

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

<b>TODD JANSON, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 10-04018-CV-C-NKL</b>
	)	
<b>LEGALZOOM.COM, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**UNOPPOSED MOTION FOR LEAVE TO AMEND  
ANSWER TO AMENDED CLASS-ACTION PETITION**

Defendant LegalZoom.com, Inc. (“LegalZoom”) seeks leave to amend its Answer to Amended Class-Action Petition (the “Answer”). In support of this motion, LegalZoom states as follows:

1. LegalZoom seeks to amend its Answer to add affirmative defenses of federal preemption, First Amendment, Commerce Clause, and Full Faith and Credit. LegalZoom seeks to add the following paragraphs to the Answer:

67. Plaintiffs’ claims are barred by federal preemption to the extent LegalZoom customers purchased forms and services related to patent, trademark, and copyright applications and other filings. Under federal law, specifically 35 U.S.C. sections 2 and 32, the Patent and Trademark Office has exclusive authority to establish qualifications for admitting persons to practice before it and to suspend or exclude them from practicing before it, and Missouri may not impose additional licensing requirements beyond those required by federal law to permit a patent agent to practice before the Patent and Trademark Office.

68. Plaintiffs’ claims violate the First Amendment of the United States Constitution, which guarantees the right to petition the government and access to the courts and to legal knowledge and information, and protects the right to provide general legal information and basic instructions on how to prepare and use legal forms.

69. As applied to the allegations set forth in Plaintiffs’ Amended Class-Action Petition, sections 484.010 and 484.020 RSMo. violate the

Commerce Clause of the United States Constitution, unduly and unreasonably impeding interstate commerce by attempting to regulate transactions taking place in California between a California merchant and customers residing in Missouri.

70. Plaintiffs' claims are barred by the Full Faith and Credit Clause of the United States Constitution, which requires Missouri and its Courts to give full faith and credit to LegalZoom's registration in California as a Legal Document Assistant pursuant to Chapter 5.5 of the California Business and Professions Code, sections 6400 *et seq.*

2. A copy of LegalZoom's proposed Amended Answer is attached hereto as Exhibit A. The new material in the Amended Answer is underlined for the convenience of the Court. Other than changing references to the Answer to refer to the Amended Answer, no other changes have been made to LegalZoom's original Answer.

3. Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, a party may amend with the opposing party's written consent or the court's leave. Fed. R. Civ. P. 15(a)(2). Plaintiffs have been provided with the text of LegalZoom's proposed Amended Answer and have confirmed in writing that they have no objection to the proposed amendment.

4. The Court's Scheduling and Jury Trial Order dated March 11, 2010, stated that "[a]ny motion to amend the pleadings will be filed on or before April 26, 2010." Doc. 22 at 2.

5. Under Rule 12(a)(4)(A), the date for filing a responsive pleading is altered if a motion is made under Rule 12. In such case, the responsive pleading must be served within 14 days after notice of the court's action if the court denies the motion. Fed. R. Civ. P. 12(a)(4)(A).

6. On February 26, 2010, LegalZoom timely filed its Motion to Dismiss Without Prejudice for Improper Venue pursuant to Rule 12(b)(3). Doc. 17. The Court denied that motion by text Order dated June 1, 2010, and ordered LegalZoom to file its Answer no later than June 16, 2010. Doc. 29. LegalZoom timely filed its Answer on June 16, 2010. Doc. 30.

7. The date of April 26, 2010 contained in the Scheduling and Jury Trial Order for amending pleadings did not contemplate the amendment of pleadings filed later because of a motion under Rule 12. Because LegalZoom was not required to file a responsive pleading under Rule 12(a)(4)(A) until June 16, 2010, LegalZoom therefore now seeks the Court's leave to amend the Answer.

8. Rule 15(a)(2) states that "[t]he court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). As the Eighth Circuit has held, "[l]eave to amend should be freely granted unless there are compelling reasons 'such as undue delay, bad faith, or dilatory motive . . . undue prejudice to the non-moving party, or futility of the amendment.'" *Alternate Fuels, Inc. v. Cabanas*, 538 F.3d 969, 974 (8th Cir. 2008) (quoting *Brown v. Wallace*, 957 F.2d 564, 566 (8th Cir. 1992)).

9. Justice favors allowing LegalZoom to present its affirmative defenses.

10. Trial in this action is set for August 22, 2011, and merits discovery is to be concluded on March 9, 2011. Doc. 22 at 1, 3-4. LegalZoom therefore does not seek leave to amend out of undue delay, bad faith, or dilatory motive. Plaintiffs' consent demonstrates that the proposed amendment will not prejudice Plaintiffs. The amendment is not futile.

WHEREFORE, for all the foregoing reasons, LegalZoom respectfully requests that the Court grant LegalZoom leave to amend its Answer to Plaintiffs' Amended Class-Action Petition.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2010, 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