

**Michael Newdow, JD
PO Box 233345
Sacramento, CA 95823**

Phone: (916) 427-6669; 916-273-3798

e-mail: NewdowLaw@gmail.com

August 28, 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 *Watts v. Florida International University*, ___ F.3d ___, No. 05-13852 (11th Cir. August 17, 2007).

Watts involved a claim of a Free Exercise violation, and – as in the case at bar – came to the Court of Appeals after the District Court’s grant of a motion to dismiss. In reversing the District Court, the Eleventh Circuit made two determinations relevant to the instant proceedings.

First, it was determined that in countering a motion to dismiss, a plaintiff-appellant’s allegation of sincere religious belief “is all that is required at this stage of the litigation.” Slip op. at 14. There has been no suggestion that Plaintiff-Appellant Newdow’s religious beliefs are not sincere. EOR 319:16-25; AOB 14.

The second relevant determination in *Watts* was that the District Court erred when it focused on the religious burden as seen through the eyes of judge(s), rather than those of the plaintiff. As the Eleventh Circuit concluded after reviewing the relevant Supreme Court case law, “[t]he honest (sincere) conviction that counts is that of the plaintiff, not that of the court.” Slip op. at 16. The District Court in the instant litigation sorely missed this point. EOR 333:3-13 and 334:25-335:1; AOB 25-27.

Although *Watts* was a split opinion, the Eleventh Circuit panel was actually unanimous in this matter. In fact, the dissenting judge agreed that “[p]residing judges do not import their own perspectives onto an analysis of a plaintiff’s free exercise pleadings.” Slip op. at 31 (n. 1). His dissent stemmed only from the characterization of Mr. Watt’s claim (i.e., telling a patient that she could find a bereavement group at “church”) as being “religious.” That is clearly not an issue in the case at bar, where the claim concerns the quintessential “religious” matter: the question of the existence of God. AOB 13.

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 28th day of August, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Watts v. Florida International University*, ___ F.3d ___, No. 05-13852 (11th Cir. August 17, 2007), were delivered by e-mail to the following individuals:

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

Kevin Snider (kevinsnider@pacificjustice.org)
Brad Dacus (braddacus@pacificjustice.org)

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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CA SBN: 220444
PO Box 233345
Sacramento, CA 95823

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