

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

RICHARD MILEY,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	
v.	:	3:24-cv-00091-TES
	:	
DEBORAH GONZALEZ,	:	
in her individual capacity and official	:	
capacity as District Attorney,	:	
	:	
Defendant.	:	

NOTICE OF FED. R. CIV. P. 68 SETTLEMENT

COMES NOW Plaintiff Richard Miley (“Mr. Miley”) and provides notice to the Court of a settlement between the parties under Federal Rule of Civil Procedure 68 (“Rule 68”). In support of the settlement, Mr. Miley shows the Court as follows:

1.

Defendant Deborah Gonzalez delivered an Offer of Judgment under Rule 68 on September 25, 2024. A true and correct copy of the Offer of Judgment and accompanying cover letter are attached as Exhibit “A.”

2.

In the cover letter, Defendant Gonzalez assures that she has restored the First Amendment rights of her constituents:

Deborah Gonzalez has already taken the following actions related to all social media accounts she controls in her official capacity as District

Attorney: (1) removed any limiting filters or bans of content or users; (2) ended any removal or deletion of comments; (3) provided full access to these social media pages for any user that the social-media service permits to use the platform. (Obviously, the Honorable Deborah Gonzalez does not control any social media platform's policies regarding which users are permitted to use the platform.)

Ex. A.

3.

Based on the restoration of these constitutional rights, Plaintiff chose to accept the Offer of Judgment against Defendant Gonzalez. A true and correct copy of the notice of acceptance is attached as Exhibit "B."

4.

This notice of settlement is being filed pursuant to Rule 68(a), which requires that a party "file the offer and notice of acceptance, plus proof of service."

5.

Accordingly, Mr. Miley respectfully requests that the clerk enter the judgment against Defendant Gonzalez.

Respectfully submitted this 7th day of October, 2024.

/s/ Kevin E. Epps
KEVIN E. EPPS
Georgia Bar No. 785511
TYLER M. GAINES
Georgia Bar No. 855701
**EPPS, HOLLOWAY, DELOACH
& HOIPKEMIER, LLC**

1220 Langford Drive,
Building 200, Suite 101
Watkinsville, Georgia 30677
Phone: (706) 508-4000
kevin@ehdhlaw.com
tyler@ehdhlaw.com

/s/ Barry Lane Fitzpatrick
BARRY LANE FITZPATRICK
Georgia Bar No. 262275
**LANE FITZPATRICK LAW
OFFICE**
330 Courthouse Square
Danielsville, GA 30633
Phone: (706) 353-1806
lane.fitzlaw@gmail.com

Exhibit “A”



David Dreyer, Esq.
Founding Partner

Deana Holiday-Ingraham, Esq.
Partner

Sharon Goddard
Senior Paralegal

September 25, 2024

Via email and U.S. Mail to:

Kevin Edwards Epps
1220 Langford Dr., Building 200-101
Watkinsville, Georgia 30677
kevin@ehdhlaw.com

Barry Lane Fitzpatrick
P.O. Box 660
Danielsville, Georgia 30633
lane.fitzlaw@gmail.com

Re: *Miley v. Gonzalez* (3:24-cv-00091-TES, M.D. Ga.) (“Litigation”)—Fed. R. Civ.
P. 68 Offer of Judgment

Dear Mr. Epps and Mr. Fitzpatrick,

We represent District Attorney for the Western Judicial Circuit Deborah Gonzalez (“Honorable Deborah Gonzalez”) in this Litigation.

As you are aware, the Honorable Deborah Gonzalez has already taken the following actions related to all social media accounts she controls in her official capacity as District Attorney: (1) removed any limiting filters or bans of content or users; (2) ended any removal or deletion of comments; (3) provided full access to these social media pages for any user that the social-media service permits to use the platform. (Obviously, the Honorable Deborah Gonzalez does not control any social media platform’s policies regarding which users are permitted to use the platform.)

The Complaint also references State Representative Ehrhart’s Facebook page, but the Honorable Deborah Gonzalez has never had any control over this page, and the Honorable Deborah Gonzalez has never even been in contact with Representative Ehrhart.

