

An Inside Look into a MLM Trial

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Have you ever wondered what happens in an MLM trial?

In this presentation, MLMLegal.com gives you a rare, front row seat into the complexities of an MLM trial.

In more than six hours of video, partitioned in more than a dozen 25 minute segments, watch cross-examination and direct examination of expert witnesses led by lead trial counsel, Jeffrey Babener, MLM trial attorney and editor of MLMLegal.com.

Consider this a mini-trial course on MLM and regulatory enforcement.

The case profiled in these videos is *Kentucky v. Travelmax International*. Travelmax was a marketing company that sold travel education products and travel bookings and services through a network of MLM distributors. Its travel bookings had risen to several million dollars per month.

In 1996, the State of Kentucky filed suit, contending that Travelmax was a pyramid scheme under Kentucky laws. The state secured a temporary restraining order, without benefit of hearing. However, under state court procedures, the court was mandated to set formal hearings to determine if the temporary restraining order should be continued. In a series of hearings spanning from late 1996 to early 1997, trial on this issue was held. At the conclusion of the hearings, the Court ruled against the State of Kentucky and in favor of Travelmax, dissolving the temporary restraining order and permitting the company to continue its business in Kentucky, pending further hearings.

In the Court's Findings of Fact, Conclusions of Law and Order, the Court summarized its position and encouraged the State to work with Travelmax as its business proceeded in Kentucky:

Thus, the court can find no violation of the consumer protection statutes, and therefore, no threat of harm to the public. The compliance procedures of the company are sufficient to provide for the protection of the citizens of the Commonwealth, pending the outcome of the other litigation in this matter. The court strongly encourages the Attorney General's office to take full advantage of the apparent willingness of Travelmax to cooperate in overseeing its Kentucky operations.

See the actual Opinion and Order of the Kentucky Court [PDF]:
www.mlmlegal.com/travelmaxorder.pdf

In fact, in the ensuing period after the favorable ruling for Travelmax, the State of Kentucky and Travelmax did come to an agreeable resolution and settlement that would avoid the necessity of formal hearings.

The educational opportunity here is unique. In most court hearings, a court reporter listens and transcribes the official transcript of testimony and argument. The transcription becomes the official record of the case. In the *Travelmax* hearings, no court reporter was present. Instead, the entire hearing was videotaped by a court videotaping system, and the videotape became the substitute official transcript record of the proceedings. The court's record of court proceedings are public records and thus the record of the *Travelmax* case is a public record. In this case, the videotape record was subsequently digitized, and then extensive excerpts of cross examination, direct examination and argument by lead trial counsel, Jeffrey Babener, were organized for online presentation.

In the following video excerpts of the *Travelmax* trial, several of the trial participants are featured:

Jeffrey Babener, lead trial counsel for Travelmax.

Jeffrey A. Babener, of Portland, Oregon, is the principal attorney in the law firm of Babener & Associates. For three decades, he has advised leading U.S. and foreign companies in the direct selling industry, including many members of the Direct Selling Association. He has served as advisor to such leading companies as Avon, Herbalife, NuSkin, USANA, Melaleuca, Excel Communications, ACN, Nikken, etc. He has lectured and published extensively on direct selling and many of his writings will be found at www.mlmlaw.com, of which he is editor. He is a graduate of the University of Southern California Law School, where he was an editor of the USC Law Review. He has served as trial counsel in cases, involving direct selling, throughout the U.S. He has served on the Lawyers Council and Government Relations Committee of the U.S. Direct Selling Association and as General Counsel, and Board Member, for the Multilevel Marketing International Association.

James M. Shake, trial court judge in the *Travelmax* case. Judge, Circuit Court, Jefferson County, Kentucky.

Dr. Charles King, expert witness for Travelmax. Professor, Graduate School of Business, University of Illinois at Chicago. Professor King has studied and taught on the subject of direct selling at the University-level for many years. He has published extensively in the area. He has led specialized classes on direct selling and appeared as an expert witness in federal and state cases.

Michael Sheffield, Scottsdale, Arizona, expert witness for Travelmax. Mr. Sheffield has chaired a leading management consulting firm in the direct selling field. He has counseled many of the major direct selling companies, has lectured and published extensively and appeared as an

expert witness on direct selling in federal and state cases. He is an acknowledged expert in MLM compensation plans and operations of direct selling companies.

Al Anolik, San Francisco, California, expert witness for Travelmax, is acknowledged as one of the foremost legal and business experts in the field of Travel. He has advised many of the leading travel businesses and has appeared as an expert witness in major litigation. He has published and lectured extensively in the travel field and has substantial experience in the implementation of the travel business through the direct selling channel of distribution.

