IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

CHIKE UZUEGBUNAM, et al.,	*	
	*	
Plaintiffs,	*	
	*	
v.	*	1:16-CV-04658-ELR
	*	
STANLEY C. PRECZEWSKI, *President of Georgia Gwinnett College, in his official and individual capacities*, et al.,	*	
	*	
Defendants.	*	
	*	

O R D E R

Presently before the Court is Defendants Stanley C. Preczewski, Lois C. Richardson, Jim B. Fatzinger, Tomas Jiminez, Aileen C. Dowell, Gene Ruffin, Catherine Jannick Downey, Terrance Schneider, Corey Hughes, Rebecca A. Lawler, and Shenna Perry's "Motion for Leave to Deposit Nominal Damages with the Court, and for an Order Directing Payment of the Nominal Damages Over to the Plaintiffs and Dismissing This Action for Mootness." [Doc. 58]. The Court sets forth its reasoning and conclusions below.

I. Background[1]

This 42 U.S.C. § 1983 action stems from Plaintiffs Chike Uzuegbunam and Joseph Bradford's claims that Defendants (in their individual and official capacities) violated their First and Fourteenth Amendment rights pursuant to the United States Constitution. See generally Am. Compl. [Doc. 13]. As alleged in the Amended Complaint, Plaintiffs were students at Georgia Gwinnett College ("GGC") at the time of filing this suit. See id. Defendants each have official roles at GGC. See id. At issue in this suit are Defendants' implementation of the "GGC Freedom of Expression Policy" and "Student Code of Conduct" (together, the "Prior Policies"). See, e.g., id. ¶¶ 383–88, 392–416.

The Prior Policies limited public speech (and distribution of literature) to designated areas and times through a campus permit approval system. E.g., id. ¶ 111. According to Plaintiffs, the only "free speech expression areas" Defendants made available during the relevant time period made up less than 0.0015% of the GGC campus. See id. ¶¶ 124–25. Even if an individual obtained a permit for one of these areas, Plaintiffs assert that Defendants enforced a "heckler's veto" system to stop any expression that prompted "complaints from listeners" under the guise of prohibiting "disorderly conduct." See id. ¶ 3. Consequently, Plaintiffs allege that

[1] A detailed factual background of Plaintiffs' claims may be found in the undersigned's Order dated May 25, 2018. [See Doc. 41 at 1–4].

the Prior Policies violated their freedom of speech and exercise of religion. See id. ¶¶ 370–470.

On May 25, 2018, the Court issued an Order granting Defendants' "Motion to Dismiss for Mootness" [Doc. 21] and dismissing this case without prejudice. [See Doc. 41]. Specifically, the Court held that Plaintiffs' claims for declaratory and injunctive relief were moot, as Defendants and GGC had already removed the Prior Policies at issue (and Plaintiff Uzuegbunam had already graduated). [See id. at 24]. Thus, only Plaintiffs' claims for nominal damages remained. [See id.] Relying on Flanigan's Enterprises, Inc. of Ga. v. City of Sandy Springs, Ga., 868 F.3d 1248 (11th Cir. 2017), the Court found that "Plaintiffs' remaining claim for nominal damages" could not serve as a sufficient basis for the case to proceed. [See Doc. 41 at 25]. Plaintiffs appealed the Court's May 25, 2018 Order shortly thereafter. [See Doc. 43].

On July 1, 2019, the Eleventh Circuit affirmed this Court's dismissal of the Amended Complaint for mootness. [See Doc. 47 at 20]. Subsequently, Plaintiffs sought and received certiorari from the United States Supreme Court. [See Doc. 52]. On March 8, 2021, the Supreme Court reversed the Eleventh Circuit panel's opinion, holding that "an award of nominal damages by itself can redress a past injury." See Uzuegbunam v. Preczewski, 141 S. Ct. 792, 796 (2021). Thus, the Eleventh Circuit

reversed this Court's dismissal and remanded this case for further proceedings consistent with the Supreme Court's decision. [See Doc. 51 at 3].

Upon remand, on June 22, 2021, Defendants submitted their "Motion for Leave to Deposit Nominal Damages with the Court, and for an Order Directing Payment of the Nominal Damages Over to the Plaintiffs and Dismissing This Action for Mootness." [Doc. 58]. By their instant motion, Defendants make three (3) requests of this Court: (1) "leave to deposit nominal damages of one dollar for each Plaintiff into the Court's registry under Rule 67(a)"; (2) "an order directing payment of the nominal damages over to the Plaintiffs"; and thereafter, (3) an order "dismissing the case as moot." [See Doc. 58-1 at 1] (citing FED. R. CIV. P. 67(a) and LR 67.1(A)(1), NDGa.). Plaintiffs oppose all three (3) requests. [See generally Doc. 62]. Before discussing the merits of the Parties' arguments, the Court sets forth the relevant legal standard.

