

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.

1 A. No. No, I don't.
 2 Q. Have you published anything on computers
 3 or --
 4 A. No.
 5 Q. -- any interviews?
 6 A. Yes, I have. I know for the Missouri
 7 Bar -- twice I want to say -- and I gave some talks to
 8 them, mainly about prevention of Spyware and viruses.
 9 But that's probably the extent of that.
 10 Q. Why the Missouri Bar? I mean --
 11 A. Because they came to me.
 12 Q. Are all your customers lawyers?
 13 A. We have a fair share of lawyers. They came
 14 to us and said they were putting on some seminar --
 15 I guess that's the proper term -- and they asked me if
 16 I'd come and talk. Didn't get any money for it; I just
 17 went down and talked to them.
 18 Q. What about newspaper interviews, anything
 19 like that? The local paper ever call you up --
 20 A. Yes, they've called me. But I've refused.
 21 Q. Why?
 22 A. Just makes me uncomfortable.
 23 Q. Good publicity, wouldn't it be?
 24 A. Jim, we're busy. We are busy. I mean,
 25 I don't look for anything more. I've got more work

1 than we can handle the way it is. And I'm -- that's
 2 just the truth. I mean, I'm not trying to sound
 3 conceited. We're busy. And I've got a ten-year old
 4 that I spend all my evening time with. So I'm not
 5 letting my job consume my life. I don't look for
 6 anything extra right now.
 7 Q. Well, let's -- since -- you're such a busy
 8 guy -- let's move into the documents in this case.
 9 Do you remember signing a Declaration?
 10 (Deposition Exhibit No. 2 was marked for
 11 identification.)
 12 BY MR. WICKS:
 13 Q. Was this May possibly? Does that look
 14 familiar?
 15 A. Uh-huh.
 16 Q. I surmised this was written for the
 17 purpose -- for you from interviews, and you signed it?
 18 Or did you write it yourself?
 19 A. I did not write this myself.
 20 Q. Okay.
 21 A. I'll stand corrected. Matt and I must have
 22 met in February.
 23 Q. But flip to the back page and look at the
 24 signature date; does that indicate you signed it in
 25 May?

1 A. That is correct.
 2 Q. This paragraph 3 of Smallwood 2 says: You
 3 logged onto the LegalZoom website in March on the 3rd,
 4 the 9th and the 10th; does that sound right?
 5 A. Uh-huh.
 6 Q. And you purchased four documents?
 7 A. Uh-huh. Yes. I'm sorry. Yes.
 8 Q. And four documents were a Last Will and
 9 Testament, an LLC, and -- well, you have General
 10 Warranty Deed -- let's set that aside -- three of the
 11 documents: A Last Will and Testament, LLC, and
 12 Trademark Registration; is that correct?
 13 A. Yes, sir.
 14 Q. What you were describing as a Warranty Deed
 15 was actually a Warranty Deed transfer; is that right?
 16 From --
 17 A. That is correct.
 18 Q. -- from Sunset Group, I think, is that the
 19 right name?
 20 A. Yes.
 21 Q. To you personally?
 22 A. Yes, sir.
 23 Q. All right. I'm going to ask you to have a
 24 look at your screen captures on those documents.
 25 (Deposition Exhibit No. 3 was marked for

1 identification.)
 2 BY MR. WICKS:
 3 Q. Could you have a look at that,
 4 Mr. Smallwood. Does that look familiar?
 5 A. Yes, it does.
 6 Q. Actually, I'd like you to flip through
 7 every page of it, if you wouldn't mind.
 8 Tell me if you recognize all the pages of
 9 that.
 10 A. (The witness complied.) Okay. Yes, I do.
 11 Q. And are these the screen captures you took
 12 while you were on the LegalZoom website? And are these
 13 the screen captures that relate to your purchase of a
 14 Last Will and Testament?
 15 A. Yes, they are.
 16 Q. And do these pages in front of you,
 17 Smallwood 3, does that accurately reflect the content
 18 of the website when you were on it?
 19 MR. CLEMENT: I'm going object to that
 20 question as being vague, as to what the content of the
 21 website is.
 22 BY MR. WICKS:
 23 Q. Does it accurately reflect the pages you
 24 saw when you were purchasing your Last Will and
 25 Testament?

