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Former U.S. Attorney General
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June 2, 2006

Councilmember Jacquie Sullivan
Founder/President
In God We Trust - America, Inc.
Bakersfield, California

Re: “In God We Trust” Displays

Dear Councilmember Sullivan,

It has come to our attention that your organization is promoting displays throughout the nation commemorating the national motto, “In God We Trust.” We are writing to offer our perspective on this important issue, and also to offer our representation at no charge should any government entities which approve the displays encounter any legal opposition.

By way of introduction, the Pacific Justice Institute is a nonprofit organization which specializes in defending religious liberty, including our nation’s religious heritage. We are currently acting as defendants-intervenors alongside the U.S. Department of Justice in *Newdow v. Congress*, which is challenging the inclusion of “In God We Trust” on our nation’s coinage. We recently filed a motion to dismiss that lawsuit, and we are well acquainted with the case law on this issue.

As you are no doubt aware, the United States Supreme Court has never indicated that governmental expression must be sanitized of all religious symbolism or references. To the contrary, the Court has acknowledged that phrases such as “In God We Trust” serve the legitimate secular purposes of “solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society.” *Lynch v. Donnelly*, 465 U.S. 668, 693 (1984). The Court has also declared that the history and ubiquity of such phrases ensure that they are “not understood as conveying government approval of particular religious beliefs.” *Id.* Even those justices who dissented from the majority holding in *Lynch* felt that “such practices as the designation of ‘In God We Trust’ as our national motto, or the references to God contained in the Pledge of Allegiance...can best be understood...as a form a ‘ceremonial deism.’” *Id.* at 716 (Brennan, J., dissenting). Consequently, the dissenting justices reasoned that these designations and references are immune from Establishment Clause scrutiny as they have shed any sectarian religious implications through rote repetition. *Id.*

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It is important to note that, despite the Court's disagreement over the constitutionality of other forms of religious imagery and language used by the government, no Supreme Court Justice in *Lynch* disputed the constitutionality of the phrase "In God We Trust." This sentiment was echoed in *County of Allegheny v. ACLU*, 492 U.S. 573 (1989), where the majority struck down a nativity scene on City property but made it crystal-clear that they would not similarly treat the national motto:

Our previous opinions have considered in dicta the motto and the pledge, characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief... We need not return to the subject of "ceremonial deism" ... because there is an obvious distinction between crèche displays and references to God in the motto and the pledge.

Id. at 602-603 (citations omitted). In several other cases, both majority opinions and individual Justices have further signaled their support for "In God We Trust." See, e.g. *Wooley v. Maynard*, 430 U.S. 705, 717, n.15 (1977) (see also Rehnquist, J. dissenting at 722); *Stone v. Graham*, 449 U.S. 39, 45 (1980) (Rehnquist, J., concurring); *School Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J. concurring); *Marsh v. Chambers*, 463 U.S. 783, 818 (1983) (Brennan, J. dissenting); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 322-323 (2000) (Rehnquist, C.J. dissenting); *Van Orden v. Perry*, 125 S.Ct. 2854, 2879 (2005) (Stevens, J. dissenting); *McCreary County v. ACLU*, 125 S.Ct. 2722, 2750 (2005) (Scalia, J. dissenting).

In conclusion, the Pacific Justice Institute would like to commend your organization for promoting the national motto, and to assure you that under applicable case law, such recognitions are clearly constitutional. Should any government entity receive legal threats from those who oppose even innocuous acknowledgements of religion in public life, the Pacific Justice Institute would be honored to defend them at no charge in state or federal court.

Please do not hesitate to contact us if we can be of further assistance to you.

Sincerely,

A handwritten signature in blue ink that reads "Brad Davis". The signature is written in a cursive, flowing style.

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President, Pacific Justice Institute