UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROSEMARY LOVE, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 00-2502 (RBW)
THOMAS VILSACK, Secretary, United States Department of Agriculture,	)	
Defendant.	)	

ORDER

The plaintiffs in this civil action are female farmers who allege that the United States Department of Agriculture ("USDA") discriminated against them on the basis of their gender by denying them "equal and fair access to farm loans and loan servicing, and of consideration of their administrative complaints." Fourth Amended and Supplemental Complaint ("Am. Compl.") at 3. The plaintiffs also claim that the "USDA offered and is implementing voluntary administrative claims programs to adjudicate the claims of members of other minority groups who suffered similar discrimination," but "has arbitrarily refused to offer equivalent terms to women, further depriving them of equal protection and due process." Id. Currently before the Court are the Plaintiffs' Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(a)(2), ECF. No. 223 ("Pls.' Mot. to Dismiss"), the Plaintiffs' Motion to Reinstate Counts III Through VI of their Fourth Amended and Supplemental Copmplaint [sic], ECF No. 230 ("Pls.' Mot. to Reinstate"), and the Plaintiffs' Motion for an Award of Fees, Costs, and Expenses, ECF No. 198 ("Pls.'

Mot. for Fees"). Upon careful consideration of the parties' submissions,[1] the Court concludes for the following reasons that the plaintiffs' motion to dismiss must be granted in part and denied in part, and that their motion to reinstate must be denied.[2] The Court declines to rule at this time on the plaintiffs' motion for attorneys' fees in anticipation that this Order may prompt one or more parties to amend their arguments regarding that motion.

I. BACKGROUND

Between 1997 and 2000, African-American, Native American, Hispanic, and female farmers filed four similar class action lawsuits alleging that "the USDA routinely discriminated [against them] in its farm benefit programs on the basis of [their] race, ethnicity, and gender, and failed to investigate the claims of farmers who filed discrimination complaints with the agency." Am. Compl. ¶ 75; see Pigford v. Glickman, Nos. 97-1978, 98-1693 (D.D.C.) ("Pigford I") (African-American farmers); Keepseagle v. Vilsack, No. 99-3119 (D.D.C.) (Native American farmers); Garcia v. Vilsack, No. 00-2445 (D.D.C.) (Hispanic farmers); Love v. Vilsack, No. 00-02502 (D.D.C.) (female farmers).

On October 9, 1998, Judge Paul L. Friedman of this Court certified Pigford I as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) for purposes of liability. Pigford v. Glickman, 182 F.R.D. 341, 352 (D.D.C. 1998). Judge Friedman later vacated his original class

[1] In addition to the filings already identified, the Court considered the following submissions in rendering its decision: (1) the Plaintiffs' Memorandum in Support of Motion to Dismiss ("Pls.' Dismissal Mem."); (2) the USDA's Response to Plaintiffs' Motion to Dismiss ("Gov't Dismissal Opp'n"); (3) the Reply in Support of Plaintiffs' Motion to Dismiss ("Pls.' Dismissal Reply"); (4) the Plaintiffs' Memorandum in Support of Motion to Reinstate Counts III Through VI of Their Fourth Amended and Supplemental Copmplaint [sic] ("Pls.' Reinstatement Mem."); (5) the USDA's Opposition to Plaintiffs' Motion to Resinstate [sic] Claims ("Gov't Reinstatement Opp'n"); and (6) the Plaintiffs' Reply in Support of Motion to Reinstate Counts III Through VI of their Fourth Amended and Supplemental Copmplaint [sic] ("Pls.' Reinstatement Reply").

[2] Also technically pending before the Court are several motions that are clearly moot given the passage of time and the procedural posture of this case: the intervenor-plaintiffs' Motion to Intervene, ECF No. 124 (filed Mar. 23, 2011); the plaintiffs' Motion for Leave to File a Third Amended Class Action Complaint, ECF No. 50 (filed Apr. 14, 2003); and the Plaintiffs' Supplemental Motion to Certify Class, ECF No. 36 (filed Feb. 11, 2002). For housekeeping purposes, these motions will all be denied as moot.

