

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

TODD JANSON, GERALD T. ARDREY, CHAD M.
FERRELL, and C & J REMODELING LLC, on behalf of
themselves and on behalf of all others similarly situated,

Plaintiffs,

v.

LEGALZOOM.COM, INC.,

Defendant.

Case No. 2:10-cv-04018-NKL

**SUGGESTIONS IN OPPOSITION TO PLAINTIFFS' MOTION
IN LIMINE (DOC. NO. 163) TO EXCLUDE EVIDENCE OR ARGUMENT
THAT LEGALZOOM'S CUSTOMERS ARE SATISFIED
AND THAT LEGALZOOM'S PRODUCTS ARE NOT DEFECTIVE**

Defendant LegalZoom.com, Inc. ("LegalZoom"), for its Suggestions in Opposition to Plaintiffs' Motion in Limine to Exclude Evidence or Argument that LegalZoom's Customers are Satisfied and That LegalZoom's Products are Not Defective ("Motion 163," Doc. 163), states as follows:

Plaintiffs correctly note that only evidence that is irrelevant is inadmissible. Fed. R. Evid. 402. Plaintiffs also are correct that the Court has broad discretion in deciding whether to admit evidence at trial. *Fortune Funding, L.L.C. v. Ceridian Corp.*, 368 F.3d 985, 990 (8th Cir. 2004). However, Rule 403 favors admissibility. See *United States v. Levine*, 477 F.3d 596, 603 (8th Cir. 2007); *Block v. R.H. Macy & Co., Inc.*, 712 F.2d 1241, 1244 (8th Cir. 1983). Plaintiffs provide no specific reasons why evidence that LegalZoom's products are not defective or that its customers are satisfied is without any probative value or is so remote to the issues in this case

that it should not be admitted. Therefore, the court must find in favor of admitting such evidence and deny Plaintiffs' motion in limine.

One of the central facets of this case is the "duty to strike a workable balance between the public's protection and the public's convenience." *In re First Escrow, Inc.*, 840 S.W.2d 839, 844 (Mo. banc 1992), *citing Hulse v. Criger*, 247 S.W.2d 855 (Mo. 1952). Indeed, in the Court's Order granting in part and denying in part LegalZoom's Motion for Summary Judgment ("Order"), the Court cited the "risk of the public being served in legal matters by 'incompetent or unreliable persons.'" Order at 20 (*quoting Hulse*, 247 S.W.2d at 858). The Court indicated that the very purpose of unauthorized practice of law statutes is "to make sure that legal services required by the public, and [e]ssential to the administration of justice, will be rendered by those who have been found by investigation to be properly prepared to do so" *Id.*

Given the weight the Court placed on the public policy underlying Missouri's UPL statute, and given that the public policy in question is the "risk . . . of 'incompetent or unreliable persons'" selling legal documents, evidence that plaintiffs do not claim LegalZoom's documents are defective is highly relevant. Further, evidence that LegalZoom customers are satisfied is plainly relevant to whether LegalZoom is "incompetent or unreliable." *Hulse*, 247 S.W.2d at 858.

In addition to this motion in limine, Plaintiffs also have filed a motion to exclude evidence that the company is not damaging anyone and any evidence regarding the validity of LegalZoom documents. Doc. 147. Another motion seeks to bar LegalZoom customers who have opted out of the class action lawsuit from testifying. Doc. 160. Plaintiffs' shotgun approach underscores their focus on the literal interpretation of Missouri's UPL statute. But the interpretation of the statute does not stop with the literal text. Rather, "[s]uch statutes are merely

in aid of, and do not supersede or detract from, the power of the judiciary to define and control the practice of law.” *Eisel v. Midwest BankCentre*, 230 S.W.3d 335, 338-39 (Mo. banc 2007). Given the public policy underlying the existence of the UPL statute, it is critical that evidence that LegalZoom’s products are not defective and that its customers are satisfied be admitted in this case.

CONCLUSION

For the reasons set forth above, LegalZoom respectfully requests that the Court deny Plaintiffs’ Motion in Limine to Exclude Evidence or Argument that LegalZoom’s Customers are Satisfied and That LegalZoom’s Products are Not Defective.

Respectfully submitted,

BRYAN CAVE LLP

By: s/ James T. Wicks

Robert M. Thompson MO #38156
James T. Wicks MO #60409
Christopher C. Grenz MO #62914
One Kansas City Place
1200 Main Street, Suite 3500
Kansas City, MO 64105
Tel.: (816) 374-3200
Fax: (816) 374-3300

John Michael Clear MO #25834
Michael G. Biggers MO #24694
One Metropolitan Square – Suite 3600
211 North Broadway
St. Louis, MO 63102
Tel.: (314) 259-2000
Fax: (314) 259-2020

Attorneys for LegalZoom.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2011, I electronically filed the above and foregoing with the clerk of court using the CM/ECF system, which will send notice of electronic filing to all counsel of record.

s/ James T. Wicks _____