*Marquette Elder’s Advisor Law Review*

Application Materials

Applicant Name:

APPLICATION MATERIALS TO BE SUBMITTED:

* Cover Letter (Explaining your interest in Elder’s Advisor)
* Bluebook & Texas Law Review Manual Grammar Exercise, below
* Bluebook Citation Exercise, below
* Resume
* Legal Writing Sample

Please email these materials as attachments to ***Marquette******Elder’s Advisor Law Review***

elderlaw@marquette.edu by **Monday, June 16, 2014 at 11:59 p.m.**

**Bluebook Citation Exercise**

**Please read the examples below and use the Bluebook to put the appropriate citations into *law journal* format. Type the edited citation underneath the original citation. Format the citation as best as you can according to the rules. If you are struggling with an individual citation you can note the issue and explain what Bluebook rules you referred to in developing your citation. All the information you will need is provided. Not all the information is needed for some.**

1. 38 USC Section 5107, subsection (a), published in 2006.

2. The case New York v. Ferber, 458 U.S. 747 (1982), citing information on page 776. This is the first time the case is cited.

3. The case New York v. Ferber, 458 U.S. 747 (1982), citing information on page 776. This is being cited 3 footnotes after it was fully cited.

4. The case New York v. Ferber, 458 U.S. 747 (1982), citing information on page 776. This is being cited 6 footnotes after it was fully cited.

5. The case New York v. Ferber, 458 U.S. 747 (1982), citing information on page 776. The 5 preceding footnotes were of this case, and were “*Id*.”

6. The Midwives Model of Care found on this website: <http://cfmidwifery.org/mmoc/define.aspx>.

7. An article by William M. Sage, titled Over Under or Through: Physicians, Law, and Health Care Reform. The article is published in the 2008-2009 St. Louis University Law Journal starting on page 1033, pincite is page 1043, volume 53.

8. A book titled “Radiation Toxicity: A Practical Guide” published in 2006 and edited by William Small and Gayle E. Woloschak, pincite is on page 160.

9. A book by Tom Baker titled The Medical Malpractice Myth, pincite is page 69, published in 2005.

10. A book by Tom Baker titled The Medical Malpractice Myth, pincite is page 69, published in 2005. This was cited previously in footnote 15 with hereinafter Baker.

11. Article 5, section 5 of the Michigan Constitution.

12. A public law titled Patient Protection and Affordable Care Act.

**Bluebook & Texas Law Review Manual Grammar Exercise**

**Please read the passage below and use the Bluebook and Texas Law Review Manual to make the appropriate grammar and punctuation corrections. Make the corrections you believe necessary as best as you can according to the rules in the track changes function in Word. If you are struggling with a particular change you can note the issue and explain in a comment bubble what Bluebook or Texas Law Review Manual rules you referred to in developing your change. Additionally, if there are places where the grammar and punctuation have been done correctly and require no changes highlight them and identify the rules that indicate the author’s use of correct formatting.**

\*\*There is ***one copy*** of both the Bluebook and Texas Law Review Manual available in the Publication Suite’s Cite Checkroom. The copies of both of these books are available for you to use but **CANNOT** be taken outside of the Cite Checkroom. It is strongly suggested that you purchase a copy of both of these books for yourself as you will use them if you are offered the position of Staff Editor next year.\*\*

From: “Natural” Food Labeling: False Advertising and the first amendment”:

INTRODUCTION

In *The Omnivore’s Dilemma*, Michael Pollan argues that “[l]ike the hunter-gatherer picking a novel mushroom off the forest floor and consulting his sense memory to determine its edibility, we pick up the package in the supermarket and, no longer so confident of our senses, scrutinize the label, scratching our heads over the meaning of phrases like ‘heart healthy,’ ‘no trans fats,’ ‘cage-free,’ or ‘range-fed.’ What is ‘natural grill flavor’ or TBHQ or xanthan gum? What is all this stuff, anyway, and where in the world did it come from?” In his eye-opening explanation of the food America eats today, Pollan explains, “the pleasures of eating industrially, which is to say eating in ignorance, are fleeting. Many people today seem perfectly content eating at the end of an industrial food chain, without a thought in the world.”

The price of continuing this way of thinking appears a bargain but fails to account for its true cost, “charging it instead to nature, to the public health and purse, and to the future.” To shift this paradigm, there must be a release of information. An attempt to explain and educate what exactly goes into food products so as to enhance the markets for truly healthy foods and increase the overall health of America. While the change is a bold move, which will ultimately require restrictions on food companies’ commercial speech, it is a necessary change that will protect the fundamental right we have as humans to choose what we eat.

The term “natural” is one of the most widely misunderstood terms advertised on companies’ food packages. To regulate companies’ usage of the term “natural,” Congress should codify an exception for commercial speech regulation under the First Amendment as set forth in *Central Hudson*.Following the *Central Hudson* four prong test, Congress can restrict companies’ use of the term as: 1) prior case law has shown that this type of commercial speech is not misleading; 2) Congress has a substantial interest in regulating the speech; 3) the regulation advances directly from Congress’ interest; and 4) the proposed regulation is not more extensive than necessary to serve the interest.

This paper focuses entirely on the usage of “natural” in the advertisement of food products. In doing so, this paper will discuss how companies use the freedom allocated by the First Amendment to advertise and market their products using the loosely defined and regulated term “natural” to promote sales, despite the fact that the majority of a product’s ingredients may not be derived from natural ingredients or created using natural processes. In doing so, this paper asserts that Congress should codify the four-prong *Central Hudson* test thereby requiring the Food and Drug Administration (“FDA”) to redefine and regulate usage of the term “natural” as Congress has a substantial interest in advancing the marketplace for healthy food and the health of all Americans.

I. Food Labeling History

The Wiley Act was passed in 1906 and “was considered a substantial reform,” in food labeling, “because it prohibited the adulteration and misbranding of food sold and distributed in interstate commerce.” While the Wiley Act drastically changed the food industry’s labeling schemes, it “offered only modest reforms: [as] it ‘enabled the Government to go to court against illegal products but lacked affirmative requirements to guide compliance.’” Five years later, in 1911, “the FDA’s predecessor, the Bureau of Chemistry, proposed a ‘false and misleading’ provision that would hold industry accountable for its statements about the ‘disease fighting’ properties of a product (known as ‘disease claims’), which Congress adopted in 1912.”

Recognizing the public’s continued concern for unsafe foods, drugs, and marketing schemes, in 1938 Congress enacted the Federal Food, Drug, and Cosmetic Act (“FDCA”) to replace the Wiley Act. The FDCA, enabled the FDA to “‘promulgate food definitions and standards of food quality;’ ‘set tolerance levels for poisonous substances in food;’ and take enforcement action on adulterated and misbranded foods.” Seemingly a step in the correct direction, “the FDCA had its shortcomings, however,” as “[n]either the FDCA nor FDA regulations required detailed nutritional information on all food labels.” In fact, the FDCA only required nutrition labeling, “if the manufacturer made a nutrition claim about the product such as ‘low-fat’ or ‘high in fiber.’”