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14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEVADA

17 INCORP SERVICES, INC., a Nevada
18 corporation,

18 Plaintiff,

19 v.

20 LEGALZOOM.COM, INC., a Delaware
21 corporation,

22 Defendant.

Case No. 2:09-CV-00273-RJH-(LRL)

**MOTION TO TRANSFER VENUE
PURSUANT TO 28 U.S.C. § 1404(a);
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF;
AFFIDAVIT OF KATHRYN PELLMAN
WITH EXHIBIT A**

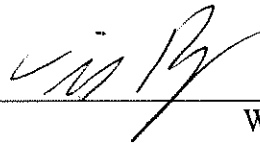
1 Defendant LegalZoom.com, Inc. ("LegalZoom") moves the Court for an order transferring
2 venue of this action to the United States District Court for the Central District of California
3 pursuant to 28 USC § 1404(a).

4 The grounds for this Motion are amplified and explained further in the attached
5 Memorandum of Points and Authorities. This Motion is based on the attached Memorandum of
6 Points and Authorities, the Affidavit of Kathryn Pellman with Exhibit A, all pleadings and records
7 in this action, and such other and further evidence and argument as the Court may accept or
8 judicially notice at the hearing on this Motion.

9
10 DATED: March 19, 2009

11 **KEMP, JONES & COULTHARD, LLP**

12
13 By



14 WILL KEMP

Attorneys for Defendant LegalZoom.com, Inc.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The balance of conveniences and the interests of justice make clear that this action should
4 proceed in Los Angeles, California. *All* of the acts about which Plaintiff complains occurred, if
5 they occurred at all, in Los Angeles. The vast majority of known potential witnesses reside in
6 Southern California. Of 187 potential witnesses to LegalZoom’s purported liability, 185 reside in
7 the Los Angeles area. The district court in Los Angeles will have a greater ability to compel the
8 attendance at trial of at least 73 potential non-party witnesses because those witnesses reside in
9 Southern California. The likely majority of potential documents – and *all* of the known
10 documents pertaining to liability – are located in Los Angeles. As explained in greater detail
11 below, it would be far more convenient, expeditious and cost-effective to LegalZoom for this
12 action to proceed in Los Angeles. Plaintiff, on the other hand, is, by its own admission,
13 accustomed to conducting business all across the country and would not be prejudiced if this
14 action were to proceed in Los Angeles.

15 **II. SUMMARY OF PERTINENT FACTS**

16 LegalZoom is a Delaware corporation with its principal place of business in Los Angeles,
17 California. Complaint, ¶ 3. Plaintiff alleges that it is a Nevada corporation with its principal place
18 of business in Henderson, Nevada. Complaint, ¶ 2. Plaintiff goes on to allege, however, that it
19 conducts business “in all 50 states and in the District of Columbia,” and that it “is currently the 4th
20 largest national registered agent service provider in the country, with over 55,000 active clients
21 worldwide.” *Id.*

22 Plaintiff’s Complaint alleges causes of action for: (1) trade libel pursuant to 15 U.S.C. §
23 1125(a); (2) defamation; and (3) violations of Nevada’s deceptive trade practices statute, N.R.S. §
24 598.0915. Complaint, pages 3-5.¹ Each of Plaintiff’s causes of action is based on, and arises
25 exclusively from, purportedly false and injurious statements (the “Alleged Statements”)

26
27 ¹ LegalZoom has concurrently filed a motion to dismiss the third cause of action, for
28 alleged violations of Nevada’s Deceptive Trade Practices Act, N.R.S. § 598.0915.

1 supposedly made by LegalZoom’s “telephone representatives” to Plaintiff’s unspecified “potential
2 customers” who reside in unspecified locations. *See* Complaint, ¶ 11; *see also id.*, ¶¶ 16, 24, 34.

