

APPENDIX D

Declaration of Michael Newdow

I, Michael Newdow, declare as follows:

- (1) Appendix C is an accurate reconstruction of the original filing made by the attorneys for President Bush in the District Court for the Eastern District of California in case #2:01-cv-00218-LKK-GGH on June 6, 2001 (Docket Document 10). It is not an exact copy, however, since it was reconstructed from a scan in which the OCR software created some errors (especially in regard to the time/date stamp, which has been eliminated by me.)
- (2) Appendix E is an accurate reconstruction of the email I received from Senator Dianne Feinstein's office on December 27, 2004.
- (3) Appendix F is an accurate reconstruction of the email exchange I had with a librarian at the Library of Congress in November 2003.
- (4) Appendix G is an accurate reconstruction of the email exchange I had with Charlene Bickford of the First Federal Congress Project in November 2004.
- (5) I have had an especially strong interest in Religion Clause matters since 1997. Since that time, with the exception of my own personal prior litigation (i.e., the prior challenges to the use of clergy at inaugurations and at the start of Congress), I cannot recall hearing or reading of a single case where a plaintiff who personally witnessed a government-sponsored prayer was not considered to have suffered an "injury in fact."
- (6) In the lawsuit I brought against the use of clergy at the start of the sessions of Congress, I was deemed not to have standing because:

Newdow's observation of an offensive Senate prayer on one occasion fails to demonstrate the type of extensive interaction with allegedly offensive religious displays in one's community that have supported standing for Establishment Clause claims. Therefore, the court concludes that Newdow fails to establish standing based on his claim that his right to observe the government is impaired.

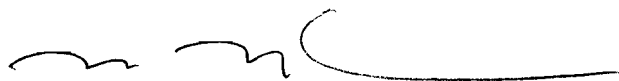
Newdow v. Eagen, 309 F. Supp. 2d 29, 35 (D.D.C. 2004).

- (7) I brought a legal challenge to the infusion of (Christian) Monotheistic dogma into the 2005 presidential inauguration, which was heard by Hon. John D. Bates. Judge Bates ruled against me on numerous grounds. Although I have always believed that Judge Bates was mistaken on each of these, I felt there was a reasonable possibility that the Court of Appeals would agree with his ruling that I suffered no injury in fact because "Newdow does not come in regular contact with the inaugural prayers." Newdow v. Bush, 391 F. Supp. 2d 95, 104 (D.D.C. 2005).

- (8) Accordingly, I chose not to appeal that ruling, and planned instead to “cure” the “defect” by showing that I repeatedly attended (and will continue to attend) the nation’s presidential inaugurations.
- (9) I have had a very strong interest in the “so help me God” additions (or lack thereof) to the oaths of office put into place by those statesmen who created our federal Constitution and our initial federal statutes. That includes the lack of that phrase in the presidential oath of office, which is the only oath given in the Constitution, itself, and is the only phrase in the Constitution that is placed in quotation marks.
- (10) That interest has been particularly intense in regard to the claim that George Washington added that phrase when he took his oath as the first President on April 30, 1789. In fact, I spent countless hours at numerous libraries and online, seeking reliable pertinent information.
- (11) I even went to Wall Street in New York City and had friends listen as I shouted (in the quiet of a late night) to see if what Washington Irving claimed to have occurred would have been possible (i.e., that he would have been able to hear the words the President spoke from where he claimed to have been standing). I concluded that it would have been impossible to have heard what the President said from that vantage point.
- (12) Two other researchers, Ray Soller and Matt Goldstein, have joined in researching this matter, also investing enormous efforts and countless hours.
- (13) To inform the public (hopefully in an entertaining manner) of my research findings (i.e., that the story of George Washington adding “so help me God” to his inaugural oath of office was a complete myth, first alleged 65 years after the event by someone who would have been six years old at the time of the actual 1789 ceremony), I created a music video. See at www.restorethepledge.com.
- (14) In addition to personally writing the song (music and lyrics), performing the work, filming the performance, creating the PowerPoint presentation, and editing the video, I authored the prefatory essay that explains the matter (and the video) to those who opt to read what is written.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 22, 2009,



Michael Newdow