IN THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NO. 99-15732

URANTIA FOUNDATION,

Plaintiff-Appellee.

v.

KRISTEN MAAHERRA,

Defendant-Appellant.

On Appeal From
The United States District Court
for the District of Arizona

REPLY BRIEF OF DEFENDANT-APPELLANT, KRISTEN MAAHERRA

Before: SCHROEDER, FERNANDEZ and W. FLETCHER, Circuit Judges

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Defendant-Appellant *pro se*

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INTRODUCTION

In this (brief) reply brief, I will cover three (3) topics: What plaintiff Foundation did **not** address in its response brief; what plaintiff Foundation **repeated** over and over; and what plaintiff Foundation addressed regarding actual issues.

I. WHAT THEY DIDN'T SAY

The following four (4) points in my appeal brief the Foundation did not respond to (or even mention):

A. The Foundation did not comment at all on the fact that a declaratory judgment, in the absence of an injunction or damages, is too much of an advisory opinion.

B. The Foundation did not respond to the difference between the revelation (the Urantia papers) and the Foundation's The Urantia Book. It simply continued to obfuscate the truth by statements such as:

> "Since Maaherra copied the entire text of The Urantia Book, the Ninth Circuit properly held in Maaherra I that she infringed the copyright." (P. 13, ¶ 2).

Sorry to sound like a broken record, but I never copied the "entire text of The Urantia Book." I copied the Urantia papers, the part of The Urantia Book that I believe is revelation.

C. The Foundation did not mention my right to a jury trial.

D. The Foundation did not respond to the facts in dispute, including: 1. The papers were **not** created at the instance of humans. (Tab f). 2. The Foundation had **no predecessor** organization. (Tab g). 3. The Foundation **never** had possession of the manuscript of the papers. (Tab h). 4. Questions asked by the forum members did **not** come before the papers, nor did the questions "create" the papers. (Tab i). 5. The papers were compiled and organized by the **revelators**; and the Urantia papers have **no human authorship.** (Tab e).

II. WHAT THEY SAY OVER AND OVER

(Mainly Stuff to Discredit me Personally)

A. The Foundation says over and over again that I have "no evidence" or a "scintilla" of evidence or "vague" evidence or "unfiled" evidence or (even) "no explanation."[1]

The "evidence" is actually listed on pages 80 through 90 of the Foundation's *"Supplemental Excerpts of Record of Plaintiff-Appellee Urantia Foundation."* These documents are my exhibits for the "Joint Pre-Trial Order," and these documents contain all the evidence the Court needs to clear up the factual disputes I have with plaintiff Foundation. These documents have all been filed with the Court. Relevant quotes from the Joint Pre-Trial Order evidence list mentioned above are also given at Tab e in the *"Record Excerpts of Defendant-Appellant Maaherra."* The Clerk's instructions (in the booklet sent me by the Ninth Circuit), p. (6), 1.(j) reads: "those **specific portions of the exhibit** necessary to resolve the issue;" and 1.(k) reads: "any other **specific portions of any documents in the record** that are cited in appellant's briefs and necessary to the resolution of an issue on appeal." (Emphasis added). Therefore, I purposely quoted **only those specific portions** of the record

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[1] (P. 6, ¶ 1). "Moreover, Maaherra failed to introduce any evidence in support of her only two proffered defenses to declaratory relief." (P. 6, ¶ 2). "may not discharge the latter burden by merely pointing to a scintilla of evidence, or evidence that is merely colorable or not significantly probative of a genuinely disputed issue of material fact." (P. 11, first ¶ of #3). "(a) the factual disputes, if any, were waived when Maaherra did not raise them in the joint pretrial order or in response to the Foundation's motion for declaratory judgment;" (P. 14, footnote 4). "Although Maaherra's Record, Tab e, purports to be evidence in this case, most of it is unsworn first person narrative from Maaherra, and none of this material was filed and referred to before the district court in opposition to the Foundation's motion for declaratory judgment." (P. 18, footnote 6). "Maaherra did not present any evidence before the district court regarding 'suppression' of The Urantia Book. (P. 20, ¶ 1 under No. 4). "Maaherra asserts without evidence the following contentions" (P. 21, ¶ 4). "With the exception of attempted suppression of the book, Maaherra's unclean hands defense is that the Foundation has in essence defrauded her. However, as shown below, when the applicable evidence, if any, is examined, the Foundation submits that Maaherra's allegations of fraud are not sustainable." (P. 22). "she introduced no evidence on these allegations before the district court." (P. 22). "Although Maaherra makes vague references to unfiled documentary and testimonial evidence which may or may not bear on this issue, Maaherra Brief, pp.7-8" (P. 28, ¶ 2). "In summary, Maaherra's unclean hands defense is without merit. The utter lack of support in the record" (P. 29, ¶ 1). "Without explanation, Maaherra asserted in response to the final judgment that the "public interest" defense remains to be tried."

