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May 10, 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-Appellee submits this supplemental authority regarding *Rosenbaum v. City and County of San Francisco*, No. 05-15266, slip op. (9th Cir. April 30, 2007).

Rosenbaum involved a challenge by religious adherents to the application of a city's "noise ordinance and permitting scheme." Slip op. at 4693. In the Court's discussion, the issue of viewpoint discrimination was reviewed. Because Plaintiff-Appellee raised this same issue in the case at bar, *see* [Opening] Brief of Appellant at 12 (noting "disregard for a minority religious viewpoint"), the Ninth Circuit's discussion is worthy of comment.

Rosenbaum cited with apparent approval *American Jewish Cong. v. City of Beverly Hills*, 90 F.3d 379 (9th Cir. 1996), an Establishment Clause case in which "a preference for the Jewish religion," *Rosenbaum*, slip op. at 4716, was shown by government when only that one religious view was allowed within a government-controlled venue. Clearly, a preference for Monotheism is demonstrated when the nation's sole official motto consists entirely of the exclusive religious view that "In God We Trust." 36 U.S.C. § 302.

Furthermore, *Rosenbaum* noted that “[i]n *American Jewish Congress*, we held that the ‘ad hoc and structureless nature of the City’s permitting process leaves open the possibility of improper discrimination by the City.’ *Id.* at 385,” *Rosenbaum*, slip op. at 4716, and went on to explain how the *Rosenbaum* defendants’ actions were permissible because there was “*guided* discretion.” *Id.* (emphasis in original). In the instant case, the decision to make “In God We Trust” was also “ad hoc and structureless,” with the only “guide” for Congress being the naked desire of politicians to espouse their own (and the nation’s) majoritarian religious view. This clearly violates the Supreme Court’s demand for religious neutrality on the part of the government:

The touchstone for our analysis is the principle that the “First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.”

McCreary County v. ACLU, 125 S. Ct. 2722, 2733 (2005) (string citation omitted).
See [Opening] Brief of Appellant at 32.

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 10th day of May, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Rosenbaum v. City and County of San Francisco*, No. 05-15266, slip op. (9th Cir. April 30, 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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