

Oct 2014

FREELANCE

Claim what's yours

FREELANCE organiser John Toner spoke at a packed London Freelance Branch meeting on 14 July, describing things you can do when someone uses your work without permission. At the same meeting Mike Holderness gave members an update on changes to copyright law: see page 5.

This is, in part, the story of an NUJ victory. Back in 1999 the government changed the rules of procedure so that the Small Claims Court would no longer hear "copyright cases". So John and Mike sat in the Freelance Office one day in 2005 wondering what to say to one of the many government reviews, and came up with a plan for a Small Copyright Claims

only £350. "We issued proceedings," John reported "and they settled out of court... a great relief to the photographer, avoiding the cost of a trip to London to present his case."

In another case the member accepted mediation before going to court "and settled," John says, "satisfactorily". The procedure for applying to the SCC encourages this.

Only one case has ended up with a full hearing. The defendant resisted strongly, but paid up immediately they lost and said "we'd like to go on using your footage – can we talk about a licence?" That would be, John noted, "the best possible outcome".

The SCC won't make you rich.

er. John has sat around a table with one judge in a "vanilla" Small Claims Court having more of a discussion than a trial. Another judge asked the member to go into the witness box and "swear in", even though the other side had not turned up.

This court is more demanding than the "vanilla" Small Claims Courts – the one you would use to enforce payment of a clearly agreed day's sub-editing work, for example. The "Particulars of Claim" documentation must be precise and complete. The deadlines must be observed: respond one day late and you will lose.

John advises accepting mediation: if the other side rejects it, that shows you are reasonable and they less so.

If an NUJ member wants the union's support bringing a case, approach the Freelance Office with a concise summary of your case before doing anything else. The Freelance Office will take advice on the strength of your claim. It will offer support if it's strong; this avoids "the utterly dismal experience of going into court and coming out having lost and having to pay court fees," John says. If your case is less clear-cut and you want to pursue it anyway, it's not difficult for an organised journalist to do that.

A photographer told the meeting of their experience of doing this, which ended in settling the case out of court. "The whole process is designed for an individual to come forward without a lawyer – but it still needs a huge amount of diligent work following the legalities."

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● A longer version, with answers to questions from members on the SCC and on "exceptions" to copyright, is at www.londonfreelance.org/fi/1408scc.html



John Toner explains: image © Hazel Dunlop

Court, sitting in four places around the country. In October 2012 the Intellectual Property and Enterprise Small Claims Court (henceforth "the SCC"), finally came into existence, sitting only in London.

The first claim taken with the union's support was against a hotel that had used a photographer's images without permission and offered

It generally offers only compensation – what the company would have paid for your work, were it to have negotiated properly. It can award additional damages, but it seems these are an exception at present.

Nor is it a sort of arbitration service: you will not always get anything.

The informality of SCC proceedings varies from one judge to another.

Subs rates clarified

MEMBERS of the NUJ on the lowest reduced membership subscription rates – around the fiver a month mark – have been puzzled and possibly alarm after a recent statement from the union's HQ that the new minimum rate was £10. It isn't.

The mistake arose because of a tricky bout at the Union's Delegate Meeting (DM) in April. A proposal to move to an entirely earnings-related basis for subs, replacing work-related categories, encountered opposition and was dropped. To keep the Union afloat a basic subs increase was quickly drafted and agreed.

The "one per cent rule" specifying that "No member shall be required to pay contributions of more than one per cent of his/her taxable income" was maintained. See Barry McCall's comments on page 3.

So the absolute minimum sub rose, with effect from 1 August 2014, to £5 / €6 per month. The "new minimum" £10 / €11.50 passed at DM is ineffective, hasty-drafting "debris" from the abandoned earnings-related proposal. DM did delete the "half per cent rule" for our very lowest-earning members.

So for any member with a taxable

income of £6000 a year, monthly subs go up from £4.50 to £5; at £7000pa from £4.50 to £5.83. For a table of changes see www.londonfreelance.org/fi/1408subs.html

"Temporary membership" had previously served as a three-year introductory status for those striving to make a go of freelancing. It has now been opened up to freelancers whose journalistic work/income declines for whatever reason (again, for example if they face part time or hard times). Temporary members pay £5 / €5.75 monthly in the first

See **SUBSCRIPTIONS** on p3

LFB meetings
13 October
Can media be representative of the people? Is the growing bias more about race or class?

See back page &
www.twitter.com/NUJ_LFB