that apply. The "evidence" listed on pages 80 through 90 of the Foundation's *"Supplemental Excerpts of Record of Plaintiff-Appellee Urantia Foundation"* are the documents that back up each of my statements at Tab e. In quoting only those specific portions, maybe it looks like a "scintilla of evidence," but – believe me – we're talking about a couple of boxes of papers. Not only did I think the Court would appreciate having the quotes in an easy-to-read form, I don't have the cash to duplicate so many pages. (However, in deference to Steve Hill, I have added copies of some of the original documents at Tab e.)

These disputes need to be ruled on by a Court. I have spent between 3 and 4 hundred thousand dollars on this lawsuit – and not once in over 8 years has there been a hearing on the evidence. If the Court would examine the Excerpts of Record at Tab e, and the "evidence" listed on pages 80 through 90 of the Foundation's *"Supplemental Excerpts of Record of Plaintiff-Appellee Urantia Foundation,"* (a list of my exhibits for the Joint Pre-Trial Order), it would discover ample evidence for allegations of fraud, ample evidence on the facts in dispute – as well as evidence for unclean hands, public interest, violation of antitrust laws, copyright misuse, and other defenses that have not yet been ruled on. I'm getting impatient with the American "justice" system, where a multi-million dollar foundation can bully its way through by claiming "evidence" where it has none. Or where a multi-million dollar foundation can claim I have "no evidence" when I do.

B. The Foundation belabors Maaherra's growing disrespect for the American "justice" system while repeatedly interpreting my character and my beliefs.[2]

[2] (P. 3, ¶ 2). "remained steadfast in her belief that it is God's will that she distribute The Urantia Book,"(P. 3, ¶ 2). "Even after the Court's holding in Maaherra I, Maaherra asserts that she must be true to her own moral law, and that she did nothing wrong" (P. 3, ¶ 2). "she assailed the decision of this Court." (P. 4, top). "and with me the thousands of religionists who also want the Urantia Papers in the public domain – have no 'superior copyright

As I explained in my newsletter, I was (and am still) outraged by the Court's mistaken use of the phrase "both sides believe." (Newsletter at Tab a of the *Supplemental Excerpts of Record*.) And yes, I **vigorously** assailed the statements which were made by the Ninth Circuit which were totally incorrect – namely, those indiscriminate statements beginning "both sides believe," which the Ninth Circuit attributed to me which I most emphatically **do not** believe.

The Foundation continually presents me as someone who doesn't respect the Court. In another mailing, called, *"Where Did the Appeal Court Get Their Ideas?"* (Tab j), I do not "blame" the Appeal Court, but clearly show that the Ninth Circuit took each of their erroneous ideas – facts still in dispute – **directly from** plaintiff Foundation's appeal brief.

I am aggrieved that in over 8 years of litigation, there has never been an evidentiary hearing or a hearing on the facts in dispute. However, I have always given the Ninth Circuit credit for correctly ruling that the revelation contained in The Urantia Book is not copyrightable:

> "...the use of a single 'epochal revelation' **outside the context of the Book**" would "for purposes of this case"... "be analogous to a 'fact,' and which **of course** would not be copyrightable." (Emphasis added).

C. The Foundation goes on and on about issues not being presented at the district court level – "therefore," they can't be presented at the appeal level.[3]

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interests' is an enormous slap in the face to religionists." (P. 10, ¶ 1). "In the aftermath of the Court's decision in Maaherra I, Maaherra publicly assailed the opinion, characterizing it as an "affront, a slap in the face, a travesty of justice, and an abridgement of my rights and beliefs." (P. 10, ¶ 1). "Maaherra also has publicly characterized her "copyright interest" as equal if not superior to the Foundation's interest."

