

IN THE 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,)	
)	
vs.)	No.2:10-CV-040180-NKL
)	
LEGALZOOM.COM, INC.,)	
)	
Defendant.)	

VIDEOTAPED DEPOSITION OF JOHN SMALLWOOD,
 produced, sworn and examined on the 14th day of
 July, 2011, between the hours of nine o'clock in the
 forenoon and twelve o'clock in the afternoon of that
 day, at the offices of Cook, Vetter, Doerhoff &
 Landwehr, 231 Madison Street, Jefferson City, Missouri,
 before Kim D. Murphy, Certified Court Reporter,
 within and for the State of Missouri.

EXHIBIT 1

1 A. I don't remember.
 2 Q. Okay. But you certainly haven't given a
 3 deposition in this --
 4 A. Not in this setting like this, no.
 5 Q. Well, I'm sure Matt has explained some
 6 ground rules. But although we have video, we also have
 7 a court reporter taking down my questions and your
 8 answers. And the answers come across better if you
 9 answer yes or no, rather than uh-huh or huh-uh. It's a
 10 little hard to read on a transcript if we do it that
 11 way.
 12 If you'll also let me finish my question
 13 before you begin to answer, so we don't talk over each
 14 other, it will be easier for Kim.
 15 And I'm sure Matt has told you he will have
 16 occasional objections, and you should not talk while
 17 Matt's objecting so that the objection gets on the
 18 record clearly.
 19 You understand all that?
 20 A. Yes, I do.
 21 Q. What did you do to prepare for your
 22 deposition today?
 23 A. I met with Matt a couple of days ago.
 24 He just explained to me what the procedure was going to
 25 be like.

1 Q. How long do you think you met with Matt?
 2 A. About 45 minutes.
 3 Q. Did you read anything in preparation --
 4 A. I read through the legal documents that I
 5 received in the mail and e-mails.
 6 Q. Did you review your screen captures of the
 7 LegalZoom website?
 8 A. No. I haven't looked at those in a while.
 9 Q. But you're familiar with them; you know
 10 what I'm talking about?
 11 A. Yes, sir.
 12 Q. Is there -- are you on any medication or
 13 anything today that would keep you from testifying
 14 accurately --
 15 A. No.
 16 Q. -- or truthfully?
 17 Could you state your full name and address
 18 for the record, please.
 19 A. John Edward Smallwood.
 20 Q. And where do you live, Mr. Smallwood?
 21 A. 1109 Meadows Place, Jefferson City,
 22 Missouri, 65101.
 23 Q. And when were you born?
 24 A. June 17, 1966.
 25 Q. Was the -- I have to ask, since you live on

1 Meadows Place -- I assume this lawsuit was a
 2 homeowners' lawsuit or something?
 3 A. Yes, it was.
 4 Q. Give me a little background on that.
 5 A. There was a family that lived, I think,
 6 at 1103 Meadows Place that was trying to turn the
 7 residence into a multi-family apartment complex. And
 8 the neighborhood found that in violation of the
 9 covenants.
 10 Q. What role did you play in that litigation?
 11 Were you simply a named Plaintiff?
 12 A. I'm assuming that's what it was.
 13 I don't --
 14 Q. You have no recollection of it; you may
 15 have just been named as a homeowner.
 16 A. As a homeowner.
 17 Q. Okay. Do you know any of the Plaintiffs in
 18 the case? The named Plaintiff?
 19 A. Explain that word to me. I'm not legal.
 20 Q. Okay. Does the name Todd Janson ring a
 21 bell? Do you know Todd Janson?
 22 A. I don't know. But the name rings a bell.
 23 Q. Have you met him?
 24 A. I don't think so.
 25 Q. How about Chad Ferrell?

