Zlozower v. Rock & Roll Hall of Fame & Museum, Inc.
No. 24-CV-1817, 2025 U.S. Dist. LEXIS 220969 (N.D. Ohio Nov. 10, 2025)

Year	2025
Court	United States District Court for the Northern District of Ohio
Key Facts	Plaintiff Neil Zlozower, a professional photographer, took photographs of the American rock band Van Halen that "portray the band members as [a] fun-loving, good-looking party band" and that he intended to publicly distribute and display in "various forms." Defendant Rock and Roll Hall of Fame and Museum, a non-profit organization, displayed "exact copies of critical portions of [two of Zlozower's] original [p]hotographs" in an exhibit titled "Play it Loud: Instruments of Rock & Roll" without attribution. The exhibit highlighted "the musical instruments that gave rock and roll its sound," including guitars and recording equipment. Defendant cropped Photograph #1 to focus on Eddie Van Halen and his guitar "Frankenstein" by removing the other band members and then "enlarg[ing] that image into an 8-foot display." With Photograph #2, Defendant likewise altered the image to focus on Eddie Van Halen holding his guitar, added the year that Van Halen was inducted into the Hall of Fame, and then placed it "alongside informational placards and in front of guitar replicas, speakers, and amplifiers." Zlozower sued Defendant for copyright infringement. Defendant moved for judgment on the pleadings, asserting fair use.
Issue	Whether displaying portions of two photographs in a museum exhibit related to musical instruments in rock-and roll history is fair use.
Holding	Under the first factor, the purpose and character of the use, the court found that Defendant's use "adds new meaning and is transformative" despite the copying being "nearly exact." The court reasoned that Defendant's purpose in using portions of the works that focused on Eddie Van Halen and his guitar in the museum exhibit was to "illustrate the significance of the instrument in the history of rock and roll." In contrast, Zlozower's purpose was to "promote the band" and "emphasize the band's fun-loving nature." Although Defendant charged a museum admission fee, because there was no evidence it charged a special fee to view the exhibit, the court held that the transformative nature of the use overcame any commercial aspects. The second factor, the nature of the work, slightly weighed against fair use because the Photographs were "expressive and creative," as Zlozower "chose the lighting, angles, framing, perspective, depth, lenses, and camera equipment." The court, however, noted that it was unclear whether Zlozower had previously published the Photographs in a book of Van Halen photographs. The third factor, the amount and substantiality of the portion used, favored fair use. Here, the court determined that Defendant's use, which emphasized Eddie Van Halen playing Frankenstein, was "reasonably necessary" to "illustrate the importance of certain instruments to the history of rock-and-roll music." The fourth factor, the effect on the potential market for or value of the work, also favored fair use because Zlozower failed to allege that Defendant reproduced the Photographs for sale or publication in media that would compete with Zlozower's photography books or that Zlozower licensed the Photographs to museums. The court concluded that it was unlikely that the works' "expressive purpose" would be meaningfully affected by Defendant's use. Finding fair use, the court granted judgment on the pleadings and dismissed the complaint.
Tags	Education/Scholarship/Research; Photograph
Outcome	Fair use found

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