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1 A. Oh. Did I say that wrong again? Provide
2 legal service (sic) or apply the facts of law to your
3 particular situation. LegalZoom and its services are
4 not substitutes for the advice of an attorney.
5 Q. And you don't believe you read that?
6 A. No, I do not.
7 Q. Is there a reason you didn't click on the
8 Terms-of-Service link there on page -- are we on 47?
9 A. Laziness.
10 Q. All right. You could have read the
11 Terms of Service at any point if you'd wanted to,
12 correct --
13 A. Yes.
14 Q. -- if you'd clicked on the link? All
15 right. I think you may set -- you understand the
16 language you just read out of the Terms of Service and
17 the terms that you described?
18 A. I believe I do, yes.
19 Q. Has anyone mentioned the term "suitcase" to
20 you?
21 A. No, sir.
22 Q. In the context of -- so you don't know what
23 LegalZoom does with the answers to the questionnaire,
24 for example, on the Last Will and Testament that they
25 internally call a suitcase?

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1 A. I've not heard that name.
2 Q. You never heard that?
3 A. No.
4 Q. I'll represent to you that's a LegalZoom
5 document.
6 Could you have a look at the right column
7 on that document and tell me what appears in that
8 column.
9 MR. CLEMENT: I'll object as calling for
10 speculation and lacks foundation. If you know the
11 answer, you can answer his question.
12 BY MR. WICKS:
13 Q. What's it look like to you? Does it look
14 familiar?
15 A. Yes, it looks familiar. It looks like the
16 answers that I entered to the questions on the website.
17 Q. Would you -- do you want to compare the
18 screen captures to the column of Exhibit 10, and tell
19 me if you're sure that those are the answers you
20 entered?
21 A. (The witness complied.)
22 Q. What do you think?
23 A. Well, I would say that the answers look the
24 same. The questions on the second column don't match
25 exactly.

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1 Q. They're in shorthand of some sort; right?
2 A. Right.
3 Q. But they appear -- the right-hand column
4 appears to be the answers you answered to the
5 questionnaire?
6 A. Right.
7 Q. Do you have in front of you Smallwood 7,
8 I believe?
9 A. Yes, I do.
10 Q. And you testified you didn't click on the
11 View-Sample-Documents link, correct?
12 A. Correct.
13 Q. Okay.
14 A. Not that I remember. No. I don't believe
15 so.
16 Q. You'd have taken a screen capture if you'd
17 gone to that page; right?
18 A. Correct.
19 Q. I'll hand you what I've marked as 11.
20 Can you read the first paragraph of the
21 first page there?
22 A. It says: Last Will and Testament. These
23 are sample documents. Actual content and language may
24 vary based on your answers to the LegalZoom
25 questionnaire and could differ by state.

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1 Q. Read the next paragraph for me as well.
2 A. LegalZoom grants you permission to view and
3 print these sample documents for your personal
4 informational and non-commercial use. They may not be
5 reproduced or sold for any purposes. You're answers to
6 the LegalZoom questionnaires have not been applied to
7 sample documents, so they are not fit for use.
8 Included documents is your Last Will and Testament PDF.
9 Q. Okay. I represent to you that this is what
10 comes up when you click the View Sample Documents link
11 in Smallwood 7; you would not have seen this, correct?
12 A. That is correct.
13 Q. But you could have clicked on the
14 3-Step-Process link, and could have clicked on the
15 View-Sample-Document link at any time; right?
16 A. That is correct.
17 Q. You just didn't. Is there any reason why
18 you didn't?
19 A. I've seen wills before. I didn't --
20 Q. Okay. Flip to the second page. And you've
21 seen wills before. Does this look like a will?
22 A. Yes.
23 Q. Does it say the Last Will and Testament of
24 John Doe?
25 A. Yes, it does.

