



April 30, 2019

The Honorable Thom Tillis  
185 Dirksen Office Building  
Washington, DC 20510

The Honorable Richard Durbin  
711 Hart Office Building  
Washington, DC 20510

The Honorable John Kennedy  
383 Russell Office Building  
Washington, DC 20510

The Honorable Mazie Hirono  
730 Hart Office Building  
Washington, DC 20510

Dear Senators Tillis, Durbin, Kennedy and Hirono:

On behalf of the authors' organizations signed below, representing collectively tens of thousands of authors from diverse backgrounds and diverse genres, we support the introduction of the Copyright Alternative in Small-Claims Enforcement Act of 2019 (the "CASE Act") in the U.S. Senate. With the many threats authors face today—particularly the proliferation of large-scale digital piracy—a small claims tribunal is more necessary than ever.

Today, copyright infringement cases must be brought in federal court, at a minimum cost of several hundred thousand dollars. Only a handful of authors can even consider such costs. The Authors Guild's 2018 author income survey, with over 5,000 respondents, found that full-time authors earned a median of just \$20,300 from their writing in 2017. That means every dollar counts, and every infringed copy represents at least a dollar of lost income. It also means that enforcement is out of the question. As a result, most creators have been left with unenforceable rights. Thanks to your support of this legislation, we hope that's about to change.

"A right without a remedy is no right at all," said Authors Guild executive director Mary Rasenberger. "On an individual level, the inability to enforce one's rights undermines the economic incentive to create new works," said Rasenberger. "On a collective level, it corrodes respect for the rule of law and deprives society of the benefits of creativity."

The proposed bill, like its predecessors on the last two Congresses, is based largely on draft legislation developed by the Copyright Office in its [2013 Report on Copyright Small Claims](#), which followed a series of public hearings and written comments from stakeholders. The new tribunal would ensure that creators and defendants have a low-cost means of resolving copyright claims. Parties will not have to hire attorneys to participate. Damages would be limited to \$15,000 per work infringed and \$30,000 in the aggregate. Proceedings will occur online or by telephone, and discovery will be kept simple. Most important, participation in the tribunal would be on a voluntary basis and would not interfere with either party's right to a jury trial.

The proposed CASE Act is a balanced bill. The small claims tribunal would hear claims by both copyright users and owners, as well as all defenses and counterclaims permitted under the Copyright Act in federal court. To assuage the concerns of entities who fear abuse of the tribunal, there will be limits on how many claims a person can bring in a year, "bad actors" will be fined for abuse, and repeat offenders barred from continuing to use the tribunal. Respondents may always opt out of the tribunal. The claimant must formally serve the respondent and both the claimant, and the Copyright Office will also send notices describing the opt-out procedures to ensure against any unwitting default judgements. These provisions will ensure against abuse of the system to the detriment of users while giving creators the ability to have their cases heard.

This bill is crucial to providing creators with the ability to enforce their copyrights – the very basis for their livelihoods – and to recognize the benefits and incentives that are at the core of copyright law. Too many authors have been left without real remedies for too long.

We look forward to working with you to see that a Copyright Small Claims tribunal is finally established. We thank you greatly for your leadership on this issue of great importance to so many creators.

Sincerely,

Mary E. Rasenberger  
Executive Director, The Authors Guild

Milton C. Toby JD  
President, American Society of Journalists and Authors (ASJA)

Larry Goldbetter  
President, National Writers Union/UAW Local 1981

Michael Capobianco and Jim Fiscus  
Co-chairs, Legal Affairs Committee, Science Fiction and Fantasy Writers of America

Allison Kelley  
Executive Director, Romance Writers of America

Wayne Stinnett  
President, Novelists, Inc (NINC)

Becky Heath  
President, Garden Communicators International (GardenComm)

Ralph Sevush  
Executive Director, Dramatists Guild

Brad Hodson  
Administrator, Horror Writers Association