3 *All* of LegalZoom’s “telephone representatives” are, and always have been, located in Los
4 Angeles, California. Affidavit of Kathryn Pellman (“Pellman Aff.”), ¶ 4. LegalZoom’s
5 “telephone representatives” include LegalZoom’s sales representatives and customer service
6 representatives. Pellman Aff., ¶¶ 4-7. Plaintiff claims that the Alleged Statements were made by
7 LegalZoom’s “telephone representatives” “since at least 2008.” Complaint, ¶ 11. Since January
8 1, 2007, LegalZoom has employed 129 telephone representatives. Pellman Aff., ¶ 5. Of these
9 individuals, 82 are currently employed by LegalZoom and 47 are former employees. *Id.* Of those
10 47 former employees, 45 still live in the Los Angeles or Southern California area, based on the
11 last known residence information provided to LegalZoom. *Id.*, ¶ 8; *see also* Ex. A to Pellman Aff.
12 Since January 1, 2007, LegalZoom also utilized at least 41 temporary non-employee workers for
13 telephone representative work. Pellman Aff., ¶ 6. Of these individuals, 15 are currently
14 temporary non-employee workers for LegalZoom, and 26 are former temporary non-employee
15 workers. *Id.* LegalZoom is informed and believes that all 26 former temporary non-employee
16 workers still reside in the Los Angeles or Southern California area. *Id.*, ¶ 8.

17 In addition to the individuals identified above, 15 current employees and 2 former
18 employees in supervisory capacities have or had knowledge since January 1, 2007 of the practices,
19 procedures and training policies regarding or relating to telephone sales or customer service at
20 LegalZoom. *Id.*, ¶ 9. All 15 such current employees reside in the Southern California area, and on
21 information and belief, the two former employees also still reside in the Southern California area.
22 *Id.* Combined, there are 170 current and former “telephone representatives” and 17 current and
23 former supervisors who may be witnesses in this action. *Id.*, ¶¶ 5-9.

24 All known documents pertinent to potential liability in this matter are located in Los
25 Angeles. All sales and customer services scripts, training manuals, policies, and e-mail templates
26 are located at LegalZoom’s headquarters in Los Angeles, California. Pellman Aff., ¶ 10.
27 LegalZoom’s computers and primary servers also are all located in Los Angeles County,
28 California. *Id.*

1 It would be a significant inconvenience, cost and disruption to LegalZoom’s business to
2 have this case proceed in this District. *See* Pellman Aff., ¶11. LegalZoom’s telephone
3 representatives have everyday responsibility for direct contact with LegalZoom customers via
4 telephone and email. *Id.* As detailed in the Pellman Affidavit, the loss or lack of availability of
5 even a single employee for a scheduled shift has an immediate adverse impact on operations
6 resulting in a diminished service experience for LegalZoom’s customers, an increased workload
7 placed on other employees and increased costs and burdens for LegalZoom. *Id.*

8 **III. THIS ACTION SHOULD BE TRANSFERRED TO THE CENTRAL DISTRICT OF**
9 **CALIFORNIA**

10 This Court may, “for the convenience of the parties and witnesses, in the interest of justice,
11 ... transfer any civil action to any other district or division where it might have been brought.” 28
12 U.S.C. § 1404(a) (“Section 1404(a)”). A motion to transfer pursuant to Section 1404(a) “presents
13 two basic questions: (1) whether the action sought to be transferred ‘might have been brought’ in
14 the proposed transferee district; and (2) whether the transfer would be ‘(f)or the convenience of
15 parties and witnesses, in the interest of justice.’” *International Patent Development Corp. v.*
16 *Wyomont Partners*, 489 F.Supp. 226, 228 (D. Nev. 1980) (internal quotation marks omitted).
17 Whether an action “might have been brought” in the proposed transferee district involves an
18 evaluation of the “legal issues of jurisdiction, venue and the defendants’ amenability to service in
19 the proposed transferee forum.” *Id.* Whether an action would be “for the convenience of the
20 parties and witnesses, in the interests of justice,” requires a balancing of “such factors as the
21 plaintiff’s right to choose its forum, the convenience of witnesses and parties, ... avoidance of the
22 delay and expense inherent in duplicative litigation,” *id.*, as well as “relative ease of access to
23 proof, judicial economy, and availability of compulsory process,” *Miracle Blade, LLC v. Ebrands*
24 *Commerce Group, LLC*, 207 F.Supp.2d 1136, 1156 (D. Nev. 2002). The two factors typically
25 given the greatest consideration in deciding whether to transfer an action are: “(1) the convenience
26 of parties and witnesses, and (2) where the relevant events took place.” *Aluminal Industries, Inc.*
27 *v. Newtown Commercial Associates*, 89 F.R.D. 326, 330 (S.D.N.Y. 1980). “The moving party
28