1 A. No. I know I've never met him. The name
 2 sounds familiar.
 3 Q. You understand he's a representative
 4 Plaintiff in the case?
 5 What about Gerald Ardrey?
 6 A. No, I don't recognize that.
 7 Q. Can you tell me how long you've known
 8 Plaintiffs' counsel?
 9 MR. CLEMENT: Since there's several of us,
 10 you may want to be specific.
 11 BY MR. WICKS:
 12 Q. Matt, for example, how long have you known
 13 Matt?
 14 A. March, 2011.
 15 Q. Do you know anyone in the Cook, Vetter firm
 16 besides Matt?
 17 A. No.
 18 Q. Personally, socially?
 19 A. No. I mean, no. Mayor Landwehr was mayor.
 20 I think we might have said "hi" twice. I'm sure he
 21 doesn't know who I am.
 22 Q. Tell me what your occupation is.
 23 A. Computer repair. I own a computer
 24 business.
 25 Q. That's Smallwood Technologies?

Page 10

1 A. That is correct.
2 Q. And what does Smallwood Technologies do?
3 A. We provide computer support for small
4 businesses, mainly in the Jefferson City area.
5 We support businesses that are 20 computers
6 or less. We do provide some computer repair for home
7 computers. And we have a different division that
8 people bring computers to us to be repaired.
9 Q. So you deal with computer hardware and
10 software issues?
11 A. We don't develop software, but we support
12 it. We install it, support it, keep systems running.
13 Q. What's your title at Smallwood
14 Technologies?
15 A. President.
16 Q. Does the company go by STI or Smallwood --
17 A. The legal name is STI Technology Solutions.
18 We're doing business as Smallwood Technologies.
19 Q. You refer to it as Smallwood Technologies?
20 A. Yes.
21 Q. How many employees do you have?
22 A. Nine, including myself.
23 Q. And what's your -- do you specialize in
24 computer hardware basically?
25 A. We specialize in company support. I mean,

Page 11

1 I know that's kind of a general term, but that's what
2 we do. We make it a point that our customers can come
3 in in the morning and do their job; they don't have
4 hardware or software issues.
5 Q. So do you -- describe yourself. Do you
6 advertise as having any particular specialty?
7 A. Myself? Or the business?
8 Q. Or the company. Yourself first.
9 A. No. My specialty is I'm a damn good
10 salesman. I understand what a customer wants, and I
11 come up with a solution for them. And that's what my
12 specialty is.
13 Q. But you must have computer training,
14 don't you?
15 A. Self-taught.
16 Q. Did you not take classes?
17 A. No. I have a photography degree.
18 Q. I was going to come to your education, but
19 since we're there, tell me about it.
20 A. I graduated in 1989 from Northeast Missouri
21 State University.
22 Q. And --
23 A. With a Bachelor of Science in Industrial
24 Technology.
25 Q. And you said -- did you say you had a

Page 12

1 photography degree?
2 A. That's what the emphasis was in.
3 Technically, it's industrial technology with an
4 emphasis in photography.
5 Q. You're self-taught on computers.
6 When did you start messing with computers?
7 Like me, the TRS80 in 1976 or something?
8 A. Well, no, I wasn't --
9 Q. Not that old; right?
10 A. I didn't have enough money at that time to
11 buy one.
12 Messing around with them was probably
13 around 1982. Whenever I got an Atari system.
14 Seriously got into them around 1998.
15 Q. Well, what happened between '82 and '98?
16 I'm sorry.
17 A. I took Cobalt and 4 Trans, and it knocked
18 me off computers. And I decided I didn't want anything
19 to do with the program.
20 Q. And Cobalt -- go ahead.
21 A. It's just -- that's the honest answer.
22 I took -- I don't remember, something in college -- and
23 it was -- that was not interesting to me.
24 And at that time, mainframes were the only
25 computers that were out there. And I went a different

Page 13

1 path in college and went a different way.
2 When I got out of college, I worked for an
3 engineering firm. Decided I didn't care to wear the
4 suit and tie every day.
5 Went off to Alaska and lived up there for
6 five years, and enjoyed my life until I met my wife.
7 And when I met my wife --
8 Q. You may want to strike that you enjoyed
9 your life until you met your wife; would you like to
10 revise your remarks?
11 A. No. I'm honest. I just didn't have any
12 responsibility until I met her. And then I decided I
13 needed health insurance and got into computers.
14 Q. All right. You mentioned Cobalt and
15 4 Trans; those are programming languages, correct?
16 A. Yes.
17 Q. Did you -- did you not understand them?
18 Did you just find them difficult? What put you off of
19 them?
20 A. They bored me to tears.
21 Q. Explain why.
22 A. Sit there and type all day and program,
23 work that out.
24 Q. I never really got past Basic, and that was
25 boring enough.

