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April 23, 2021

Ms. Shira Perlmutter  
Register of Copyrights  
United States Copyright Office  
101 Independence Avenue S.E.  
Washington, DC 20559

**RE: Copyright Alternative in Small-Claims Enforcement (CASE) Act  
Regulations (86 F.R. 16156, Docket No. COLC-2021-0001)**

Dear Register Perlmutter:

The American Association of Law Libraries (AALL), a national organization representing 4,000 law librarians and legal information professionals, appreciates the opportunity to provide comments on the U.S. Copyright Office's (Copyright Office) Notification of Inquiry on regulations implementing the *Copyright Alternative in Small-Claims Enforcement (CASE) Act*.

Under the *CASE Act*, law libraries—including academic law libraries, public law libraries, and private law libraries—will be eligible to preemptively opt out of proceedings before the new Copyright Claims Board (CCB) if they qualify as libraries under section 108 of the *U.S. Copyright Act*. The implementation of the *CASE Act*, including regulations governing how law libraries can apply to opt out of CCB proceedings, is important to our members. Clear regulations will enable law libraries to take full advantage of the benefits provided to them under the law.

AALL's comments respond to the Copyright Office's questions about the procedures for libraries to preemptively opt out of CCB proceedings. We also address the needs of law librarians and legal information professionals for public access to CCB records. We hope the Copyright Office will consider our comments as it develops its new regulations.

**PART II.B.2. LIBRARY AND ARCHIVES OPT-OUTS**

**Question regarding whether a library or archive should be required to prove or certify its qualification for the opt out provision:**

AALL believes that law libraries should be able to self-certify that they qualify for the opt out provision under the *CASE Act*. This would meet the intent of Congress, which created the preemptive opt out for libraries and archives to provide an efficient and



streamlined system for these organizations and to help them avoid the burdensome administrative requirements of repeated opt outs.

**Question regarding which entities, principals, or agents may opt out on behalf of a library or archive:**

The Copyright Office recognized in the Notification of Inquiry that libraries operate with many different structures, including both as part of larger organizations and as stand-alone organizations. This is true for law libraries as well. Some law libraries may opt out on their own behalf, while others may have a university, court, or law firm opt out on behalf of the law library. AALL recommends that the Copyright Office permits any individual with the legal authority to act on behalf of the law library to file for the *CASE Act's* opt out provisions.

**Question regarding whether the Copyright Office should include a regulatory provision that specifies that this opt out extends to employees operating in the course of their employment:**

AALL believes a law library's selection to opt out should extend to employees operating in the course of their employment. This would align with the design of U.S. copyright law's work for hire provision. Specifically, section 201(b) of the *U.S. Copyright Act* states that employers own the rights to works that their employees create. In addition, section 108 of the *U.S. Copyright Act* protects library employees from liability for certain types of copying that would otherwise infringe on authors' rights when those employees act within the scope of their employment.

**PART II.D. PUBLIC ACCESS TO RECORDS AND PROCEEDINGS**

**Question regarding issues relating to the CCB's provision of access to records and proceedings to the public:**

We appreciate the Copyright Office's intent to provide a publicly accessible website with information about the CCB's records and proceedings. Law librarians, legal information professionals, and members of the public will benefit from a well-organized, user-friendly, and secure website to access this information. AALL encourages the Copyright Office to consult with a wide cross-section of public and private sector experts—including law librarians and legal information professionals—to solicit feedback on the public website as it develops.



## CONCLUSION

Thank you for providing AALL with the opportunity to share its views on the needs of law libraries as you develop new regulations to implement the *CASE Act*. If there is additional information you need, please reach out to us.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily R. Florio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Emily R. Florio  
President, 2020-2021  
American Association of Law Libraries