

Personal Memorandum of Mediation Between Brown and Morris/Austin Which Was Conducted on
June 21, 1994

PERSONAL MEMORANDUM OF MEDIATION

[Some words in this memorandum were not spoken or read during the mediation, but are included for clarity or amplification. When those words are not obvious from the context, they are placed in brackets.]

On Tuesday, 21 June 1994, Drs. Henry M. Morris, Steven A. Austin, and I met for a day of mediation at a branch office of Pepperdine University, next to Los Angeles' Orange County (John Wayne) Airport. Four lawyers mediated our dispute: Judge Jack A. Crickard (a retired judge appointed by President Reagan to the Los Angeles Superior Court), Gregory B. Wood (an expert on copyright law), Peter Robinson (a professor at Pepperdine specializing in dispute resolution and the former executive director of the Christian Conciliation Service), and Kathryn Blankinship (a non-voting mediator, who arranged the meeting). Kathryn told me earlier that she wanted to come to see what would happen.

My morning flight from Phoenix was on time, so I arrived first at 1000 for the 1030 meeting. Morris and Austin arrived at 1015, and the others during the next 30 minutes. Peter, in talking to Kathryn, mentioned having read the background material Kathryn had reproduced and delivered to the mediators. That was a relief to me. As the day progressed, I could see that Peter was the only one who had properly done his homework. Judge Crickard had done practically none.

Although Judge Crickard was the most prestigious member present, Peter took charge, "broke the ice" with friendly questions about our families and backgrounds while we waited for Greg Wood, and arranged our seats in this large classroom. I sat in the middle of one side of a make-shift 10' x 4' table--across from Morris and Austin. Two lawyers sat at each end. Peter opened with a "round-the-table" prayer. The cordial atmosphere existed all day.

Opening Issues

Judge Crickard asked Morris and I to describe the size and influence of our respective organizations. Afterwards Morris asked what could be discussed afterward about our mediation. He said that all of ICR (50 people) would want to know what happened. One person thought nothing should be said; another thought that was unrealistic. I mentioned that outsiders were hearing things from Austin. For example, Paul MacKinney called me two days earlier and commented that Austin told him that I was "suing Austin." Austin registered no reaction. I suggested we decide what could be said at the end of the mediation. All agreed.

Peter asked all the mediators to meet privately outside. As they left, I asked Kathryn if audio taping was permitted. She pointed to the tape recording of the 18 September 1988 radio broadcast I had mailed her, thinking I was asking about it. (Apparently, she had not reproduced and distributed it.) When she realized I was asking about taping the mediation, she said, "No, it is confidential." I had proposed audio taping in an early letter to Kathryn but had not heard anything since. The manual for CCR (Center for Conflict Resolution) said meditations and arbitrations could be recorded by any of a number of means if the parties agreed ahead of time.

The private conversations between Morris, Austin, and me were friendly and relaxed. Morris asked me what ever happened to his seat on CSC's board. I told him he came on the board asking that he be only on for a transition period of three years (1 January 1983 - 1 January 1986). We closed down in Chicago in August 1985. I asked Morris and Austin how many copies of Austin's new book had been published. To my surprise, neither knew. They guessed 5-10 thousand.

When the mediators returned, Greg Wood gave a 10 minute "seminar" on copyright law. I sensed this was directed at me, although nothing Greg said fit specifically. Morris asked for details on "fair use" of copyright material. I was already aware of most of this. "Fair use" allows using copyright

material in the public interest, such as in classrooms. Greg said that "trying to beat the publisher out of a sale" is not fair use. [Apparently, Morris and Austin would maintain they did not need permission to print copyrighted art work because it was "fair use."] Later in the day, Austin said that only about 100 copies were produced of their copyrighted editions. [Although the number printed has little bearing on copyright infringement, I think ICR printed more, since I recall that more than 100 went on some of their trips.]

