

No. 15-3508

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

**FILED**  
Feb 02, 2016  
DEBORAH S. HUNT, Clerk

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  
NORTHERN DISTRICT OF  
OHIO

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.

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\* 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.