

STATE OF KANSAS
HOUSE OF REPRESENTATIVES



MICHAEL R. (MIKE) O'NEAL
SPEAKER

To: House Members and Media

From: Speaker Mike O'Neal *MS*

Date: March 3, 2010

Re: Response to February 22, 2010 Democrat Leadership letter

For the past few weeks, I've endured an unprecedented barrage of personal attacks by Democrat leadership. They have used falsehoods and innuendo to make baseless and unjustified attacks on my integrity. Democrat leadership has criticized a suit I was asked to file seeking an opinion on the legality of a bill, passed over my objection in 2009, which swept money from privately funded trust accounts into the State General Fund. Both a prior Supreme Court case and a more recent Attorney General's opinion have addressed the unconstitutionality of these sweeps. Although Democrat leadership knows that I have not violated any ethical duties, they have engaged in a series of made-for-the-media public criticisms of the suit and my involvement, making reckless allegations intended to mislead the public.

I have, up to this point, chalked the attacks up to the partisan attacks we're used to seeing from Democrat leadership in both the House and Senate. However, last week House Democrat leadership crossed the line of decency by issuing a formal letter attacking my integrity and threatening me if I did not withdraw from the case. The letter, which Democrat leadership chose to widely publicize, contains untruths and false accusations that are clearly meant to cast me in a false light and with the apparent intent to disrupt this year's legislative session.

They've offered no evidence for their claim that I solicited legal work using my public office, and this accusation is particularly outrageous and utterly false. Such baseless accusations are unbecoming to members of the Kansas Legislature. I'm deeply disappointed that Democrat leadership has resorted to such shameful behavior. They have

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done a disservice to the House and their own Democrat caucus, most, if not all of whom were unaware of their leadership's letter until after the fact.

The press and legislative colleagues alike know that I have not shied away from answering questions about the case. The details and my involvement are a matter of public record. They are also aware that I followed every applicable rule relating to my service as a citizen legislator and attorney. Our chief attorney in the Legislature, Revisor Mary Torrence, has noted that there are no prohibitions against attorney legislators representing clients in matters involving the State. In fact, such representation is clearly authorized by state law, which the Revisor has found I complied with in full. I satisfied all legal and ethical requirements dealing with a constitutional challenge by voting against the suspect legislation and filing a formal protest challenging the legality of the fee sweeps in the 2009 budget bill. I have not, in her legal opinion, engaged in any misconduct. (See attached)

The attacks by Democrat leadership are extremely disappointing because they are so disingenuous. Several members of House Democrat leadership are themselves attorneys, each with a list of clients that is, for the most part, unknown to the public. Attorney legislators can and do represent clients who are involved in proceedings involving the state, including: clients accused of crimes charged by the State, clients or constituents defending or pursuing claims in State agency administrative hearings, and school districts with business before the Legislature, to name a few examples. In fact, House Minority Leader Davis' own law firm has a case pending in the Kansas Supreme Court challenging the constitutionality of one of our tort reform statutes.

We have a citizen Legislature. Members come from all walks of life and most have jobs and professions outside of the Legislature. Some, for example, are employees or former employees of public institutions with regular business before the Legislature. Others work in private industries that have matters come before the Legislature. This has been the case since statehood, and it is a good and honorable system. The alternative is to have a full time Legislature with career politicians, something our constituents neither deserve nor desire.

By claiming in their letter that the suit has "compromised" the budget process, Democrat leaders appear to be admitting that they fear the practice of sweeping Kansas

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taxpayer fee funds into the State General Fund is in jeopardy. Do they want to be able to continue taking trust funds collected for specific statutory purposes and spending that money on totally different programs? They call the suit a “special interest” lawsuit. It is telling that Democrat leadership would disparage the “special interest” Kansas taxpayers have in protecting their funds from unauthorized sweeps. This taxpayer fee suit does not seek additional State funds, just that their funds be returned to where they belong. Their claim, simply, is that the sweeps constitute an unauthorized tax. Their request for a judicial answer is much the same as the case filed by the Attorney General to question the constitutionality of state-owned and operated casinos. The court will decide, “yes” or “no”, whether sweeping privately-funded fee funds into the State General Fund for a general revenue-raising purpose is legal.

At last weekend’s State Democrat Party meeting, we learned that the moving force behind the attacks was probably the Labor Caucus, which was quoted as demanding that Democrat leadership take some action against me. They also called for elimination of tax exemptions for churches and such non-profit organizations as the Girl Scouts. Governor Parkinson was quoted at the meeting as saying “the public is angry and it looks like it is angry at us”, meaning Democrats. He’s right. He went on to say “but that’s not who we are”. If that’s not who they are, then we call on their elected leadership to discontinue their baseless, personal attacks and work with Republicans to reach solutions for our budget woes that don’t involve punishing Kansas taxpayers for the current budget shortfall.

House Rules provide that one of the duties of the Speaker is “to preserve order and decorum”. Unfortunately, we’ve had far too little civility and decorum. If, notwithstanding the Revisor’s opinion, the Democrat House leadership has credible proof of actual misconduct on my part, then they should file a complaint and follow the process so that the truth can come out, instead of waging a war in the press. I have done nothing wrong. In any event, as Speaker I will work to see that order and decorum are restored in the House. I look forward to working with Democrat leadership and the Democrat caucus to address the pressing issues facing the State in a respectful and civil manner, knowing there will be, at times, honest disagreement. It’s time for the vicious and unproductive personal attacks to stop.