Peter wondered if we should first address the issue of Austin's alleged plagiarism from me. Morris suggested that since I initiated this process, I begin. I said this was not just a plagiarism issue. I had never objected to someone taking my work without crediting me. It had happened many times. I knew Henry Morris felt the same way. I have not objected when someone takes my published work verbatim and then copyrights it. Nor did I object when someone took my work, published it, then claimed I took theirs. [Austin did this in 1990.] What Henry and I are trying to do is to get this information out. The first four editions of my book, *In the Beginning*, were not formally copyrighted. But then an accountant friend [Bob Pullen from Toronto] scolded me for not copyrighting what I had written. He said that someone could take it, copyright it, and then sue me for allegedly taking it from him. At first I doubted this would happen, since usually only Christians are interested in passing this information along. Later, I realized Bob's advice was correct, so the fifth edition was the first that was formally copyrighted.

I said that while we should spend most of our time on that plagiarism issue, it would help if I started at "the beginning," not THE BEGINNING (levity intended), but the beginning of our problems. I referred the mediators to the first page in their background reading material, and summarized the damaging effect of Morris' 1984 book, *The History of Modern Creationism*.

I explained how every organization needs two things: an objective and a way to raise money to pursue that objective. For many reasons, I have made it a policy never to solicit donations. I told everyone in the room they could imagine some of my reasons, but there were others. My speaking and writing would be the main source of income. [One of my two objectives was to study and conduct research on the origins question.] During the five years in Chicago, there was only one main product: an all-day seminar program. It raised income and accomplished the other organizational objective—getting the information out to the public [not just to scientists and educators]. I did not have time to solicit seminar requests. Since the scientific work was too time-consuming, seminar requests had to come spontaneously from the hundreds of people around the United States and Canada who were what I called *creation activists*. [These are people with initiative, who realized how strong the scientific case for creation is, how foundational it was to human activity, and who want to help inform others of all of this.] I told the mediators that someday they might learn something about this subject, that Henry Morris was probably the leading authority in the world on this subject, and I had learned much from reading some of his books. Austin has also made important contributions.

The 5000 copies of Henry's 1984 book was very likely reading for these hundreds of *creation activists*. When they read what he wrote about me, the general reaction would be negative, although some complimentary things were said. That negative impression would reduce the rate of seminar requests. At that time, 1984, seminar requests had flattened out at a level that could not sustain the organization. Therefore, Morris' book was the final straw in deciding to close down the organization in Chicago. I accepted full blame for the seminar program not being more successful up until that time. But, Morris' book made the future look even bleaker.

I explained some of the personal trauma that book caused: waking up nights for hours, wondering why Henry (who was on my board) had done this to me, moving a family across the country, uprooting four children who were in high school or college, and my wife having to get a job until I

could decide which direction I was headed. I told those present that no one other than my wife knew the difficulty Morris had caused, not even my children.

I also read a few sentences from the first page of the mediators' background reading, the 1991 letter I had sent to Morris, saying that I was continuing to hear derogatory comments about me, all of which seemed to emanate from ICR. If they continued, then I would have to respond more forcefully. I mentioned my offer to meet with Morris to discuss our problems—an offer Morris ignored. The backbiting continued. A year ago, almost to the day, I heard some more false and damaging things which precipitated everything that led to this mediation.

Morris said that he did not know the issue of his 1984 book would arise, and this was an example of why he wanted me to be specific about what my charges were. [The need for me to be specific only pertained to arbitration. Kathryn had made it clear to me, and presumably Morris, that anything could be discussed in mediation.] Morris said he recently reread what he had written about me. He still felt it was accurate. He repeated some of the things he had put in that book. I said that giving the history of someone else's organization without checking with that person for its accuracy was improper. Morris responded that he talked about many organizations and couldn't be expected to check with each one. Besides, he wrote that book while he was sick in bed. He said that he was sorry if it caused me problems.

Later in the afternoon, that subject came up again. I asked Morris, "What do your readers think when you say your accountant felt that my organization had to be brought under more strict financial accountability? They wonder if Walt Brown was involved in some financial 'hanky-panky'." [My letter to Morris in 1991 explained what that accountant actually meant.] Morris responded that it was true his accountant had said greater accountability was needed. I said I didn't doubt that. What was more important is the message you communicate to your reader, and that message and other misimpressions were very harmful to CSC's work. Peter made a similar comment to Morris. At least Peter had read my detailing of the errors Morris had written, none of which Morris disputed.