certification order on January 5, 1999, and certified a new class pursuant to Rule 23(b)(3). Pigford v. Glickman, 185 F.R.D. 82, 92 (D.D.C. 1999). Following Judge Friedman's revised class certification rulings, the parties in Pigford I negotiated a class-wide settlement, which Judge Friedman approved in a consent decree issued on April 14, 1999. Id. at 113. The Pigford I consent decree "did not provide for the automatic payment of damages to any plaintiff"; rather, "it established a non-judicial mechanism," i.e., an administrative claims process, "by which each class member would have an opportunity to demonstrate that he or she had been the victim of past discrimination by the USDA and therefore was entitled to compensatory damages." In re Black Farmers Discrimination Litig., 856 F. Supp. 2d 1, 9 (D.D.C. 2011). The Pigford I consent decree imposed a deadline for African-American farmers to submit their claims for administrative adjudication, id. at 10, and many farmers tried, unsuccessfully, to file claim packages after the deadline expired, id. at 11.

To address this problem, "Congress resurrected the claims of those who had unsuccessfully petitioned the Arbitrator for permission to submit late claim packages" by enacting "the Food, Conservation, and Energy Act of 2008." Id. This Act provides that "[a]ny Pigford claimant who has not previously obtained a determination on the merits of a Pigford claim may, in a civil action brought in the United States District Court for the District of Columbia, obtain that determination." Food, Conservation, and Energy Act of 2008, Pub. L. No. 110–234, § 14012(b), 122 Stat. 923, 1448. After the Act became effective, thousands of African-American farmers filed suit in this Court. In re Black Farmers, 856 F. Supp. 2d at 13. Those cases are collectively known as Pigford II. Id. The parties in Pigford II reached a class-wide settlement agreement on February 18, 2010, id., which Judge Friedman approved, id. at 42.

The settlement agreement largely maintained the administrative claims process utilized in Pigford I, with some modifications. Id. at 22.

The Keepseagle litigation proceeded much like Pigford I, albeit at a different pace. Judge Emmet G. Sullivan of this Court certified that case as a class action pursuant to Rule 23(b)(2). See Keepseagle v. Veneman, No. 99-3119, 2001 WL 34676944, at *1 (D.D.C. 2001). Nine years later, in 2010, the parties reached a class-wide settlement agreement, which Judge Sullivan approved. See Order, Keepseagle v. Veneman, No. 99-3119, ECF No. 577 (granting preliminary approval of settlement). The settlement agreement in Keepseagle also established an administrative claims process for Native American farmers that was similar, though not identical, to the process established in Pigford II. See Cantu v. United States, 565 F. App'x 7, 8 (D.C. Cir. 2014).

This case and the Garcia case followed a different path. Judge James Robertson, a former member of this Court, denied the plaintiffs' motions for class certification in both Garcia and Love.[3] See Love v. Veneman, 224 F.R.D. 240 (D.D.C. 2004), aff'd in part, remanded in part sub nom. Love v. Johanns, 439 F.3d 723 (D.C. Cir. 2006); Garcia v. Veneman, 224 F.R.D. 8 (D.D.C. 2004), aff'd and remanded sub nom. Garcia v. Johanns, 444 F.3d 625 (D.C. Cir. 2006). And the USDA has not offered to settle these cases on a class basis pursuant to Rule 23, as it had in the Pigford and Keepseagle cases. See Am. Compl. ¶¶ 102–04. The USDA did, however, develop a different administrative claims process for female and Hispanic farmers. See id. ¶ 88; Am. Compl. ¶ 51, Cantu v. United States, No. 11-541, ECF No. 46.

On July 13, 2012, the plaintiffs, with leave of Court, filed their fourth amended Complaint. Counts I and II of the fourth amended Complaint concern the USDA's alleged

[3] Upon Judge Robertson's retirement from the Court, this case and Garcia were reassigned to the undersigned member of the Court.

discrimination prior to 2000, in connection with its lending programs, Am. Compl. ¶¶ 115–22; Pls.' Dismissal Mem. at 4, while Counts III through VI challenge the administrative claims process established for female farmers on the ground that it "is significantly inferior to the administrative programs offered to African-American and Native American farmers who suffered similar discrimination and filed virtually identical complaints," Am. Compl. ¶¶ 88, 123–39. Claiming that this disparity is the result of gender discrimination, the plaintiffs assert that the USDA's administrative claims process violates the equal protection and due process guarantees of the Fifth Amendment to the United States Constitution, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2) (2012). See id. ¶¶ 123–39.