1 bears the burden of showing the balance of conveniences favors the transfer.” *Miracle Blade*, 207
2 F.Supp.2d at 1155.

3 **A. This Action “Might Have Been Brought” In The Central District Of California**

4 LegalZoom’s principal place of business is Los Angeles, California, which is in the Central
5 District of California. Complaint, ¶ 3. Personal jurisdiction and venue would have been proper in
6 the Central District of California. *See* 28 U.S.C. § 1391(c). LegalZoom is amenable to service in
7 the Central District of California. Thus, this action “might have been brought” in Los Angeles.
8 28 U.S.C. § 1404(a).

9 **B. The Balancing Of Factors Weighs Strongly In Favor Transferring This Action**
10 **To The Central District Of California**

11 **1. All Of The Operative Events Giving Rise To Plaintiff’s Claims**
12 **Occurred, If They Occurred At All, In California**

13 When evaluating a motion to transfer venue pursuant to Section 1404(a), special
14 consideration must be given to plaintiffs’ and defendants’ contacts with the chosen forum as those
15 contacts relate to plaintiff’s causes of action. *Kachal, Inc. v. Menzie*, 738 F.Supp. 371, 373 (D.
16 Nev. 1990) (holding that “[c]onsideration must be given to both the defendants’ and the plaintiff’s
17 contacts with the chosen forum, especially those relating to the cause of action,” and transferring
18 venue from Nevada to the Central District of California even though plaintiff was a Nevada
19 corporation and the parties had a contractual clause selecting Nevada as their forum). “[I]n
20 defamation cases,” for example, “venue is proper in a district in which the allegedly defamatory
21 statement was published[.]” *Lomanno v. Black*, 285 F.Supp.2d 637, 642 (E.D. Pa. 2003). In
22 *Lomanno*, the plaintiff alleged claims for defamation and tortious interference based on
23 defendants’ purportedly false statements made in Virginia. *Id.* at 642-643. The district court, in
24 the Eastern District of Pennsylvania, held that venue was proper in the Northern District of
25 Virginia where the purportedly defamatory and tortious statements were made, and further held
26 that venue was *not* proper in Pennsylvania in part because “venue will not be proper in a district
27 for a defamation claim if injury is the only event occurring in that district.” *Lomanno*, 285
28 F.Supp.2d at 642. The *Lomanno* court concluded that “plaintiff’s choice of forum merits less

1 deference when none of the conduct complained of occurred in plaintiff's selected forum."
2 *Lomanno*, 285 F.Supp.2d at 644 (internal quotation marks omitted); *see also Cambridge Filter*
3 *Corp. v. International Filter Co., Inc.*, 548 F.Supp. 1308, 1311 (D. Nev. 1982) (transferring venue
4 from Nevada to California, and giving plaintiff's choice of forum in Nevada little weight even
5 when coupled with fact that *defendant* was incorporated in Nevada).

6 Each of Plaintiff's claims is based on the publication of the Alleged Statements, all of
7 which involve purportedly injurious falsehoods about Plaintiff. *See* Complaint, ¶¶ 11, 16, 24, 34.
8 LegalZoom denies that any of its representatives published or made any of the Alleged
9 Statements. However, even if one or more of LegalZoom's "telephone representatives" made
10 some or all of the Alleged Statements, *see* Complaint, ¶ 11, they would have done so in Los
11 Angeles, California because all of LegalZoom's "telephone representatives," including all of its
12 customer service and sales representatives are located in Los Angeles. *Pellman Aff.*, ¶ 4. Thus,
13 the publication of the Alleged Statements, if it happened at all, would have happened in Los
14 Angeles.