The Grand Canyon

We took a coke break. While we walked down to the machines, Peter told me he was fascinated with what he had just read about the Grand Canyon. I agreed, and said it is not a complicated topic. When the break was over, Peter raised the subject of the Grand Canyon and the alleged plagiarism. The conversation rambled; Austin's comments were full of technical mumbo-jumbo (tectonics, Bidahochi Formation, and others) whose meanings, even if understood, would not add to any listeners' understanding. Instead such talk intimidates the listeners, in this case the mediators, into thinking that the subject is beyond their comprehension. I was concerned the whole day would end up complicating matters.

I jumped in and said these details don't relate to our controversy. I said, "Let's draw a time line on the blackboard." Peter, who seemed eager to shift to something everyone could "sink their teeth into," jumped up to the blackboard and drew a twenty-foot long horizontal line. I said, "Label the middle of that line 18 September 1988. That was the date I began talking publicly about my explanation for the formation of the Grand Canyon. It was a radio broadcast that was rebroadcast over about 50 stations around the country. (As mentioned earlier, apparently no mediator had heard the tape recording of that broadcast that I had given Kathryn.) Throughout that fall I talked many times about the formation of the Grand Canyon. For example, on 20 September 1988, I gave a two-hour presentation on the subject [at Northwestern College]. Before the fall of 1988, I have found nothing that Steve has said or written beyond wondering if a lake could have breached its dam and carved the Grand Canyon. After 1 January 1989, he was saying definitely that the Grand Canyon formed by a breached dam, and he made major modifications to his subsequent books.

Austin then said, "in the earlier years it was not politically correct to talk about how the Grand Canyon formed." [I didn't understand what he meant.] He said he tends to wonder a lot about things and write very little. With a quivering lower lip and great sincerity, he said "I swear to God, I never heard your broadcast or any of your talks about how the Grand Canyon formed." I responded, I never said you heard that broadcast or me directly, but it appears that somehow you learned of what I was saying that fall. Crickard asked why I felt that way. (Judge Crickard had obviously not read the report or he would have known.) I tried to explain as much as I could of the "5700-foot smoking gun," how map makers put slight but intentional errors on their maps so that if they were copied, the error would be copied and the copyright infringement detected. Greg Wood nodded his awareness of this technique. I said Austin's writings after the fall of 1988 had that unusual number, which I had given earlier as the elevation of Grand Lake. Austin would not have logically arrived at that number any other way. He also was using the name I originated, "Grand Lake." Austin said that he arrived at 5700 feet for the wrong reason, but it turned out to be the right answer. The mediators asked to see his use of 5700 feet. I showed it to them.

Austin then said that he never said that 5700 feet was the elevation of Grand Lake. That is the number he gave for the elevation of the dam that formed Grand Lake. [I did not have an opportunity to comment on this, but it was thoroughly rebutted on page 4 of the Brown/Austin Exchange which was in the mediator's reading file.]

Greg asked to see my 1989 drawing of the map of Grand and Hopi Lakes. Peter and I showed him where it was in his reading material. Wood then asked to see Austin's 1990 drawing. Wood studied them for a minute or two and said that it was not obvious that Austin copied it. [Greg was looking at the different shapes of Austin's lines and did not realize the broad concept had been copied.]

Austin said he had drawn a map of a lake in 1985, and I had not seen it. Several mediators immediately asked where it was. Austin said it was in his car. They told him to go get it. While Austin was getting it, the mediators recessed for a private meeting. Austin came back with a sketch of a crude version of Hopi Lake and showed it to Morris and me. I knew that his sketch of Hopi Lake did not support his case, since that former lake has been known for over 30 years. I let Austin talk on and on, saving my comments for when the mediators returned. When I explained it to everyone, I also showed them how Austin had written me about this map drawing and I had responded to it with one sentence in the "Austin/Brown Exchange" which they all had. Austin's sketch was irrelevant. The lake of importance was Grand Lake.