II. Legal Standard

"Federal courts are courts of limited jurisdiction." Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994). "The most notable—and most fundamental—limits on the federal 'judicial Power' are specified in Article III of the Constitution, which grants federal courts jurisdiction only over enumerated categories of 'Cases' and 'Controversies.'" See Gardner v. Mutz, 962 F.3d 1329, 1336 (11th Cir. 2020) (citing U.S. CONST. art. III, § 2). "This case-or-controversy

requirement comprises three familiar 'strands': (1) standing, (2) ripeness, and (3) mootness." See id. (citing Christian Coal. of Fla., Inc. v. United States, 662 F.3d 1182, 1189 (11th Cir. 2011)). As the Supreme Court has explained, the doctrine of mootness requires:

> that an actual controversy [] be extant at all stages of review, not merely at the time the complaint is filed. If an intervening circumstance deprives the plaintiff of a personal stake in the outcome of the lawsuit, at any point during litigation, the action can no longer proceed and must be dismissed as moot. A case becomes moot, however, only when it is impossible for a court to grant any effectual relief whatever to the prevailing party. As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot.

See Campbell-Ewald Co. v. Gomez, 577 U.S. 153, 160–61 (2016), as revised (Feb. 9, 2016) (internal quotations omitted); see also Al Najjar v. Ashcroft, 273 F.3d 1330, 1336 (11th Cir. 2001) ("If events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed.").

III. Discussion

Having set forth the relevant legal standard, the Court now turns to the merits of the Parties' arguments. As noted above, by their instant motion, Defendants make three (3) requests of this Court: (1) "leave to deposit nominal damages of one dollar for each Plaintiff into the Court's registry under Rule 67(a)"; (2) "an order directing payment of the nominal damages over to the Plaintiffs"; and thereafter, (3) an order "dismissing the case as moot." [See Doc. 58-1 at 1] (citing FED. R. CIV. P. 67(a) and

LR 67.1(A)(1), NDGa.). Generally, Defendants contend that the Court should take these steps and find that this case is moot because "nominal damages are the only remaining relief available to [P]laintiffs" and "transferring such amount to [] [P]laintiffs is a proper mechanism for ending [this] action without resolving the underlying merits of the constitutional dispute." [See id. at 5].

In opposition, Plaintiffs protest Defendants' proposed use of Rule 67 as an improper attempt to "force settlement" without providing full relief for Plaintiffs' claims. [See Doc. 62 at 2–8, 10–12, 14, 16]. Plaintiffs maintain that Rule 67 is inapplicable to this case and cannot be used to render this case moot. [See id.] Further, Plaintiffs argue that even *if* the Court were to allow Defendants to deposit nominal damages into the Court's registry pursuant to Rule 67, a mere "transfer of funds to Plaintiffs absent a judgment and award of costs and fees would not provide [them] with full relief." [See id. at 14]. With these considerations in mind, the Court begins by providing an overview of Federal Rule of Civil Procedure 67.

A. Overview of Rule 67

Rule 67 provides, in its entirety:

> (a) Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party—on notice to every other party and by leave of court—may deposit with the court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the clerk a copy of the order permitting deposit.

> (b) Investing and Withdrawing Funds. Money paid into court under this rule must be deposited and withdrawn in accordance with 28 U.S.C. §§ 2041 and 2042 and any like statute.[2] The money must be deposited in an interest-bearing account or invested in a court-approved, interest-bearing instrument.

See FED. R. CIV. P. 67.

"The 'core purpose' of the rule is to 'relieve a party who holds a contested fund from responsibility for disbursement of that fund among those claiming some entitlement thereto.'" Zelaya/Capital Intern. Judm., LLC v. Zelaya, 769 F.3d 1296, 1302 (11th Cir. 2014) (quoting Alstom Caribe, Inc. v. Geo. P. Reintjes Co., 484 F.3d 106, 113 (1st Cir. 2007)). Put differently, "[t]he purpose of a deposit in court is to relieve the depositor of responsibility for a fund in dispute, while the parties litigate their difference with respect to the fund." See Progressive Cas. Ins. Co. v. Drive Trademark Holdings LP, 680 F. Supp. 2d 639, 641 (D. Del. 2010). A district court's decision to grant or deny relief pursuant to Rule 67 will not be disturbed absent abuse of discretion. See Zelaya/Capital, 769 F.3d at 1300 (citing Gulf States Utils. Co. v. Ala. Power Co., 824 F.2d 1465, 1475 (5th Cir. 1987)).

