

**Norse v. Henry Holt & Co.,
847 F. Supp. 142 (N.D. Cal. 1994)**

Year	1994
Court	United States District Court for the Northern District of California
Key Facts	Defendant Henry Holt & Co. published defendant Ted Morgan's biography of author William S. Burroughs entitled <i>Literary Outlaw: The Life and Times of William S. Burroughs</i> . Morgan quoted several short phrases, about fifty words in total, from unpublished letters written by plaintiff Harold Norse. Plaintiff sued for copyright infringement, and defendants asserted that copying short phrases was not actionable under copyright law. On appeal, the circuit court remanded the case for the district court to consider defendants' fair use defense.
Issue	Whether defendants' unauthorized use of excerpts from plaintiff's unpublished work constituted fair use.
Holding	On remand, the district court concluded that defendants' copying of short phrases was fair use. Although the defendants' commercial use and the unpublished nature of plaintiff's letters weighed against a finding of fair use, the court found that the use did not exploit the publicity value of the quoted material and was only minimally commercial. Additionally, the court found that no reasonable juror could conclude that the small amount of "copied material goes to the 'heart,' if one can even be identified, of the copyrighted letters." Finally, the court found that even if there was a market for plaintiff's unpublished letters, defendants' small and fragmentary "use of the copied material in no way supplants that market."
Tags	Ninth Circuit; Education/Scholarship/Research; Textual work; Unpublished
Outcome	Fair use found

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