

**Weissmann v. Freeman,
868 F.2d 1313 (2d Cir. 1989)**

Year	1989
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Weissmann and defendant Freeman were scientists who co-authored a number of scholarly scientific articles. Plaintiff authored an article titled <i>Hepatobiliary Imaging</i> , which drew significantly upon her and defendant's co-authored works. Defendant later altered the article's title, listed himself as the sole author and distributed fifty copies of the article to students in a medical school course that he taught. At plaintiff's request, defendant stopped distributing copies of the article. Subsequent to this, plaintiff filed suit, requesting declaratory judgment that defendant had committed actionable infringement, an injunction, and damages. The district court found that defendant had not infringed any legally cognizable rights that plaintiff may have had in the article, because defendant was a joint author, and even were defendant not a joint author, defendant's use was a fair use. Plaintiff appealed the district court's ruling on both points.
Issue	Whether defendant's unauthorized copying and distribution of plaintiff's scientific article, which was partially based on works they co-authored, for use as medical school course material constituted fair use.
Holding	The court held that defendant's use of plaintiff's article was not a fair use. Regarding the purpose and character of the use, the court found that defendant used the work for the same intrinsic purposes as plaintiff—to gain notoriety and to use in professional lectures. Regarding effect on the potential market for the work, the court determined that defendant's planned use of the article not only undermined plaintiff's ability to "enjoy the fruits of her labor," but also created a disincentive for her to author and publish future articles. The court also reversed the district court's finding that defendant was a joint author.
Tags	Second Circuit; Education/Scholarship/Research; Textual work
Outcome	Fair use not found

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