

Case No. 2:10-cv-04018-NKL

would only serve to confuse the jury about what basis upon which they should decide this case.

II. Argument

“Federal Rule of Evidence 402 provides that irrelevant evidence is inadmissible.” *Wright v. Ark. & Mo. R.R. Co.*, 2009 U.S. App. LEXIS 16719, *12 (8th Cir. July 29, 2009). “Evidence is relevant if it has ‘any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.’” *Id.* at *12-13 (quoting Fed. R. Evid. 401). “A district court is given broad discretion to determine the relevance of evidentiary matters.” *Id.* at 13.

Rule 403 of the Federal Rules of Evidence provides “[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Fed.R.Evid. 403. “Confusion of the issues warrants exclusion of relevant evidence if admission of the evidence would lead to litigation of collateral issues.” *Firemen's Fund Ins. Co. v. Thien*, 63 F.3d 754 (8th Cir. 1995). Rule 403 is concerned with unfair prejudice that has an undue tendency to suggest decision on an improper basis. *Pro batter Sports, LLC v. Joyner Technologies, Inc.*, 2007 WL 3285799 (N.D.Iowa, October 18, 2007).

Other states’ laws and regulatory approvals are not relevant in this case. In addition, the introduction of evidence about what may have happened in other states would be improper as it could confuse the jury and suggest to them that they should decide this case based on something other than the laws of the state of Missouri. The introduction of the actions or inaction in other states would lead to plaintiffs (and perhaps the Court in jury instructions) to have to explain that those states all have different statutes dealing with the unauthorized practice of law and, thus,

what happened or didn't happen in those states does not mean that what LegalZoom is doing in Missouri is lawful. Accordingly, plaintiffs respectfully request that the Court issue an Order to exclude any testimony, argument, or reference about Legalzoom's business being conducted in other states or being approved or permitted in other states; including by other bar associations or similar entities.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 2, 2011, I served this paper upon the following via this Court's ECF system:

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