

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

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|--|---|----------------------------|
| 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 TO EXCLUDE EVIDENCE OR ARGUMENT OF
AVAILABILITY OF LEGAL FORMS OR COMPUTER SOFTWARE IN MISSOURI**

Come now Plaintiffs, by and through counsel, and for their Motion in Limine to exclude any evidence or argument of the availability of legal forms or computer software in Missouri, state as follows:

Plaintiffs anticipate, based on arguments asserted by LegalZoom in their summary judgment papers, that LegalZoom will attempt to introduce evidence or argument before the jury as to the availability of legal forms in Missouri, such as those available through the Missouri Supreme Court or the Missouri Bar. Plaintiffs also expect that LegalZoom will suggest to the jury that there is computer software available for purchase by the public for the preparation of legal forms. LegalZoom’s argument is that because such forms and software are lawful, LegalZoom’s actions are lawful as well. Such evidence or argument should be excluded because “[e]vidence which is not relevant is not admissible.” Fed. R. Evid. 402. Furthermore, such evidence would mislead and confuse the jury.

Whether legal forms or computer software for the preparation of forms is available to

Missouri residents has no bearing on the factual issues to be presented to the jury. The statutory underpinning of plaintiffs' cause of action is Section 484.020.1 RSMo, which prohibits "the drawing" or "assisting in the drawing for a valuable consideration" of "any paper, document or instrument affecting or relating to secular rights." Thus, the factual question for the jury to decide is whether LegalZoom participated in or assisted in the drawing of legal documents.

In addition, introduction of other computer programs or publications into evidence will only lead the jury and the parties down a path that will call for the exploration of the various differences between the computer programs and/or form books that Legalzoom might wish to introduce and LegalZoom's products. However, LegalZoom has not identified any witnesses to testify about software or form books. Because no witness competent to testify regarding the foundational requirements of these software programs or form providers has been disclosed, they will not be admissible in evidence.

"Relevant evidence" means evidence having 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." Fed. R. Evid. 401. "Evidence which is not relevant is not admissible." Fed. R. Evid. 402. "A defendant has no right to offer and a jury has no right to hear inadmissible evidence." *U.S. v. Ceballos*, 593 F. Supp. 2d 1054, 1059 (S.D. Iowa 2009). The availability of legal forms or software in Missouri has no bearing whatsoever on the factual determination to be made by the jury concerning whether LegalZoom violated Section 484.020.1 RSMo.

This court has broad discretion in determining the admissibility of evidence, *Fortune Funding, LLC v. Ceridian Corp.*, 368 F.3d 985, 990 (8th Cir. 2004), and should exercise its discretion to exclude evidence or argument concerning the availability of legal forms or

computer software for legal documents in Missouri.

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CERTIFICATE OF SERVICE

I certify that on August 2, 2011, I filed the foregoing with the Clerk of the Court using the CM/ECF system. The system sent notification of this filing to the following:

| Party | Counsel |
|----------------------------------|---|
| Defendant LegalZoom.com, Inc. | Robert M. Thompson James T. Wicks 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) |

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