On December 11, 2012, the Court granted the USDA's motion to dismiss Counts III through VI for lack of jurisdiction on the grounds that the plaintiffs lacked standing. Memorandum Opinion at 1, 9–10, ECF No. 176. In its Memorandum Opinion, the Court noted that it was "contemporaneously issuing on this date a Memorandum Opinion in Cantu v. United States, No. 11-541, which addresses claims of Hispanic farmers similar to those asserted in this case." Id. at 2 n.2. The plaintiffs in this action did not appeal the Court's decision dismissing Counts III through VI, but the plaintiffs in Cantu did file an appeal. See Docket; Cantu v. United States, 565 F. App'x 7 (D.C. Cir. 2014).

In Cantu, the District of Columbia Circuit agreed that the Court "lacked authority to enjoin the government to provide appellants with a class settlement identical" to those plaintiffs in comparator cases. Cantu, 565 F. App'x at 9. Nevertheless, the Circuit reversed and remanded the case, stating that the plaintiffs also "seek a declaration and injunction prohibiting the government from offering them a claims process tainted by racial considerations" and that this Court "could

have granted relief by ordering the government not to act toward appellants based on unlawful racial grounds." Id.

After the District of Columbia Circuit issued its decision in Cantu, the plaintiffs in this action filed their motion to reinstate Counts III through VI of the fourth amended Complaint on the grounds that these claims are "nearly identical [to those] brought by Hispanic farmers in Cantu v. United States [ ]," and the District of Columbia Circuit had "recently reversed the dismissal of the claims in Cantu." Pls.' Mot. to Reinstate at 1. Furthermore, eight of the ten plaintiffs[4] ("the eight plaintiffs") filed their instant motion to dismiss Counts I (Declaratory Judgment) and II (Violation of Equal Credit Opportunity Act) of the fourth amended Complaint on the grounds that their duly submitted stipulations of dismissal with prejudice were not signed by all parties, and thus did not effect a final dismissal under Rule 41(a). Pls.' Mot. to Dismiss at 1–2; Pls.' Dismissal Mem. at 3.

While the plaintiffs' motion to dismiss and their motion to reinstate were pending, the Court issued an Order in Cantu on remand dismissing all of the Cantu plaintiffs' claims. Order at 13, Cantu v. United States, No. 11-541, ECF No. 77. In that Order, the Court concluded

> that the Circuit's most recent decision in this case precludes the plaintiffs' claims set forth in Counts Two through Five of the First Amended Complaint. The remaining count (Count One), which asserts an equal protection claim, fails to state a claim that is plausible on its face because the plaintiffs have not proffered any evidence that suggests a discriminatory purpose by the defendants for the actions challenged by the plaintiffs.

Id.

[4] These eight plaintiffs have chosen "to resolve their claims against the [USDA] through the administrative claims program set up by USDA." Plaintiffs' Notice Regarding Litigation Election, ECF No. 187, at 2. The ninth plaintiff "elected not to file a claim in the administrative claims program, and also not to continue to pursue her claims in this litigation." Id. at 3. Finally, plaintiffs' counsel were unable to contact the final named plaintiff before the expiration of the Court's deadline. Id.; see also Minute Order, April 2, 2013 (ordering the plaintiffs' counsel to "identify each (continued . . .)

II. STANDARDS OF REVIEW

Plaintiffs' motion to dismiss falls under Federal Rule of Civil Procedure 41(a), which governs voluntary dismissals. The Rule provides in part:

> (1) By the Plaintiff.
>
> > (A) Without a Court Order. . . . [T]he plaintiff may dismiss an action without a court order by filing:
> >
> > ***
> >
> > > (ii) a stipulation of dismissal signed by all parties who have appeared.
> >
> > (B) Effect. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

Fed. R. Civ. P. 41(a). "A joint stipulation under Rule 41(a)(1)(A)(ii) is self-executing; a separate court order is not required." Am. Ctr. for Civil Justice v. Ambush, 49 F. Supp. 3d 24, 25 (D.D.C. 2014) (citing In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1988)).

The plaintiffs' motion to reinstate falls under Federal Rule of Civil Procedure 60(b). Rule 60(b) provides that "[o]n motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding" for any of several specified reasons, including "any [ ] reason that justifies relief." Fed. R. Civ. P. 60(b). "[U]nder Rule 60(b) the trial judge must strike a 'delicate balance between the sanctity of final judgments . . . and the incessant command of a court's conscience that justice be done in light of all the facts.'" Twelve John Does v. District of Columbia, 841 F.2d 1133, 1138 (D.C. Cir. 1988) (quoting Good Luck Nursing Home,

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(continued . . .)
named plaintiff who intends to proceed with this litigation (as opposed to participating in the government's administrative claims process)" on or before May 6, 2013.").