15 **2. The Convenience To Witnesses, Particularly Those With Information**
16 **About Purported Liability, Weighs Heavily In Favor Of Transfer**

17 This Court has held that the convenience of witnesses is a "primary concern," *Cambridge*
18 *Filter*, 548 F.Supp. at 1311, and "of considerable importance," *Kachal*, 738 F.Supp. at 373, when
19 deciding a motion made pursuant to Section 1404(a). *See also* 28 U.S.C. § 1404(a) (specifically
20 identifying "convenience of ... witnesses" as a factor under Section 1404(a)). Not all witnesses
21 are accorded the same level of importance; witnesses to liability are considerably more important
22 than damages witnesses when considering a transfer of venue: "When considering a transfer of
23 venue, the key witnesses are those which have information regarding the liability of Defendant.
24 [Citation omitted.] Damage witnesses are accorded less weight due to the fact that without
25 liability, there are no damages to recover." *Ramsey v. Fox News Network, LLC*, 323 F.Supp.2d
26 1352, 1357 (N.D. Ga. 2004) (transferring defamation case from Georgia to Colorado in large part
27 because the majority of witnesses as to liability were in Colorado).

1 In *Ramsey*, a defamation case, the court held that “the convenience of key witnesses”
2 weighed “heavily in favor” of transferring the action from Georgia to Colorado where the liability
3 witnesses to an alleged defamation were “overwhelmingly” residents of Colorado, and, the court
4 held, “[t]ransferring this case to the District of Colorado will alleviate the burden on them, and
5 will permit the use of compulsory process to secure live testimony.” *Ramsey*, 323 F.Supp.2d at
6 1357. There was a “heavy” weight in favor of transfer even though the plaintiffs in *Ramsey* listed
7 20 damages witnesses who resided in Georgia. *Id.* In *Lomanno*, another defamation case, the
8 plaintiff identified only himself as a witness in the original forum of Pennsylvania, whereas the
9 defendants identified many more potential witnesses in the proposed transferee forum of Virginia.
10 *Lomanno*, 285 F.Supp.2d at 646.

11 Plaintiff alleges that LegalZoom’s “telephone representatives” have stated, and continue to
12 state, the Alleged Statements, *see* Complaint, ¶¶ 11, 12, but LegalZoom denies that the Alleged
13 Statements were ever published or uttered at all. Thus, liability for Plaintiff’s claims will turn in
14 substantial part on proving whether the Alleged Statements were made, and, even if they were
15 made, what the purported speaker(s)’ mental state or culpability was at the time and whether the
16 statements were privileged. *See, e.g., People for the Ethical Treatment of Animals v. Bobby*
17 *Berosini, Ltd.*, 111 Nev. 615, 619, 895 P.2d 1269, 1272 (1995) (listing elements of defamation,
18 including publication and fault). All but two of the 170 current and former “telephone
19 representative” witnesses – and another 17 of their current and former supervisors – with
20 information about LegalZoom’s purported liability are located in Los Angeles.²

21 ///

22
23
24 ² Plaintiff claims that unspecified customers in unspecified locations were the recipients of
25 the Alleged Statements. *See* Complaint, ¶ 11. Plaintiff does not allege that any of those customers
26 were in Nevada. *See generally id.* Plaintiff goes on to allege that customers were inquiring about
27 Plaintiff’s standing in the States of “Delaware, Texas, New York and other states” as well as
28 Plaintiff’s licensing, ability to “legally do business” and its legal status in “certain” unspecified
states. *Id.* (emphasis removed). It is not clear from the Complaint where these purported
customers were located, but, given Plaintiff’s allegations, it appears those customers, if they exist,
were likely scattered throughout the country.

