

## MEMORANDUM:

**To:** Moot Court Advisors

**From:** Alisa Simmons, Lefkowitz Project Team Chair

Brent Hawkins, Lefkowitz Project Team Co-Chair

**Date:** October 2020

**Re:** 2020-2021 Saul Lefkowitz Moot Court Competition

On behalf of the International Trademark Association (INTA), we are pleased to invite your school to participate in the **Saul Lefkowitz Moot Court Competition** for the 2020–2021 academic year. The competition will be conducted virtually this academic year.

INTA is a not-for-profit membership association of more than 5,900 trademark owners, professionals and academics from more than 190 countries, all dedicated to the support and advancement of trademarks and related intellectual property. Now in its 30<sup>th</sup> year, INTA's Saul Lefkowitz Moot Court Competition (the "Competition") is the only competition in the United States focused on trademark and unfair competition law.

The problem this year examines issues concerning the use of similar brand names by a pet food company and a fitness company providing exercise regimens for dog owners, and whether the fitness company willfully infringed the pet food company's trademark. The plaintiff, Natural and Organic Real Meat Meals, LLC ("NORMM"), created and introduced to the market in 2014 the NORMM brand of pet food with recipes featuring natural and organic meats and vegetables. The NORMM brand pet food quickly became popular and trusted by pet parents nationwide. The defendant, Norman Herman III Enterprises, LLC d/b/a "The New Norm" ("The New Norm"), was founded in 2016 by Norman Herman III, a former pizza delivery man and proud pet parent to dog Bingo. Norman regularly purchased the NORMM brand dog food for Bingo. The New Norm brand exercise and fitness program came to be after Norman reversed course on years of poor diet choices and lack of physical activity for him and his dog. He tailored The New Norm brand fitness program to canine pet owners because his dog was key to his motivation to get in shape and had participated alongside him during his transformation to a healthier and fitter citizen.

As the popularity of The New Norm exercise routines took off, NORMM learned about the brand and became concerned that consumers would mistake The New Norm fitness routines as coming from or being associated with NORMM pet food. NORMM sued, alleging that The New Norm infringed its trademark rights. The parties engaged in discovery and NORMM filed a motion for summary judgment. The district court granted summary judgment, finding willful trademark infringement. The issues now on appeal are (1) whether there is likelihood of confusion between the marks NORMM and The New Norm, and if so, (2) whether The New Norm's adoption and use of The New Norm mark was willful, and (3) whether NORMM is entitled to money damages in the form of The New Norm's profits.

As part of the Competition, students are expected to write a brief and argue the issues on appeal in the case in regional and national competitions before a panel of volunteer attorneys, judges from various district and other courts and members of the Trademark Trial and Appeal Board (TTAB) of the United States Patent and Trademark Office (USPTO). As noted, this year's panel will be virtual.

The objective of the Competition is to introduce law students to important issues arising in U.S. trademark and unfair competition law. Law students who participate in the Competition have the opportunity to develop their brief writing and oral advocacy skills in a mock courtroom experience.

Material related to the Competition can be found at <https://www.inta.org/about/awards-competitions/saul-lefkowitz-moot-court-competition/>.

### Important Competition Dates and Deadlines:

- **Friday, November 20, 2020, 5:00 pm U.S. Eastern Time – Deadline for Registration Forms:** Registration forms must be received by INTA on or before this date.
- **Tuesday, January 5, 2021, 5:00 pm U.S. Eastern Time – Deadline for Team Briefs:** Briefs

must be filed online and received by INTA on or before this date. **Please note:** All briefs must be uploaded to INTA through the link provided in the confirmation email. Briefs should not be sent via e-mail. Any substitution of team members must also be made before this date.

- **Saturday, February 6, 2021 – Regional Oral Arguments:** Will be held in a virtual environment.
- **Saturday, March 13, 2021 – National Final Oral Arguments:** The top two winning teams in each region will advance to the National Finals which will be held in a virtual environment.

**REGIONAL CERTIFICATE AWARDS WILL BE AS FOLLOWS:**

<b>First Place Team</b>	(Highest combined brief plus oral argument score)
<b>Second Place Team</b>	(Second highest combined brief plus oral argument score)
<b>Third Place Team</b>	(Third highest combined brief plus oral argument score)
<b>Best Brief</b>	(Highest brief score in region)
<b>Best Oralist Team</b>	(Highest oral argument score in region)

**NATIONAL FINALS CASH AWARDS WILL BE AS FOLLOWS:**

<b>Winning Team:</b>	\$3,000
<b>Second Place Team:</b>	\$1,500
<b><i>Dolores K. Hanna</i> Best Brief Award:</b>	\$1,000
<b>Second Place Brief:</b>	\$500
<b>Best Oralist Team:</b>	\$1,000
<b>Second Place Oralist Team:</b>	\$500
<b>School of Winning Team:</b>	\$1,000

**FURTHER INFORMATION:**

If you have further questions about the Competition, please email [competitions@inta.org](mailto:competitions@inta.org) or call +1-212-642-1707. We look forward to the participation of one or more teams from your law school and are confident that your students will find the Saul Lefkowitz Moot Court Competition a rewarding experience!