

# PEPPERDINE UNIVERSITY

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SCHOOL OF LAW  
INSTITUTE FOR DISPUTE RESOLUTION

September 21, 1994

Dr. Walter T. Brown, Jr.  
Center for Scientific Creation  
5612 N. 20th Place  
Phoenix, Arizona 85016

Dr. Steven A. Austin  
Institute for Creation Research  
10946 Woodside Avenue N.  
Santee, CA 92071

Dear Gentlemen:

This letter is to seek to resolve the issue submitted to me arising out of the mediation on June 21, 1994. We met together on that day to discuss serious allegations and concerns and to seek God's will and glory for this situation. We benefited from the wise counsel of retired Los Angeles Superior Court Judge Jack Crickert and experienced patent and intellectual property attorney Gregory Wood. After much discussion, the two of you agreed to resolve your differences by rewording footnote 40 of one of Steve Austin's publications, to issue a joint statement to not more than 50 individuals affected by this dispute, and to cease derogatory statements and personal attacks involving each other. It was agreed that with regard to the editing of the footnote and the joint statement that I would be responsible to resolve any controversy between the two of you regarding the exact wording and the implementation of these measures.

First of all, I want to express my appreciation for the organized, thorough, and comprehensive submission of materials submitted to my office over the last month. The time, energy and effort reflected in those materials reinforced to me the importance of this dispute to each of you and the passion you have about it. I apologize that the other demands of my work prevented me from responding to you sooner. I just completed a trip to Atlanta which provided the opportunity for long periods of uninterrupted time for concentration during which I carefully examined every document submitted. After reviewing such information I am compelled to respond to three issues at this time.

The first issue involves the wording of the footnote number 40. I have attached a separate sheet containing my determination of how the footnote should read. I know that both of you will be disappointed by parts of it and thus will explain my thought process here. My

understanding is that the objective in rewriting footnote 40 was to provide greater recognition for Dr. Brown's contribution in this area. Much of Mr. Brown's suggested draft addressed issues far beyond that scope and included matters about which Dr. Austin disagrees. Since it is Dr. Austin's book, I decided Dr. Austin's writing style, choices of words, and understanding of historic reality should prevail except for the paragraph that describes Dr. Brown. I drew heavily from Dr. Brown's proposal describing Dr. Brown's contribution seeking to edit so as to minimize the repagination concerns of Dr. Austin. I was influenced by Dr. Austin's pagination concerns, but also equally influenced by Dr. Brown's variety of suggestions for addressing those concerns while still providing sufficient room to accomplish the objective of the agreement.

The second item submitted for resolution is the joint statement to be circulated to not more than 50 individuals. Upon carefully reviewing the materials I have not seen a suggested draft from either of you. I understand that Dr. Brown feels that this joint statement should be issued after the resolution of the footnote 40 issue. Again I sincerely apologize that my schedule precluded me from closely examining these materials sooner because of the ongoing damage that is done until this matter is fully and finally resolved. It is my intention to resolve this question of the joint statement as quickly as possible.

I have enclosed a first draft of such a joint statement for both of you to review and revise. I am faxing a copy of this letter and both attachments to both of you today with hard copy to follow by regular mail. I believe it is preferable for the joint statement to come from you as far as accomplishing the goal of unifying the Christian creationist community and demonstrating the Lordship of Christ in this matter. Therefore, I am requesting that the two of you discuss my draft and seek to formulate a mutually acceptable draft. In the event that you cannot do so within 14 days of the date of this letter, October 5th, you will then be given an additional seven days, until October 12th, to submit your proposals and arguments to me regarding modifications to my draft. I will carefully review your proposals and concerns and create a joint statement within the next seven days, October 19th. I will sign the draft with my title as mediator/arbitrator on behalf of the Center for Conflict Resolution, a Christian Conciliation Service Ministry, and also list my titles as the Associate Director of the Institute for Dispute Resolution and Assistant Professor of Law at Pepperdine University School of Law. Dr. Brown should generate the 50 labels of the individuals to receive this statement and deliver those labels to my office for distribution of the statement by October 19th.

The third issue for resolution regards the name attributed to the lake in question. Dr. Brown provided the name "Grand Lake." Dr. Austin utilized that same name for the period of 1988 to 1994 at which time he published the revised version to his Grand Canyon guidebook in which he used a new name of Canyonlands Lake. My impression from our discussions at the June 21st meeting was that the controversy and allegations from Dr. Brown was one of the significant factors in Dr. Austin's decision to begin referring to this lake as Canyonlands Lake. The thought being that if using the same name as Dr. Brown contributes to Dr. Brown's allegations of plagiarism by Dr. Austin, then Dr. Austin will cease utilizing the same name.

My resolution of this issue will seek to implement my understanding that the agreement at the

conclusion of the June 21st meeting was in essence that the cause of creationism and the Lordship of Christ would be best advanced by Dr. Brown ceasing his allegations of copyright infringement and plagiarism by Dr. Austin and that Dr. Austin would more recognize Dr. Brown's contributions, among other significant contributors, to the Grand Lake theory. While we all recognized that Dr. Austin and Dr. Brown continue to have significant scientific differences, there was an agreement that there would be a more collegial and professional personal relationship because of their mutual Christian commitment and the Christian value of forgiveness and reconciliation for whatever wrongs that each may feel.