[3] (P. 1, at "B" and "C,"). "Whether Maaherra demonstrated before the district court that a genuinely disputed issue for trial remained" (P. 11, first ¶ of #3). "(a) the factual disputes, if any, were waived when Maaherra did not raise them in the joint pretrial order or in response to the Foundation's motion for declaratory judgment;" (P. 12, first ¶ under "a."). "Where an issue is not raised at the lower court, this issue is waived and generally should not be considered by the appellate court." (P. 12, second ¶ under "a."). "As she failed to raise these so-called "factual disputes" before the district court, she waived her right to raise them for the first time on appeal." (P. 13, first ¶).

That's what this whole appeal is about – that the district court did not allow me to demonstrate or present my defenses (such as unclean hands, copyright misuse, public interest, violation of antitrust laws, fraud, etc.) at the district court level. The antitrust issue is simply part of the Foundation's unclean hands – which even the Foundation admits is on the table by being part of the Joint Pre-Trial Order. I have raised the factual disputes over and over; no court has listened so far. The factual disputes are definitely part of the Joint Pre-Trial Order. The reason these claims were "not raised or substantiated before Judge Urbom" is because Judge Urbom refused to hear them. That's why I'm appealing Urbom's declaratory judgment. Judge Urbom unilaterally decided that the Ninth Circuit: "impliedly dismisses all other defenses to copyright infringement not addressed in its decision." By this appeal, I'm suggesting that Urbom put words in the mouth of the Ninth Circuit that the Ninth Circuit **wasn't implying** when they sent the case back to him.

The factual disputes have everything to do with "unclean hands" and "public interest." These factual disputes are why the Foundation has unclean hands and why other people have been printing the revelation (Tab t; part of "public interest"). I have raised these issues over

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"not as a general rule reconsider questions which another panel has decided on a prior appeal in the same case." (P. 15, last ¶). "Before Judge Urbom, Maaherra pointed to no evidence that the Foundation has unclean hands within the meaning of the relevant authorities." (P. 17). "Therefore, the law of the case doctrine, described above, counsels against revisiting this issue, in the manner Maaherra requests." (P. 17). "Maaherra also contends that the Foundation misused its copyright by 'suppressing' the distribution of The Urantia Book by selectively selling and distributing the book. Maaherra Brief, p.12. Again, Maaherra presented no evidence to the district court in support of this argument." (P. 17). "(Similarly, Maaherra never raised any "antitrust" argument before the district court in either the joint pretrial order or the brief in opposition to the motion for declaratory judgment, and thus waived any antitrust issue on appeal.)" (P. 18, footnote 6). "Maaherra did not present any evidence before the district court regarding 'suppression' of The Urantia Book. (P. 18, footnote 6). "the Court is entitled to take judicial notice of these facts given that Maaherra's claims in response to the final order of declaratory judgment were not raised or substantiated before Judge Urbom." (P. 22). "she introduced no evidence on these allegations before the district court." And footnote 11 on page 22: "Where an issue is not raised at the lower court, this issue is waived and generally should not be considered by the appellate court."

and over. The evidence is on file. (See the Foundation's "refuse to sell" letters at Tab k).

My unclean hands defense **also** (and importantly) includes the fact that the Foundation has never informed buyers of the book of the Foundation's claims of **human authorship**. As my (former) lawyer, Joe Lewis, said in the *Appeal Hearing* (1/14/97):

> "One who puts out a book as factual cannot — for expediency in litigation — change their story on that."

D. The Foundation repeatedly tells me what I think and what I know (in a "shaming," "you should know better" way).[4]

Revelation – under United States Copyright Law – is automatically in public domain. Copyright only covers original works of humans. (Tab v). The Foundation can't both have a revelation and a "copyright in the contents." **Both things simply can't be true at the same time.** Which is what this whole lawsuit is about.

Prior to the Foundation's appeal brief in this lawsuit, I have never heard of the Foundation's "instance and expense" argument. I had never even heard of "questions" asked by the forum until this lawsuit. I do know that "at the instance of" means "at the request or suggestion of." "Instance" can also mean a step in a process or series of events. And I know that the Urantia papers were created **at the instance of the revelators**, and that the revelators motivated the creation of the papers. In Urantia paper 77:8:last ¶ , it is made clear that the

