

**Marcus v. Rowley,
695 F.2d 1171 (9th Cir. 1983)**

Year	1983
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff public school teacher wrote a booklet on cake decorating that she sold to students in adult education cake decorating classes. Defendant public school teacher enrolled in plaintiff's class and purchased the booklet. Defendant later prepared her own booklet for use in food service career classes. Defendant's booklet used eleven pages taken verbatim from plaintiff's work. Defendant made fifteen copies of her booklet and put them on file for her students' use. Plaintiff appealed the district court's ruling that defendant's copying for nonprofit educational purposes was fair use.
Issue	Whether defendant's copying of another teacher's copyrighted course material for purposes of classroom teaching on the same subject constituted fair use.
Holding	The court concluded that defendant's copying was not fair use. Pointing out that defendant's nonprofit educational purpose did not automatically compel a finding of fair use, the court stated that copying a work for the same intrinsic purpose that the copyright owner intended weighs strongly against a finding of fair use. The court found that both plaintiff's and defendant's booklets were prepared for the identical purpose of teaching cake decorating. The court also found that, qualitatively and quantitatively, defendant's work substantially copied the original because almost 50% of the work was a verbatim copy and that 50% contained virtually all of the substance of defendant's booklet. Although the court did not find any effect on the potential market or measurable pecuniary damages, the other factors were enough to support a finding against fair use.
Tags	Ninth Circuit; Education/Scholarship/Research; Textual work
Outcome	Fair use not found

Source: U.S. Copyright Office Fair Use Index. For more information, see <http://copyright.gov/fair-use/index.html>.