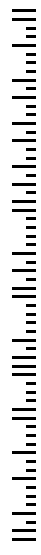


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October 8, 2007

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, Plaintiffs-
Respondents submit this supplemental authority regarding *Pocatello Education
Ass'n v. Heideman*, ___ F.3d ___, Nos. 06-35004 (9th Cir. October 5, 2007).

Although *Heideman* involved the First Amendment's freedom of speech
provision (as opposed to the religion clause provisions involved in the case at bar),
it is relevant for its finding that that law in question there, "on its face," slip op. at
13535, demonstrated "content discrimination." *Id.* This is similar to the Act of June
14, 1954, ch. 297, § 7, 68 Stat. 249 (now incorporated into 4 U.S.C. § 4), in which
"Congress amended the Pledge of Allegiance by adding the words 'under God'
after the word 'Nation.'" Brief for Appellant United States at 3. Obviously, that
Act evidenced flagrant content discrimination "on its face," with only Monotheism
(in direct opposition to Atheism) being advocated on the part of government.
Answering Brief for the Plaintiffs-Appellees at 7 (n. 8).

Additionally, it is noteworthy that the *Heideman* Court found no compelling interest to justify this content discrimination. Slip op. at 13530 (stating that the statute in question “violates the First Amendment because it is a content-based law for which the State officials assert no compelling justification.”). No compelling justification has been offered for the advocacy of Monotheism in the instant case, either. See First Amended Complaint, ¶¶ 102 (EOR 22) and 135 (EOR 28).

Respectfully submitted,

Michael Newdow
Counsel for Plaintiffs-Respondents
CA State Bar No. 220444

CERTIFICATE OF SERVICE

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

I HEREBY CERTIFY that on this 8th day of October, 2007, true and correct copies of Plaintiffs-Respondents' letter of Supplemental Authority regarding the State Department's *International Religious Freedom Report 2007*, released on 9/14/07, 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.

October 8, 2007

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