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January 6, 2010

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, Plaintiffs-  
Respondents submit this supplemental authority regarding *Farrakhan v. Gregoire*,  
\_\_\_ F.3d \_\_\_, No. 06-35669 (9<sup>th</sup> Cir. January 5, 2010).

*Farrakhan* is a civil rights case similar to the case at bar, inasmuch as a  
disenfranchised minority (Washington state citizens of color who are convicted  
felons) sought equality under the law. It is cited here first as authority for looking  
at the effects of a governmental act. Even though (unlike the Act of 1954) there  
was nothing facially discriminatory in the federal statute under consideration in  
that case (i.e., the Voting Rights Act (“VRA”), 42 U.S.C. § 1973), the  
implementation of that facially neutral law led to a “discriminatory impact” that  
resulted in a grant of summary judgment to the plaintiffs. Slip op. at 155. In the  
case at bar, the facially discriminatory Act of 1954 (as well as 4 U.S.C. § 4)  
obviously has discriminatory effects. Answering Brief at 32-34.

*Farrakhan* is also cited for its procedural methodology, whereby much reliance was placed upon the Senate Report that accompanied the VRA. Slip op. at 121-24. Plaintiffs believe that (following *Farrakhan*) similar reliance should be placed upon the House Report accompanying the Act of 1954, which expressly stated that “[t]he inclusion of God in the pledge ... would further acknowledge the dependence of our people and our Government upon the moral directions of the Creator ... [and] would serve to deny the atheistic ... concepts of communism.” EOR 074.

Respectfully submitted,

/s/ - Michael Newdow  
CA State Bar No. 220444

## CERTIFICATE OF SERVICE

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

I HEREBY CERTIFY that on this 6<sup>th</sup> day of January 2010, a true and correct copy of Plaintiffs-Respondents' letter of Supplemental Authority regarding *Farrakhan v. Gregoire*, \_\_\_ F.3d \_\_\_, No. 06-35669 (9<sup>th</sup> Cir. January 5, 2010), was filed with the Ninth Circuit's CM/ECF filing system. Accordingly, copies will assumedly be delivered by e-mail to the following individuals:

Terence John Cassidy ([tcassidy@pswdlaw.com](mailto:tcassidy@pswdlaw.com))  
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January 6, 2009

/s/ - Michael Newdow

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