

PORTER, SCOTT, WEIBERG & DELEHANT

A Professional Corporation
Terence J. Cassidy, SBN 099180
Michael W. Pott, SBN 186156
350 University Avenue, Suite 200
Sacramento, California 95825
(916) 929-1481
(916) 927-3706 (facsimile)

Attorneys for Defendant/Appellant RIO LINDA UNION SCHOOL DISTRICT

**IN THE UNITED STATES COURTS OF APPEALS
FOR THE NINTH CIRCUIT**

MICHAEL A. NEWDOW; ROE CHILD-
2,

United States Court of Appeals,
Ninth Circuit

Plaintiffs - Appellees,

V.

RIO LINDA UNION SCHOOL
DISTRICT,

Case No.: 05-17344

Defendant-Appellant,

And

UNITED STATES OF AMERICA,

Case No.: 06-15093

Defendants/Intervenors-Appellants.

And

JOHN CAREY; ADRIENNE CAREY;
BRENDEN CAREY; ADAM ARAIZA;
ALBERT ARAIZA; MICHAELA
BISHOP; CRAIG BISHOP, MARIE
BISHOP; TERESA DECLINES;
DARIEN DECLINES; RYANNA
DECLINES; ROMMEL DECLINES;
JANICE DECLINES; ANTHONY
DOERR; DAN DOERR; KAREN
DOERR; SEAN FORCSHLER;
TIFFANY FORSCHLER; FRED
FORSCHLER; ESTERLITA
FORSCHLER; MARY MCKAY;
ROBERT MCKAY; SHARON MCKAY;

Case No.: 05-17257

On appeal from U. S. Eastern District of
California (Sacramento) Case No.: CIV
05-0017 LKK DAD

**MOTION TO CONSOLIDATE
APPEALS AND TO AMEND THE
BRIEFING SCHEDULE**

THE KNIGHTS OF COLUMBUS,
Defendants/Intervenors-Appellants,

All parties to the appeals in Ninth Circuit Court of Appeals Case Nos. 5-17257, 05-17344, and 06-15093 hereby move this Court for an order consolidating the three appeals for purposes of briefing, oral argument and decision, and setting the briefing schedule as set forth below. (Fed.R. App. P. 27; Advisory Committee Note to Circuit Rule 27-1.) This motion is made on the ground that all parties agree the evidence underlying all appeals and the legal questions presented by the appeals are so related as to make it advisable to consolidate them. Additionally, this would serve the interest of judicial economy.

I.

**CONSOLIDATION IS AGREED UPON AND IS NECESSARY TO
CONSIDER TOGETHER THREE APPEALS WHICH
CONCERN THE SAME FACTS AND ISSUES.**

On September 14, 2005, U.S. District Court Senior Judge Lawrence K. Karlton entered an order denying Defendants' Motion to Dismiss in this matter. On November 18, 2005, Judge Karlton granted Plaintiff's Motion for a Permanent Injunction. Based on these orders, three separate appeals were filed. Appeal No. 05-17257 was filed by Defendant/Intervenors JOHN CAREY, et al. on November 21, 2005. Appeal No. 05-17344 was filed by Defendant RIO LINDA UNION SCHOOL DISTRICT on December 9, 2005. Appeal No. 06-15093 was filed by Defendant/Intervenor THE UNITED STATES OF AMERICA on January 13, 2006. (Declaration of Terence Cassidy, ¶ 3.)

The three appeals present a compelling case for the advisability of consolidation. Most prominently, all three appeals arise out of the same set of facts and seek to address the issue of whether a public school district should be enjoined from enforcing a policy that allows for daily voluntary recitation of the Pledge of

Allegiance. All parties have agreed that consolidation is appropriate and that all appeals should be set for a briefing schedule as follows:

Appellants' opening briefs are due June 1, 2006;

Appellees' brief is due July 3, 2006; and

Appellants' reply briefs are due July 17, 2006.

(Declaration of Terence Cassidy, ¶ 4; Stipulation for Consolidation of Appeals and Briefing Schedule.)

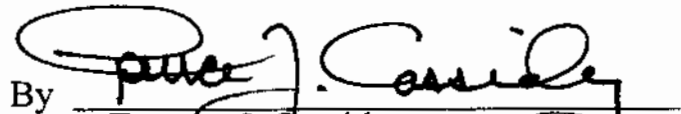
Because the three appeals concern the same Orders, consolidation of the appeals for briefing, oral argument and decision would serve the interest of judicial economy. (Declaration of Terence Cassidy, ¶ 5.) Thus, the parties respectfully request that this Court grant this Motion to Consolidate and to Amend the Briefing Schedule so that the briefing schedule is as follows:

Dated: February 17, 2006

Respectfully Submitted,

PORTER, SCOTT, WEIBERG & DELEHANT
A Professional Corporation

By



Terence J. Cassidy

Michael W. Pott

Attorneys for Defendant/Appellant

RIO LINDA UNION SCHOOL DISTRICT