

**Diamond v. Am-Law Publ'g Corp.,
745 F.2d 142 (2d Cir. 1984)**

Year	1984
Court	United States Court of Appeals for the Second Circuit
Key Facts	The dispute arose from a series of letters published in defendant Am-Law Publishing Corporation's monthly magazine, <i>The American Lawyer</i>. Plaintiff John Diamond had a dispute with defendant (and former client) Kitty Kelley over a legal fee that Kelley refused to pay. <i>The American Lawyer</i> ran an August 1982 article characterizing Diamond's efforts to collect the fee as "persistent," and stated that Kelley had filed a grievance against Diamond with the New York state bar association. Defendant Steven Brill, editor of <i>The American Lawyer</i>, invited Diamond to write a letter to the magazine regarding the grievance. Diamond did so on August 5, 1982. The letter stated, among other things, "You are authorized to publish this letter but only in its entirety." <i>The American Lawyer</i> subsequently published the letter in excerpted form. Diamond brought a complaint against defendants, claiming among other things that they infringed his copyright in the August 5 letter. The district court ruled that defendants' use of the letter was legitimate news reporting protected by the fair use doctrine. Plaintiff appealed
Issue	Whether defendant's publication of an excerpted version of plaintiff's letter in its magazine constituted a fair use, where the magazine had previously run articles regarding plaintiff's dispute with a former client, and where the plaintiff authorized publication of the letter only in full.
Holding	The Second Circuit held that defendant's use of the letters constituted fair use. The court found that defendant's editing and publication of the August 5 letter was protected as commentary and news reporting—a use expressly enumerated under Section 107 as an example of a fair use. The court also found that the work in question was informational—as opposed to being creative or fictional—and that factual works may be more freely published under Section 107 than works of a creative nature. Finally, the court noted that plaintiff conceded that present or future use of the letter had not been compromised, and that its publication in edited form did not affect its value.
Tags	Second Circuit; News reporting
Outcome	Fair use found

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