Inc. v. Harris, 636 F.2d 572, 577 (D.C. Cir. 1980)) (emphasis in original)). A district court violates Rule 60(b) only if an order issued pursuant to the Rule constitutes an error of law or amounts to an abuse of discretion. Id. (citations omitted).

III. DISCUSSION

A. The Motion to Reinstate Counts III Through VI

The Court concludes that its March 1, 2016 Order in Cantu forecloses the survival of Counts III through VI of the plaintiffs' fourth amended Complaint, and thus it would be futile to reinstate those claims as the plaintiffs request. As stated above, in that Order, the Court dismissed the Cantu plaintiffs' claims against the USDA and other government defendants. Order at 13, Cantu v. United States, No. 11-541, ECF No. 77. Those claims were the following:

> Count One: alleged violations of the equal protection component of the due process clause of the Fifth Amendment because, "based on differences of race, [the d]efendants have provided the African-American and Native American farmers with higher compensation allocations in settlement benefits, and with far more favorable procedural measures to realize those benefits, than they have offered to the Hispanic farmers," id. at 9 (internal citations and quotation marks omitted);
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> Count Two: alleged "violations of the due process clause of the Fifth Amendment because the ADR Framework provide[d] no independent, fair, and impartial oversight in the administration of the claims process," id. at 8 (internal citations and quotation marks omitted);
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> Count Three: alleged "violations of the Unconstitutional Conditions doctrine because the ADR Framework provided to the plaintiffs requires them to release all of their claims against the defendants, does not offer the possibility of judicial supervision of the claims process, and does not afford the plaintiffs representation through class counsel," id. (internal citations and quotation marks omitted);
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> Count Four: alleged "that the particular terms of the ADR Framework violate the APA because the terms are less favorable than settlement benefits afforded to another racial group and are therefore inherently arbitrary and capricious and not in accordance with the law," id. (internal citations and quotation marks omitted); and
>
> Count Five: alleged "that the defendants violated the APA because their decision not to offer a settlement program substantially equivalent to that which they

> provided to the African-American and Native American farmers . . . amount[s] to the unlawful withholding and unreasonable delay of agency action," id. (internal citations and quotation marks omitted).

In Cantu, the Court determined that Counts Two through Five "impermissibly s[ought] to modify particular terms of the settlement agreement," and because the Court "lack[ed] authority to enjoin the government to provide appellants with a class settlement identical to those in Pigford II and Keepseagle," it dismissed those claims "as each s[ought] a remedy beyond this Court's authority." Order at 8–9, Cantu v. United States, No. 11-541, ECF No. 77 (footnotes omitted) (quoting Cantu v. United States, 565 F. App'x 7, 9 (D.C. Cir. 2014)).

Counts III through VI of the Love plaintiffs' fourth amended Complaint are the following:

> Count III: alleges violations of the equal protection component of the due process clause of the Fifth Amendment because the "USDA's claims administration program for women farmers has the discriminatory effect of treating . . . women farmers[] less favorably than African-American and Native American farmers who suffered similar discrimination by USDA and brought virtually identical discrimination claims against USDA." Am. Compl. ¶ 124. In this count, the plaintiffs also allege that the USDA "has a discriminatory purpose . . . to treat women farmers less favorably" than the African-American and Native American farmers. Id. ¶ 125;
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> Count IV: alleges violations of the Due Process Clause of the Fifth Amendment because the "USDA's claims administration program for women farmers is arbitrary, unreasonable, and contrary to the government's legitimate, and legally-mandated, interest in treating all minorities in a nondiscriminatory manner." Id. ¶ 128;
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> Count V: alleges violations of the Unconstitutional Conditions doctrine because the USDA conditioned participation in the claims process on the plaintiffs' "waiver and release of all of their claims and potential claims," bars the plaintiffs' "access to free legal counsel," and limits the legal fees they can pay private counsel, all which "constitute mandatory waivers of constitutionally protected rights." Id. ¶ 133–34; and
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> Count VI: alleges violations of the APA because the USDA's "disparate treatment of plaintiffs . . . in its claims administration program, in contrast to its treatment of similarly situated African-American and Native American farmers who suffered similar discrimination, is arbitrary and capricious." Id. ¶ 138.

