

**IN UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

TODD JANSON, et al., on behalf of	)	
themselves and on behalf of all others	)	
similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2:10-cv-04018-NKL
	)	
LEGALZOOM.COM, INC.	)	
	)	
	)	
Defendant.	)	

**PLAINTIFFS’ MOTION IN LIMINE REGARDING THE HISTORY OF THE  
REGULATION OF THE PRACTICE OF LAW**

Come now, Plaintiffs, by and through counsel, and for their Motion in Limine to exclude any evidence regarding the History of the Regulation of the Practice of Law, states as follows:

**I. Introduction**

Legalzoom has suggested in its various Motions filed with this Court that it plans to introduce testimony and perhaps documentation relating to the history of the regulation of the practice of law. See, Report of Dean Powell, attached as Exhibit 11 to Legalzoom’s Motion for Summary Judgment, Doc. 91. Dean Powell’s report traces the development of the regulation of the practice of law from the pre-colonial period up to and through the present time. He also offers a variety of opinions which are based in whole or part on his history of the regulation of the practice of law that he has put together. See, *Id.*

The development and history of the regulation of the practice of law has no bearing in this case on whether Legalzoom is complying with Missouri law. No element or facet of the law or statute at issue has anything to do with anyone’s interpretation of the development of the

regulation of the practice of law. In addition, the introduction of such evidence would only serve to confuse the jury about what law they should be applying and would waste valuable judicial resources since the plaintiffs would have to explain through testimony and cross examination that the history of the regulation of the practice of law is not found in anywhere in Missouri law on the issues relevant to 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 (8<sup>th</sup> Cir. 1995). Rule 403 is concerned with unfair prejudice that has a undue tendency to suggest decision on an improper basis. *Probatter Sports, LLC v. Joyner Technologies, Inc.*, 2007 WL 3285799 (N.D.Iowa, October 18, 2007).

The history of the regulation of the practice of law from pre-colonial times to the present could hardly be more “collateral” to the issues that are relevant in this case. Neither the jury nor

the Court requires a history lesson in the history of the regulation of the practice of law. If this case involved a products liability claim, an expert in the history and development of products liability law would clearly be irrelevant and improper. The same is the case here.

The only issues relevant to this case are whether Legalzoom is complying with Missouri law as it exists today, not at any time prior. There is nothing about the history of the regulation of the practice of law that makes any fact in issue more or less likely and the admission of such evidence would only serve to confuse the jury and require the plaintiffs to spend hours trying to undue the confusion this issue would inject into these proceedings. Therefore, the plaintiffs respectfully request this Court enter an Order prohibiting Legalzoom or any of its witnesses from testifying, or making any arguments, or introducing any documents which relate to the history of the regulation of the practice of law.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

**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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