Attached is a Fed. R. Civ. P. 68 Offer of Judgment.

We also request that you immediately inform the Court that there is no need for an expedited hearing on any injunctive relief as any injunctive relief is moot.

Sincerely,

David N. Dreyer

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

RICHARD MILEY,

Plaintiff,

v.

DEBORAH GONZALEZ,
in her individual capacity and official
capacity as District Attorney,

Defendant.

JURY TRIAL DEMANDED

Civil Action No. 3:24-cv-00091-TES

FED. R. CIV. P. 68 OFFER OF JUDGMENT

Pursuant to Federal Rule of Civil Procedure 68, Deborah Gonzalez, in her individual capacity and official capacity as District Attorney (“Honorable Deborah Gonzalez”) hereby offers to allow a judgment to be taken against her in the total amount of \$1.00, plus costs, and no attorneys’ fees, in full resolution of any and all claims by Plaintiff against the Honorable Deborah Gonzalez. *See Farrar v. Hobby*, 506 U.S. 103 (1992), and *Gray v. Bostic*, 720 F.3d 887, 889 (11th Cir. 2013).

Any injunctive claims in this Litigation are currently moot.

This offer of judgment is made for the purposes specified in Rule 68 and is not to be construed as an admission that the Honorable Deborah Gonzalez is liable for any amounts, or that Plaintiff is entitled to any amounts.

This Offer of Judgment shall not be filed with the Court unless (a) accepted or (b) in a proceeding to determine costs. This offer of judgment is made for settlement purposes only and is subject to Federal Rule of Evidence 408. If the Honorable Deborah Gonzalez obtains a judgment

more favorable than this Offer of Judgment, Plaintiff must pay the costs incurred after the offer was made, unless this Offer of Judgment is accepted in fourteen (14) days.

This 25th day of September, 2024

/s/David Dreyer

David N. Dreyer

Georgia Bar Number: 141322

Dreyer & Associates

260 Peachtree Street NW,

Suite 1602

Atlanta, Georgia 30303

(404) 205-5668 (phone)

david@dreyerfirm.com

Attorney for the Honorable Deborah Gonzalez

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that a copy of the foregoing has been served via electronic mail and U.S.P.S. Certified Mail, Return Receipt Requested, this 25th day of September, 2024.

/s/ David N. Dreyer
David N. Dreyer
Georgia Bar No. 141322

Exhibit “B”



Epps, Holloway, DeLoach & Hoipkemier, LLC

Kevin E. Epps
Kelly C. Holloway
Jeffrey W. DeLoach
Adam L. Hoipkemier
Tyler M. Gaines
Kristin C. M. Waller
M. Claire Kimbrell

David A. Quilliams, of counsel
Morris H. Wiltshire, Jr., of counsel

October 7, 2024

Delivered via Electronic Mail

District Attorney Deborah Gonzalez
c/o David N. Dreyer
david@dreyerfirm.com

Re: *Miley v. Gonzalez* (3:24-cv-00091-TES, M.D. Ga.) (“Litigation”)
Notice of Acceptance of Fed. R. Civ. P. 68 Offer of Judgment

Dear Mr. Dreyer:

As you know, I represent Richard Miley in his Litigation against your client, District Attorney Deborah Gonzalez, regarding her violation of Mr. Miley’s First Amendment constitutional rights. The cover letter to your client’s Rule 68 Offer of Judgment assures that, since commencing the Litigation, Gonzalez “has already taken the following actions (1) removed any limiting filters or bans of content or users; (2) ended any removal or deletion of comments; (3) provided full access to these social media pages for any user that the social-media service permits to use the platform.”

Mr. Miley is glad that Gonzalez has accepted accountability and restored the First Amendment rights of voters in Gonzalez’s district. It is unfortunate that it took the filing of a federal lawsuit for her to cease her continuous violations of her constituents’ First Amendment rights -- even after receiving written notice in September 2023 that her actions were unconstitutional. Given Gonzalez’s representations—coupled with the screenshots provided by you showing no access/commenting restrictions—Mr. Miley has decided to accept the Offer of Judgment against Gonzalez. A copy of the cover letter and Rule 68 offer accepted are attached as Exhibit “A.”

