

**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’ SUGGESTIONS IN OPPOSITION TO LEGALZOOM’S
MOTION IN LIMINE TO EXCLUDE EVIDENCE CONCERNING
PREJUDGMENT INTEREST**

The Court should deny LegalZoom’s motion in limine to exclude evidence concerning prejudgment interest. All class members who purchased documents from LegalZoom between December 18, 2004 through December 17, 2007 (those class members not entitled to treble damages under § 484.020) are entitled to prejudgment interest from the dates of their transactions with LegalZoom. This is the law stated by the Missouri Supreme Court in *Carpenter v. Countrywide Home Loans, Inc.*, 250 S.W.3d 697 (Mo. 2008).

In *Countrywide*, as in this case, the plaintiffs sued for charging fees for preparing legal documents in violation of Missouri’s unauthorized-practice-of-law statute, Mo. Rev. Stat. § 484.020. The trial court entered judgment in favor of the plaintiffs. For class members who paid the fees within two years of filing, the court awarded treble damages under § 484.020, and prejudgment interest. *Id.* at 700. For class members who paid the fees within three to five years of filing, the court awarded the amount of the fees paid, and prejudgment interest. *Id.*

On appeal to the Missouri Supreme Court, Countrywide argued that the trial court erred by awarding prejudgment interest. As to class members who paid the fees within two years of filing, the court agreed with Countrywide and reversed. It held that those class members were not entitled to both treble damages and prejudgment interest. *Id.* at 704–05.

But as to the class members who paid the fees within three to five years of filing, the court rejected Countrywide’s argument and affirmed. The court explained that these class members were recovering, not under Mo. Rev. Stat. § 484.020, but under the theory of money had and received. More particularly, the court stated:

In this case, each class member will have a certain date that the unauthorized fee was charged and the amount of the fee is known. There is no reason why they would not be entitled to recover the time value of this sum. Countrywide was not authorized to charge this fee nor should it be allowed to retain the time value of the money collected. There was no abuse of discretion in awarding prejudgment interest to the class of plaintiffs who paid a document preparation fee within three to five years prior to filing suit.

Id. at 704.

As in *Countrywide*, in this case, Plaintiffs allege a claim for money had and received. Class members not entitled to treble damages under Mo. Rev. Stat. § 484.020 are entitled to prejudgment interest because their claims are for money had and received. All class members have a date certain for which LegalZoom charged them the unauthorized fees, and the amounts of these fees is known. There is no reason why these class members are not entitled to recover the time value of these amounts.

LegalZoom argues that Plaintiffs are not entitled to prejudgment interest because their claims do not qualify for prejudgment interest under Mo. Rev. Stat. § 408.020. Plaintiffs,

however, are not seeking prejudgment interest under § 408.020. Plaintiffs seek prejudgment interest based on their claims for money had and received. In *Countrywide*, the court affirmed the award of prejudgment interest on a claim for money had and received, precisely the claim that Plaintiffs here allege. In *Countrywide*, the Court did not require that demands be made, or otherwise apply Mo. Rev. Stat. § 408.020 in any other way to limit the plaintiffs' claims for prejudgment interest on their claims for money had and received. Based on *Countrywide*, this Court should not apply the requirements of Mo. Rev. Stat. § 408.020 to Plaintiffs claims for prejudgment interest on their claims for money had and received.

Therefore, Plaintiffs request that this Court deny this motion in limine, and provide all other relief that is just.

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CERTIFICATE OF SERVICE

I certify that on August 9, 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:

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