Peter explained that unlike arbitration or a court of law, mediators can meet privately with each party, so things that might not be said can come out. I said that everything I had to say could be said in front of everyone. Morris and Austin felt the same. Peter smiled and said the mediators could talk more freely by meeting privately with each side. They then asked to meet with me privately. Morris and Austin left.

Private with Brown

The mediators quickly got to the point. Greg Wood said that I did not have a case for copyright infringement that would stand up in a court of law. Ideas, he said, are not protected. Crickard, said the same thing more forcefully. As he was talking, Peter and I had the same thought, but I got it out first. "I have never sought a court ruling on copyright infringement. Peter quickly repeated the same idea. In the scientific community plagiarism is a serious offense, and in the past two years it has been a hot topic in the major scientific journals. Careers are destroyed because of it." I asked them if they were familiar with the congressional hearings by Representative Dingle of Michigan on plagiarism within the NIH (National Institute of Health). Greg had heard of it. That seemed to register with the mediators.

I then explained that what I had laid out was more than an idea; it was a theory—a framework of evidence answering many questions and giving broad new insights. I explained dam breaching in more detail and why the explanation for the Grand Canyon became easier once one understood how the Flood waters were removed off the continents. The key questions concerning the Genesis Flood were (1) where did the waters come from, and (2) where did they go. Until those solutions were well understood and the events easily pictured, subsequent events, such as the carving of the Grand Canyon, were less likely to be understood. The Hydroplate Theory pulled it all together.

I told Greg that while copying an idea is not copyright infringement, copying art work [including maps] is, since a major effort goes into producing such materials. [This bears on the *substantiality* test in copyright law.] Besides, the creators of that art work would be furious to know that a creationist used their work. Greg nodded his understanding. The issue of Austin's taking copyrighted material of other Grand Canyon researchers was not pursued further.

Concerning Austin's explanation for how he arrived at 5700 feet, I implored the mediators to read carefully the background reading which thoroughly rebutted what Austin said. I mentioned the disbelief and humor my son and daughter-in-law had at Austin's convoluted justification for coming up with 5700 feet elevation. [Austin earlier in the day said it was "the wrong reason for the right answer."] Both my son (a new science professor) and daughter-in-law (a former high school mathematics teacher) have a strong quantitative sense.

Judge Crickard asked what I thought should happen. I said that one obvious thing, no one should dispute concerned the name Grand Lake. I gave it that name in the summer of 1989. Austin used it from 1990 until his new book came out six weeks ago. In that book, he now called it Canyonlands Lake. That will confuse people. We are talking about the same ancient lake, but now there are two names. [Austin says there are subtle differences in their boundaries—*very* subtle, indeed.] I explained that in science once it is realized that two different names describe the same theory, phenomena, or entity, the first name takes precedence. I gave as an example the names *Apatasaurus* and *Brontosaurus*, each thought to describe a different dinosaur. The *Brontosaurus* is the dinosaur shown on the gasoline sign. When it was realized after a century that the wrong head had been placed on the *Apatasaurus* and it was really a *Brontosaurus*, the rules of precedence dictated that the name associated with the earlier find should be used for both. Therefore, Austin and Morris should put out an errata sheet making that amendment to Austin's new book. I said that endnote 40 had about five other errors of fact dealing with our dispute. They should also be corrected in an errata sheet. Crickard asked if that would resolve the dispute. I said it would resolve about 70% of it. The rest involved false and damaging statements from Austin that I had plagiarized from him. [We never had time to discuss those at the mediation.]

Peter asked if I could guess why Austin suddenly came up with a different name. We chuckled, and I said I had an idea but couldn't get into his mind to be sure. Peter said, "He wanted to distance himself from your idea." I nodded concurrence.

Greg said that Austin may have come up with the name Grand Lake independently of me. I replied that when Austin first used the name in 1990 I considered that unlikely possibility. Greg thought it was a very natural name, and Austin might have come up with it himself. I told them that the matter was resolved when Austin told me he had gotten the name from me. [See Austin-to-Brown letter, dated 21 June 1993, first paragraph, second page.] At another point, Greg said Austin's ideas may have preceded mine, but he hadn't written them down. I told Greg that in the business Austin and I are in, our oral presentations are almost always taped. I have hundreds of such tapes, as I'm sure Austin does. Therefore if he only talked about it, he should have some taped record of it. I have frequently asked him for such a record, but have received nothing. [The Grand Canyon comes up often in the speaking that Austin and I do.]

