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## Victory for Dietary Supplements and Free Speech

*Federal Judge Rules the FDA Cannot Silence Accurate Scientific Information About The Health Benefits of Vitamin Supplements*

Washington, DC: In a stunning defeat for the Food and Drug Administration (FDA), yesterday a federal judge in the U.S. District Court for the District of Columbia ruled unconstitutional the FDA's censorship of selenium dietary supplement health claims. The Alliance for Natural Health USA (ANH-USA), along with dietary supplement formulators Durk Pearson and Sandy Shaw, and the Coalition to End FDA and FTC Censorship, represented by Jonathan Emord of Emord & Associates, were successful in protecting the First Amendment right of dietary supplement manufacturers to provide "qualified health claims" which accurately communicate the state of science in relation to the dietary supplement. This is a remarkable seventh victory over the FDA by the Emord firm (six of which invalidated FDA health claim censorship).

The federal judge denied the government's motion to dismiss the case and granted the plaintiffs' motion for summary judgment. All principal parts of the decision were clear victories for the ANH-USA and its fellow plaintiffs. This suit was the latest in a series of actions filed against the FDA for its illegal bans on qualified health claims. Qualified health claims are used when there is significant but not absolutely conclusive evidence for a relationship between a food, food component, or dietary supplement and reduced risk of a disease or health-related condition.

The lawsuit was in response to the FDA's June 19, 2009 decision to suppress selenium/cancer-risk reduction claims. Ten of those claims (all appealed by the plaintiffs) were held unconstitutionally censored. The plaintiffs expressed their belief that this violated their right to communicate truthful health information to the public. The judge found that the FDA had denied claims despite credible evidence supporting them and had thereby infringed on free speech.

"The ability to share information with the public about the benefits of health foods and food supplements is essential in order to advance the cause of healthy living and disease prevention. Consumers want to make healthy dietary and lifestyle changes, but have been denied accurate health information. This ruling will allow producers of natural

products to provide accurate health information, based on valid science, to consumers without burdensome overregulation by the FDA,” said Gretchen DuBeau, executive and legal director of ANH-USA.

Prior to this ruling the FDA required near conclusive scientific evidence for any nutrient claim. The judge ruled that so long as the claim is an accurate reflection of the state of science, the First Amendment protects it.

During these proceedings, the FDA never explained why it believes the censorship of valid science to be in the best interest of the American people or why such censorship would help Americans make better health choices.

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About the Alliance for Natural Health USA (ANH-USA): [www.anh-usa.org](http://www.anh-usa.org) The Alliance for Natural Health USA is part of an international organization dedicated to promoting natural, sustainable healthcare through good science and good law. We protect the right of natural health practitioners to practice, and the right of consumers to choose the healthcare options and treatment modalities they prefer, including complementary and alternative medicine. As a membership-based organization, we unite consumers, practitioners, and industry to speak with a common voice and have worked since 1992 to shift the medical paradigm from an exclusive focus on surgery, drugs and other conventional techniques to an “integrative” approach incorporating food, dietary supplements and lifestyle changes.

About Emord & Associates, P.C. [www.emord.com](http://www.emord.com) is an “AV” rated law firm (Martindale-Hubbell rating service) located at 1050 17th Street, N.W., Suite 600, Washington, D.C. 20036; 11808 Wolf Run Lane, Clifton, VA 20124; and 2730 S. Val Vista Drive Suite 117, Gilbert, AZ 85295. The firm represents over 450 dietary supplement designers, manufacturers and distributors; food manufacturers and distributors; scientists; physicians; nutritionists; health care associations; and citizen groups. The firm’s attorneys represent clients in constitutional and administrative law cases before the Food and Drug Administration, the Federal Trade Commission, the Drug Enforcement Administration, the Department of Justice, the Department of the Interior, the Bureau of Land Management, the National Park Service, the Equal Employment Opportunity Commission, the Environmental Protection Agency, and the Federal Communications Commission. The firm’s attorneys represent clients in medical board, insurance, and worker’s compensation cases.