The Court concludes that Counts IV through VI also seek to modify the USDA's claims administration program. The plaintiffs have conceded that these counts are "nearly identical" to the corresponding counts in Cantu. Pls.' Reinstatement Mem. at 2. Because these counts seek a modification of a settlement agreement, they cannot be reinstated because, like Counts Two through Five in Cantu, they seek a remedy that this Court does not have the authority to provide. See Order at 8–9, Cantu v. United States, No. 11-541, ECF No. 77.

Count III of the Love plaintiffs' fourth amended Complaint is also "nearly identical" to Count One of the Cantu plaintiffs' Complaint. See Pls.' Reinstatement Mem. at 2. The Court in Cantu determined that Count One required dismissal for the following reasons:

> Simply put, the plaintiffs' First Amended Complaint is devoid of any factual allegations that would support an inference of discriminatory purpose in the defendants' decision to offer the settlement terms set forth in the ADR Framework. Instead, the plaintiffs merely point to the fact that the defendants employed different litigation tactics in the Pigford and Keepseagle cases, and that the defendants offered "inferior" terms in the plaintiffs' ADR process as compared to those offered to other races. But these contentions, standing alone, are insufficient to establish an equal protection claim because they merely constitute "disproportionate impact" on the plaintiffs, and do nothing to demonstrate a "discriminatory purpose" on the part of the defendants.
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> Moreover, it is undisputed that the plaintiffs in each of the comparator cases received class certification under Federal Rule of Civil Procedure 23(b)(2), whereas the plaintiffs here did not. As the defendants explain, "[a]ll claims against the government require a case-specific evaluation of litigation risks, including the strength of the claims asserted and the procedural posture," and any difference in the defendants' treatment of the plaintiffs here is "understandable (and entirely proper) given that the financial exposure the government faced in Garcia and Love (where class certification was denied) was much lower than the potential exposure it faced in the Pigford cases and in Ke[e]pseagle (where classes were certified)." This significant difference in the relative posture of the plaintiffs' claims constitutes an "obvious alternative explanation" such that "discrimination is not a plausible conclusion."

Order at 10–13, Cantu v. United States, No. 11-541, ECF No. 77 (internal citations and footnote omitted). Accordingly, the Court concluded that Count One in Cantu failed to state a plausible

claim because the plaintiffs failed to "proffer[] any evidence that suggests a discriminatory purpose by the defendants," id. at 13, which "is required to show a violation of the Equal Protection Clause," id. at 9 (quoting Vill. of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 265 (1977)).

The Love plaintiffs' fourth amended Complaint, like the complaint in Cantu, lacks factual allegations supporting an inference of the USDA's discriminatory purpose in the administrative claims program. Rather, like the complaint in Cantu, each of the Love plaintiffs alleges that the administrative claims program "discriminatorily and arbitrarily denies her the opportunity to apply for relief under the terms available to similarly situated members of other minority groups." Am. Compl. ¶¶ 10, 18, 28, 33, 37, 41, 43, 45, 48. The plaintiffs detail how the claims program for female farmers is less favorable than those for the Native American and Hispanic farmers, see id. ¶¶ 90, 92, 94–96, 98, but do not assert any factual allegations suggesting any discriminatory purpose on the part of the USDA. In fact, the plaintiffs concede that the "USDA's sole basis for instituting a less favorable claims program for women (and Hispanic) farmers is the varying class certification decisions." Id. ¶ 80. As the Court explained in Cantu, "[th]e significant difference in the relative posture of the plaintiffs' claims constitutes an 'obvious alternative explanation' such that 'discrimination is not a plausible conclusion.'" Order at 11, Cantu v. United States, No. 11-541, ECF No. 77 (quoting Ashcroft v. Iqbal, 556 U.S. 662, 682 (2009)). Moreover, the fact that the administrative claims program for women was less favorable than what was provided to other minority groups "merely constitute[s] 'disproportionate impact' on the plaintiffs, and do[es] nothing to demonstrate a 'discriminatory purpose' on the part of the [USDA]." Id. at 10 (citing Lewis v. Casey, 518 U.S. 343, 375 (1996); Ross Learning, Inc. v. Riley, 960 F. Supp. 1238, 1245 (E.D. Mich. 1997)). Accordingly, the

Court declines to exercise its discretion to reinstate Counts III through VI of the fourth amended Complaint because each count fails to state a plausible claim for relief.