Mr. Miley reserves the right to file a new action and seek permanent injunctive relief against Gonzalez if she restricts any account of his again in the future. Likewise, please be advised that a number of other constituents have contacted me regarding Gonzalez hiding their comments, restricting their comments, and blocking them from her social media pages. They assured that they would let us know if their accessibility is restricted again.

October 7, 2024
Page 2

Sincerely,



Kevin E. Epps

Enclosures

Exhibit “A”



David Dreyer, Esq.
Founding Partner

Deana Holiday-Ingraham, Esq.
Partner

Sharon Goddard
Senior Paralegal

September 25, 2024

Via email and U.S. Mail to:

Kevin Edwards Epps
1220 Langford Dr., Building 200-101
Watkinsville, Georgia 30677
kevin@ehdhlaw.com

Barry Lane Fitzpatrick
P.O. Box 660
Danielsville, Georgia 30633
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Sincerely,

David N. Dreyer

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

RICHARD MILEY,

Plaintiff,

v.

DEBORAH GONZALEZ,
in her individual capacity and official
capacity as District Attorney,

Defendant.

JURY TRIAL DEMANDED

Civil Action No. 3:24-cv-00091-TES

FED. R. CIV. P. 68 OFFER OF JUDGMENT

Pursuant to Federal Rule of Civil Procedure 68, Deborah Gonzalez, in her individual capacity and official capacity as District Attorney (“Honorable Deborah Gonzalez”) hereby offers to allow a judgment to be taken against her in the total amount of \$1.00, plus costs, and no attorneys’ fees, in full resolution of any and all claims by Plaintiff against the Honorable Deborah Gonzalez. *See Farrar v. Hobby*, 506 U.S. 103 (1992), and *Gray v. Bostic*, 720 F.3d 887, 889 (11th Cir. 2013).

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more favorable than this Offer of Judgment, Plaintiff must pay the costs incurred after the offer was made, unless this Offer of Judgment is accepted in fourteen (14) days.

This 25th day of September, 2024

/s/David Dreyer

David N. Dreyer

Georgia Bar Number: 141322

Dreyer & Associates

260 Peachtree Street NW,

Suite 1602

Atlanta, Georgia 30303

(404) 205-5668 (phone)

david@dreyerfirm.com

Attorney for the Honorable Deborah Gonzalez

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that a copy of the foregoing has been served via electronic mail and U.S.P.S. Certified Mail, Return Receipt Requested, this 25th day of September, 2024.

/s/ David N. Dreyer
David N. Dreyer
Georgia Bar No. 141322

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date electronically delivered *Plaintiff's Notice of Acceptance Fed. R. Civ. P. 68 Settlement*, and the CM/ECF system will automatically send an email notification of such filing to the following counsel of record:

David N. Dreyer
david@dreyerfirm.com

This 7th day of October 2024.

**EPPS, HOLLOWAY, DELOACH
& HOIPKEMIER, LLC**

BY: /s/ Kevin E. Epps
Kevin E. Epps
Georgia Bar No. 785511
Attorney for Plaintiff

1220 Langford Drive
Building 200-101
Watkinsville, Georgia 30677
(706) 508-4000
kevin@ehdhlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date electronically filed *Plaintiff's Notice of Fed. R. Civ. P. 68 Settlement* using the CM/ECF system which will automatically send email notification of such filing to the following counsel of record:

This 7th day of October 2024.

**EPPS, HOLLOWAY, DELOACH
& HOIPKEMIER, LLC**

BY: /s/ Kevin E. Epps
Kevin E. Epps
Georgia Bar No. 785511
Attorney for Plaintiff

1220 Langford Drive
Building 200-101
Watkinsville, Georgia 30677
(706) 508-4000
kevin@ehdhlaw.com