[4] (P. 25, ¶ 2). "Moreover, the facts underlying the 'instance and expense' argument were understood by Maaherra long before this case began, and the Foundation has never denied the existence of said facts. So it cannot be said that the Foundation misled Maaherra." (P. 25, last ¶). "Maaherra fully understood prior to and during this case that human beings asked questions giving rise to the Urantia Papers (the "instance" prong of the analysis), one of the few known facts about the origination process." (P. 26). "it appears Maaherra's entire premise – that she was somehow tricked into believing that no human being played a role in the origination process – is a sham." (P. 27, footnote 14). "the Foundation would have shown that Maaherra was actually and constructively aware of previous copyright infringement suits brought by the Foundation wherein the Foundation claimed copyright in the book," (P. 28, ¶ 1). "Maaherra has been aware that the Foundation claimed copyright in the contents of The Urantia Book."

secondary midwayers (superhumans) induced the planetary celestial supervisors (superhumans) to initiate those petitions which resulted in the granting of the mandates (**<u>from the Ancients of Days</u>**) making possible the fifth epochal revelation. (Tab e). I believe that the Urantia papers are exactly what they say they are, and that the authors are those listed at the end of each paper. (Tab l). I believe the revelation is just that – a revelation with **<u>no human authorship</u>**. I also have evidence from the Foundation that shows that the Foundation has (except in lawsuits!) claimed that:

> "The **authors are all listed in the book itself**, and you will find papers describing them in detail, as **this is the only information we have regarding the origin, nature, and organization** of The URANTIA Book." (This one example is from E.L. Christensen, C-1 – other quotes are at Tab e).

The forum's questions are certainly nowhere in <u>The Urantia Book</u> as "part of the originating process of the book." I know that questions did not "give rise" to the papers. Even the "History" submitted to the Court by the Foundation claims that 57 papers came **<u>before</u>** any questions. (Tab i). In *Mind at Mischief*, and *Theory and Practice of Psychiatry*, Dr. Sadler writes of the patient ("sleeping subject") contacting **<u>him</u>** (Dr. Sadler) – not the other way round. (Tab m). It is ridiculous to alter this chain of events to make it seem like a group of humans "requested" some superhumans to answer questions for them (at their "instance.") If the Foundation has this kind of control over a bunch of superhumans, why doesn't the Foundation just write itself another revelation?

E. The Foundation quotes my brief <u>exactly backwards</u> and then presumes to argue "against" me, or "correct" me.[5]

[5] (P. 13, last ¶). "Maaherra argued that the Foundation had unclean hands because it concealed the role of divine beings in the origination of the text of The Urantia Book." (P. 20, ¶ 1 under No. 4). "With her 'fraud on the Copyright Office' argument, Maaherra attacks the Foundation for failing to advise the public of its belief in the

The Foundation has variously concealed the role of divine beings or the role of human beings – depending on who it is talking to. When trying for donations, the Foundation conceals the role of humans, claiming the Urantia papers are "exactly what they claim to be." When trying for a copyright, the Foundation conceals the role of the revelators, claiming the papers have "copyrightable human authorship." I attack the Foundation for failing to advise the public of its claims of **human authorship**. I believe it is **fraud** to market their book as revelation, then turn around in Court and swear it was created, compiled, etc., by humans.

I don't know why the Foundation persists in misunderstanding my brief. I don't claim that the Foundation ever "advised" me that their copyright was limited to the table of contents – that is, William Sadler, Jr.'s *Titles of the Papers* and *Contents of the Book* section (pages v through lxvi). I said the Bill Sadler pages are the only way the Foundation **could** have a copyright. (Questions do not give a copyright; neither does revelation.) I have said the Foundation **can't** copyright the revelation – and while the Ninth Circuit agrees with that, they seem confused about just what part of The Urantia Book **is** the revelation. And the Court is confused simply because plaintiff Foundation claims to own the entire book – as if none of the book is revelation in the public domain. I've also never said the Foundation didn't pay to have The Urantia Book published. Harry McMullan has also paid to have the revelation

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revelatory nature of The Urantia Book." (P. 20, ¶ 1 under No. 4). "In somewhat contradictory fashion in this appeal, Maaherra attacks the Foundation for" (P. 21, ¶ 1). "the Foundation has falsely represented that The Urantia Book contains a number of revelations (in light of the evidence of human creativity associated with the origination of the book);" – **and this is footnoted to my brief at pages 7 and 8**. (P. 25, footnote 13). "Maaherra mistakenly contends that the Foundation has asserted that it 'paid' the celestial beings to author the text of The Urantia Book. This is an absolutely false allegation. The Foundation has never claimed to the Ninth Circuit or the public that it paid celestial beings to author the book."(P. 26, last ¶). "As for the "expense" prong of the analysis," (P. 27, ¶ 1 of (b.). "the record contains no evidence that the Foundation ever advised Maaherra or anyone else that the Foundation has ever claimed that the scope of its copyright was limited to the table of contents of The Urantia Book."

