

**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 STATEMENTS OR  
DECLARATIONS MADE BY THE FEDERAL TRADE COMMISSION**

Come now, Plaintiffs, by and through counsel, and for their Motion in Limine to exclude any evidence of statements or declarations made by the Federal Trade Commission (hereinafter “FTC”), state as follows:

**I. Introduction**

This is a case where plaintiffs allege that the defendant Legalzoom.com (hereinafter “Legalzoom”) violated Missouri law by engaging in the unauthorized practice of law and deceiving Missouri customers through deceptive trade practices. Plaintiffs also have a claim for money had and received. Without question, Missouri law controls this case.

Nevertheless, plaintiffs have reason to believe that Legalzoom will attempt to introduce statements or declarations by the FTC which are counter to Missouri law. As evidenced in their Motion for Summary Judgment at paragraphs 76 through 79 under the heading “Statements by the Federal Trade Commission,” Legalzoom will attempt to introduce various statements by the

FTC wherein the FTC allegedly criticizes various organizations' statements about what is and is not the practice of law. See, *Id.* These statements by the FTC have no relevance in this case and would only serve to confuse and mislead the jury into possibly thinking that the FTC is the standard by which they must view this evidence as compared to Missouri law. The FTC's statements have no relevance to this case and should, therefore, be barred from being presented to the jury.

## 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 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).

The opinion of the FTC or its statements about the unauthorized practice of law have no relevance in this case and would only serve to confuse the jury about what the proper standard is. This Court will instruct the jury on the law that governs the claims that are at issue and that law is unquestionably Missouri law. The FTC's opinions about that law or any other law are simply not relevant and would only serve to confuse and suggest to the jury that they should decide this case based on an improper basis. Accordingly, Legalzoom should be prohibited from arguing or introducing in any fashion any statements by the FTC or anyone else about the current state of Missouri law or other laws.

Respectfully submitted,

/s/Timothy VanRonzelen  
Timothy Van Ronzelen, #44382  
Matthew A. Clement, #43833  
Kari A. Schulte, #57739  
COOK, VETTER, DOERHOFF & LANDWEHR  
231 Madison  
Jefferson City, Missouri 65101  
Telephone: 573-635-7977  
Facsimile: 573-635-7414  
tvanronzelen@cddl.net  
mclement@cddl.net  
kschulte@cddl.net

and

Edward D. Robertson, Jr., # 27183  
Mary Doerhoff Winter, # 38328  
BARTIMUS, FRICKLETON, ROBERTSON  
& GORNY  
715 Swifts Highway  
Jefferson City, MO 65109  
Telephone: 573-659-4454  
Facsimile: 573 659-4460  
chiprob@earthlink.net  
marywinter@earthlink.net

Randall O. Barnes, #39884  
RANDALL O. BARNES & ASSOCIATES  
219 East Dunklin Street, Suite A  
Jefferson City, Missouri 65101  
Telephone: 573-634-8884  
Facsimile: 573-635-6291  
rbarnesjclaw@aol.com

David T. Butsch, # 37539  
James J. Simeri, #52506  
BUTSCH SIMERI FIELDS LLC  
231 S. Bemiston Ave., Ste. 260  
Clayton, MO 63105  
Telephone: 314-863-5700  
Facsimile: 314-863-5711  
butsch@bsflawfirm.com  
[simeri@bsflawfirm.com](mailto:simeri@bsflawfirm.com)

Steven E. Dyer, #45397  
LAW OFFICES OF STEVEN DYER  
10850 Sunset Office Drive, Ste. 300  
St. Louis, MO 63127  
Telephone: 314-898-6715  
[jdcpamba@gmail.com](mailto:jdcpamba@gmail.com)

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:

<b>Party</b>	<b>Counsel</b>
Defendant LegalZoom.com, Inc.	Robert M. Thompson James T. Wicks Christopher C. Grenz BRYAN CAVE LLP One Kansas City Place 1200 Main Street, Ste. 3500 Kansas City, MO 64105 816.374.3200, 816.374.3300 (fax)  John Michael Clear Michael Biggers James Wyrsh BRYAN CAVE LLP One Metropolitan Square – Ste. 3600 211 N. Broadway St. Louis, MO 63102 314.250.2000, 314.259.2020 (fax)

\_\_\_\_\_/s/Timothy VanRonzelen