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August 6, 2025

Hon. Garry Bredefeld
MEMBER, FRESNO COUNTY BOARD OF SUPERVISORS
FRESNO, CALIFORNIA
E-MAIL C/O: dgai@fresnocountyca.gov

RE: Display of the National Motto (36 U.S.C. 302)

Dear Supervisor Bredefeld,

INTRODUCTION

The purpose of this letter is to discuss the legality of a government entity displaying the national motto. This letter will specifically address two matters as follows: (1) the legal validity of the proposed action; and (2) Pacific Justice Institute's relevant background in relation to this subject matter.

FACTS

We understand the Fresno County Board of Supervisors may consider a proposed resolution whereby the language of the national motto – In God We Trust – would be displayed on property owned by the County. Our understanding is that the resolution is anticipated to direct that the words “In God We Trust” be prominently displayed in the Board of Supervisors Chambers.

DISCUSSION

1. Legality of displaying the motto

The national motto is codified in three federal statutes: 31 U.S.C. 5112, 5114; 36 U.S.C. 302. Stated simply and directly, 36 U.S.C. 302 reads: “‘In God we trust’ is the national motto.”

The constitutionality of the national motto has been unequivocally established by the courts. The most recent federal case in this jurisdiction involving a direct challenge to the national motto was *Newdow v. Lefevre*, 598 F.3d 638 (9th Cir. 2010). The challenge was based on an alleged violation of the First Amendment's doctrine of the separation of church and state. That Court found the phrase consistent with the Establishment Clause. Because the case is directly on point and provides a thorough discussion of the legal issues, it will be quoted at length here:

Newdow's Establishment Clause claim is foreclosed by our decision in *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970). In *Aronow*, we held the national motto, “In God We Trust,” and the statutes requiring its placement on coins and currency, do not violate the Establishment Clause. *Id.* at 243. We reasoned:

“It is quite obvious that the national motto and the slogan on coinage and currency ‘In God We Trust’ has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.

* * *

It is not easy to discern any religious significance attendant the payment of a bill with coin or currency on which has been imprinted ‘In God We Trust’ or the study of a government publication or document bearing that slogan. . . . While ‘ceremonial’ and ‘patriotic’ may not be particularly apt words to describe the category of the national motto, it is excluded from First Amendment significance because the motto has no theological or ritualistic impact. As stated by the Congressional report, it has ‘spiritual and psychological value’ and ‘inspirational quality.’

Id. at 243-44 (footnotes omitted)....”

Newdow v. Lefevre, 598 F.3d at 644; (quoting *Aronow v. United States*, 432 F.2d 242, 243-44 (9th Cir. 1970)).

Judge Bea, writing for the majority, took further pains to explain that the U.S. Supreme Court has, in passing (known as dicta) found no constitutional infirmity with the motto:

Newdow did not and cannot cite a single Supreme Court case that called into question the motto’s constitutionality or otherwise invalidated *Aronow*’s reasoning or theory. To the contrary, and consistent with *Aronow*, the Supreme Court has noted in dicta the national motto does not violate the Establishment Clause. *See County of Allegheny v. ACLU*, 492 U.S. 573, 602-03, . . . (1989) (noting the motto is “consistent with the proposition that government may not communicate an endorsement of religious belief”); *Lynch*, 465 U.S. at 676 (noting the “statutorily prescribed national motto ‘In God We Trust’” is a constitutional “reference to our religious heritage”).

Newdow v. Lefevre, 598 F.3d at 644-45.

The Ninth Circuit is not alone. Direct challenges to a standalone display or engraving of the national motto have failed in every federal circuit in which they have been brought. *See, generally, Newdow v. Peterson*, 753 F.3d 105 (2nd Cir. 2014); *Kidd v. Obama*, 387 Fed. Appx. 2, (D.C. Cir. 2010); *Lambeth v. Bd. of Comm’rs*, 407 F.3d 266 (4th Cir. 2005); *O’Hair v. Murray*, 588 F.2d 1144 (5th Cir. Tex. 1979); and *Gaylor v. United States*, 74 F.3d 214 (10th Cir. 1996). Of note is that in *Gaylor* the Court of Appeals for the Tenth Circuit found that the motto would pass constitutional challenge under both the *Lemon* test and the endorsement test: “In addition to satisfying the *Lemon* test, the motto and its appearance on U.S. currency also fulfill the requirements of the endorsement test.” *Gaylor*, 74 F.3d at 217.

