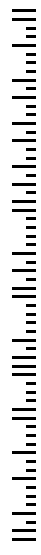


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August 28, 2007

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

Re: *Newdow v. 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 *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 that we are “one Nation under God” in the nation’s sole official Pledge of Allegiance similarly “inherently excludes” non-Monotheists. Answering Brief at 15-17, 35.

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

Defendants' claims to the contrary, *see, e.g.*, Rio Linda School District's Opening Brief at 51 (contending that recitation of the claim that the United States is "one Nation under God" is an "[a]cknowledgment by schoolchildren of the Nation's religious heritage"), the "plain terms" of the two words being challenged shows that the "language" they reflect is purely religious. Answering Brief, *passim* (highlighting repeatedly that the words "under God" are "purely religious").

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 to spatchcock "under God" into the nation's sole Pledge of Allegiance for that phrase's historic or other nonreligious significance is purely pretextual and intimately related to the totally non-neutral, religious, Monotheistic content of the message 4 U.S.C. § 4 attempts to convey. Answering Brief at 47 ("[E]quality is far more important than bogus excuses.").

Respectfully submitted,

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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 *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:

Terence John Cassidy ([tcassidy@pswdlaw.com](mailto:tcassidy@pswdlaw.com))

Michael William Pott ([mpott@pswdlaw.com](mailto:mpott@pswdlaw.com))

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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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