1 A. I'm more of a hands-on person.
 2 Q. Did you ever do anything else with
 3 programming when you got back in in '98?
 4 A. No. No.
 5 Q. Now, does your company -- well, let me mark
 6 an exhibit here.
 7 (Deposition Exhibit No. 1 was marked for
 8 identification.)
 9 BY MR. WICKS:
 10 Q. Is this -- do you recognize this,
 11 Mr. Smallwood?
 12 A. Uh-huh. I do.
 13 Q. You're welcome to look at it. This is --
 14 tell me what this is.
 15 A. This is the home page of our current
 16 website.
 17 Q. And your company does do some work with
 18 software; right? I mean, if a customer has a software
 19 problem, you'll fix it?
 20 A. We'll either fix it, or we'll call that
 21 software technical support department and work with
 22 them to resolve the problem.
 23 Q. And flip to the last page of that. The
 24 support links, does that say support links for
 25 Windows XP, Mac, Windows Vista, and 7, and Linux?

1 A. Linux.
 2 Q. I never heard it pronounced.
 3 A. What that is is, those are links. Those
 4 are shortcuts. If you click on that, it allows us to
 5 initiate a remote connection to remotely take over your
 6 computer.
 7 And the way that each one of those
 8 applications are written, they're specific for that
 9 operating system. So just to make it easier on our
 10 customers, they can click on one of those four,
 11 depending on what type of computer they're working on,
 12 and it would initiate a process that would allow us,
 13 through the Internet, to take over their computer.
 14 Q. Okay.
 15 A. And then we can resolve problems without
 16 having to drive over there.
 17 Q. Okay. Do you have any certifications in
 18 the computer field?
 19 A. No, I do not.
 20 Q. Are you licensed to do anything?
 21 I understand you can be certified on Microsoft programs
 22 and that sort of thing.
 23 A. You can be.
 24 Q. But you're not?
 25 A. No.

1 Q. And do you have any other, you know,
 2 professional certifications or licensing?
 3 A. No.
 4 Q. Can you tell me about Smallwood
 5 Technologies itself? When did you start it?
 6 A. April 1st, I think -- somewhere around
 7 there -- March 27th of 2002. That's when I started the
 8 business.
 9 Q. All right. What year did you tell me you
 10 graduated from college?
 11 A. '89.
 12 Q. Can you take me through your work history
 13 from '89 up till 2002?
 14 A. It's complicated.
 15 Q. We have time.
 16 A. I'm an active guy. After I graduated
 17 college, I was going to go into the Peace Corps. While
 18 I was waiting, I worked at the Dillard's here in
 19 Jefferson City. And they wanted to call me in on the
 20 day that my sister was getting married. And I opted to
 21 go to her wedding, and they dropped me because I didn't
 22 take the dead date.
 23 Q. Let me ask what you did at Dillard's.
 24 A. Sold men's underwear and ties.
 25 Q. So I guess Dillard's didn't end well;

1 what was next?
 2 A. Oh, Dillard's ended fine. I just -- that
 3 was just a filler while I was waiting to go into the
 4 Peace Corps.
 5 Q. All right.
 6 A. I went out to Indianapolis, where a friend
 7 of mine worked for an engineering firm, and got hired
 8 as a CAD draftsman for a company called Frates
 9 Engineering (ph sp.)
 10 Q. Explain what CAD is.
 11 A. Computer-aided drafting. I was an
 12 Intergraph and AutoCAD drafter.
 13 Mainly, my first part of the job with them
 14 is, we tickled with development plates from GM. They
 15 were all the auto parts, and we converted them over to
 16 digital.
 17 So I just sat there and drank soda and
 18 gained five pounds a day drawing pictures all day long.
 19 Q. And the drawing pictures was done on a
 20 computer?
 21 A. Correct. Correct. I replicated the paper
 22 chart over to -- the paper drawing over to the
 23 computer.
 24 They subcontracted me over to Everett
 25 Architects and Engineers, which was another drafting

1 firm in downtown Indianapolis. I worked for them for
2 about six months doing plumbing.

