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April 5, 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 *Massachusetts v. Environmental Protection Agency*, 549 U.S. ____ (2007).

Plaintiff's standing has been challenged in the case at bar. Brief for Federal Government Appellees (hereafter "Br. FGA"), at 13 and 14-24. *Massachusetts v. EPA* speaks to the arguments raised in this regard.

First, *Massachusetts v. EPA*, slip op. at 13, corroborates the instant Plaintiff's claim that standing is conclusively provided by statute under RFRA. Reply Brief, at 28.

Next, the Federal Defendants' argument that Plaintiff's Establishment Clause claims are "too generalized," Br. FGA, at 19, was countered when the Supreme Court reiterated that "it does not matter how many persons have

been injured by the challenged action.”” *Massachusetts v. EPA*, slip op. at 14 (citation omitted). Similarly, that the injuries “are ‘widely shared’ does not minimize [a plaintiff’s] interest in the outcome of th[e] litigation.” *Id.*, at 19.

A related aspect of the instant case was addressed when the high court noted that it is an “erroneous assumption that a small incremental step, because it is incremental, can never be attacked in a federal judicial forum.” *Id.*, at 21. Thus, the fact that the governmental activity challenged in the case at bar is “similar to numerous other similar [so-called] acknowledgments,” Br. FGA, at 25, does not preclude standing. (Nor does it preclude a decision in Plaintiff’s favor.)

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 5th day of April, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Massachusetts v. Environmental Protection Agency*, 549 U.S. ____ (2007) were delivered by e-mail to the following individuals:

Lowell Sturgill (lowell.sturgill@usdoj.gov)
Theodore Charles Hirt (theodore.hirt@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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