

**Alma Robinson, Executive Director
California Lawyers for the Arts
Response to the US Copyright Office Notice
“Remedies for Small Copyright Claims”**

We are submitting this response to your Notice dated October 27, 2011, requesting comments about the feasibility of a Small Claims Court that will specialize in smaller dollar copyright claims. As a legal service agency serving primarily low and middle-income artists, as well as non-profit arts organizations and small businesses in the creative sector, we feel that a specialized court devoted to smaller dollar claims would be a great benefit to our constituents.

We would also like to encourage you to consider how conciliation and mediation services can be incorporated into the design of Small Claims Court procedures. Based on our experience at California Lawyers for the Arts, we feel that there is a potential for broad application of these methods of dispute resolution that would greatly benefit the litigants while also conserving the Court's resources.

Since 1980, California Lawyers for the Arts has provided alternative dispute resolution through our model program, Arts Arbitration and Mediation Services, as an efficient means of resolving disputes in the creative sector. We now provide professional staff administering these services at our three offices in San Francisco, Sacramento and Santa Monica.

Many of the copyright issues brought to our program, including infringement, fair use, ownership, and other disputes, have been successfully resolved through the use of our services.

One recently resolved case illustrates the benefits of mediation for parties with complex relationships and interests. In this example, a team of filmmakers and the subjects of their documentary had conflicts about the ownership of raw footage, payment for work performed and royalties for ancillary film projects. At the conclusion of mediation, the parties agreed on joint copyright ownership, a one-time payment for work performed, and royalty fees for short “offshoot” films that could be produced by either group.

While copyright ownership was at the heart of the dispute, the parties had an opportunity, through mediation, to craft an agreement that covered all of their outstanding issues. Although it would not be impossible for a court to address all of these issues, mediation provides a much more affordable and efficient way for the parties to explore hypothetical solutions and arrive at an agreement that is balanced and fair, while accounting for different nuances in their relationships.

Beginning in 1995, we began collaborating with art/law organizations around the country to develop mediation programs based on our model. Through this informal network, we developed an approach that accommodates the needs of parties who have claims outside their home jurisdictions. Our experience working with parties across state lines, and even internationally, through telephone conferences and electronic exchanges, leads us to support a concept of having one national small claims court with an adjunct mediation service. Through our network of art/law organizations, a specialized national panel of mediators could be developed especially for copyright cases referred from this court.

If available as an adjunct system to the small claims court, mediation could provide a way for disputes to be resolved amicably and efficiently. This valuable resource could be made available to potential claimants at their first contact with the proposed Small Claims Court in an effort to divert as many cases as possible to alternative dispute resolution services.