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March 22, 2007

Office of the Clerk
U.S. Court of Appeals
Post Office Box 193939
San Francisco CA 94119-3939

Re: *Newdow v. Congress*, Case No. 06-16344

Dear Sir or Madam:

Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28-6, Plaintiff-Appellant submits this supplemental authority regarding *Navajo Nation v. United States Forest Service*, ___ F.3d ___, No. 06-15436, slip op. at 2829 (9th Cir. March 12, 2007).

As with the instant action, *Navajo Nation* is based upon the Religious Freedom Restoration Act (RFRA), which “provides greater protection for religious practices than did the Supreme Court’s pre-*Smith* free exercise cases.” Slip op. at 2843. *See also* slip op. at 2844, 2869-70.¹ Thus, assuming, *arguendo*, that there was a Free Exercise (in addition an Establishment Clause) ruling in *Aronow v. United States*, 432 F.2d 242 (1970), RFRA’s “broader protection,” *Navajo Nation*,

¹ It might be noted that RFRA relates to “‘laws neutral towards religion.’” Slip op. at 2842 (internal citation omitted). Despite the District Court’s implication to the contrary, EOR at 331, 333-35, “In God We Trust” hardly meets that criterion. Brief of Appellant at 3-4.

slip op. at 2844, lays waste to the claim of Appellees here that *Aronow* is controlling. Brief for Federal Government Appellees at 50-51. *Navajo Nation* reveals that a valid RFRA claim remains even after a Free Exercise challenge is rejected. *Navajo Nation*, slip op. at 2839.

Another relevant point is that the *Navajo Nation* panel easily distinguished *Lyng v. Northwest Indian Cemetery Assoc'n*, 485 U.S. 439 (1988), and, therefore, rejected the government's claim that *Lyng* should control. *Navajo Nation*, slip op. at 2868-71. Appellees in the case at bar attempt the same argument regarding *Lyng*. Brief for Federal Government Appellees at 54-55. It should similarly be rejected.

Finally, *Navajo Nation* suggested that “[t]o get some sense of equivalence, it may be useful to imagine the effect [of a similar burden] on Christian beliefs and practices.” *Navajo Nation*, Slip op. at 2871. Appellant in the instant case has suggested precisely that approach, asking the Court to consider what Christians would say and do if the national motto were “God is a myth,” and they were forced to carry and transmit that motto’s message as they raised and spent money for their churches. Brief of Appellant at 59.

Thank you very much for your time and consideration.

Respectfully submitted,

Michael Newdow, *in pro per*
CA State Bar No. 220444

CERTIFICATE OF SERVICE

CASE NO. 06-16344

I HEREBY CERTIFY that on this 22nd day of March, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Navajo Nation v. United States Forest Service*, ___ F.3d ___, No. 06-15436, Slip op. at 2829 (9th Cir. March 12, 2007) were delivered by e-mail to the following individuals:

Lowell Sturgill (lowell.sturgill@usdoj.gov)
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Pursuant to Ninth Circuit Rule 25-3.3, the undersigned has received a completed and signed Form 13 (Consent to Electronic Service) from counsel for each of the parties.

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