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June 19, 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 *Community House v. City of Boise*, ___ F.3d ___, No. 05-36195, slip op. (amended) at 6973 (9th Cir. June 8, 2007).

City of Boise again reaffirms that this Circuit uses the *Lemon* test for Establishment Clause challenges. “The Supreme Court ... has not expressly overruled or discarded the *Lemon* test. ... Accordingly, we continue to apply it here.” Slip op. at 6997 (n.8).

A modified form of the test – i.e., the *Lemon-Agostini* test – was used in *City of Boise*, “ask[ing] (1) ‘whether the government acted with the purpose of advancing or inhibiting religion,’ and (2) ‘whether the [governmental] aid has the “effect” of advancing or inhibiting religion.’” Slip op. at 6997. In the case at bar, there is no question that “the government acted with the purpose of advancing or inhibiting religion,” since that purpose was repeatedly and expressly stated as (a)

the purely religious phrase, “In God We Trust,” was initially placed (as a matter of discretion) on the coins, (b) that purely religious phrase was mandated on some of the coins, (c) that purely religious phrase was mandated on all of the coins and all of the currency, and (d) that purely religious phrase was chosen to replace the secular, *de facto* motto, “E Pluribus Unum.” AOB at 35.

As far as “the ‘effect’ of advancing or inhibiting religion,” the government’s officials have repeatedly noted that such religious effects were precisely what was behind the usages of “In God We Trust.” AOB at 38-40. As (former) Mint Director Fore wrote, that purely religious phrase was intended “to serve as [a] reminde[r] of the values that all Americans Share,” to “define us as Americans,” to be a “declaratio[n] of our beliefs,” and to “showcase how we see ourselves.” AOB at 50-51. Clearly using “In God We Trust” in such ways demonstrates the religious effects that violate the *Lemon* test.

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 19th day of June, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Community House v. City of Boise*, ___ F.3d ___, No. 05-36195, slip op. (amended) at 6973 (9th Cir. June 8, 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.

June 19, 2007

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