1 **3. The District Court In California Will Have A Greater Ability To**
2 **Compel The Attendance Of Important Non-Party Witnesses At Trial**

3 This Court also should consider the degree to which it will be able to compel non-party
4 witnesses to appear for trial. *See Miracle Blade*, 207 F.Supp.2d at 1156 (“availability of
5 compulsory process” should be considered when ruling on a Section 1404(a) motion). In *Kachal*,
6 this Court transferred venue from Nevada to the Central District of California, and held that
7 witnesses in California would be subject to subpoena if the case were to proceed in California, but
8 would not be subject to subpoena if the case were to proceed in Nevada. *Kachal*, 738 F.Supp. at
9 373; *see also Horowitz v. Southwest Forest Industries, Inc.*, 612 F.Supp. 179, 182 (D. Nev. 1985)
10 (transferring case from Nevada to Arizona, in part because of “the availability of compulsory
11 process to obtain attendance of unwilling witnesses” in Arizona who could not be compelled to
12 attend trial in Nevada); “The credibility of witnesses assumes a greater importance” where the
13 “subjective intent” of the defendant is at issue, “thus rendering less satisfactory the use of
14 deposition testimony of witnesses who can’t be compelled to come to the trial.” *Horowitz*, 612
15 F.Supp. at 182.

16 There are **71** individuals who *formerly* served as “telephone representatives” for
17 LegalZoom since January 1, 2007, and who still reside in Southern California. Pellman Aff., ¶ 5-
18 8; *see also* Ex. A to Pellman Aff. Another two individuals are former LegalZoom employees who
19 served in supervisory capacities with knowledge of the practices, procedures and training policies
20 regarding or relating to telephone sales or customer service at LegalZoom since January 1, 2007.
21 Pellman Aff., ¶ 9. They, too, still reside in Southern California. Thus, there are at least **73**
22 potential non-party witnesses to LegalZoom’s liability who reside in Southern California. *Id.*, ¶¶
23 5-9.³ Those individuals are not under LegalZoom’s control, and they would be outside of this
24 Court’s subpoena power for trial, but they would be within the subpoena power of the district

25 ³ LegalZoom does not concede that all of its current or former “telephone representatives”
26 should be deposed whether this action proceeds in Las Vegas or Los Angeles, and LegalZoom
27 does not waive the limits on depositions pursuant to Rule 30 of the Federal Rules of Civil
28 Procedure. LegalZoom references those individuals in order to demonstrate the overwhelming
number of potentially percipient witnesses located in Los Angeles, as opposed to this District.

1 court in Los Angeles. See FRCP 45(c)(3)(A)(ii) (limiting power of district court to subpoena
2 witnesses to trial).

3 It is significant that Defendant's "subjective intent" is at issue because Plaintiff repeatedly
4 alleges that LegalZoom acted maliciously and knowingly. See, e.g., Complaint, ¶¶ 20, 27, 30,
5 34(a), 34(d). Thus, to the extent non-party liability witnesses are privy to LegalZoom's subjective
6 intent, it is particularly important that the district court have the power to subpoena them to trial.
7 See *Kachal*, 738 F.Supp. at 373; *Horowitz*, 612 F.Supp. at 182. Finally, the non-party witnesses
8 who were purported or prospective customers of Plaintiff are presumably scattered throughout the
9 country. See Complaint, ¶ 11 and note 2, *supra*. To them, this District would be no more or less
10 convenient than the Central District of California. On balance, therefore, the Central District of
11 California would be a more convenient, expeditious and effective forum for calling important non-
12 party liability witnesses to trial.

13 **4. It Would Be Relatively Easier To Access Sources Of Proof If This**
14 **Action Were To Proceed In California**

15 In *Miracle Blade*, this Court transferred the action from Nevada to the Central District of
16 California where "nearly all relevant documents [were] believed to be located in Los Angeles."
17 *Miracle Blade*, 207 F.Supp.2d at 1156. The *Miracle Blade* court went on to hold: "Based on the
18 location of the majority of documents, it appears that transfer of this case to the Central District of
19 California is in the interests of justice because it would make trial of this case easier, more
20 expeditious, and less expensive." *Id.* at 1157.