Peter asked for more comments on Austin's new book on the Grand Canyon that came out six weeks ago. I said that Austin did a much better job of crediting the sources of his ideas. Peter said, "great; you have had an effect." I said that others had told me the same thing, but there were still some problems in it. They needed to be corrected, but I was not desiring that this embarrass Morris or Austin.

There needed to be more interaction between me and ICR, especially Morris and Austin. I mentioned a very popular new book called *The 7 Habits of Highly Effective People* which describes three levels of increasing maturity: dependence, independence, and finally interdependence. (Peter had read the book.) Morris, Austin, and I were independent, but we could accomplish much more if we were interdependent. Unfortunately, Morris and Austin had built a barrier between us many years ago as I described in the background reading. I then referred to Austin's comment that I described earlier in the day where Austin said he wished that nongeologists (meaning me) would stay out of his business.

Greg said that his father was retired from the military and living in Arizona. I knew what was coming, so I said that they were the worst kind. Greg said I reminded him of his dad. "Dad was forceful and definite. Usually he was right, but sometimes he was wrong." Greg appeared to realize that he may have been slightly offensive (he wasn't), so he said, "We need more people like my dad, people who will stand up to wrongs committed by the bigger organization."

Peter said he understood my position. I felt like I had made a contribution and wanted the larger organization to recognize it, rather than taking it because they have the greater ability to disseminate it. I disagreed, saying that painted me as a bit too egotistical. When your character is attacked and you see that misinformation spreading, then you must address the problem. Otherwise your effectiveness will diminish.

Peter then told me that sometimes one party has to give something to get something. Would I be willing, in the interest of Christian harmony I smiled at Kathryn. She knew what I was thinking. I explained to everyone how I had opposed mediation, because Christian mediators often resorted to questions such as: Do you love your brother?, Do you forgive them?, etc. The problems end up being swept under the rug while the mediators feel they have brought about Christian harmony. The issues in our conflict are serious, damage is being done, and a clear resolution is needed. Peter said I had a point.

Private with Morris and Austin.

For the next 45 minutes the mediators talked privately with Morris and Austin, while I collected my thoughts in the lobby. Mary Regan, the receptionist there, said she had told other two gentlemen [Morris and Austin] who had been waiting in the lobby that they looked as if they were expecting a verdict. They replied that it was probably true.

It was clear the mediators wanted to force some agreement. It suddenly hit me that I had never heard of a scientific dispute involving priority ever being decided in court. The Newton-Leibnitz controversy over calculus, the Darwin-Wallace controversy over organic evolution, and the Newton-Hook controversy over gravitation came to mind. The textbooks have discussed these unresolved controversies for centuries. It behooves us to resolve this less significant controversy while all the facts are in front of us.

We were dealing with alleged plagiarism, not copyright infringement. I had used the two terms almost interchangeably, but now realized there was a huge difference. Lawyers speak of copyright infringement; academicians speak of plagiarism. A student who is caught plagiarizing will often be kicked out of a course or a school. If a student took someone's unique idea and claimed it as his own, he would get little help from the law which says he did not commit copyright infringement. At

West Point, a plagiarism charge is usually ruled on within hours, and someone convicted of it is removed before sunrise. Our dispute concerns *scientific ethics*, not legalities. Pursuing plagiarism in science has been a hot topic in congress, especially Congressman Dingle's committee dealing with the NIH (the National Institute of Health). I was invited back into the mediation room.

Proposing a Process

When I sat down, Morris and Austin seemed in a receptive mood. Peter asked if I had any proposals. I said I did, but first explained my thoughts while waiting in the lobby [the previous two paragraphs]. Then I said there is a process that if followed will resolve most of our dispute.

