

**Salinger v. Colting,
607 F.3d 68 (2d Cir. 2010)**

Year	2010
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff, famed American author J.D. Salinger, alleged that defendant's book infringed his well-known novel <i>The Catcher in the Rye</i> , published in 1951. Salinger alleged that the works had "extensive similarities," including characters, structure, and scenes. Defendant, a Swedish author using the pen name John David California, released <i>60 Years Later: Coming Through the Rye (60 Years Later)</i> in England on May 9, 2009, and set its U.S. publication date for September 15, 2009. <i>60 Years Later</i> featured a ninety-year-old fictionalized Salinger character that is haunted by a seventy-six-year-old version of Salinger's Holden Caulfield character. Defendant argued that there were significant differences between the books and that he did not intend his to be a sequel to <i>The Catcher in the Rye</i> . Rather, he argued it was a commentary and critique that reflected on aspects of Salinger's <i>The Catcher in the Rye</i> , such as Salinger's relationship as author to the book and to the Caulfield character. Salinger sued plaintiff in district court seeking a preliminary injunction to prevent defendant from publishing, advertising, or distributing his book in the U.S. Defendant appealed the district court's grant of the injunction.
Issue	Whether Salinger was likely to prevail on the merits of his argument that defendant's book was substantially similar to <i>The Catcher in the Rye</i> and that defendant's use of elements of his work was not a fair use.
Holding	The court vacated the preliminary injunction and remanded the case for further proceedings because the district court erred by not applying the correct equitable standard. Regarding "fair use," however, the court determined that the district court did not err in finding defendant was not likely to succeed in asserting a fair use defense. The court agreed with the district court's focus on the "purpose and character of the use" and gave significant weight to its finding that defendant's assertion that his primary purpose was to use elements of <i>The Catcher in the Rye</i> to critique Salinger and his persona was not credible.
Tags	Second Circuit; Parody/Satire; Review/Commentary; Textual work
Outcome	Preliminary ruling, mixed result, or remand

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