

Play "3C" Ruled a Protected Parody of "Three's Company"

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A New York federal judge recently ruled in *Adjmi v. DLT Entertainment Ltd.*, 1:14-cv-00568 (United States District Court, S.D. New York, 2015) that the off-Broadway play "3C" was a permissible parody of the classic 1970s TV comedy "Three's Company."

The current owner of the copyright rights to "Three's Company," DLT Entertainment Ltd., had threatened action against "3C" playwright David Adjmi, asserting that the play was an infringement of the iconic sitcom. Adjmi filed a declaratory judgment action seeking a declaration of non-infringement under the fair use doctrine, which was granted. The fair use doctrine permits an author to copy a copyrighted work for a limited "transformative" use, such as creating a parody or criticism of the original work.

When determining whether or not a work is a permissible fair use of an original work, courts generally examine the following four factors: 1) the purpose and character of the use, 2) the nature of the copyrighted work, 3) the amount and substantiality of the portion used in relation to the whole copyrighted work and 4) the effect of the use upon the potential market for the copyrighted work.

In reviewing the first factor the Court determined that "3C" was a "transformative use" of "Three's Company" as it "conjures up 'Three's Company' by way of familiar character elements, settings and plot themes, and uses them to turn 'Three's Company's' sunny 1970s Santa Monica into an upside-down, dark version of itself."

With regard to the second factor, the Court found that "Three's Company" was a groundbreaking work, but stated that this factor was not typically a determinative one. The Court also found that with respect to the third factor "3C" copied extensively from "Three's Company," down to minor elements that didn't necessarily add to the alleged parody of the original. However, the Court found that "3C" was not a competitive work that would negatively impact the market for the original work due to the very different nature of the works.

Taking its factor-by-factor analysis into account, the Court ultimately determined that the great differences between the works were the "most important consideration" that led to its finding that "3C" was a fair use parody and not an infringement.

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