

**L.A. News Serv. v. Tullo,
973 F.2d 791 (9th Cir. 1992)**

Year	1992
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff Los Angeles News Service produced and licensed its video recordings of newsworthy events to other news media outlets. Defendant Audio Video Reporting Services recorded plaintiff's broadcasts as part of its "news clipping" service, which involved monitoring, recording, and selling copies of segments to individuals and businesses. Defendant appealed the district court's ruling that use of the footage was not a fair use.
Issue	Whether defendant's copying and sale of plaintiff's news footage as part of a video "news clipping" service constituted fair use.
Holding	The court upheld the lower court's determination that defendant was not protected from liability under the fair use doctrine. After rejecting defendant's arguments that the works were not protected by copyright and that plaintiff's enforcement was barred by the First Amendment, the court also rejected defendant's argument that its purported purpose of "private news reporting" was fair use as a matter of law because it was among the examples of fair use provided by the statute. The court held that the examples listed in Section 107 were not intended "to single out any particular use as presumptively a 'fair' use," and the fact that a work is arguably "news" is "simply one factor in a fair use analysis." The court further found that, although the factual nature of plaintiff's works weighed in favor of fair use, and that defendant only copied a small portion of the works, defendant nevertheless copied the most valuable parts of each work. Finally, the court found that defendant's use could potentially adversely impact plaintiff's market for the footage.
Tags	Ninth Circuit; Film/Audiovisual; News reporting
Outcome	Fair use not found

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