21 Here, all known documents relating to LegalZoom's telephone representatives, including
22 all sales and customer services scripts, training manuals, policies, and e-mail templates are located
23 in Los Angeles. Pellman Aff., ¶ 10. Moreover, LegalZoom's computers and primary servers also
24 are located in Los Angeles County, California. *Id.* To the extent liability determinations relate to
25 those documents, it would be far easier, more expeditious and less expensive to conduct the trial
26
27
28

1 of this action where the sources of proof are located – in Los Angeles, California.⁴

2 **5. On Balance, The Central District Of California Is A More Convenient**
3 **Forum For The Parties**

4 Section 1404(a) specifically identifies “convenience of the parties” as a factor to be
5 considered by the Court. 28 U.S.C. § 1404(a). In *Actmedia, Inc. v. Ferrante*, 923 F.Supp. 42, 44
6 (S.D.N.Y. 1985), the court transferred venue from the Southern District of New York to the
7 District of Oregon, and held that the corporate defendant with its principal place of business in
8 Oregon “would be greatly inconvenienced and its business would be seriously disrupted in having
9 to defend a suit” in New York, where almost all of the corporate witnesses were in Oregon, and
10 the plaintiff, on the other hand, was “operating nationwide.”

11 LegalZoom would be seriously and prejudicially inconvenienced by litigating this action in
12 Las Vegas whereas Plaintiff would not be prejudiced by litigating in Los Angeles. Plaintiff
13 alleges that its principal place of business is in Henderson, Nevada, but further alleges that it acts
14 as “a registered agent for service of process in all 50 states and in the District of Columbia.”
15 Complaint, ¶ 2. Plaintiff further boasts that it is “currently the 4th largest national registered agent
16 service provider in the country, with over 55,000 active clients worldwide.” *Id.* The very nature
17 of Plaintiff’s business allegedly requires it to conduct business all over the country – indeed, the
18 world. Plaintiff clearly prides itself on purportedly being able to conduct business anywhere in the
19 United States. Plaintiff would not be inconvenienced by a trial in Los Angeles.

20 LegalZoom’s operations are based in Los Angeles, California, and all but two of the 187
21 potential party and non-party liability witnesses and all records relating to liability are in
22 California. *Pellman Aff.*, ¶¶ 4-9. It would be a significant inconvenience, cost and disruption to
23 LegalZoom’s business to have discovery and trial proceed in this District. *See Pellman Aff.*, ¶11.
24 LegalZoom’s telephone representatives have everyday responsibility for direct contact with
25 LegalZoom customers via telephone and email. *Id.* The loss or lack of availability of even a

26 _____
27 ⁴ LegalZoom does not concede that all such documents should necessarily be produced in
28 the course of this action, whether it proceeds in Las Vegas or Los Angeles, and LegalZoom
expressly reserves all potential objections to Plaintiff’s anticipated document demands.

1 single employee for a scheduled shift has an immediate adverse impact on operations resulting in a
2 diminished service experience for LegalZoom’s customers, an increased workload placed on other
3 employees and increased costs and burdens for LegalZoom. *Id.* Examples of such adverse
4 impacts include but are not limited to: decreased sales for outbound calls resulting in lost revenue;
5 increased wait times for customers calling into the LegalZoom call center; increased refunds and
6 decreased customer satisfaction due to customer frustration over delays; delayed responses and
7 overall degradation in customer service, which may have an adverse impact on customers
8 expecting prompt turn-around times for assistance with certain products, *e.g.*, living wills, living
9 trusts and powers of attorney; diminished staff morale from increased workload; and increased
10 mandatory overtime costs pursuant to California labor laws. *Id.*

11 Another important consideration when evaluating the convenience of the parties is the
12 location of counsel, and the convenience and cost associated with bringing counsel to the place of
13 trial. This Court has held that the “cost of counsels’ transportation to the place of trial ... has a
14 direct bearing on the factors of convenience and cost.” *Cambridge Filter*, 548 F.Supp. at 1311
15 (transferring case from Nevada to California where all counsel were from California, except for
16 one from Nevada). Similarly, in *Miracle Blade*, this Court held that the case should be transferred
17 from Reno to Los Angeles in part because defendant’s lead attorneys were resident in the Los
18 Angeles area, plaintiff’s lead attorneys were not from Nevada and all parties “had to retain local
19 counsel to practice before this court.” *Miracle Blade*, 207 F.Supp.2d at 1157.

