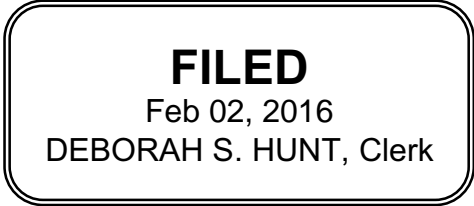


No. 15-3508

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**



FAMILY HEALTH CHIROPRACTIC, INC.,)
)
Plaintiff – Appellee,)
)
v.)
)
MD ON-LINE SOLUTIONS, INC.; STRATEGIC)
EDGE COMMUNICATIONS, INC.; EDUCATIONAL)
CONCEPTS IN MEDICINE, LLC,)
)
Defendants – Appellants.)

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF MICHIGAN

BEFORE: ROGERS and WHITE, Circuit Judges; HOOD, District Judge.*

ROGERS, Circuit Judge. After Family Health Chiropractic (FHC) sued MD On-Line under the Junk Fax Prevention Act, MD On-Line quickly extended a settlement offer. FHC rejected the settlement offer and then filed an amended complaint that sought class certification. MD On-Line subsequently filed a motion to dismiss, arguing that because the rejected settlement offer covered all of FHC’s demanded relief, FHC’s claims were moot. MD On-Line now appeals the district court’s denial of that motion to dismiss. Because the Supreme Court’s decision in *Campbell-Ewald Co. v. Gomez*, No. 14-857, 2016 WL 228345 (U.S. Jan. 20, 2016), controls the issue in this appeal, the district court’s denial of the motion to dismiss was proper.

* Honorable Joseph M. Hood, United States District Judge for the Eastern District of Kentucky, sitting by designation.

Even if we assume that MD On-Line's settlement offer satisfied all of FHC's demands, FHC's claims still give rise to a live case or controversy under *Campbell-Ewald*. The parties dispute whether the settlement offer covered all of FHC's demanded relief. *Campbell-Ewald*, however, held as a general matter that "an unaccepted settlement offer or offer of judgment does not moot a plaintiff's case." *Campbell-Ewald*, 2016 WL 228345, at *8. Thus, even if MD On-Line offered complete relief to FHC, FHC's lack of acceptance of that offer means that this case remains a live case or controversy under Article III.

MD On-Line attempts to distinguish its unexpired settlement offer from an expired offer of judgment under Federal Rule of Civil Procedure 68. The reasoning of *Campbell-Ewald*, however, extended to "unaccepted" settlement offers, slip op. 1, 5, 6, 7-8, 9, 11, not just expired settlement offers. FHC's claims were therefore not rendered moot by the rejected settlement offer from MD On-Line.

The district court's order is therefore affirmed.