



Yue Li <li515@iu.edu>

[External] [DIV17DISCUSS] support for amicus brief

Nadya A Fouad <nadya@uwm.edu>

Sat, Sep 12, 2020 at 3:13 PM

Reply-To: Division 17 Discussion list <DIV17DISCUSS@lists.apa.org>

To: DIV17DISCUSS@lists.apa.org

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Dear Colleagues,

I and several other counseling psychologists have been involved in the case of *Jun Yu v. Idaho State University*, District Court No. 4:15-cv-00430-REB, Appellate Number 20-35582. I served as a rebuttal expert in the case. The case centers around an international student from China who was systematically discriminated against in his clinical psychology doctoral program at Idaho State. The most egregious discrimination came when he was dismissed three months into his unaccredited internship by his supervisor, who did not give him any reasons for dismissal. She did, however, communicate with his program training director, who did not provide him with any information on the coming dismissal. Rather, they dismissed him from the program, without providing a clear avenue for remediation. This case went to trial 18 months ago as a bench trial, and the judge dismissed our expert testimony on implicit bias and cultural incompetence out of hand. See below for action you can take. In these times—this is one small step you can take against cultural INCOMPETENCE on the part of judiciary.

It is asked that you contact Ms. Nina Tandon, Associate General Counsel for the APA (NTandon@apa.org) and say the following or something similar:

Ms. Tandon,

I have become familiar with the case of *Jun Yu v. Idaho State University*, District Court No. 4:15-cv-00430-REB, Appellate Number 20-35582. I have read the Appellant's Opening Brief and supporting documents. It is asked that the APA support the Appellant in this matter by participating as amicus curiae.

Thank you!

Nadya Fouad

Nadya A. Fouad, Ph.D.

Mary and Ted Kellner Endowed Chair of Educational Psychology

University of Wisconsin-Milwaukee Distinguished Professor

Editor-in-Chief, Journal of Vocational Behavior

Special Advisor to the Provost for Conflict Resolution

Background:

On May 31, 2020, the Federal District Court of Idaho Court entered its Trial Decision, With Findings of Fact and Conclusions of Law. The Judgment was entered on June 1, 2020. On June 29, 2020, Mr. Yu filed his Notice of Appeal. Mr. Yu is required to submit an Opening Appellant's Brief to the Court of Appeals. This document can be found and downloaded at the following url: <https://idahoemploymentlawsolutions.box.com/s/3bspkx5216xyo41p7azwsg5zxoelws>.

Two of the issues on appeal are specifically relevant to accepted Psychology theory and the treatment of graduate students seeking doctorate degrees in professional psychology. On June 16, 2020, Mr. Yu reached out to the APA to participate as amicus curiae in this matter. On September 11, 2020, having completed his opening brief and secured an extension of the date the opening brief was due, Mr. Yu provided an update on his case and the links to the completed opening brief and supporting documents to the APA. Mr. Yu also informed the APA that the [Public Justice Center \(PJC\)](#) had agreed to participate as amicus curiae in the subject case and will very likely to take lead in drafting an amicus brief on implicit bias in academe and the judiciary. In again requesting that the APA participate as amicus curiae in the case, Mr. Yu emphasized that the APA's participation as amicus curiae would allow the APA to not only clarify its standards and educate the courts on these standards in regards to areas such as student supervision, evaluation, feedback and advisement, and retention and termination; but also support active APA members who served as experts in the litigation. Importantly, Mr. Yu pointed out that the APA's participation as amicus curiae in this appeal would be an important watershed moment, as the APA would have the opportunity to show that the APA's and other organization's or individual's research has validated that implicit bias, aversive racism, or unconscious bias are relevant in determining whether an employer or academic institution has intentionally unlawfully discriminated against the employee or student.

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