

October 4, 2021

Dear United States Copyright Office,

We are writing to submit comments on the procedures for a library or archive to preemptively opt out of Copyright Claims Board (CCB) proceedings, as directed by the [Copyright Alternative in Small-Claims Enforcement \(CASE\) Act of 2020](#).

The Oregon Library Association (OLA) is a professional organization of Oregon library workers, and our Academic Division is made up of academic library workers. As the Presidents of OLA and its Academic Division, we **urge you to include employees of libraries and archives working within the scope of their employment in the preemptive opt out as well**. In other words, if a library opts out of small claims court, its employees working within the scope of their employment should be covered, too.

If not included, library employees will be **hindered in doing their daily work**. There are many locations within the Copyright Act that provide protection from litigation to library employees when performing their daily work (for instance Section 108 exemptions from copyright liability and the Section 504(c)(2) limitation on damages for good faith exercises of fair use). Allowing library employees to be brought to small claims court in their individual capacities when they are doing work on behalf of a library/archive will **completely eviscerate any intended protection** the CASE Act drafters intended to provide to libraries and archives. Why allow the library itself to opt out of small claims litigation, but allow litigants to name each individual library worker/archivist working in that same library? Surely the drafters of the CASE Act would not intend this result.

Library personnel would be unable to perform regular daily work for fear of liability if the preemptive opt out does not cover employees. Library employees working with course reserves, interlibrary loan, archives, and other functional areas that deal with copyrighted materials operate within the bounds of copyright and fair use and do so in good faith. There need to be protections for the staff of the libraries and archives that are already permitted to opt out of the proposed system.

Please honor the intent of the CASE Act authors and include library and archive employees in the opt out provisions for Copyright Claims Board (CCB) proceedings.

Sincerely,

Arlene Weible
Oregon Library Association President, 2021-22
olapresident@olaweb.org

Emily Ford
Academic Division, Oregon Library Association, President, 2021-22
acrlor@olaweb.org