My determination will seek to recreate the status of their relationship as if the acrimony had not arisen and seek to implement this spirit of reconciliation represented by the agreement on June 21st. Accordingly, I believe that Dr. Austin would have continued using the title Grand Lake had the controversy never arisen. He should now continue using the title Grand Lake as a symbol of his commitment to reconcile with Dr. Brown and also as one way to acknowledge Dr. Brown's contributions regarding this body of water. The scope of this determination extends to footnote 62 and the main text of his Grand Canyon guide book. This utilization of the name created by Dr. Brown and recognition of Dr. Brown's contributions in this area does not extend to agreeing with any or all of Dr. Brown's theories regarding how the lake was formed or drained.

I know that there are portions of this determination that will be disappointing to each of you. The objective in my deliberations was to recapture and implement the gestures made by each of you that enabled the June 21 meeting to end in an agreement symbolizing reconciliation rather than an arbitration decision with a winner and a loser. Dr. Brown's final submission to me repeated many of the allegations giving rise to the conflict. I refuse and I pray that each of you will also refuse to reopen those old wounds. Rather I ask you to join me in embracing the Spirit that enabled you to end the June 21 meeting with a handshake and a commitment to seek to show God's grace, love and forgiveness more in your relationship with each other. I pray that it is in that Spirit that you will accept and implement the above determinations. Rest assured that I and many others will be praying for God's continued blessing on both of you and the important work you are conducting.

Sincerely,



Peter Robinson  
Mediator/Arbitrator, Center for Conflict Resolution and  
Associate Director and Assistant Professor of Law  
Institute for Dispute Resolution  
Pepperdine University  
School of Law

cc: Katherine Blankinship  
Honorable Jack Crickert  
Gregory Wood, Esq.

# PEPPERDINE UNIVERSITY

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SCHOOL OF LAW  
INSTITUTE FOR DISPUTE RESOLUTION  
Joint Statement

Dear \_\_\_\_\_:

This letter is to inform you about the resolution of the controversy involving Dr. Walter T. Brown and Dr. Steven A. Austin. You were selected to receive this letter as one of the people who was probably aware that a controversy had existed and one who would be interested in knowing of the resolution.

The controversy surrounds the theory that the Grand Canyon was formed by the drainage from a very large lake that existed many years ago east of the Grand Canyon. Dr. Brown and Dr. Austin agree that this body of water, in addition to Hopi Lake, existed but disagree about how it may have been formed. Each of them contributed toward advancing this theory. Specifically, Dr. Brown applies a hydroplate theory to explain a rise in the Kaibab Plateau as well as a number of other geological phenomenon that he identifies in the Western United States; in 1988 he conducted extensive field work to explore the existence of this second body of water and its approximate location, which he named "Grand Lake." Dr. Brown acknowledges the work of other scientists in advancing the existence of this lake including Dr. Edmond W. Holroyd, III and Dr. Bernard E. Northrup, but believes that he significantly advanced this theory with his work and contribution.

The controversy arose when Dr. Austin published his 1989 Grand Canyon field guide and made reference to this lake by the name of Grand Lake and attributed it at the same elevation and location as Dr. Brown. Dr. Brown believes that Dr. Austin had utilized information generated or proposed by Dr. Brown without attribution. Dr. Austin explained that such was not the case, but that he had generated his conclusions based on the work of Dr. Holroyd and others. Dr. Brown's and Dr. Austin's lectures and other activities among the creationist community resulted in a controversy involving three issues. First, a difference of agreement regarding the correctness of Dr. Brown's hydroplate theories. Second, the specifics and significance of Dr. Brown's contributions to advance the "Grand Lake" theory. And finally, the issue of whether Dr. Austin utilized any of Dr. Brown's contributions without attribution.

Dr. Brown, Dr. Austin and Dr. William Morris attended a meeting convened by the Center for Conflict Resolution, a Christian Conciliation Service ministry, in Orange County on June 21, and presided over by the Honorable Jack Crickert, a retired Los Angeles Superior Court Judge, Gregory Wood, a prominent intellectual property attorney, and Peter Robinson, the Associate Director for the Institute for Dispute Resolution and Assistant Professor at Pepperdine University School of Law. The objective of the meeting was to resolve these matters in a matter that would reflect the Christian devotion of both men and permit them to

labor side by side in the advancement of the creationist movement. An intense discussion was held for more than four hours and concluded with many questions unanswered and many issues unresolved between the parties. Even so, Dr. Brown and Dr. Austin agreed that the matter should be concluded on the following terms:

1. Dr. Brown would stop advancing his allegation that Dr. Austin had utilized material generated by Dr. Brown without attribution.
2. Dr. Austin would rewrite portions of his Grand Canyon guide book to reflect a greater appreciation for Dr. Brown's contributions in this matter.
3. That Dr. Brown and Dr. Austin would distribute this joint statement to the 50 leaders of the creationist movement that were aware of and may have been affected by knowledge of this controversy and to any other individual that would raise this matter with either Dr. Brown or Dr. Austin.
4. That Dr. Brown and Dr. Austin would personally cease to discuss the controversy arising over the specifics and significance of the Dr. Brown's contributions toward the Grand Lake theory and allegations of Dr. Austin's using Dr. Brown's material without attribution.
5. That Dr. Brown and Dr. Austin will maintain their professional disagreement regarding the hydroplate theory and explanations for various phenomenon but will promote a collegial and professional interpersonal relationship.