20 Here, lead counsel for both parties are from California and both parties had to retain “local
21 counsel” to practice before this Court. Lead counsel for Plaintiff is from San Francisco.
22 Transferring this case to Los Angeles will mean no addition cost or inconvenience associated with
23 Plaintiff’s counsel because it will be just as difficult and costly – if not easier and cheaper – for
24 Plaintiff’s counsel to travel from San Francisco to Los Angeles as it would be for Plaintiff’s
25 counsel to travel from San Francisco to Las Vegas. LegalZoom’s lead counsel is from Los
26 Angeles. Transferring this case to Los Angeles will dramatically reduce the cost and
27 inconvenience to LegalZoom because it will obviously be far less inconvenient and costly for
28 LegalZoom to have its lead counsel defend this case in Los Angeles.

1 On balance, the convenience to the parties tips sharply in favor of transferring the case to
2 Los Angeles.

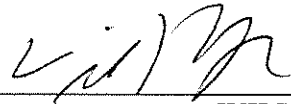
3 **IV. CONCLUSION**

4 The location of the purported events giving rise to each of Plaintiff's claims, the
5 convenience to the parties and witnesses, the relative ease of access to proof, and the increased
6 availability of compulsory process for potentially key witnesses all weigh in favor of transferring
7 this action to the United States District Court for the Central District of California.

8 DATED: March 19, 2009

9 **KEMP, JONES & COULTHARD, LLP**

10
11 By



12 WILL KEMP

13 Attorneys for Defendant LegalZoom.com, Inc.

14 **BOSTWICK & JASSY LLP**

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1 AFFIDAVIT OF KATHRYN PELLMAN

2
3 I, Kathryn Pellman, on behalf of LegalZoom.com, Inc. ("LegalZoom"), and as its Director
4 of Administration, hereby say and affirm that:

5
6 (1) I am a legal resident of the United States and a resident of the State of California,
7 and an employee of LegalZoom, authorized in my capacity as such to attest to the
8 following information. I have personal knowledge of the matters set forth below
9 except for those matters stated on information and belief, which matters I believe to
10 be true.

11
12 (2) As the Director of Administration, I have direct knowledge regarding the
13 employment relationship of LegalZoom's current and former employees. I have
14 held this position since November 9, 2006.

15
16 (3) I am preparing this affidavit in support of the Motion to Transfer Venue for the
17 matter *Incorp Services v. LegalZoom.com*, United States District Court, District of
18 Nevada., Case No. 2:09-CV-00273-RJH-(LRL).

19
20 (4) All LegalZoom telephone representatives, whether employees of LegalZoom or
21 temporary non-employee workers retained by LegalZoom, including those charged
22 with handling customer service and sales, are and have been at all times, physically
23 located at LegalZoom's headquarters: 7083 Hollywood Blvd., Los Angeles, CA
24 90028.

25
26 (5) Since January 1, 2007, LegalZoom has employed 129 telephone representatives.
27 Of these individuals, 82 are currently employed by LegalZoom.