published (Tab t); so did the Fellowship; and so did Chris Hansen. My point is, of course, that publishing the revelation doesn't make Harry, the Fellowship, Chris Hansen, **or the Foundation** "authors" of the Urantia papers. Also, I have never contended that the Foundation asserted that it paid the revelators. I don't know how the Foundation could read my brief and get that idea. Speaking of which, the Foundation footnotes to "Maaherra Brief, pp.7-8." What I claim in my brief is **nothing like** what the Foundation says I claim.

III. WHAT ELSE THEY SAY (THAT IS WRONG)
(But at least are actual issues that sometimes even have substance)

A. On "selective distribution:"[6]

On page 18 of their brief, the Foundation states: "In Urantia Foundation v. Maaherra, 895 F. Supp. 1329, 1334 (D. Ariz. 1995), Judge Urbom previously ruled that the selective distribution of the Foundation provided no defense to a claim of copyright infringement."

This is too important a statement to get wrong. The above reference is actually to Judge Urbom's rejection of my **First Amendment defense**. Read the pages for yourself at Tab n. "Selective distribution" is a great defense here. I have never been given a chance to present evidence to the district court. That's another reason for this appeal. But the evidence

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[6] (P. 17). "Maaherra also contends that the Foundation misused its copyright by 'suppressing' the distribution of The Urantia Book by selectively selling and distributing the book. Maaherra Brief, p.12. Again, Maaherra presented no evidence to the district court in support of this argument." (P. 17). "Maaherra also contends that the Foundation misused its copyright by 'suppressing' the distribution of The Urantia Book by selectively selling and distributing the book. Maaherra Brief, p.12. Again, Maaherra presented no evidence to the district court in support of this argument." (P. 18). "In Urantia Foundation v. Maaherra, 895 F. Supp. 1329, 1334 (D. Ariz. 1995), Judge Urbom previously ruled that the selective distribution of the Foundation provided no defense to a claim of copyright infringement." (P. 17). "However, even if Maaherra had pointed to such evidence, her claim that the Foundation engaged in selective selling is barred as a matter of law." (P. 18, footnote 6). "Maaherra did not present any evidence before the district court regarding 'suppression' of The Urantia Book. If she had asserted such an argument, the Foundation would have responded by showing the district court that The Urantia Book can be read, among other places, on the Foundation's web site, http:\\www.urantia.org, and can be purchased from major booksellers such as Amazon.com"

is on file: the Foundation's "refuse to sell" letters (at Tab k); and Mo Siegel's evidence (at Tab o) regarding the Foundation's delisting The Urantia Book with all book distributors.

We're talking about revelation here. The **fifth epochal revelation** to this planet. It's no little thing that the Foundation tries to grab exclusive rights to publish the revelation, and then refuses to sell the revelation to people! This "selective distribution" of the revelation certainly points to copyright misuse, unclean hands, and the Foundation's lack of public interest. The Foundation's position in their response brief (that they **now** have the book available) is like a man on trial for robbery claiming – as his defense – that he hasn't robbed anyone **recently**.

B. On "neutral principles:"[7]

In this case, the Court has become entangled to the extent of endorsing the Foundation's "slow growth" policy (Tab s) for the fifth epochal revelation to the planet. The Court is allowing the Foundation to use the Court in order to control religionists. The Foundation has, throughout its history, used its asserted copyright to intimidate Urantians from utilizing the basic text of their religion. I believe the Court has no right to shut down my right to disseminate revelation.

C. On "questions:"[8]

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[7] (P. 19, ¶ 1). "The courts therefore use a 'neutral principles' approach to disputes involving religious property, including copyrights, to avoid excessive entanglement with religion." (P. 20, ¶ 1). "The Foundation submits that the Court should not adjudicate any ideological or doctrinal disputes between these parties."

