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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 *Truth v. Kent School District*, \_\_\_\_ F.3d \_\_\_\_, No. 04-35876 (9<sup>th</sup> Cir. August 24, 2007).

*Truth* – which involved a school district’s refusal to grant a charter to a Christian Bible Club – set forth a number of points relative the instant case. For instance, the Ninth Circuit panel stated, “we hold that the requirement that members possess a ‘true desire to . . . grow in a relationship with Jesus Christ’ inherently excludes non-Christians.” Slip op. at 10455. Setting forth “In God We Trust” as the nation’s sole official motto similarly “inherently excludes” non-Monotheists. AOB at 43.

Citing *Prince v. Jacoby*, 303 F.3d 1074, 1079 (9th Cir. 2002), the *Truth* panel reiterated once again that “[w]here the intent of Congress has been expressed in reasonably plain terms, that language must ordinarily be regarded as

conclusive.” (Internal quotations and citation omitted). Notwithstanding the District Court’s claim to the contrary, EOR at 330-33, the “plain terms” of “In God We Trust” shows that language to be purely religious. Reply Brief at 11.

The *Truth* panel also cited *Menotti v. City of Seattle*, 409 F.3d 1113, 1129 (9th Cir. 2005) for the proposition that ““whether a statute is content neutral or content based is something that can be determined on the face of it,”” slip op. at 10456, and implied that content neutrality requires ““non-pretextual [explanations] divorced from the content of the message attempted to be conveyed.” *Id.*

Defendants’ claims that Congress chose “In God We Trust” to be the nation’s motto for its historic or other nonreligious significance is purely pretextual and intimately related to the totally religious, Monotheistic content of the message 36 U.S.C. § 302 attempts to convey. Reply Brief at 24.

Lastly, the *Truth* panel, on its own, alluded to RLUIPA, which largely mirrors the RFRA statute under consideration in the instant case. It highlighted that RLUIPA deals with “content-neutral laws of general applicability that incidentally burden a First Amendment activity.” Thus, even if one accepts the absurd contention that “In God We Trust” is content-neutral in terms of religious belief, RFRA still applies in terms of that motto’s burdens upon Plaintiff-Appellant Newdow’s free exercise rights.

Respectfully submitted,

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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 *Truth v. Kent School District*, \_\_\_ F.3d \_\_\_, No. 04-35876 (9<sup>th</sup> Cir. August 24, 2007), were delivered by e-mail to the following individuals:

Lowell Sturgill ([lowell.sturgill@usdoj.gov](mailto:lowell.sturgill@usdoj.gov))  
Theodore Charles Hirt ([theodore.hirt@usdoj.gov](mailto: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.

August 28, 2007

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