



JAPANESE AMERICAN
CITIZENS LEAGUE

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To: Dean Schapiro

The San Diego Chapter of the Japanese American Citizens League (SDJACL) writes to unequivocally condemn recent comments written by Professor Thomas Smith of the University of San Diego School of Law regarding the origins of COVID-19.ⁱ Professor Smith's comments lacked any merit.ⁱⁱ His comments were grossly unprofessional and vulgar. And they were irresponsible in a year where Anti-Asian Hate Crimes have increased by nearly 150%.ⁱⁱⁱ SDJACL is also disappointed in a recent written defense of Professor Smith's comments from some of his colleagues, who suggest that his comments should be immune from any meaningful accountability as protected by "academic freedom."^{iv} You can and should hold Professor Smith accountable in a meaningful way.

Professor Smith and some of his colleagues fail to recognize that selectively espousing meritless conspiracy theories that focus on a certain ethnic group is, indeed, a racist and bigoted act. Labeling these comments as "political comment" does not immunize these comments from scrutiny. Nor does claiming post-hoc that these obscene comments were directed at the "Chinese government" and not at "an ethnic group" absolve them from criticism that the comments are racist. Contrary to the benign (mis-)characterization of Professor Smith's comments by some of his colleagues, his comments were not an "evocative and forceful" expression of concern regarding "the Chinese government's handling of COVID," but a vulgar parroting of a debunked, baseless conspiracy theory—a rhetorical device used to express Anti-Asian racism in the cloak of "political comment."^v

Further, as Professor Smith's colleagues do, minimizing clearly vulgar language ("If you believe that the coronavirus did not escape from the lab in Wuhan, you have to at least consider that you are an idiot who is swallowing whole a lot of Chinese c*** swaddle") as a "political comment in forceful language" is unproductive. So is dismissing the concerns of the student body and of the legal community as "misplaced accusations of bigotry." Defending Professor Smith's comments under the pretext of "academic freedom," while failing to call out his language for what it obviously was—an obscene, offensive, and condescending expression of a frivolous conspiracy theory—is further evidence of a continued attempt today to marginalize Asian and Asian American communities and their concerns, as has occurred throughout the history of America. The myopic response by some of Professor Smith's colleagues also demonstrates a "lack of critical thinking" on multiple levels. It is an exceedingly disappointing failure to appreciate the broader context of his comments.

Professor Smith's comments are as racist as false conspiracy theories espoused about other marginalized, under-represented, or un-represented groups. We won't recount them all here. But we submit that Professor Smith's comments are about as legitimate as the notion that the forced long-term detention of hundreds of thousands of Japanese American citizens and nationals during World War II was a "military necessity."^{vi} Which is to say—Professor Smith's comments were not a legitimate criticism of the Chinese government.^{vii} And we are saddened that Professor Smith and some of his colleagues fail to acknowledge what his comments were: a racist "dog whistle."^{viii}

As an individual entrusted with a position to act as a teacher and mentor to future generations of attorneys, who as a vocation will dedicate their lives to representing the interests of members of their community as officers of the Court, Professor Smith is unfit.^{ix} Many of your students recognize this and ask for a solution. Your administration must listen and meaningfully address their concerns. The University of San Diego School of Law, as one of the leading legal institutions in our community, must hold Professor Smith accountable.

– SDJACL Board of Directors, March 26, 2021



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References

- ⁱ Thomas A. Smith, *Wuhan Lab Theory a Dark Cloud on China* – WSJ, “THE RIGHT COAST” (Mar. 10, 2021), <https://rightcoast.typepad.com/rightcoast/2021/03/wuhan-lab-theory-a-dark-cloud-on-china-wsj.html>.
- ⁱⁱ E.g., B. Lee, *No, COVID-19 Coronavirus Was Not Bioengineered. Here’s The Research That Debunks That Idea*, FORBES.COM (Mar. 17, 2020), <https://www.forbes.com/sites/brucelee/2020/03/17/covid-19-coronavirus-did-not-come-from-a-lab-study-shows-natural-origins>; M. Van Beusekom, *Scientists: ‘Exactly zero’ evidence COVID-19 came from a lab*, Univ. of Minn. Ctr. For Infection Disease Research and Policy (May 12, 2020), <https://www.cidrap.umn.edu/news-perspective/2020/05/scientists-exactly-zero-evidence-covid-19-came-lab>; Staffwriter, *Research shows COVID-19 was not manufactured in a lab*, APNEWS.COM (Sept. 16, 2020), <https://apnews.com/article/9391149002>; M. Brouillette & R. Renner, *Why misinformation about COVID-19’s origins keeps going viral*, NATL. GEOGRAPHIC (Sept. 18, 2020), <https://www.nationalgeographic.com/science/article/coronavirus-origins-misinformation-yan-report-fact-check-cvd>.
- ⁱⁱⁱ Center for the Study of Hate & Extremism, California State University, San Bernardino, *FACT SHEET: Anti-Asian Prejudice* (Mar. 2, 2021), <https://www.csusb.edu/sites/default/files/FACT%20SHEET-%20Anti-Asian%20Hate%202020%203.2.21.pdf>.
- ^{iv} *Letter from Several USD Law Professors to the Dean, About the Criticism of China Investigation* (Mar. 20, 2021), “<https://reason.com>”.
- ^v See K. Rubino, *Law School Launches Investigation Into Professor’s Shocking Blog Post*, ABOVETHELAW.COM (Mar. 22, 2021), <https://abovethelaw.com/2021/03/law-school-launches-investigation-into-professors-shocking-blog-post/>. And why, for example, does Professor Smith not also present the theory that the UK variant of COVID-19 was manufactured in a British government lab as a counter-bioweapon (a theory that is as equally baseless as the one Professor Smith espouses on his website)?
- ^{vi} R. Reft, *National Security, Racism, Detention: The Relocation of California’s Japanese-American Population*, KCET.ORG (Feb. 6, 2017), <https://www.kcet.org/shows/lost-la/national-security-racism-detention-the-relocation-of-californias-japanese-american-population>; see also D. Sklansky, *Japanese Internment Case Not “Good Law”*, STANFORD LAW SCHOOL (Nov. 18, 2016), <https://law.stanford.edu/2016/11/18/korematsu-is-not-good-law/>.
- ^{vii} Certainly, there are many legitimate criticisms of the Chinese government. For example, JACL has criticized the Chinese government’s imprisonment of Uighur, Kazakh, and other predominantly Muslim minority groups in concentration camps. Press Release, JACL, *President Trump has Dishonored Our Nation’s History with Concentration Camps* (June 23, 2020), <https://jacl.org/statements/president-trump-has-dishonored-our-nations-history-with-concentration-camps>. There are even legitimate criticisms of the Chinese government’s response to the COVID-19 outbreak. J. Horsley, *Let’s end the COVID-19 blame game: Reconsidering China’s role in the pandemic* (Aug 19, 2020), <https://www.brookings.edu/blog/order-from-chaos/2020/08/19/lets-end-the-covid-19-blame-game-reconsidering-chinas-role-in-the-pandemic/>. But perpetuating the myth that COVID-19 was artificially generated in a Chinese government lab—long after this theory has been demonstrated to be false—is not one of them.
- ^{viii} See Rubino, *supra* note v.
- ^{ix} If leading by example, Professor Smith’s conduct, if not appropriately addressed, would teach law students that it is acceptable to behave in a manner that violates the San Diego County Bar Association Attorney Code of Conduct. THE STATE BAR OF CALIFORNIA, *Attorney Civility and Professionalism* (as of Mar. 23, 2021), <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Attorney-Civility-and-Professionalism>.