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June 2, 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 *United States v. Curtin*, ___ F.3d ___, No. 04-10632, slip op. at 6113 (9th Cir. May 24, 2007) (*en banc*).

A key issue in the instant case concerns the precedential value of *Aronow v. United States*, 432 F.2d 242 (9th Cir. 1970). *See, e.g.*, EOR at 333:3-4 (District Court's grant of Defendants' motions to dismiss, asserting that "the Ninth Circuit in Aronow held that the national motto is excluded from First Amendment significance."). Plaintiff-Appellant has argued that, for various reasons, *Aronow* is either not binding upon this Court, or that it should be overruled. AOB at 45-58; Reply Brief at 12-14, 18-20.

In *Curtin*, the en banc panel considered the precedential value of *Guam v. Shymanovitz*, 157 F.3d 1154 (9th Cir. 1998) (as amended), and decided that the earlier case should be overruled. In doing so, it pointed out that "[i]t is not

surprising that the panel in *Shymanovitz* cited to no authority in support of its declaration ... — none exists.” Slip op. at 6153. Similarly, the striking claims made by the *Aronow* Court (that “‘In God We Trust’ has nothing whatsoever to do with the establishment of religion,” 432 F.2d at 243, and that “[i]ts use ... bears no true resemblance to a governmental sponsorship of a religious exercise,” *id.*) were cited to no authority as well.

Curtin also highlighted that “[n]ot only is there no precedent to support this holding in *Shymanovitz*, but the Supreme Court has held [contrarily] on many occasions in other contexts.” Slip op. at 6153. Although there is no Supreme Court holding on the motto’s religiosity, its last characterization by the Court was that it is clearly religious. In *McCreary County v. ACLU*, 545 U.S. 844, 853-54 (2005), the Court noted that the motto – like the Ten Commandments display under consideration there – “ha[s] a religious theme or ... a religious element.” With that Ten Commandments display having been invalidated in *McCreary County*, it is obvious that the motto has plenty “to do with the establishment of religion.”

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 2nd day of June, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *United States v. Curtin*, ___ F.3d ___, No. 04-10632, slip op. at 6113 (9th Cir. May 24, 2007) (*en banc*), 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.

June 2, 2007

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