

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

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

e-mail: NewdowLaw@gmail.com

September 15, 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 *Inouye v. Kemna*, ___ F.3d ___, No. 06-15474 (9th Cir. September 7, 2007).

Inouye involved a plaintiff whose parole officer coerced him “to attend Alcoholics Anonymous/Narcotics Anonymous (‘AA/NA’) meetings as a condition of his parole.” Slip op. at 11881. The plaintiff objected, apparently because “reverence for ‘a higher power’ is a substantial component of the AA/NA program.” Slip op. at 11887. Recognizing that the plaintiff was given a “Hobson’s choice ... [which] offends the core of Establishment Clause jurisprudence,” slip op. at 11889, the Ninth Circuit ruled in his favor.

The instant Plaintiff is given a similar “Hobson’s choice.” Either he accepts the “reverence for ‘a higher power’” clearly stamped on every coin and currency bill, or he does not use that money. AOB at 19. With there being “no Supreme Court or Ninth Circuit case ... upholding government-mandated participation in

religious activity **in any context**,” slip op. at 11891 (n.12) (emphasis added), there is no precedent for placing Plaintiff in this situation.

Although a program “founded on monotheistic principles” was upheld in *O’Connor v. California*, 855 F. Supp. 303 (C.D. Cal. 1994), *Inouye* pointed out that this resulted from the fact that “the individual has a *choice* over what program to attend.” Slip. op. at 11893 (citing 855 F. Supp. at 307-08 (emphasis in original)). Plaintiff here has no choice with regard to the coins or currency he may use. The United States Code mandates that all such monetary instruments in this nation be minted and engraved with “In God We Trust.” AOB at 4.

Plaintiff’s RFRA challenge was supported when *Inouye* discussed RLUIPA, RFRA’s cousin. Under RLUIPA, “prisoners and parolees need not, and ought not be required to, abandon their beliefs when they pass through the gates of the jailhouse.” If that is the case for prisoners and parolees – whose “constitutional rights are indeed limited,” *Samson v. California*, 126 S. Ct. 2193, 2198 (2006) – then a law-abiding citizen such as Plaintiff here ought not be required to abandon his beliefs when he passes into a library, a highway, or his own church! AOB at 17.

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 15th day of September, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Inouye v. Kemna*, ___ F.3d ___, No. 06-15474 (9th Cir. September 7, 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
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Sacramento, CA 95823

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