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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Jehovah J. God, Jesus J. Christ, William E.)
Moore, and Jehovah Witness Foundation,
10 Inc.

No. CV 07-971-PHX-JAT

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Plaintiff(s),

ORDER

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vs.

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Arizona State University,

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Defendant.

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In considering the motion to proceed in forma pauperis, the Court has concluded that Plaintiff's complaint should be screened pursuant to 28 U.S.C. § 1915(e)(2) before it is allowed to be served. Therefore, the Court will do so in this order.

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A. 28 U.S.C. § § 1915(e)(2)

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Congress provided with respect to in forma pauperis cases that a district court "shall dismiss the case at any time if the court determines" that the "allegation of poverty is untrue" or that the "action or appeal" is "frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2). While much of section 1915 outlines how prisoners can file proceedings in forma pauperis, section 1915(e) applies to all in forma pauperis proceedings, not just those filed by prisoners. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000)("section 1915(e) applies to all in forma pauperis complaints"). "It is also clear that section 1915(e) not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim." *Id.* Therefore, this court must dismiss an in forma pauperis complaint if it fails to state a claim or if it is frivolous or malicious. "[A] complaint, containing both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Furthermore, "a finding of factual

1 frivolousness is appropriate when the facts alleged rise to the level of the
2 irrational or wholly incredible, whether or not there are judicially recognized
3 facts available to contradict them." *Denton v. Hernandez*, 504 U.S. 25, 33
(1992). "A case is malicious if it was filed with the intention or desire to harm
another." *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005).

4 *Kennedy v. Andrews*, 2005 WL 3358205, *2 (D. Ariz. 2005).

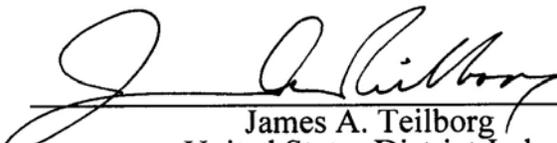
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6 **B. Plaintiff's Complaint**

7 Plaintiff's complaint in this case falls into the category of "the irrational or wholly
8 incredible." *See Denton v. Hernandez*, 504 U.S. 25, 33 (1992) (dismissal also appropriate
9 when the facts alleged are "clearly baseless," "fanciful," "fantastic," and/or "delusional.").
10 Plaintiff, God, claims that Defendant university is infringing his copyright by using his
11 "autobiography," namely, "Bible," without paying him royalties. Complaint at 2. Plaintiff
12 seeks 9.3 million dollars in damages. *Id.* at 1. The Court finds these allegations to rise to the
13 level of being both fanciful and factually frivolous; accordingly, the Court will dismiss the
14 Complaint without using the Marshals for service, nor putting Defendant to the task of
15 responding to the Complaint. Further, because the Court finds these factual allegations to
16 be incurable, the Court will not grant leave to amend. Therefore,

17 **IT IS ORDERED** that the Motion to Proceed in forma pauperis (Doc. #4) is denied.

18 **IT IS FURTHER ORDERED** that the Complaint is dismissed, with prejudice, for
19 the reasons stated herein and the Clerk of the Court shall enter judgment accordingly.

20 DATED this 24th day of May, 2007.

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James A. Teilborg
United States District Judge