[Cite as *Wilson v. Directions Credit Union*, 2024-Ohio-105.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Lori Wilson, Individually and on behalf of all others similarly situated	Court of Appeals No. L-22-1253 L-23-1064
Appellant	Trial Court No. CI0202201844
v.	
Directions Credit Union	**DECISION AND JUDGMENT**
Appellee	Decided: January 12, 2024

* * * * *

Karla Campbell, for appellant.

Drew H. Campbell, Jason E. Hunter, and James R. Branit, for appellee.

* * * * *

DUHART, J.

{¶ 1} In this consolidated appeal, appellant, Lori Wilson, appeals from: (1) the September 29, 2022 judgment of the Lucas County Court of Common Pleas, granting appellee's motion to dismiss Wilson's complaint for lack of jurisdiction; and (2) the February 17, 2023 judgment of the Lucas County Court of Common Pleas, denying

Wilson's motion for relief from judgment under Civ.R. 60(B). For the reasons that follow, the trial court's judgment granting the motion to dismiss is reversed and Wilson's challenge to the denial of her motion for relief from judgment is dismissed as moot.

Statement of the Case and the Facts

{¶ 2} On March 24, 2022, Wilson brought this action "on behalf of herself and a class of similarly situated individuals" against appellee, Directions Credit Union ("Directions"), alleging that Directions breached its contract with its members by charging overdraft fees on checking account transactions for which customers had adequate funds in their accounts at the time the credit union authorized the transactions. Wilson alleged that she herself was wrongfully charged a $27.50 overdraft fee on two occasions in 2019. In addition to seeking damages and restitution for the fees, Wilson sought an order "declaring Defendant's fee policies and practices * * * to be wrongful and unconscionable in light of its contractual promises" and "enjoining Defendant from breaching its Contract."

{¶ 3} On April 21, 2022, counsel for Directions filed an application for automatic extension of time to respond to Wilson's complaint, and on April 25, 2022, the trial court granted the application.

{¶ 4} On May 26, 2022, Directions credited to Wilson's account a total of $495.00. Five days later, Directions filed a motion to dismiss for lack of jurisdiction, arguing that its payment into Wilson's account rendered the case moot. Specifically,

Directions argued that because Wilson had received from Directions "all of the relief she could possibly obtain in a favorable judgment," Wilson was left without a redressable injury and the court was left without any power to adjudicate Wilson's "non-justiciable claims." At the same time, Directions filed a separate motion to dismiss for failure to state a claim upon which relief could be granted under Civ.R. 12(B)(6).

{¶ 5} On July 20, 2022, Wilson filed responses to those motions. In opposition to the motion to dismiss for lack of jurisdiction, Wilson argued that Directions should not be allowed to render a named plaintiff's claims moot by "stuffing money into the named Plaintiff's account before filing its first responsive pleading to the Class Action Complaint." She also argued that her requests for declaratory and injunctive relief continued to present live controversies and were not moot.

{¶ 6} On August 5, 2022, Directions filed replies in support of both of its motions.

{¶ 7} On September 7, 2022, the trial court denied Directions' Civ.R. 12(B)(6) motion on the grounds that Wilson stated a valid claim for breach of contract. The court explained:

> Paragraph 14(c) [of the Membership and Account Agreement] states "Your available balance is your actual balance less:… holds, on debit card or other transactions that have been authorized but are not yet posted…." And in Paragraph 12(a): "We will pay checks or drafts, permit withdrawals, and make transfers from available balance in your account." In Paragraph 14(b):

> The authorization request places a hold on funds in your account when the authorization is completed. The "authorization hold" will reduce your available balance by the amount authorized but will not affect your actual balance.
>
> Plaintiff avers that despite the fact that an 'authorization hold' was placed on her account, Defendant nevertheless charged an overdraft fee at the time the merchant's claim was presented for posting. A fair reading of the aforementioned could lead one to conclude that the 'hold' in fact sequestered funds for the eventual payment of the specific purchase for which the 'hold' was 'authorized.' Paragraph 16 of Plaintiff's complaint avers overdraft fees were charged on authorized and sequestered funds in violation of the Agreement. Plaintiff thus states a claim for breach of contract and Defendant's motion is therefore DENIED on this ground.

{¶ 8} On September 29, 2022, the trial court dismissed Wilson's complaint for lack of a justiciable controversy. Specifically, the trial court held that Wilson, who had received "the full amount of the overdraft fees returned to her account," "has been provided full relief to her claims in the complaint and no longer has an injury in fact." The court additionally noted that there had been no class certification in the case. Although the matter was not argued by the parties, the court also determined that certification "ha[d] not been pursued with reasonable diligence." The court did not

address in its decision Wilson's argument that her claims for declaratory and injunctive relief continued to present live controversies.

{¶ 9} On October 28, 2022, Wilson filed an appeal from the trial court's decision and also filed a motion for relief from judgment under Civ.R. 60(B), arguing that Directions' counsel engaged in misconduct by promising but not providing certain discovery and that such misconduct prevented Wilson from moving for class certification. Directions filed a response to Wilson's motion for relief from judgment, and Wilson filed a reply.

{¶ 10} On February 21, 2023, the trial court denied Wilson's Civ.R. 60(B) motion on the grounds that Wilson did not have a meritorious claim or defense because her claims had been rendered moot. The court further held that "any misconduct alleged by Plaintiff is not of significance to overturn this court's judgment." Noting that no discovery issues had been brought to the trial court's attention during the pendency of the action, the trial court found Wilson's argument that Directions did not properly engage in discovery to be untimely. On March 20, 2023, Wilson timely appealed the trial court's decision.