B. Defendants' Proposed Use of Rule 67 to Moot Plaintiffs' Claims

As noted above, Defendants seek to moot Plaintiffs' claims by using Rule 67 to (1) deposit nominal damages (in the amount of $2) into the Court's registry and

[2] "As both Rule 67 and 28 U.S.C. §§ 2041 and 2042 recognize, funds can be withdrawn from the court's registry only under the control of, and with the permission of, the court." Fulton Dental, LLC v. Bisco, Inc., 860 F.3d 541, 545 (7th Cir. 2017).

(2) have the Court disburse the funds to Plaintiffs. [See generally Docs. 58-1, 65]. Defendants contend: "after receipt of the full amount of Plaintiffs' claim ($1 each)," no Article III "live case or controversy will remain[,]" and this case will "become[] moot[.]" [See Doc. 65 at 11–12].

As a preliminary observation, the undersigned notes that the decision to order such a deposit—and whether to issue an order disbursing such a deposit to Plaintiffs—are matters committed to the discretion of the Court. See Zelaya/Capital, 769 F.3d at 1300 (internal citation omitted). Notwithstanding, Defendants' attempt to moot Plaintiffs' claims via Rule 67 is unsupported by any binding authority. Indeed, Defendants primarily rely on dissenting opinions (and one minority concurrence) from two (2) Supreme Court cases. [See Docs. 58-1 at 4–5, 10 n.2; 65 at 3–6, 12–16]. But neither case supports the course of action Defendants ask this Court to undertake. See generally Uzuegbunam, 141 S. Ct. 792; Campbell-Ewald, 577 U.S. 153.

First, Defendants rely on Justice Roberts and Justice Alito's dissenting opinions from Campbell-Ewald. [See Docs. 58-1 at 10 n.2; 65 at 2–6, 12, 14–16]. Defendants acknowledge "that the Supreme Court held in Campbell-Ewald [] that an unaccepted settlement offer or offer of judgment does not moot a case[,]" but note that the majority opinion also "expressly left open the question of what would happen when the defendant actually deposits the full amount of the plaintiff's claim

in an account payable to the plaintiff." [See Doc. 58-1 at 10 n.2] (citing 577 U.S. at 165–66).

In Campbell-Ewald, the Supreme Court considered whether a defendant could successfully moot an as-yet-uncertified class action by making a Rule 68 settlement offer for the purpose of satisfying the putative class representative's individual claims. See 577 U.S. at 156. So far as Rule 68 was concerned, the majority held: "an unaccepted settlement offer has no force. Like other unaccepted contract offers, it creates no lasting right or obligation. With the offer off the table, and the defendant's continuing denial of liability, adversity between the parties persists."[3] See id.

In his dissenting opinion, Chief Justice Roberts hypothesized that a different result *might* follow where a defendant made payment for complete relief on a plaintiff's claims:

> The majority holds that an *offer* of complete relief is insufficient to moot a case. The majority does not say that *payment* of complete relief leads to the same result. For aught that appears, the majority's analysis may have come out differently if [defendant] had deposited the offered funds with the District Court. This Court leaves that question for another day[.]

[3] On this point, the Court emphasizes that offers of settlement are properly made pursuant to Federal Rule of Civil Procedure 68, not Rule 67. See FED. R. CIV. P. 68. This is because Rule 67 "should be used as a procedural device to provide a place of safekeeping for *disputed* funds[,]" not "as a means to alter the . . . legal duties of the parties[.]" See SLB Enter., LLC v. AGI Corp., 1:10-CV-01873-JOF, 2012 WL 13002177, at *9 (N.D. Ga. Aug. 29, 2012) (emphasis added).

See id. at 184 (Roberts, C.J., dissenting) (internal citation omitted and emphasis in original). Writing separately, Justice Alito joined Chief Justice Roberts' dissent and stated: "Today's decision [] *does not prevent* a defendant who actually pays complete relief—either directly to the plaintiff or to a trusted intermediary—from seeking dismissal on mootness grounds." See id. at 188 (Alito, J., dissenting) (emphasis added).

