



THE FLORIDA SENATE
SENATOR WILTON SIMPSON
President

November 22, 2021

Ms. Monica Richardson, Executive Editor
Miami Herald
11410 NW 20th Street, Ste. 222
Miami, FL 33172

Dear Ms. Richardson,

Florida's Capitol Press Corps, along with members of the media throughout the state, have an important role in the legislative process. It is the constitutional right to a free press that distinguishes our form of government from tyrannical regimes across the world. The partnership between the Miami Herald and Tampa Bay Times Capitol Bureaus, now entering its fifteenth year, has proven to be an outstanding model for robust, comprehensive coverage of Florida's Legislature. In particular, coverage of the initial 2012 redistricting process, which predated my legislative service, was instrumental in informing the members of the public of the improper partisan interference uncovered during the remedial phase.

Over my decade of service in the Florida Senate, I have had many interactions with reporters, including from the Miami Herald. I have never written an editor of a paper to raise a concern, even when I did not agree with coverage. However, I am compelled to bring to your attention troubling actions by Miami Herald Capitol Bureau Chief, Ms. Mary Ellen Klas.

By way of background, it has been well-reported that the Florida Senate did not sufficiently guard against political and partisan influences in the past redistricting cycle. When I became President of the Senate, one of my chief goals was to create a process that included strong policies and procedures to guard against inappropriate political influence of the process. Attached are several memos to our members cautioning them about speaking with outside influences that would seek to manipulate the process in a way that could violate the Florida Constitution.

My concern, which will be outlined with specific examples below, is that it appears Mary Ellen Klas has crossed the line of reporting and informing to advocating for organizations that will bring litigation against the Legislature. As you will read below, she literally asked a State Senator to pose questions before the committee in order to build a record for litigation. Such collusion is not only inappropriate as a reporter, it puts Senators in a position to violate the policies and procedures I have set up in order to keep the process free from improper influence.

The following are examples of interactions reported to Senate counsel out of concern that (1) the suggestions made by Ms. Klas could violate Tier 1 standards that prohibit favoring or disfavoring an incumbent, and (2) Ms. Klas inserted herself into the committee process and interfered with potential redistricting litigation by blatantly attempting to influence a Senator to ask certain questions with the express purpose of establishing a record in advance of court proceedings.

In a media gaggle following the meeting of the Select Subcommittee on Legislative Reapportionment, Ms. Klas encouraged a Senator to inquire with professional staff regarding election performance in a proposed state senate district. Specifically, whether or not the district would perform for a minority candidate, noting that the current Senator who represents the district, is not a minority. Ms. Klas stated that questions and debate surrounding election performance in this district should be established in the legislative record prior to review by the courts.

Ms. Klas stated in describing a minority access seat: *“Access means you don’t necessarily have a majority, but you have enough to maybe elect one in a primary, which is Senator Pizzo’s situation, and obviously he’s not a minority, but it does, you know, to me, that debate should be flushed out and we should hear about it before the courts get this. If nobody asks these questions, they don’t get it on the record and if it’s not on the record, they aren’t held to it and we go to court.”*

Ms. Klas subsequently submitted a series of questions, attempting to have Senate counsel address a number of legal questions, including an unconstitutional analysis of racially polarized voting in a proposed Senate district.

For example, the following question was posed to counsel: *“In proposed SD 24, can you provide me with your analysis of what are the voting patterns of races within the districts? What are their turnout rates? How much do whites vote for the minority candidate of choice? Are African Americans and Hispanics voting in coalition, especially in primaries? Or are they voting for different candidates in the primaries? If this analysis has not been done, please explain why.”*

As you can see, this request flies in the face of standards in Florida’s Constitution, and specific directives issued by the Committee to Senate Staff which state:

Regarding compliance with the Tier One standard related to the intent to favor or disfavor a political party, you are directed to draw districts without reviewing political data other than where a review of political data is required to perform an appropriate functional analysis to evaluate whether a minority group has the ability to elect representatives of choice.

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More disturbing is that Ms. Klas' subsequent article includes commentary on these issues by a so-called restricting expert who she fails to identify as a professional expert witness who stands to profit in redistricting litigation against the state.

Through this series of interactions between Ms. Klas, Senators, staff, and counsel, it has become clear that she is seeking to pre-litigate the 2022 redistricting cycle, pitting Senate counsel against expert witnesses frequently used by plaintiffs in litigation against the state, thereby creating a manipulated legislative record to be used in the courts.

As you are aware, with regarding to redistricting litigation, sitting legislators may be compelled to produce records or be subject to questioning under oath about conversations with colleagues, with legislative staff, or with outside parties – including members of the media – who attempt to persuade the Legislature to pass maps that favor or disfavor a political party or incumbent.

As I stated above, I have great respect for the independent analysis and review of our work product made possible by the free press. Unfortunately, Ms. Klas has crossed the line between reporting and interfering. To address the serious nature of this interference, staff directed the Senator to disregard the suggestions she made when contemplating future requests for information and analysis from professional staff. Senate counsel has advised staff to disregard and not answer deliberately litigious questions that would inappropriately influence the redistricting process.

Thank you for taking the time to review these concerns.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Wilton Simpson', with a stylized flourish at the end.

Wilton Simpson

Cc: Ms. Nancy Meyer, President – Miami Herald/el Nuevo Herald