B. The Motion to Dismiss

The eight plaintiffs also seek an order from the Court dismissing with prejudice Counts I and II of the fourth amended Complaint, but leaving intact Counts III through VI. Pls.' Mot. to Dismiss at 1. The eight plaintiffs state that their duly submitted stipulations of dismissal with prejudice were not signed by all parties, and thus did not effect a final dismissal under Rule 41(a). Id. at 1–2; Pls.' Dismissal Mem. at 3. The eight plaintiffs also asserted in their motion to reinstate that Counts III through VI of their fourth amended Complaint remain intact because the stipulations of dismissal "w[ere] not to include any claims pertaining to the administrative claims process itself (such as Counts III through VI of the Fourth Amended and Supplemental Complaint—Counts that, at the time [the p]laintiffs submitted their stipulations, had been dismissed by the Court)." Pls.' Dismissal Mem. at 2. The USDA responds that the stipulations were effective and dismissed all of the plaintiffs' claims with prejudice, and thus none of their claims should be reinstated. Gov't Dismissal Opp'n at 1.

Given that the parties agree that Counts I and II should be (or already are) dismissed, and in light of the Court's decision that Counts III through VI fail to state a plausible claim for relief, the Court concludes that the dispute over whether some or all of the plaintiffs' claims have already been dismissed pursuant to the stipulations of dismissal is moot. Accordingly, for purposes of finality, the Court will grant the plaintiffs' request to dismiss Counts I and II, and deny their request in this motion to reinstate Counts III through VI. As a result, all of the plaintiffs' claims are dismissed with prejudice.

C. The Motion for Attorneys' Fees

Also before the Court is the Plaintiffs' Motion for an Award of Fees, Costs, and Expenses, ECF No. 198.[5] In light of the Court's rulings in this Order, and anticipating that this Order may prompt one or more parties to amend their arguments regarding the pending motion for fees, the Court will afford the parties an opportunity to notify the Court of their intent to supplement their briefs. Accordingly, any party wishing to supplement their submissions on the pending motion for fees shall file a notice on or before [14 days after this Order is issued], so that the Court may set a briefing schedule.

CONCLUSION

For the foregoing reasons, the Court grants the plaintiffs' motion to dismiss Counts I and II of the fourth amended Complaint, but declines to reinstate Counts III through VI of the fourth amended Complaint because each count fails to state a plausible claim for relief.

Accordingly, it is hereby

ORDERED that the Plaintiffs' Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(a)(2), ECF No. 223, is **GRANTED IN PART AND DENIED IN PART**. Specifically, the plaintiffs' request to dismiss Counts I and II of the fourth amended complaint is granted, but their request to reinstate Counts III through VI of the fourth amended Complaint is denied. It is further

ORDERED that the Plaintiffs' Motion to Reinstate Counts III Through VI of their Fourth Amended and Supplemental Copmplaint [sic], ECF No. 230, is **DENIED**. It is further

ORDERED that all of the plaintiffs' claims are **DISMISSED**. It is further

[5] The plaintiffs also filed an accompanying Motion for Order to File Document Under Seal, ECF No. 199 ("Mot. to File"). This document is an exhibit to their motion for fees, and contains PriceWaterhouse Coopers' Billing Rate & Associate Salary Survey, which includes "highly confidential" information. Mot. to File at 1. The Court will grant this motion.

ORDERED that any party wishing to supplement their submissions regarding the Plaintiffs' Motion for an Award of Fees, Costs, and Expenses, ECF No. 198, shall file a notice of their intent to do so on or before November 30, 2016. It is further

ORDERED that the Plaintiffs' Motion to File Document Under Seal, ECF No. 199, is **GRANTED**. It is further

ORDERED that the intervenor-plaintiffs' Motion to Intervene, ECF No. 124, is **DENIED AS MOOT**. It is further

ORDERED that the plaintiffs' Motion for Leave to File a Third Amended Class Action Complaint, ECF No. 50, is **DENIED AS MOOT**. It is further

ORDERED that the Plaintiffs' Supplemental Motion to Certify Class, ECF No. 36, is **DENIED AS MOOT**.

SO ORDERED this 14th day of November, 2016.

REGGIE B. WALTON
United States District Judge