3 I worked with an engineer named Keith, who
4 didn't care to touch a computer, so he drew everything
5 on paper, passed it me, and I put it all in the
6 computer for him.

7 How much detail do you want, I guess, is
8 the question?

9 Q. We can maybe do a little less.

10 When you say "plumbing," you weren't
11 repairing toilets.

12 A. No, I was drawing.

13 Q. Computer-aid drawing?

14 A. That's correct. They did hospitals and
15 high schools. Those were the projects that we worked
16 on.

17 After nine or ten months of doing this type
18 of work, I was bored. And the adventure side came back
19 out. Sold my stuff, got in my car, drove to Alaska,
20 and stayed there for five years.

21 Q. What'd you do there?

22 A. I was a fry cook most of the time. Worked
23 in a breakfast cafe cooking breakfast for people. It
24 was a great life. I had to come up with \$300 a month.
25 No pressure on anything.

1 Q. Your rent was 300 or your living expenses?

2 A. One hundred percent living expenses were
3 \$300 a month.

4 Q. Huh?

5 A. While I was there, I was the public
6 librarian for the school. I EMT'd for the ambulance
7 system. I worked as a set carpenter for the Anchorage
8 Opera Company.

9 Q. Explain what a set carpenter is; you built
10 sets?

11 A. Built sets. We did -- one year I worked
12 for them, which was a winter job, was full time.
13 I built sets for them, making basically for the stage
14 productions where they would bring professional opera
15 people in. I never met them; I just built the sets.

16 And I worked as a horseback ring leader for
17 a hunting guide for two seasons, where gentlemen like
18 yourselves would come in to go hunt moose, and bears,
19 and I'd take care of the camp. I'd take care of the
20 horses. Take care of feeding them. Making them happy.

21 Q. Did the term "dude" enter it at any point?

22 A. No. It wasn't like the movie.

23 Q. All right. Well --

24 A. And so I did that for a while. I came back
25 to Missouri. My father was getting married. And in

1 '91 -- if I remember -- no. '97? '96? He got
2 married, I think, in '96. I don't remember.

3 But I came down for his wedding. And I
4 ended up meeting my wife down here. And decided that
5 she wasn't going to move up there, so I would move down
6 here. So I was framing houses down here for a living.
7 And when I asked her to marry me, I decided I better
8 have a more stable, secure job. So this is where my
9 career started.

10 I went over to Jefferson City Medical
11 Group, because I knew -- the doctors' firm in
12 Jefferson City at that time had many locations -- and
13 they were getting ready to consolidate into one
14 building. And they needed a Windows person. You know,
15 to work with their Windows computers. Because they
16 were a unique-based system up to that time.

17 Q. And how had you -- I mean, you become
18 proficient in Windows?

19 A. That's what I'm getting ready to explain to
20 you.

21 Q. Okay. I'll just let you go.

22 A. And I went over and met with Judy Zehmke.
23 And I just flat out told her that if she hires me, I
24 can do it. There's no bones about it. It will be
25 done. And she hired me. And I did it.

1 Q. And you learned?

2 A. And that's when I did it. Because I walked
3 in and did it. I don't mean to sound cavalier, but --

4 Q. If you have a gift --

5 A. But that's how it is.

6 Q. If you have a gift, you have a gift.

7 A. If you have something to do, you do it.

8 Q. So how long were you in that job?

9 A. I worked there nearly five years. A couple
10 months short of five years from when I got that job.

11 And I started a business because I had
12 enough independent companies asking me on the side to
13 do the work for them to help them out with things.
14 And, once again, I was kind of bored being in the
15 structured regimen working for a company, so it sounded
16 more interesting to go out and do the work myself.