Lest there be any notion that the validity of the display of the motto is limited to coins and currency, but that such a display by a local government violates the Establishment Clause, that notion is easily put to rest. First, it is illogical to suggest that the federal statutes memorializing

the phrase, “In God We Trust,” are constitutional but the same language in a state or local government context is unconstitutional. Second, challenge to the display of “In God We Trust” on the façade of a county building was brought in *Lambeth v. Bd. of Comm’rs*, 407 F.3d 266 (4th Cir. 2005). In affirming the district court’s dismissal the complaint, the Court of Appeals for the Fourth Circuit stated:

We have heretofore characterized the phrase, “In God We Trust,” when used as the national motto on coins and currency, as a “patriotic and ceremonial motto” with “no theological or ritualistic impact.” *Carolina Civil Liberties Union Legal Found. v. Constangy*, 947 F.2d 1145, 1151 (4th Cir. 1991). The use of the challenged phrase as the national motto is long-standing, and it has been used extensively over the years by the federal government. By way of example, Congress first authorized the National Mint to include “In God We Trust” on coins in 1865, and made its inclusion mandatory on gold and silver coins in 1908. Its use was extended to the national currency in 1955. Importantly, Congress made “In God We Trust” the national motto in 1956, and **the motto is inscribed above the Speaker’s Chair in the House of Representatives, and also above the main door of the Senate Chamber.**

Lambeth v. Bd. of Comm’rs, 407 F.3d at 270-71 (emphasis added).

Additionally, and in a similar vein, the 2019 Supreme Court decision in *Am. Legion v. Am. Humanist Ass’n*, 588 U.S. 19 (2019), upheld the Bladensburg Peace Cross, a memorial Cross erected to honor the local soldiers who lost their lives during World War I, to remain standing on government land. In that case the Supreme Court looked at the history of the specific cross and took into consideration the passage of time. The *Am. Legion* decision also pushed aside the *Lemon* test as a viable Establishment Clause test stating: “While the *Lemon* Court ambitiously attempted to find a grand unified theory of the Establishment Clause, in later cases, we have taken a more modest approach that focuses on the particular issue at hand and looks to history for guidance.” *Am. Legion*, 588 U.S. at 60. This American Legion cross case only further solidified the Supreme Court’s commitment to interpreting the First Amendment in a manner which preserves long standing American traditions.

Looking at history and the passage of time it appears clear that the national motto “In God We Trust” easily passes constitutional muster. *See, Lambeth*, cited above, discussing some of the history of our nation’s motto.

Again, to reiterate, and as noted above, the national motto was adopted in 1956, almost seventy years ago. Our Ninth Circuit has stated the following:

It is quite obvious that the national motto and the slogan on coinage and currency “In God We Trust” has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.

...

It is not easy to discern any religious significance attendant the payment of a bill with coin or currency on which has been imprinted “In God We Trust” or the study of a government publication or document bearing that slogan. . . . While

“ceremonial” and “patriotic” may not be particularly apt words to describe the category of the national motto, it is excluded from First Amendment significance because the motto has no theological or ritualistic impact. As stated by the Congressional report, it has “spiritual and psychological value” and “inspirational quality.”

Newdow v. Lefevre, 598 F.3d at 644 (quoting *Aronow v. United States*, 432 F.2d at 243-244).

Because of its long history as our national motto and its “spiritual and psychological value” and “inspirational quality” and its usage in prominent federal legislative chambers, we believe the national motto would satisfy constitutional scrutiny and not offend the Establishment Clause in the context of the Fresno County Board of Supervisors Chambers.

2. Relevant PJI background

Pacific Justice Institute (PJI) has been involved in a number of cases involving the defense of government entities engaged in (actual or perceived) religious acts which are ceremonial or symbolic in nature. Below is a sampling.

National Motto:

A nationally known atheist brought suit challenging the national motto. PJI Counsel participated in oral argument in the Ninth Circuit Court of Appeals along with lawyers from the U.S. Department of Justice. The defense of the motto was successful, and the U.S. Supreme Court declined to hear the case. *Newdow v. Lefevre*, 598 F.3d 638 (9th Cir. 2010), *cert. denied* 131 S. Ct. 1612 (U.S. 2011).

Prayer at Presidential Inauguration:

Over 250 atheists, agnostics, humanists, and nineteen like-minded organizations, sued federal officials, the Presidential Inauguration Committee, and two well-known ministers. The clergy were personally sued for giving the invocation and benediction at the inauguration of President Obama. PJI represented the ministers and successfully argued against the issuance of an injunction in the D.C. federal district court days before the inauguration. We were also successful on appeal. The Supreme Court declined to take the case. *Newdow v. Roberts*, 603 F.3d 1002 (D.C. Cir. 2010), *cert. denied* 131 S. Ct. 2441 (U.S. 2010).

CONCLUSION

In sum, the constitutionality of the national motto has been established in this jurisdiction, as well as in every court across the country which has had occasion to rule on the matter.

Sincerely,

/s/ Milton Matchak

Milton Matchak, Staff Attorney
PACIFIC JUSTICE INSTITUTE