[8] (P. 22). "(in light of the evidence that human beings asked questions giving rise to the individual Urantia Papers which comprise the text of the book)," – and Footnote 10 on page 22: "(b) acknowledge the uncontested evidence that human beings asked questions that played a role in the creative process giving rise to the text," (P. 25, last ¶). "Maaherra fully understood prior to and during this case that human beings asked questions giving rise to the Urantia Papers (the "instance" prong of the analysis), one of the few known facts about the origination process." (P. 26). "the fact that Maaherra asserted the role of the questions in her statement of undisputed facts in support of her

Since the Foundation lost their copyright, their battle cry became, "No questions – no papers." If the Court would read the *"Defendant's Statement of Facts in Support of its Motion for partial Summary Judgment as to Plaintiff's Claim for Copyright Infringement,"* pages 23 through 36 of the Foundation's *Supplemental Excerpts of Record,* the Court would get an idea of the role of the questions asked by the forum. Nos. 34, 35, 36, 41, 42, 43, 44, 45, and 46 specifically mention questions. I do not contest that the forum asked questions; I contest that questions "created" the revelation. The "History" (submitted in evidence by the Foundation) says papers came before questions, and that the revelators **told** the forum to ask questions. (Tab i). Questions did not give rise to the papers.

I'm not challenging the fact that the revelators asked the forum members to ask questions, or that the questions were gathered and sorted by the members of the contact commission – or even that the questions were collected in a glass fish-bowl. I'm simply saying that asking questions does not make a person an author. Authorship is based on, "**originality** and **fixation in tangible form."** (HOUSE REPORT NO. 94-1476.) Those are the two fundamental cornerstones of copyright protection – neither of which has anything to do with asking questions of superhuman beings who are engaged (at the instance of the **Ancients of Days**) in materializing a revelation for the benefit of the whole human race.

The forum's questions are certainly nowhere listed in The Urantia Book as "part of the originating process of the book." And why would people ask the Foundation if "questions

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own summary judgment motion on the question of the validity of the copyright precludes her from now challenging the role of the questions in the creative process associated with the origin of The Urantia Book." (P. 26). "it appears Maaherra's entire premise – that she was somehow tricked into believing that no human being played a role in the origination process – is a sham."(P. 26). "the evidence of record is devoid of any testimony or documentary evidence in support for any contention that the Foundation ever expressly denied that people asked questions giving rise to the content of the book."

gave rise to the content of the book," since the Foundation constantly told people things like the following – from Foundation employee, Mike Painter, on Foundation letterhead:

> "We are pleased to learn of your interest in The Urantia Book and we understand that the question of the origin of the Book is one that most readers are at some time curious about. To answer your question about the origin of the Book, we are enclosing a paper entitled *'The Urantia Book: The Question of Origin.'* Also, we would refer you to the 13 references on the back side of the dust cover of the Book which are very helpful. Keep in mind that certain factual details, such as the name of the human contact person and the technique of the transmittal of the teachings are wisely withheld from us so that we concentrate on the teachings and do not get sidetracked by peripheral concerns. The papers have not been edited by human authors and all the Papers that were authored by the Revelatory Commission are included in the Book." (Exhibit P-1; also see other origin materials at Tab e).

D. On the "Origin" document:[9]

"The Urantia Book: The Question of Origin" is written by minister Dr. Meredith Sprunger, who is a former spokesperson for Urantia Foundation. The Foundation – not just the Brotherhood, (as the Foundation claims in its brief) – promulgated (published, made known officially, made widespread) this document by including it in response to questions on origin. If I ever get an evidentiary hearing, I have a group of documents (listed in the Joint Pre-Trial Order) (1) proving Sprunger was a spokesperson for the Foundation, (Tab p), and (2) showing that the Foundation extensively used this Origin document as a mailing insert.

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[9] (P. 22). "the only actual purported evidence she has introduced (before this Court, not the district court) that is on point is a document entitled "The Urantia Book: The Question of Origin" [henceforth, the "Origin document"] promulgated by the Urantia Brotherhood (a former affiliate of Urantia Foundation)." Pages 22, bottom and 23, top). "The Origin document was not introduced into the record or referred to by Maaherra in opposing the Foundation's motion for declaratory judgment." (P. 23, top). "the contents of the Origin document demonstrate that neither the Foundation nor Urantia Brotherhood attempted to trick readers." (P. 24, top). "This document is littered with statements that the reader must judge for herself, that knowledge of the circumstances of origination is very limited, and that no one knows very much regarding the question of origin." (P. 24, top). "In the face of candid statements such as these, it is unfathomable that the Origin document supports a fraud or unclean hands claim against the Foundation." (P. 24, ¶ 2). "There is no evidence that the Foundation made any intentionally false statements about the origin of The Urantia Book in order to obtain donations from anyone, including Maaherra."