17 Q. Does that -- remind me the name of the
18 company before you started your own company?

19 A. Jefferson City Medical Group.

20 Q. Okay. Right. And what were your duties
21 there?

22 A. My primary duties, for the first couple
23 years, were Windows '95, Windows '98 support. It's
24 basically go around to all the employees, make sure
25 what they needed to do is working so they can do their

1 job.
2 As time went on, I took over as total
3 communications director for the company. And I did not
4 have a management position, but I was in charge of the
5 Siemens phone system that they had. And that included
6 the 500-or-some-odd numbers of extensions that worked
7 in the building. Maintaining that system. Maintaining
8 long distance. Maintaining cell phones. On-call
9 schedules. After-hours. Anything to do with the
10 doctors and their communications, so they could have
11 their pagers work, their cell phones would work.
12 Audited all the bills. Make sure they weren't paying
13 more than they had to be paying.

14 Q. Did you give up your Windows
15 responsibilities?

16 A. It was probably more like 80/20 at that
17 point.

18 Q. Eighty/20 telecom?

19 A. Eighty percent telecom, 20 percent Windows,
20 yeah.

21 Q. And you started Smallwood Technologies in
22 March or April of 2002?

23 A. Yeah.

24 Q. Tell me about that. How'd you start that?
25 Just yourself?

1 A. Just myself. Working out of my basement.
2 I initially had about twelve, thirteen clients
3 full-time. Within a year, I'd built up to close to 40.
4 Corporate clients.

5 And at that point I hired another employee.
6 And my wife told me to move out of the house since I
7 had somebody else working for me.

8 And just over time, from there we've added
9 more customers and more people to handle the work.

10 Q. And has the work you do at Smallwood
11 Technologies changed?

12 A. Not a lot. Not a lot. Microsoft products
13 have changed some. I mean, Exchange 2003 works a lot
14 different than the new Exchange 2010. Windows 2008
15 server is a whole lot different than 2000 was, or 2003.
16 But, for the most part, no, it hasn't changed very
17 much. It's just how you operate it or how you maintain
18 it is different.

19 Q. Can you remember approximately when you
20 added your first employee?

21 A. Pretty good. It was probably around
22 November or December of '02, 2002.

23 Q. And then what about the next employee?
24 You say you're up to nine now; is that right? Nine,
25 including yourself?

1 A. Uh-huh. I had to let him go somewhere
2 there in the spring of '03. It was right after that I
3 hired another gentleman. And then I would say
4 probably -- I'm sure the math doesn't work perfect --
5 somewhere around six to eight months after that I was
6 adding an employee each time.

7 Q. How long have you had nine now, would you
8 say?

9 A. Full-time?

10 Q. Yeah.

11 A. I've had nine full-time since May.

12 Q. Of this year?

13 A. I've had two of those full-time -- or
14 part-time for the year previous to that when they were
15 completing school.

16 Q. All right. What sort of people do you
17 hire? I mean, do you look for people with computer
18 background?

19 A. I look for people with computer background,
20 but more importantly, who are able to communicate,
21 without you feeling lost or being condescended to.

22 Q. And speak computerese?

23 A. Can speak human.

24 Q. Who doesn't speak computerese?

25 A. You can speak it so you understand what

1 they're talking about.

2 Q. Do you -- does Smallwood Technologies have
3 any in-house teaching programs? Do you have a training
4 program for your employees?

5 A. Customer service training program we offer,
6 but we don't do --

7 Q. No computer training?

8 A. The -- no formal. Not formal.

9 Q. What about informal?

10 A. Usually they'll stick with me for the first
11 couple weeks to a month. I'll drag a new employee
12 around with me to meet the customers, to understand
13 what I talk about it, and what I do.