The first step in the process was for me to draft an errata sheet to be placed in all unsold copies of Austin's latest book on the Grand Canyon. Austin would probably disagree with some of what I wrote, but he could raise his objections to one of the mediators (such as Peter) who would make the final decision. [I used Peter as an example, because he was the only mediator who had done his homework.] Austin asked if we could make the change when the next edition came out, which he thought would be soon. I proposed that if less than 1000 copies of the book remained, it could wait until the next edition. All future editions would carry the same information. In this way, we would not have to contradict each other in our respective books. Within a year, I will print a new edition. Everyone seemed agreeable.

Austin then thought it would help if a geologist made the final decision. Several names were suggested: Emmett Williams, Dave Coppedge, and Ed Holroyd. I laughed at their suggestion of Ed. He was very much in Austin's camp. I was willing to make a conference call with Austin to Emmett, so we could both ask him to act as the editor. Austin said he wouldn't have time for several weeks to make the call. I told him it would only take 15 minutes, but Emmett might not want to do it for fear of offending one or both of us. The mediators all seemed to think that Peter could best make the final decision. Peter said he would do it. Later in the day, Peter said he would be away for all of July.

I proposed that we only communicate with Peter in writing, and always send a courtesy copy to the other person. That seemed agreeable. Morris said he would not need to be in the process; it was between Steve and Walt. With more discussion, we likened the process to having Steve as the author, I was a peer reviewer, and Peter was the editor. Peter wanted Austin and me to interact with each other until no more could be accomplished. Then he would make the decision.

As the next step, I then said that many had already gotten the book, or prior *Guidebooks*, that did not have the errors corrected. To solve that problem, there should be a note, derived from the errata sheet, placed in *Acts & Facts*. Morris suddenly came alive; "absolutely not." [*Acts & Facts* has a monthly mailing of 100,000 - 200,000 and generates most of ICR's donations.] Since progress was being made, I thought it best to avoid that battle and move on to the last step of the process.

As the final step, I would draft a letter, based on the approved errata sheet. It would be sent to a small number of people who I knew had a special interest in this controversy. Austin and I would interact as we did with the errata sheet and Peter would make the final decision. Up to fifty people would be sent copies, and I would pay the postage. Peter suggested that both Austin and I sign the letter. If either refused, Peter would sign and mail it. Kathryn began to draft up an agreement that Austin, Morris, and I would sign before the mediation ended. This we did in a rush at the end of the mediation, once the wording was agreeable to all. Morris was reluctant to sign it. Kathryn insisted that he do so, and he did. She said that she would type it up the following day just as it was then written. No changes would be made.

Some Final Loose Ends

I asked Austin if he had recently mailed a letter asking for criticism of me. Austin looked puzzled and said he had not. I looked him in the eye, waited for a few seconds, and said that he had done so. A few more seconds of silence passed. "You even sent a draft of what you wanted said, but asked him to put it in his own words. You suggested it say 'Walter Brown had taken work belonging to others and some people were bothered by it.' Finally, you said, 'There was no need to contact Walter Brown.'" More silence [while I decided whether to mention my source of information]. "You sent such a letter to Xxx Xxxxxx." Austin then said that he had made a phone call to Xxx. I contradicted Austin saying, "No, you sent a letter, and that letter was read to me over the phone." I repeated the gist of his letter. Austin finally agreed that he had. I asked him why he had not contacted me first if he felt I had done something wrong. Austin did not answer. I told him doing so would be the Biblical approach, and he might have been surprised had he done so.

I then asked Morris, "Henry, were you aware that Steve was doing this?" Morris stammered, but didn't answer. [This spoke volumes.] I then said, "This is an example, Henry, of derogatory and damaging things from ICR being spread about me." Finally, with a puzzled look on his face, Morris seemed to recall hearing about some contact being made with Xxx Xxxxxx. Austin then told us what Xxxxxx said. Again, I had to contradict Austin. "Xxxxxx only declined to make a statement. I know, because Xxxxxx sent me a copy of his letter back to you." Austin was silent.

[Austin had just been caught lying. I didn't dwell on it, but everyone in the room heard it. I have always been impressed with how sincere Steve Austin sounds when denying any wrongdoing. Even with the evidence of his false statements in front of me, his denials have sounded so convincing that I wondered if somehow the evidence was wrong, or if he had fooled himself. It is always best to follow the evidence.]