1 paragraphs of the Statements of Interment, Cremation
 2 and Wishes, in the sample it's Interment and Burial
 3 Plot, and in your will reads: It is my desire that my
 4 remains be cremated; is that correct?
 5 A. Oh. Yes.
 6 Q. And you entered in answer to a question on
 7 the LegalZoom website that you wished your remains to
 8 be cremated, correct?
 9 A. Yes.
 10 Q. And the witness attestation clause at the
 11 end of that page, you see everywhere John Doe appears
 12 in the sample paragraph the words John Smallwood appear
 13 in your will?
 14 A. Yes.
 15 Q. I think you can set those aside.
 16 Let's go off the record for a minute.
 17 THE VIDEOGRAPHER: Off the record at 10:53.
 18 (An off-the-record discussion was held.)
 19 THE VIDEOGRAPHER: On the record at 10:54.
 20 BY MR. WICKS:
 21 Q. Do you have in front of you Smallwood
 22 Exhibit 4?
 23 A. Yes. Yes, I do.
 24 Q. Could you just flip through that quickly
 25 and tell me if this contains the actual answers you

1 entered in filling out the questionnaire on the website
 2 for the LLC product.
 3 A. (The witness complied.) Yes, it is.
 4 Q. You do recognize the answers, correct?
 5 A. Yes, I do.
 6 Q. And I don't want to go through all of them,
 7 but it certainly -- this document does reflect the
 8 answers that you entered, correct?
 9 A. Yes.
 10 Q. And, once again, I'm going to hand you the
 11 suitcase containing the LLC purchased.
 12 Could you look through the right-hand
 13 column of Exhibit 13 and tell me if that contains the
 14 answers that you just reviewed in Exhibit 4.
 15 MR. CLEMENT: Again, I'll object as calling
 16 for speculation and lacks foundation.
 17 Subject to that, if you know, you can
 18 answer.
 19 BY MR. WICKS:
 20 Q. You haven't seen this document before?
 21 A. I've not seen Exhibit 13, no.
 22 Q. You can look at the answers, and in the
 23 right-hand column, and tell me if they are the answers
 24 you entered in response to the questionnaire for the
 25 LLC product.

1 Take as much time as you need.
 2 A. (The witness complied.) It appears to
 3 match, yes.
 4 Q. Let's go back to page 4 of Exhibit 4.
 5 A. What number do you have? Page -- I'm
 6 sorry?
 7 Q. Page 53. Are you with me on page 4?
 8 A. Yes.
 9 Q. I'm sorry, page 53 of Exhibit 4.
 10 A. Yes.
 11 Q. Do you see the 3-Step-Process tab there?
 12 A. Yes.
 13 Q. And you didn't click on that, or we'd have
 14 a screen capture of that page, wouldn't we?
 15 A. That is correct.
 16 Q. So we can assume you didn't view a sample
 17 document for the LLC; is that correct?
 18 A. That is correct.
 19 Q. But you could have clicked on the
 20 3-Step-Process link at any time, correct?
 21 A. As long as it was functioning, yes.
 22 Q. If it was there, you could have clicked on
 23 a View Sample Documents link on that page if it was
 24 there?
 25 A. If it was functioning, yes.

1 Q. Again, can you tell me why you didn't click
 2 on the three-page -- or the 3-Step-Process link when
 3 filling out the LLC questionnaire?
 4 I think your answer last time might have
 5 been laziness.
 6 A. Well, it probably was. I was just going to
 7 fill the form out, and the steps that were there with
 8 the steps that were there.
 9 Q. But you could have, assuming this link was
 10 live, you could have clicked on it at any time; right?
 11 A. As long as it was live, yes.
 12 Q. I'll hand you what I've marked as 14,
 13 which, I'll represent to you, is a sample at that link.
 14 We'll go through this one quickly.
 15 Does the first page of this document say,
 16 the samples are for the State of Colorado. Actual
 17 content differs by state, and it varies based on the
 18 LegalZoom questionnaire?
 19 A. Yes.
 20 Q. And the second sentence -- or the last
 21 sentence -- Your answers to the LegalZoom questionnaire
 22 have not been applied to these sample documents so they
 23 are not fit for use?
 24 MR. CLEMENT: Excuse me, Jim, the document
 25 speaks for itself. He never testified to seeing it.