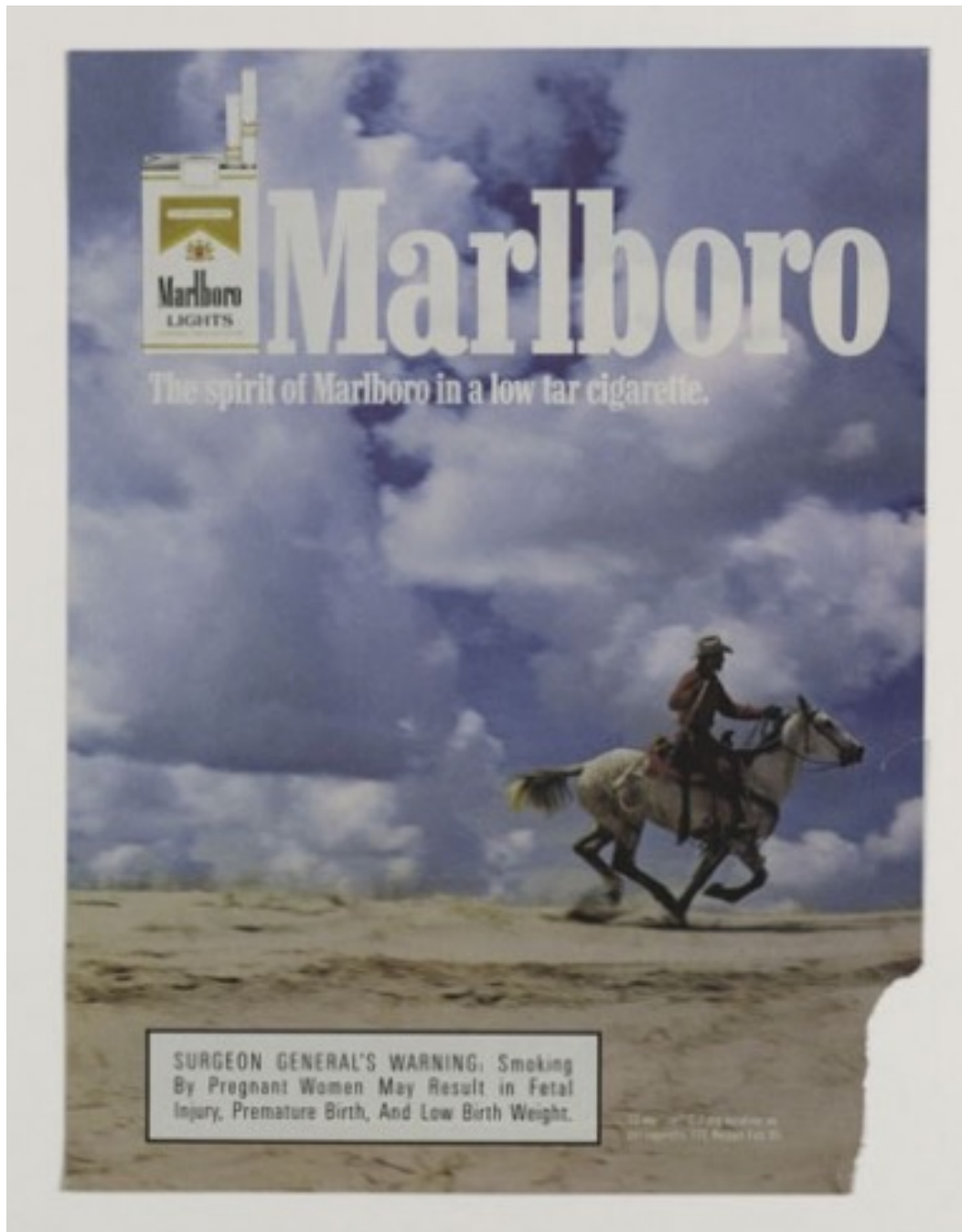




## Handout 2 - Case A, The Marlboro Man and Richard Prince

**Exhibit A:** The Spirit of Marlboro in a Low Tar Cigarette, part of a series of advertisements run for Marlboro Cigarettes throughout the 1970s and beyond. Photo by Sam Abell.





**Exhibit B:** Richard Prince, *Untitled (cowboy)*, 1989. This photo sold for over \$1 million. It is currently owned by The Metropolitan Museum of Art in New York, NY.





### **The Courtroom:**

Group A will argue that Richard Prince has violated Copyright Laws and his work is not original  
Group B will argue that Richard Prince is protected under Copyright Laws and that his work is original

- Phase 1: Return to the pre-trial research you gathered using Handout 1, rereading the materials if necessary. Use the terminology and definitions you have gathered to develop a concise, written argument supporting your claim
- Phase 2: As a class, try the case in court, allowing each side to present its findings. You may need to assign one or two “lead lawyers” to present for each group.
- Phase 3, Post-Trial: Rather than determining a victor, discuss the issues you’ve raised as a class. Class members no longer have to agree with their respective group’s positions. You may find the following questions helpful for discussion:
  - Does Prince’s use of the Marlboro advertisement constitute “transformative” use? Why?
  - Is Prince’s work an original work of authorship??
  - How does it differ from Abell’s work?
  - Does Abell deserve credit in Princes’ work?
  - Does Abell deserve compensation for Princes’ work?
  - Does Princes’ piece represent assimilation and dissemination of an idea?
  - Should Prince need to obtain permission to appropriate a piece in this way?
  - Should the original photographer be able to deny Prince the right to appropriate?