

Re: *COMMENTS ON SMALL CLAIMS *

Dear US Copyright Office,

Pursuant to your request for Comments on infringements of copyrights held by photographers resulting in smaller claims and the problem posed by the economics of pursuing a remedy through the current system, I submit the following Comments.

First, you are correct that originators of photographic images are having their images used and taken without permission. I have seen many complaints about this abuse on photography web lists and blogs, have found one of my own images for sale without my permission on a webpage, and have represented a photographer who found a foundation using his images in direct violation of usage rights granted. So your attention and desire to find a method to more economically pursue redress of a photographer's copyrights is perceptive, needed, and welcomed.

Second, I would suggest a new process in the nature of a Small Claims Court or a Binding Arbitration Hearing to adjudge each claim and award damages if proven. The system might work something like this – A new statute or federal regulation would state that courts or hearings would be available at regional copyright or other government offices as identified by your office. Volunteer photographers, lawyers, retired judges, media personnel would be solicited, interviewed, and selected to be on panels to be individually and randomly assigned to hear complaints of infringement. Aggrieved originators would file a standard form of Complaint and Summons (certified by USPS with return receipt required) and pay a filing fee of \$50.00 to your Office for the cost of the hearing and volunteer judge/arbitrator. The hearing would be set for 30 days after service of Summons and Complaint upon the defendant alleged infringer. The defendant would have to file a written form admitting infringement or stating his defense. Any pleading relying upon written or graphic matter would have to have the matter attached. After a short hearing in which both sides had an opportunity to be heard (no longer than 15 minutes each), the judge/arbitrator would issue a binding decision. Damages in the amount of three times the proven value of the image and the costs of the hearing would be awarded to a prevailing plaintiff. A losing plaintiff would have to pay an additional \$50 to the Office as costs. The court/arbitrator could enter any further relief in the nature of a prohibition against further infringement, as it deems appropriate. A losing party could appeal an adverse Order to the local US District Court similar to current appeals from decisions of federal agency decisions.

Hopefully, a system similar to my proposal would pay for itself, would operate with outside, knowledgeable persons as adjudicators, but without burdening Copyright Office personnel with more tasks, and would act as a deterrent to violators who thumb their nose at current system because they know they cannot economically be pursued. I would be happy to assist the Office in any way I can to work on this project.

Very truly yours,
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