

**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

DEFENDANT LEGALZOOM.COM, INC.'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and applicable local rules, Defendant LegalZoom.com, Inc. (“LegalZoom”) hereby moves the Court for an Order granting summary judgment in its favor and against plaintiffs 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”), on all claims alleged in plaintiffs’ Amended Class Action Petition.

1. Plaintiffs have alleged four claims against LegalZoom: Count I for Unlawful Practice of Law; Count II for Money had and Received; Count III for money damages under the Missouri Merchandising Practices Act; and Count IV for injunctive relief under the Missouri Merchandising Practices Act. Counts II, III, and IV depend on Count I’s allegation that LegalZoom engaged in the unauthorized practice of law in Missouri.

2. There is no dispute in the case as to what services LegalZoom offers and how it does so. LegalZoom’s website allows customers to select a desired document and fill out an automated questionnaire, the answers to which are automatically populated into standardized

blank forms, which are then reviewed for formatting only, printed, and shipped to the customer for review and execution.

3. Summary judgment is appropriate on Count I because, under the Supreme Court of Missouri's decision in *In re Thompson*, 574 S.W.2d 365 (Mo. banc 1978), LegalZoom's website is not the unauthorized practice of law. LegalZoom simply uses computer rather than paper technology in activity the Missouri Supreme Court has held for decades is not the unauthorized practice of law.

4. On its face, Missouri's unauthorized practice of law statute does not apply to LegalZoom's website because providing automated self-help software on the internet does not constitute "drawing or procuring" documents affecting secular rights for valuable consideration. A holding that the statute does apply to LegalZoom's website would implicate significant constitutional concerns, including as freedom of speech, due process, and the right to self-representation; the statute should be construed to avoid such constitutional issues. The Missouri Supreme Court has held that conflicts between the text of the Missouri unauthorized practice statute and the Supreme Court's prior cases should be resolved in favor of the latter, making the decision *In re Thompson* case controlling.

5. In addition, federal law preempts application of the Missouri unauthorized practice statute to LegalZoom's trademark and patent products, which are governed by regulations of the United States Patent and Trademark office.

6. Because LegalZoom has not engaged in the unauthorized practice of law in Missouri, it is entitled to judgment as a matter of law on Count I. Because Counts II, III, and IV are dependent on Count I, LegalZoom is entitled to summary judgment on those counts as well.

7. In support of its Motion for Summary Judgment, LegalZoom incorporates its Suggestions in Support of its Motion for Summary Judgment, along with the accompanying Exhibits Appendix, which are both filed with this Motion.

WHEREFORE, for all the foregoing reasons and for all the reasons articulated in LegalZoom's Suggestions in Support of Motion for Summary Judgment, LegalZoom respectfully requests that the Court grant summary judgment in favor of LegalZoom and against plaintiffs 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.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 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/ Robert M. Thompson