Thus, neither dissenting opinion from Campbell-Ewald conveys any affirmative support for Defendants' proposed use of Rule 67 to moot Plaintiffs' claims.[4] See id. at 184, 188. Indeed, the Supreme Court's opinion in that case did not contemplate Rule 67 at all. See id. at 156. And at any rate, to "actually pay" Plaintiffs in the manner Defendants propose, this Court would have to issue two (2) orders: one allowing them to deposit nominal damages into the Court's registry, and a second directing the disbursement of such funds to Plaintiffs—another situation the Supreme Court did not address in Campbell-Ewald. See FED. R. CIV. P. 67; see also 577 U.S. at 156. Rather, the Supreme Court expressly stated in that case:

[4] Nor does this Court interpret this case as one which involves the "hypothetical" situation contemplated by the Supreme Court in which a defendant "deposits the full amount of the plaintiff's individual claim in an account payable to the plaintiff, and the court then enters judgment for the plaintiff in that amount." See Campbell-Ewald, 577 U.S. at 165–66. Here, Plaintiffs vehemently dispute that nominal damages of $2 would provide full relief for their claims and disagree that the Court's registry is "an account payable to" Plaintiffs. [See Doc. 62 at 8, 12–18]; see also Fulton Dental, 860 F.3d at 547. Moreover, Defendants do not request a "judgment" against themselves. [See Doc. 65 at 13] ("[Defendants] have requested an order from this Court that, under Rule 67, allows the deposit of nominal damages for each Plaintiff and then directs the payment of those damages to each Plaintiff. . . . judgment in this case would therefore be of no additional value to Plaintiffs[.]") (internal quotation omitted).

> We need not, and do not, now decide whether the result [regarding mootness] would be different if a defendant deposits the full amount of the plaintiff's individual claim in an account payable to the plaintiff, and the court then enters judgment for the plaintiff in that amount. That question is appropriately reserved for a case in which it is not hypothetical.

See 577 U.S. at 165–66. Therefore, the Court finds that Campbell-Ewald does not decide the inquiry currently before this Court.[5] See id.

Second, Defendants urge the Court to interpret the Supreme Court's recent opinion in this case as endorsing their proposed use of Rule 67 to moot Plaintiffs' claims. [See Doc. 58-1 at 10] ("And of course, two members of the Supreme Court recently endorsed this very result in this case.") (citing Uzuegbunam, 141 S. Ct. at 802, 808). In support, Defendants cite to Chief Justice Roberts' dissent and Justice Kavanaugh's concurrence. [See generally id.] But the Supreme Court granted certiorari in this matter on the sole question of "whether an award of nominal damages by itself can redress a past injury[]" and therefore preserve otherwise moot claims. See Uzuegbunam, 141 S. Ct. at 796. The majority concluded that:

[5] Additionally, Defendants cite to People of State of California v. San Pablo & T.R. Co., 149 U.S. 308 (1893), for the proposition that "when a plaintiff receives the entirety of the compensation he claims to be owed, the matter is moot and must be dismissed." [See Doc. 58-1 at 9]. However, the Court finds that case distinguishable from the matter at bar because San Pablo involved a determination of mootness where a defendant had already made full payment for plaintiffs' claims (including interest, penalties, and costs) into a bank account. See 149 U.S. at 313–14. Indeed, when the defendant in Campbell-Ewald similarly cited San Pablo to argue "that an offer of judgment can render a controversy moot[,]" the Supreme Court plainly explained that San Pablo does not "suggest[] that an *unaccepted* settlement offer can put a plaintiff out of court." See 577 U.S. at 163 (citing 149 U.S. at 313–14) (emphasis added). Accordingly, the Court finds San Pablo does not lend credence to Defendants' arguments. See generally 149 U.S. 308.

> a request for nominal damages satisfies the redressability element of standing where a plaintiff's claim is based on a completed violation of a legal right. . . . This is not to say that a request for nominal damages guarantees entry to court. Our holding concerns only redressability. . . . We hold only that, for the purpose of Article III standing, nominal damages provide the necessary redress for a completed violation of a legal right.
>
> Applying this principle here is straightforward. For purposes of this appeal, it is undisputed that Uzuegbunam experienced a completed violation of his constitutional rights when respondents enforced their speech policies against him. Because every violation of a right imports damage [], nominal damages can redress Uzuegbunam's injury even if he cannot or chooses not to quantify that harm in economic terms.

