

**Narell v. Freeman,
872 F.2d 907 (9th Cir. 1989)**

Year	1989
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff Irena Narell wrote <i>Our City: The Jews of San Francisco</i> , a biographical/historical account of Jewish immigrants in San Francisco. Defendant Cynthia Freeman admitted that she consulted plaintiff's work for her fictional romance novel, <i>Illusions of Love</i> , but asserted that the copied material was not protected by copyright and that her use of the material was a fair use. The district court granted defendants' motion for summary judgment on the alternative grounds that the copyright was not infringed because the works were not substantially similar, and the use of the material from <i>Illusions</i> was protected by fair use. Plaintiff appealed.
Issue	Whether defendant used any copyright protected material, and if so, whether using it in her novel was fair use.
Holding	The Ninth Circuit affirmed the district court's grant of summary judgment on both the issue of substantial similarity and the fair use defense. For the first fair use factor, the court found that defendant's use was commercially motivated, weighing against a finding of fair use. The court then noted that plaintiff's work was largely informational rather than creative in nature, thereby weighing slightly in defendants favor for the second factor. Since the court found that defendant's work was not substantially similar to plaintiff's, the court determined that the third factor, amount and substantiality of the portion used, weighed strongly in favor of fair use. Finally, the court found that defendant's book had not, nor would it likely have, any effect on the value or marketability of plaintiff's book.
Tags	Ninth Circuit; Textual work
Outcome	Fair use found

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