Both Dr. Austin and Dr. Brown respectfully request your prayers and support in their commitment to seek to implement this agreement. Your acceptance of this statement without additional investigation or discussion will be one of the ways that you can be of assistance.

Sincerely,

Dr. Steven A. Austin

Dr. Walter T. Brown

Peter Robinson's determination regarding footnote 40.

ATTACHMENT A AUSTIN'S RECOMMENDED ENDNOTE #40 REVISION  
(JULY 25, 1994)

The concept of rapid breaching of the Kaibab Upwarp by drainage from lakes has a long history. The concept was expressed by J.S. Newberry in 1861 ("Geological Report," in J.C. Ives, Report Upon the Colorado River of the West [U.S. 36th Cong., 1st session, House Executive Doc. 90, pt. 3, 1861], 154 p.), and hints followed in the work of Eliot Blackwelder in 1934 ("Origin of Colorado River," *Geological Society of America Bulletin* 45 [1934]: 551-566). Geologic evidence of a large lake in northeastern Arizona ("Hopi Lake") was provided by Howell Williams ("Pliocene Volcanoes of the Navajo-Hopi Country," *Geological Society of America Bulletin* 47 [1936]: 111-172). Tectonic activity is thought to have interrupted the flow of the Colorado River creating a large lake behind the Kaibab Plateau followed by piping failure (G. C. Bowles, "Reinterpretation of Grand Canyon Geomorphology," *United States Geological Survey Professional Paper* 1100 [1978]: 72). Creationists were suggesting catastrophic drainage models in the 1960's and 1970's. One of the most noteworthy early creationist statements of the breached dam theory appeared in the writings of Clifford L. Burdick (*The Canyon of Canyons* [Caldwell, Idaho, Bible-Science Association, 1974], p. 27). Bernard E. Northrup proposed in 1968 that erosion of Grand Canyon was caused by release of trapped glacial melt waters in the post-Flood period centuries after Noah's Flood. Post-Flood ponding of water east of Grand Canyon behind a tectonic upwarp was suggested as the cause leading to cutting the Canyon by Steven A. Austin and John H. Whitmore (*Grand Canyon Field Study Tour Guidebook*, March 23-30, 1986 [Santee, California, Institute for Creation Research, 1986], p. 48). Edmond W. Holroyd, III, recognized that a lake bigger than one of the Great Lakes could be contained upstream of Grand Canyon if the Canyon was blocked approximately at the 5,600-foot elevation ("Missing Talus," *Creation Research Society Quarterly* 24 [1987]: 15, 16). The breached dam theory was described in 1988 in a field guidebook (Steven A. Austin, *Grand Canyon Field Study Tour Guidebook*, April 9-16, 1988 [Santee, California, Institute for Creation Research, 1988], pp. 50-54). A theory concerning the breaching event, including names and locations of lakes, was offered by Walter T. Brown, Jr. in the *Beginning* (Phoenix,

~~Arizona, Center for Scientific Creation, fifth edition, 1989, pp. 83).~~ Interesting field evidences for catastrophic drainage of lakes and dialog concerning the history of discussions is found in Edmond W. Holroyd, III ("Missing Talus on the Colorado Plateau," *Proceedings of the Second International Conference on Creationism*, 2 [1990]: 115-128). A summary of some of these theories was published by E. L. Williams, J. R. Meyer and G. W. Wolfrom ("Erosion of the Grand Canyon of the Colorado River: Part III--Review of the Possible Formation of Basin and Lakes on Colorado Plateau and Different Climatic Conditions in the Past," *Creation Research Society Quarterly* 29 [1992]: 18-24). Further comments were provided by Michael J. Oard. ("Comments on the Breached Dam Theory for the Formation of the Grand Canyon," *Creation Research Society Quarterly* 30 [1993]: 39-46).

In 1989, Walter T. Brown, Jr. in proposing the Hydroplate Theory, also proposed where a very large lake, at an elevation of 5700 feet, once occupied much of southeastern Utah and parts of Colorado, Arizona and New Mexico, (*In the Beginning* [Phoenix, Arizona, Center for Scientific Creation, fifth edition, 1989], 58-83). Brown named it Grand Lake and suggested that its breach between what is now Vermilion Cliffs and Echo Cliffs, together with the breach of Hopi Lake, formed the Grand Canyon.