See id. at 802 (internal quotation omitted and alteration adopted).

In his dissent, Chief Justice Roberts opined that "[w]here a plaintiff asks only for a dollar," or nominal damages, "the defendant should be able to end the case by giving him a dollar, without the court needing to pass on the merits of the plaintiff's claims." See id. at 808 (Roberts, C.J., dissenting). In his concurrence, Justice Kavanaugh agreed with the majority's holding that "a plaintiff's request for nominal damages can satisfy the redressability requirement for Article III standing and can keep an otherwise moot case alive." See id. at 802 (Kavanaugh, J., concurring). Justice Kavanaugh wrote separately "simply to note" that he agreed with Chief Justice Roberts "that a defendant should be able to accept the entry of a judgment for nominal damages against it and thereby end the litigation without a resolution of the merits." See id.

However, neither Chief Justice Roberts nor Justice Kavanaugh discussed Rule 67 and their separate opinions do not alter the majority's conclusion that Plaintiffs' claims in this suit are not moot.[6] See id. at 802–09. Thus, the Court finds that the Supreme Court's decision in Uzuegbunam does not support Defendants' instant requests. See id.

Additionally, while the Eleventh Circuit has yet to directly confront the issue of whether Rule 67 may be used to moot a plaintiff's claims in the manner Defendants suggest, courts in other Circuits have answered the same question in the negative. E.g., Bais Yaakov of Spring Valley v. Educ. Testing Serv., 251 F. Supp. 3d 724, 738 (S.D.N.Y. 2017) (denying a similar Rule 67 motion, the court found that "even if the court makes a legal determination as to the amount the plaintiff could recover, the court may enter judgment against the defendant in the amount specified over the plaintiff's objection, but may not dismiss the case as moot"). The Eastern District of Pennsylvania summed up much of the available persuasive jurisprudence on this topic. See Jarzyna v. Home Properties, L.P., 201 F. Supp. 3d 650, 656 (E.D. Pa. 2016). In that case, a putative class representative plaintiff rejected a Rule 68 offer of settlement from the defendant, after which the defendant moved the court to

[6] The Court observes that Chief Justice Roberts' dissent even appears to contemplate the use of Rule 68 instead of Rule 67 to moot a plaintiff's claims. See Uzuegbunam, 141 S. Ct. at 808 ("The defendant can even file an offer of judgment for one dollar, rendering the plaintiff liable for any subsequent costs if he receives only nominal damages.") (citing FED. R. CIV. P. 68(d)).

allow it to make a Rule 67 deposit and moot the plaintiff's individual claims. See id. at 654. The court explained:

> In the wake of Campbell–Ewald, defendants before a number of other district courts have also sought to use Rule 67 deposits to compel findings of mootness. The majority of courts to confront Rule 67 motions under such circumstances have denied them. See Radha Giesmann, MD, P.C. v. Am. Homepatient, Inc., No. 14–1538, 2016 WL 3407815, at *3 (E.D. Mo. June 16, 2016) (denying motion for Rule 67 deposit in advance of class certification proceedings); Tegtmeier v. PJ Iowa, L.C., No. 15–110, 189 F. Supp. 3d 811, 826, 2016 WL 3265711, at *11 (S.D. Iowa May 18, 2016) (same); Bais Yaakov of Spring Valley v. Graduation Source, LLC, No. 14–3232, 167 F. Supp. 3d 582, 583–84, 2016 WL 872914, at *1 (S.D.N.Y. Mar. 7, 2016) (vacating prior order permitting the defendants to deposit payment with the court and finding that a live claim remained such that plaintiff must be accorded a fair opportunity to show that class certification was warranted); Bais Yaakov of Spring Valley v. Varitronics, LLC, No. 14–5008, 2016 WL 806703, at *1 (D. Minn. Mar. 1, 2016) (denying the defendant's Rule 67 motion where "there is no purpose to the deposit defendant seeks to make other than to moot the case, and . . . [p]laintiff has not yet had a fair opportunity to show that class certification is warranted"); Brady v. Basic Research, L.L.C., 312 F.R.D. 304, 306 (E.D.N.Y. 2016) (denying the defendant's Rule 67 motion because the deposit aimed to "moot this case [and] not to relieve [the defendants] of the burden of administering an asset" and because a prospective class representative with a live claim must be given a fair opportunity to show that class certification is warranted).