28 ///

- 1 (6) Since January 1, 2007, LegalZoom used at least 41 temporary non-employee
2 workers for telephone representative work. Of these individuals, 15 are current
3 temporary non-employee workers for LegalZoom.
4
- 5 (7) Of the individuals listed in Paragraphs 5 and 6 above, 135 are or were customer
6 service telephone representatives, and 35 are or were sales telephone
7 representatives.
8
- 9 (8) On information and belief, all but two former employees referenced in Paragraph 5
10 and all former temporary non-employee workers referenced in Paragraph 6 reside
11 in the Los Angeles or Southern California area, based on the last known residence
12 provided to LegalZoom. Attached hereto as Exhibit A is an aggregate list of
13 former employee telephone representatives still in California, including their last
14 known city of residence.
15
- 16 (9) In addition to the individuals identified above, 15 current employees and 2 former
17 employees in supervisory capacities have or had knowledge since January 1, 2007
18 of the practices, procedures and training policies regarding or relating to telephone
19 sales or customer service. All such current employees reside in the Southern
20 California area, and on information and belief, all such former employees still
21 reside in the Southern California area.
22
- 23 (10) All sales and customer services scripts, training manuals, policies, and e-mail
24 templates are located at LegalZoom's headquarters in Los Angeles, California.
25 LegalZoom's computers and primary servers also are all located in Los Angeles
26 County, California.

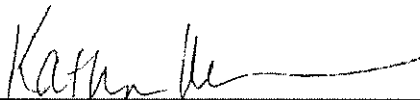
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28

1 (11) LegalZoom telephone representatives have everyday responsibility for direct
2 contact with our customers via telephone and email. The loss or lack of availability
3 of even a single employee for a scheduled shift has an immediate adverse impact on
4 operations resulting in a diminished service experience for our customers, an
5 increased workload placed on other employees and increased costs and burdens for
6 LegalZoom. Examples of such adverse impacts include but are not limited to:
7 decreased sales for outbound calls resulting in lost revenue; increased wait times
8 for customers calling into the LegalZoom call center; increased refunds and
9 decreased customer satisfaction due to customer frustration over delays; delayed
10 responses and overall degradation in customer service, which may have an adverse
11 impact on customers expecting prompt turn-around times for assistance with
12 certain products, *e.g.*, living wills, living trusts and powers of attorney; diminished
13 staff morale from increased workload; and increased mandatory overtime costs
14 pursuant to California labor laws.

15
16 Under penalty of perjury under the laws of the United States of America, I hereby affirm
17 and state that the above information is true and correct to the best of my knowledge.

18 Executed on March 19, 2009 at Los Angeles, California.

19
20 

21 Kathryn Pellman,
22 Director of Administration
23 LegalZoom.com, Inc.
24
25
26
27
28

1 NOTARY:

2

3 [SEAL]

4

5 State of California)
6 County of Los Angeles) ss.:

7 On this 19th day of March, 2009, before me Claire Gutierrez, personally appeared Kathryn
8 Pellman, Director of Administration for LegalZoom.com, Inc., who proved to me on the basis of
9 satisfactory evidence to be the person whose name is subscribed to the within instrument and
10 acknowledged to me that she executed the same in her authorized capacity, and that by her
11 signature on the instrument the person, or the entity upon behalf of which the person acted,
12 executed the instrument.

13 I certify under PENALTY OF PERJURY under the laws of the State of California that the
14 foregoing paragraph is true and correct.

15

16

17 Witness my hand and official seal.



18

19 *Claire F. Gutierrez*, CLAIRES F. GUTIERREZ
Notary Public NOTARY PUBLIC

20

21 CLAIRE F. GUTIERREZ
Printed Name

22 My commission expires on: 06-19-2011

23

24

25

26

27

28

EXHIBIT A

Demographic Data - Former Employees Who Still Reside In Southern California

<i>CA City</i>	<i>Employees</i>
Los Angeles	17
Glendale	2
North Hollywood	2
Tujunga	2
W. Hollywood	2
Alhambra	1
Arcadia	1
Burbank	1
Downey	1
Hawthorne	1
Inglewood	1
Lancaster	1
Long Beach	1
Mission Viejo	1
Montebello	1
Pasadena	1
Playa Del Rey	1
Redondo Beach	1
Rialto	1
S. Pasadena	1
San Pedro	1
Santa Fe Springs	1
Sherman Oaks	1
South Gate	1
Toluca Lake	1
TOTAL	45