Dr. William Keep, expert witness for the State of Kentucky in the *Travelmax* case. At the time of the trial, Dr. Keep was an assistant professor of marketing at the University of Kentucky. The focus of his expertise was “retailing” as opposed to MLM and Direct Selling. He has published extensively in the field of business and testified in court cases. Subsequent to the *Travelmax* case, Dr. Keep studied the field of direct selling further and published in the subject area.

The following video segments provide an insider’s view into an MLM trial:

Introduction to MLM and Direct Selling

Lead Travelmax Trial Counsel, Jeffrey Babener, explains to the Court the scope and breadth of the MLM industry with an overview of legal issues pertinent to the industry and to the trial of a pyramid case in the State of Kentucky. In addition, focus is made on the leading pyramid case in Kentucky involving Dare to be Great (1974).

An Inside Look at a MLM Trial - [Jeff Babener Explains Direct Selling in *Travelmax* Trial – 1997](#)

Cross-examination of Dr. William Keep by Lead Travelmax Trial Counsel, Jeffrey Babener

Although Dr. Keep was called by the State of Kentucky as an expert witness to support the State’s case on pyramiding, the cross-examination, which focused on the credentials of Dr. Keep, revealed that Dr. Keep’s special area of focus was in the area of “retailing” and that his background and study in MLM/Direct Selling/Network Marketing was limited. The cross examination and voir dire (examination as to credentials as an expert) covers a wide range of legal and business issues in the direct selling field. In the end, Dr. Keep did not claim to be qualified to testify either as to the legitimacy or illegitimacy of the Travelmax marketing program. The cross-examination appears in the following segments:

An Inside Look at a MLM Trial - [Dr. William Keep - *Travelmax* Trial 1997 - Part One](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Two](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Three](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Four](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Five](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Six](#)

An Inside Look at a MLM Trial - [Dr. William Keep - Travelmax Trial - 1997 - Part Seven](#)

Direct Examination of Dr. Charles King by Lead Travelmax Trial Counsel, Jeffrey Babener

As a student and Professor of MLM/Direct Selling/Network Marketing, Dr. King was called to explain an overview of the direct selling industry, a discussion of leading companies, a discussion of the indicators of legitimacy of a direct selling company and a discussion of the elements of a marketing program that would pose pyramid issues. Dr. King testified, in detail, regarding the Travelmax program, opining that the quality of the product, and the implementation of numerous consumer safeguards caused the Travelmax program to be in the mainstream of legitimate direct selling companies.

An Inside Look at a MLM Trial - [Dr. Charles King in Travelmax Trial - 1997 - Part One](#)

An Inside Look at a MLM Trial - [Dr. Charles King in Travelmax Trial - 1997 - Part Two](#)

An Inside Look at a MLM Trial - [Dr. Charles King in Travelmax Trial - 1997 - Part Three](#)

Direct Examination of Michael Sheffield by Lead Travelmax Trial Counsel, Jeffrey Babener

As a leading expert on MLM/Direct Selling/Network Marketing, Mr. Sheffield provided an overview of the industry, a detailed discussion of compensation plans offered by leading direct selling companies, the importance of quality products to a direct selling offering, an explanation as to appropriate consumer safeguards expected to be part of legitimate direct selling companies and a discussion of elements of pyramid schemes that should be avoided by direct selling companies. He testified that, after a thorough review of the Travelmax product and marketing program, he was of the opinion that the program was a legitimate direct selling marketing program and fit into the mainstream of leading companies in the direct selling field.

An Inside Look at a MLM Trial - [Mike Sheffield in Travelmax Trial - 1997 - Part One](#)

An Inside Look at a MLM Trial - [Mike Sheffield in Travelmax Trial - 1997 - Part Two](#)

An Inside Look at a MLM Trial - [Mike Sheffield in Travelmax Trial - 1997 - Part Three](#)

Direct Examination of Al Anolik by Lead Travelmax Trial Counsel, Jeffrey Babener

As a leading expert in both the travel business and travel law, Mr. Anolik provided an overview of the travel industry, a discussion of travel product offerings and explanation of the types of education offered to those interested in pursuing full or part time careers in travel. Mr. Anolik testified in detail as to his examination of the Travelmax business, that he was of the opinion that the Travelmax offerings were of high quality and that achievement of millions of dollars in monthly travel bookings was indicative of a reputable and legitimate travel business.

An Inside Look at a MLM Trial - [Al Anolik in Travelmax Trial - 1997 - Part One](#)

An Inside Look at a MLM Trial - [Al Anolik in Travelmax Trial - 1997 - Part Two](#)

For more information on this subject and other important issues in the area of MLM, Direct Selling and Network Marketing, please visit <http://www.mlmlgal.com>.

[Download a PDF version of this Opinion and Order of the Kentucky Court.](#)