported, our case was originally filed in Ohio, where Dr. James is based. A court there dismissed it purely on jurisdictional grounds, without considering its merits. We then re-filed the case in Washington, D.C., the jurisdiction APA and Sidley stated was "superior" to Ohio. We offered to refrain from appealing the Ohio decision if APA and Sidley filed all their

motions opposing our claims in D.C., so that we could be sure they were not raising issues better addressed under Ohio law.

They did not do so, leaving us no choice but to meet Ohio's deadline for appealing the jurisdictional decision. Instead, they asked the D.C. court to stay the litigation in D.C. while the Ohio appeal takes place. Last week, the D.C. court granted that request on grounds that included the "potential for Plaintiffs' success on appeal" in Ohio. So the court process in D.C. has ground temporarily to a halt. We will be back in the D.C. court on May 18 for a status conference with a new judge. We cannot predict when the Ohio appeal will be decided, and it seems likely that whichever side loses will then appeal to the Ohio Supreme Court.

We ask APA members to press the Council and the Board to take control back from the lawyers' hands, and to bring this painful chapter in the APA's history to a fair and prompt end.

To learn more about the facts and the litigation, please go to our website: www.hoffmanreportapa.com. As always, we remain open to discussing the issues raised by the Hoffman Report and the APA's response to it with any APA member.

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