Several times a mediator raised the question of how would Peter resolve a disagreement between Austin and me on what the approved errata sheet should say. I said that the key question would be, "What did Steve write or say before the fall of 1988?" Carefully examine the evidence. For example, Austin had claimed that he written in February 1988 about how a breached dam formed the Grand Canyon. If you look at the 1988 and 1989 publications, you would see that was not true. Austin then denied making such a claim. We were at a standoff, some mediators were anxious to end the meeting, and there wasn't time to refer everyone to Austin's written statement contradicting what he just said.

I raised the subject of the apparent plagiarism in Slusher's book and Morris' unwillingness to face it. Morris said that he would discuss it, but it would take 30 minutes. [Several mediators were anxious to leave. Morris' reference was probably to the cloud under which Slusher left ICR. If so, that had nothing to do with Morris' negligence.] I asked Greg if he had compared the two writings. He said he had not. Crickard jumped in and asked if this subject involved a person not here. I tried to explain that whether or not Slusher (who was not present) plagiarized was not the issue. What was at issue was whether Morris acted on apparent plagiarism. Crickard was adamant. No discussion was to take place if an outside party was not present. He sternly asked me if I understood. I said I did.

[I wish I had the presence of mind to tell Crickard that from a legal standpoint he was correct. But we are talking about plagiarism not copyright infringement. A scientific ethic is involved. If a department chairman at a university took no action when presented evidence of plagiarism by a subordinate, the Dean would rightfully be furious, whether or not plagiarism had occurred.]

Kathryn jumped in and asked Morris if he agreed that plagiarism was a serious offense. Peter also said something to Morris along the same line. Morris agreed. Therefore, Kathryn's statement that we signed carried the mediator's conclusion that we all agree plagiarism is bad.

Kathryn also asked Austin if he would agree not to criticize me in the future. Austin agreed, but I interrupted. I said he, or anyone else, should be free to disagree with me, and if asked, to explain why they felt I was wrong on any scientific matter. Personal attacks, however, should be brought first to the person being attacked. I would also appreciate Austin coming to me if he has any scientific disagreements so we could discuss them. He said he would.

Someone asked Austin and me if we could work together in the future. Austin said he could. I said it would require time to build up trust, but I would to work at it. I told Austin and Morris that I was sitting on some major new research conclusions, but frankly I would not want to discuss them with Austin for fear he would claim them as his own. Morris seemed shocked. "Do you mean you think Steve would steal some of your work?" I told Morris that while I might be wrong, I sincerely believed he might. [Evidently Morris had forgotten what our controversy was all about.]

I told Morris that despite what he may think, I want ICR to be as successful as possible. Nothing would make me happier than for ICR to suddenly solve the evolution problem. I would enjoy stopping this work and perhaps taking up golf again.

Morris said that his board members had not been told about this controversy. We agreed that board members and others in our organizations could be told what happened at the mediation. Morris said he probably would not tell his board members. There was to be no general dissemination of what happened at the mediation. Unfortunately, we didn't discuss what would happen if there was a breakdown, for any reason, in the process for the errata sheet, letter, etc.

The meeting broke up at about 3:30 P.M. Greg had a 3:00 P.M. appointment. Morris, Austin, and I stayed behind. Austin said he didn't understand the Hydroplate Theory. He not only did not understand it, his understanding was so weak that I can only conclude he has never tried to understand it. Therefore, I explained a few things: how I am saying mountains formed, the Kaibab Upwarp, faulting within the Grand Canyon especially at monoclines, some physical reasons why subduction and mantle convection cannot occur. Morris, who was listening to some of this, invited me to visit ICR sometime.

This memorandum is written

1. to place in my personal records.
2. to help me recall what happened at the mediation.
3. to show board members and family members.
4. to disseminate more widely if Morris or Austin violate their signed agreement.
5. to correct any misinformation I happen to hear about this meeting.
6. to give those present at the mediation if they later have trouble recalling what happened. (Unfortunately, CCR did not tape record the mediation.)
7. to be a starting point to allow people present at the mediation to correct my recall of what was said.

Walt Brown
June 22, 1994

