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August 29, 2007

Office of the Clerk
U.S. Court of Appeals
Post Office Box 193939
San Francisco, CA 94119-3939

Re: *Newdow v. Carey*, Nos. 05-17257, 05-17344, 06-15093

Dear Sir or Madam:

Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28-6, Plaintiff-Appellant submits this supplemental authority regarding *Webb v. Smart Document Solutions*, ___ F.3d ___, No. 05-56282 (9th Cir. August 27, 2007).

In *Webb*, the Ninth Circuit has once again made it clear that “[a]s a general interpretive principle, the plain meaning of a regulation governs.” Slip op. at 10558 (citing *Safe Air for Everyone v. U.S. Env’tl. Prot. Agency*, 488 F.3d 1088, 1097 (9th Cir. 2007) (internal quotation marks omitted)). Thus, when Congress altered the Pledge of Allegiance in 1954 by passing an act that did nothing but add the two purely religious words “under God” after the words “one Nation,” the “plain meaning” was to make the purely religious claim that the United States is “one Nation under God.” Answering Brief at 27.

Webb did note, however, that “[p]lain meaning is not the end of the inquiry. ‘The plain language of a regulation . . . will not control if clearly expressed administrative intent is to the contrary or if such plain meaning would lead to

absurd results.’” Slip op. at 10559 (citing *Safe Air*, 488 F.3d at 1097 (internal quotation marks and alterations omitted)). In the face of a congressional pronouncement that “[t]he inclusion of God in our pledge therefore would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator,” Answering Brief at 16, and President Eisenhower’s claim that “[f]rom this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our Nation and our people to the Almighty,” *id.*, the only “absurd resul[t]” would be to contend that the addition of the “under God” phrase was not intended for its purely religious, Monotheistic meaning.

Webb reconfirms that courts are “not ... ‘free to deviate from the text’” of a statute. Slip op. at 10567 (citation omitted). As the plain meaning of its text makes clear, Congress’s Act of 1954 was intended to make the unequivocally religious claim that the United States is “one Nation under God,” which obviously violates the religious neutrality the Supreme Court has deemed to be the “touchstone” of our Establishment Clause jurisprudence. Answering Brief at 22.

Respectfully submitted,

Michael Newdow, *in pro per*
CA State Bar No. 220444

CERTIFICATE OF SERVICE

CASE NOS. 05-17257, 05-17344, 06-15093

I HEREBY CERTIFY that on this 29th day of August, 2007, true and correct copies of Plaintiff's letter of Supplemental Authority regarding *Webb v. Smart Document Solutions*, ___ F.3d ___, No. 05-56282 (9th Cir. August 27, 2007) were delivered by e-mail to the following individuals:

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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 29, 2007

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