

Court Strikes Down FDA Ban on Selenium/Cancer Health Claims - Alliance for Natural Health U.S. v. Sebelius

June 16, 2010

On May 27, 2010, the U.S. District Court for the District of Columbia issued a decision in *Alliance for Natural Health U.S. v. Sebelius*, Civ. Action No. 09-10470 (ESH) (D.C. Dist. May 27, 2010) ("*Natural Health*"). Relying on a string of earlier decisions, including *Pearson v. Shalala*, 164 F.3d 650 (D.C. Cir. 1999) ("*Pearson I*"), the court ruled that the Food and Drug Administration's ("FDA") refusal to grant several health claims characterizing the disease prevention benefits of selenium consumption violated First Amendment standards that protect freedom of expression in commercial speech. The earlier cases also held that FDA policies restricting the use of health claims in food labeling failed to satisfy First Amendment standards.

Alliance for Natural Health U.S. v. Sebelius

In *Alliance for Natural Health*, plaintiffs challenged, on First Amendment grounds, the FDA's rejection of the following claims:

- "Selenium may reduce the risk of certain cancers. Scientific evidence supporting this claim is convincing but not yet conclusive."
- "Selenium may produce anticarcinogenic effects in the body. Scientific evidence supporting this claim is convincing but not yet conclusive."
- "Selenium may reduce the risk of lung and respiratory tract cancers. Scientific evidence supporting this claim is convincing but not yet conclusive."
- "Selenium may reduce the risk of colon and digestive tract cancers. Scientific evidence supporting this claim is convincing but not yet conclusive."

Click here to read more on the [FDA Ban on Selenium/Cancer Health Claims](#).