(Tab q). The Origin document **has** been introduced into the record.

When the Foundation writes, "it is unfathomable that the Origin document supports a fraud or unclean hands claim against the Foundation," the Foundation is again twisting truth. **To reader/believers**, the Foundation has always claimed superhuman authorship. It was only **to the Court** that the Foundation began to claim human authorship.

When the Foundation refers to: "knowledge of the circumstances of origination is very limited," it is forgetting that – in its appeal brief – it suddenly began to claim "details" never before revealed in any document. See Tab j, *"What the Foundation Told the Appeal Court."*

The Origin document perfectly supports a fraud and unclean hands claim against the Foundation. For over 40 years, the Foundation has been claiming superhuman authorship – for the purpose of this lawsuit, the Foundation has been claiming human authorship. This "change" in the Foundation's origin story is obviously intentional.

In its original complaint in this lawsuit, the Foundation claimed that it was a commercial publisher (like Macmillan, Bantam, or Doubleday) of a "literary work" (like *"Sherlock Holmes,"* or *"Lord of the Rings."*) The Foundation's fundraising letters never say, "Donate to this commercial enterprise, so we can make more profits on our book." No, the Foundation's fundraising letters talk about "tithing" – donating money to disseminate the "fifth epochal revelation," a "religious" tome of unequaled value, into "all the world" with the real gospel of Jesus. (Don't take my word for it; read some of the Foundation's fundraising letters for yourself at Tab r). In fundraising letters, the Foundation writes that it was created "at the direction of the Revelatory Commission," and "its principal function [is] the responsibility of acting as custodian of the Urantia Book." (A far cry from its current "at

the instance of" claim, don't you think?)

E. I (cringe, hate to admit it) tithed to the Foundation:[10]

Affidavit: I, Kristen Maaherra, declare, under penalty of perjury, that (even as a widow with 4 children) I tithed to Urantia Foundation every month for a number of years (until I learned the trustees were ravening wolves in sheep's clothing). Signed,________.

F. On "public interest:"[11]

The Urantia papers are a revelation, a gift from God to every person on this planet. The papers are not a gift from God to a couple of control-freak millionaires who want to own a religious movement and believe in "slow growth." (Tab s).

It is in the public interest to have as many people as possible printing and disseminating the revelation. Many people want to – and some have, in fact, gone ahead and printed the revelation in spite of the threat of being "stoned to death" by a lawsuit from the Foundation. (See the Foundation's threats to Harry McMullan, at Tab t). I predict that the Foundation's lawsuits will continue to tie up America's courts until the Court decides to look at the evidence and make a decision on the facts: just what part of The Urantia Book is revelation – thus prying the revelation out of the Foundation's death-grip. With its copyright, the Foundation calls whomever it doesn't like an "infringer." Religionists shouldn't have to worry about being called "infringers" for using the basic text of their religion.

However, I believe that ultimately – in this conflict between freedom of religion and

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[10] (P. 24, last line and page 25, top). "Maaherra does not even point to any evidence in the record substantiating her claim that she donated money to the Foundation. Thus, the record does not support her unclean hands defense, including her mere (and unsupported) suspicions about motive and intent."

[11] (P. 29, ¶ 2). "The copyright laws were passed by Congress to embody and protect the public interest."

secular institutions (like Jews before Pilate's palace ready to die) – religion will win.

Furthermore, we live in America, where religion will win simply because the Constitution says religious freedom comes first. The First Amendment limits the Copyright Clause which is part of the original Constitution. The First Amendment prevails over copyright whenever the two clash. As Nimmer put it:

> "[I]f a completely literal reading of the first Amendment is to be made, then we must likewise recognize that the First Amendment is an amendment, hence superseding anything inconsistent with it which may be found in the main body of the Constitution. This, of course, includes the Copyright Clause." [Freedom of Speech, 2-57 (1984)].

Public interest would dictate – if the Urantia papers are a revelation – that the Urantia revelation be returned to the people.

CONCLUSION

For all the foregoing reasons, I request that the declaratory judgment not be the final judgment in this case, and that this case be sent back to the district court for a hearing on my remaining defenses of fraud, facts in dispute, unclean hands, public interest, violation of antitrust laws, copyright misuse, etc.

This 3rd day of November, 1999.

KRISTEN MAAHERRA
Defendant-Appellant *pro se*