

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

JUNEIDY MIJANGOS VARGAS, on
behalf of a minor, J.A.M.; and JOHANA
GUTIERREZ, on behalf of minors,
Y.S.G.R. and J.I.G.R.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION FILE NO.

1:17-CV-5052-SCJ

ORDER

This matter appears before the Court on the parties' dispute concerning whether there has been a valid acceptance by Plaintiffs of the offer of judgment presented by Defendant, The United States of America. See Doc. Nos. [34], [35], [36], and [38].

After review, the Court upholds the citations of authority and arguments presented by the United States, i.e., that the *plain* language of the offer of

judgment provided for a \$15,000 single judgment for all Plaintiffs (collectively), not \$15,000 per Plaintiff.

The Court is unable to uphold Plaintiffs' self-executing, ambiguity, absence of discretion, Rules 59/69 and other arguments to the contrary, as the Eleventh Circuit has held that it was not erroneous for a district court to determine that an offer and acceptance were inconsistent and the Eleventh Circuit has declined to uphold an assertion of error following the district court's striking of the plaintiffs' acceptance. See Johnson v. Univ. Coll. of Univ. of Ala., 706 F.2d 1205, 1209 (11th Cir. 1983), *holding modified by* Gaines v. Dougherty Cty. Bd. of Educ., 775 F.2d 1565 (11th Cir. 1985). Here, the offer and acceptance are inconsistent. The Court **DIRECTS** the Clerk to strike the Notice of Acceptance at Doc. No. [34].¹ Because Plaintiffs possibly face an order of costs at a later date, in the interest of caution, the Court will permit Plaintiffs an additional **FOURTEEN DAYS** from the entry of this Order to file a consistent written notice

¹ While normally, only pleadings are struck from the record, the Court follows the procedure utilized in the Johnson case above.

accepting the offer that accords with the Court's ruling, above and in accordance with the plain language of the United States' offer of judgment.²

Discovery in this case begins on **APRIL 2, 2020** in accordance with Local Rule 26.2, NDGa. The attorneys of record are **ORDERED** to confer and file a joint preliminary report/proposed scheduling order within **TEN DAYS** of the entry of this Order.

IT IS SO ORDERED this 23rd day of March, 2020.

s/Steve C. Jones

HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE

² See Fed. R. Ci. P. 68 (d) ("Paying Costs After an Unaccepted Offer. If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.").