

**NOTICE OF BONA FIDE CONTROVERSY AT LAW
AND REQUEST TO SHOW CAUSE**

TO: Patricia Hitt, County Clerk
Attention: Rosemarie Wess
1036 S.E. Douglas Ave., Room 124
P.O. Box 10
Roseburg 97470
Oregon, USA

FROM: People of Douglas County *ex rel.*
Paul Andrew Mitchell, B.A., M.S.,
Private Attorney General: 18 U.S.C. 1964, and
Agent of the United States: 31 U.S.C. 3729 *et seq.*

DATE: August 3, 2017 A.D.

SUBJECT: OATHs for appointed executive officers

Greetings Douglas County Clerks:

Thank you very much for your prompt and professional responses to our Public Records Request for electronic copies of recorded OATHs for Douglas County Department Heads.

In one of your responsive email messages, you stated as follows:

Our office would only record Oaths of Office for those County positions which are Elected (there are 12), plus the Chief Financial Officer (which Oath you state you already possess and do not need for us to include).

... Oaths of Office are administered if required by State statute, therefore, the majority of Board of County Commissioner-appointed county department heads would not have been issued an Oath (except for the Chief Financial Officer). [emphases added]

There appears to be a straightforward conflict between your Office's understanding of the applicable laws, as summarized above, and several pertinent provisions in applicable Federal Laws and in the Oregon State Constitution. We cite and quote each of the latter, as follows:

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and **all executive and judicial Officers**, both of the United States and **of the several States**, shall be bound by Oath or Affirmation, to support this Constitution

[Article VI, Clause 3, U.S. Constitution]
[**emphasis** added]

Every member of a State legislature, and **every executive and judicial officer of a State**, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."

[4 U.S.C. 101, **emphasis** added]

Section 3. Oaths of office. Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

[Article XV, Section 3, Oregon State Constitution]
[emphasis added]

... **[A]ll executive officers of the several states** are bound by oath or affirmation to support the Constitution of the United States. Art. VI, Clause 3 of the Constitution; 4 U.S.C.A. § 101.

[Henderson v. U.S., 237 F.2d 169 (5th Cir. 1956)]
[emphasis added]

You will please note from the above that the Oath requirement for State government officials is not limited only to elected offices. In particular, Article XV, Section 3 in the Oregon State Constitution very clearly requires an Oath of "every person elected or appointed to any office".

Of greater importance, the Supremacy Clause in the U.S. Constitution elevates the Constitution and Laws of the United States (Federal government) to the status of supreme Law of the Land in Oregon State **notwithstanding** anything to the contrary that may exist in the Oregon State Constitution or in any Oregon State laws.

Fortunately, there appears to be no conflict between the Oregon State Constitution and the Federal Constitution and Law as quoted above.

The Oath of Office Clause in the Federal Constitution imposes an Oath requirement on "all executive Officers of the several States".

Similarly, the Act of Congress at 4 U.S.C. 101 also imposes an Oath requirement on "every executive officer of a State". The latter is elevated to supreme Law of the Land by the Supremacy Clause.

Although our preliminary search did not find a multitude of Federal Circuit Court opinions, the decision in Henderson v. U.S. *supra* clearly agrees that the Oath requirement is imposed on "all executive officers of the several states".

All local governments within Oregon State e.g. cities, counties, special districts, are considered political subdivisions of the Oregon State Government; and, as such, all elected and appointed officers of all local governments are subject to the Laws cited and quoted above.

In conclusion, please accept this NOTICE also as our sincere and professional request to show cause why all appointed Douglas County officers should not also be required to execute and record the same Oath of Office as imposed by the several Laws cited and quoted above.

The People of Douglas County *ex rel.* are particularly interested in knowing and reviewing all authority(s) and legal advice on which your Office has previously relied in answer to the questions arising above.

Thank you again for your continuing professional consideration in this matter.

Sincerely yours,

/s/ Paul Andrew Mitchell

Paul Andrew Mitchell, B.A., M.S.
Private Attorney General, Civil RICO: 18 U.S.C. 1964;
Agent of the United States as *Qui Tam* Relator (4X),
Federal Civil False Claims Act: 31 U.S.C. 3729 *et seq.*

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Courtesy Copies: Douglas County Commission