14 Then a lot of times they will pair up with
15 a more experienced technician to work with them.
16 We'll start to give them more complicated projects with
17 supervision, either from another technician or from
18 myself. Which, honestly, I can't do what a lot of
19 these guys half my age can do, but that's why I hire
20 them, because they can do it.

21 So we work together to understand what
22 holes in that person's knowledge needs to be corrected
23 or filled in and work on that.

24 Q. Do you do any lecturing or teaching, or
25 anything like that, outside of your own company?

1 Q. Okay. And do you expect to receive a
2 trademark? Or tell me where that is.
3 A. Well, according to the e-mail, I'm given --
4 which I'm assuming I have -- it's been sent to the
5 federal government for review. Three months from now
6 I'll get an answer, at the earliest.
7 Q. Yeah. So if that's approved, you'll have a
8 trademark on that logo?
9 A. That would be correct.
10 Q. Okay. And the real estate deed transfer,
11 did you intend to actually transfer that deed from
12 Sunset Group to yourself?
13 A. No.
14 Q. What is Sunset Group?
15 A. Sunset Group is an LLC owned by myself and
16 another partner that owns the building that I own.
17 That was the legal entity set up to purchase the
18 building that I own.
19 Q. So you don't intend to --
20 A. No. That would probably result in a fist
21 fight. I don't want to sign that, no.
22 Q. So you don't intend to record that deed
23 transfer?
24 A. No.
25 Q. Do your partners in that building know that

1 you did this?
2 A. Yes.
3 Q. And they understand you don't intend to --
4 A. Yes.
5 Q. Did you research any other legal document
6 companies before you used LegalZoom?
7 A. No.
8 Q. Do you have a claim against LegalZoom?
9 Are you a class member in the case?
10 A. No, sir.
11 Q. I don't know if he is or not.
12 A. Unless my name's on there that I don't know
13 about.
14 Q. Did you receive Notice?
15 A. No. Unless I didn't read some
16 correspondence close enough.
17 Q. But you haven't opted out of the case, have
18 you?
19 A. I have received -- as of this time, I don't
20 remember ever receiving anything asking me to be in or
21 be out. The only correspondence I've received in
22 relation to this is a request to make four documents
23 and then whatever I got back from LegalZoom relating to
24 those four documents.
25 Q. Are you -- is Mr. Clement representing

1 you --
2 A. No, sir.
3 Q. -- here today?
4 A. No, sir.
5 Q. But are you an employee of Mr. Clement's
6 firm?
7 A. Subcontractor.
8 Q. Have you been paid for this?
9 A. Yes.
10 Q. Explain to me what your arrangement was.
11 A. I was asked to make the documents, the
12 document fee that I spent, and to bill my normal
13 billing rate, plus the expense that I paid for the
14 documents, to the firm.
15 Q. You're being paid for your testimony today?
16 A. I believe so, yes.
17 Q. How much time do you have vested in this so
18 far?
19 A. Oh, rough number, after today, probably
20 12 hours.
21 Q. And you told me you don't expect to testify
22 in trial? Or you don't know?
23 A. I don't know if I'm going to be testifying
24 in trial.
25 Q. But you're available --

1 A. That would be correct.
2 Q. -- to come to trial?
3 Have you been -- have you received payment
4 yet.
5 A. Yes, I have.
6 Q. How much have you been paid?
7 A. About 24, \$2500. And that would include
8 the cost of the four documents.
9 Q. I see. Your usual rate is \$85 an hour?
10 A. Eighty-five an hour.
11 Q. And how many hours, 10 or 12?
12 A. I'm going to guess around that.
13 MR. THOMPSON: Guys, that's not adding up.
14 MR. WICKS: Well, and the document costs.
15 Whatever the cost of the documents is.
16 THE WITNESS: Yeah. That total amount is
17 the time to create it and then the cost of the
18 documents.
19 MR. WICKS: All right. Let's take a short
20 break and we'll come back. I am close to the end.
21 THE VIDEOGRAPHER: Off the record at
22 11:40 a.m.
23 (An off-the-record discussion was held.)
24 THE VIDEOGRAPHER: On the record at
25 11:44 a.m.