See id. at 656. While the cases collected by the Eastern District of Pennsylvania primarily concern Rule 67 motions in the context of putative class actions, the Court finds their reasoning to be persuasive. E.g., Radha Geismann, 909 F.3d at 542 (2d Cir. 2018) ("Rule 67 itself does not affect the vitality of a plaintiff's claims").

Separately, the Seventh Circuit considered the effect of a similar Rule 67 motion in Fulton Dental, 860 F.3d 541. In that case, the district court granted a Rule 67 motion by the defendant to deposit estimated damages into the court registry for the putative class representative plaintiff's individual claim, the amount of which defendant "regarded as the maximum possible damages [plaintiff] could receive" (in addition to a small sum for "fees and costs"). See id. at 543. On appeal, the Seventh Circuit reversed for several reasons. See id. at 547. Notably, the panel "conclude[d] that an unaccepted offer to settle a case, accompanied by a payment intended to provide full compensation into the registry of the court under Rule 67, is no different in principle from an offer of settlement made under Rule 68."[7] See id.

For the foregoing reasons, the Court finds that the minority opinions from the Supreme Court proffered by Defendants do not support their attempt to moot Plaintiffs' claims through a Rule 67 deposit into the Court's registry. See Uzuegbunam, 141 S. Ct. at 802–08; see also Campbell-Ewald, 577 U.S. at 184–88. Thus, in line with the above persuasive authority and the text of Rule 67, the Court does not find that an order allowing Defendants to deposit nominal damages into the

[7] The Seventh Circuit enumerated multiple additional reasons to deny the defendant's Rule 67 motion, including that the plaintiff should not be "force[d] to accept [the defendant's] valuation" of the plaintiff's claim, even though the defendant insisted that the funds it deposited "fully satisfie[d] [the plaintiff's] individual claim[.]" See Fulton Dental, 860 F.3d at 544–45. The panel also explained that "the court's registry is not the kind of 'individual account' controlled by the plaintiff that was contemplated in the question reserved by Campbell–Ewald." See id. at 547. Finally, the Seventh Circuit stated that it could not "say as a matter of law that the unaccepted offer was sufficient to compensate plaintiff[.]" See id. The Court finds this reasoning persuasive.

Court's registry is warranted. See FED. R. CIV. P. 67. Therefore, the Court denies Defendants' request for a Rule 67 deposit. [See Doc. 58]. Accordingly, the Court denies as moot Defendants' requests for an order disbursing such a deposit to Plaintiffs and for an order dismissing this case as moot. [See id.]

IV. Leave to Submit Motion for Mediation

Having rejected Defendants' instant motion, the Court notes that Plaintiffs previously submitted a "Motion for a Magistrate-Hosted Settlement Conference" [Doc. 33], which this Court denied by an Order dated August 31, 2017. [See Doc. 36]. In that Order, the Court explained that Plaintiffs' motion was premature due to Defendants' then-pending motions to dismiss and stated that if "the Court does not resolve the [m]otions to [d]ismiss in Defendants' favor and close the case, the Court [would] reevaluate" the appropriateness of mediation. [See id. at 3].

The Court does not presume that Plaintiffs maintain the same desire to mediate over four (4) years later; however, the Court hereby grants leave for any Party to submit a request for mediation within twenty-one (21) days of the date of this order. Unless the Parties submit an unopposed or consent motion for mediation within the twenty-one (21)-day period, they shall submit their Joint Preliminary Report and Discovery Plan ("JPRDP") in accordance with the Local Rules of this District before the twenty-one (21) days expire.

V. Conclusion

For the foregoing reasons, the Court **DENIES IN PART AND DENIES AS MOOT IN PART** Defendants' "Motion for Leave to Deposit Nominal Damages with the Court, and for an Order Directing Payment of the Nominal Damages Over to the Plaintiffs and Dismissing This Action for Mootness." [Doc. 58]. The Court **DIRECTS** the Parties to file their JPRDP within twenty-one (21) days of the date of entry of this order. See LR 16.2, NDGa. Alternatively, any Party may submit a motion for mediation within the twenty-one (21)-day period, but unless such a motion is filed as unopposed or with the consent of all Parties, the Parties must still submit their JPRDP by the deadline. Lastly, the Court **DIRECTS** the Clerk to resubmit this matter to the undersigned after the expiration of the twenty-one (21)-day period.

SO ORDERED, this 22nd day of December, 2021.

Eleanor L. Ross

Eleanor L. Ross
United States District Judge
Northern District of Georgia