{¶ 11} This court consolidated the two appeals.

Assignment of Error

{¶ 12} Wilson asserts the following assignments of error on appeal:

I. The Court of Common Pleas erred in dismissing this class action for lack of a justiciable controversy where Ms. Wilson's claims for declaratory and injunctive relief continued to present live controversies because defendant expressly reserved the right to continue charging the challenged fees to Ms. Wilson in the future,

II. The Court of Common Pleas erred in dismissing this class action for lack of a justiciable controversy where the issues presented are capable of repetition yet evading review.

III. The Court of Common Pleas erred in dismissing this class action for lack of a justiciable controversy where Ms. Wilson did not have a reasonable opportunity to move for class certification before Defendant unilaterally put funds into her account purporting to moot her individual claims.

IV. The Court of Common Pleas erred in denying relief from judgment under Civ.R. 60(B) where Defendant failed to provide discovery responses that it promised to Ms. Wilson with the consequence that she could not properly move for class certification before Defendant

unilaterally deposited funds into her account, purporting to moot her individual claims.

Analysis

Directions should not be permitted to "pick off" named plaintiff Wilson.

{¶ 13} We will begin our analysis with Wilson's third assignment of error, wherein she claims that Directions' efforts to pick her off as the named plaintiff in a class action did not render the case moot.

{¶ 14} "[A]n appeal is moot when there is no actual controversy to be resolved by the appeal, which would result in the court issuing a mere advisory opinion on abstract questions." *Hoban v. Natl. City Bank*, 8th Dist. Cuyahoga No. 84321, 2004-Ohio-6115, ¶ 9, citing *Thomas v. Cleveland,* 140 Ohio App.3d 136, 142, 746 N.E.2d 1130 (8th Dist.2000). "However, a court may rule on an otherwise moot case where the issues raised are capable of repetition, yet evading review." *Id.*, citing *State ex rel. Beacon Journal Pub. Co. v. Donaldson* (1992), 63 Ohio St.3d 173, 586 N.E.2d 101.

{¶ 15} With respect to class actions, the named plaintiff must be a member of the class he or she seeks to represent and, in connection with this requirement, must have standing. *Id.* at ¶ 10, citing *Woods v. Oak Hill Community Med. Ctr.*, 134 Ohio App.3d 261, 730 N.E.2d 1037 (4th Dist.1999), citing *Hamilton v. Ohio Sav. Bank*, 82 Ohio St.3d 67, 70, 694 N.E.2d 442 (1998). To have standing, the party must allege a personal stake in the outcome of the controversy. *Oak Hill* at 268-269. "Standing is evaluated at the

time suit is filed." *Milwaukee Police Ass'n v. Board of Fire & Police Com'rs of City of Milwaukee,* 708 F.3d 921, 928 (7th Cir.2013). "'[W]hen a party with standing at the inception of the litigation loses it due to intervening events, the inquiry is * * * one of mootness." *Id.*, citing *Parvati Corp. v. City of Oak Forest,* 630 F.3d 512, 516 (7th Cir.2010).

{¶ 16} It is well established that "settlement of a plaintiff's claims moots an action." *See Lusardi v. Xerox Corp.*, 975 F.2d 964 (3d Cir. 1992). Once a class has been certified, the mooting of the class representative's claims does not moot the entire action, because, at that point, the class has "'acquired a legal status separate from the interest asserted by the [named representative].'" *Oak Hill* at 272, quoting *Sosna v. Iowa*, 419 U.S. 393, 399, 95 S.Ct. 553, 42 L.Ed.2d 532 (1975). However, a "troubling situation arises" where a named plaintiff's claims become moot *before* the trial court rules on a certification motion. "In that instance, the concern is that the defendant could 'pick off' a named plaintiff's claims before class certification in an attempt to have the class action dismissed as moot. As a practical matter, allowing the class action to be mooted would prevent the class from ever becoming certified." *Id.* at 272. Courts have recognized that such a defense strategy "'could prevent the courts from ever reaching the class action issues, [leaving class certification] at the mercy of a defendant, even in cases where a class action would be most clearly appropriate.'" *Id.*, quoting *Susman v. Lincoln Am. Corp.*, 587 F.2d 866 (7th Cir. 1978), *certiorari denied,* 445 U.S. 942, 100 S.Ct. 1336, 63

L.Ed.2d 775 (1980). "Thus, in situations where a pending motion for class certification is pursued with reasonable diligence, the class action will not be mooted by a defendant's efforts to 'pick off' claims of the named plaintiffs by tendering the relief sought." *Oak Hill* at 272, citing *Susman.*

{¶ 17} The United States Supreme Court in *Deposit Guaranty Nat. Bank, Jackson, Miss. v. Roper*, 445 U.S. 326, 100 S.Ct. 1166, 63 L.Ed.2d 427 (1980), likewise found:

> To deny the right to appeal simply because the defendant has sought to 'buy off' the individual private claims of the named plaintiffs would be contrary to sound judicial administration. Requiring multiple plaintiffs to bring separate actions, which effectively could be 'picked off' by a defendant's tender of judgment before an affirmative ruling on class certification could be obtained, obviously would frustrate the objectives of class actions; moreover it would invite waste of judicial resources by stimulating successive suits brought by others claiming aggrievement. It would be in the interests of a class-action defendant to forestall any appeal of denial of class certification if that could be accomplished by tendering the individual damages claimed by the named plaintiffs.

Id. at 339.

{¶ 18} In *Hoban,* the Eighth District court of appeals concluded that these principles were properly applied, and mootness claims were properly rejected, not just

where a plaintiff has filed a motion for certification, but also where the named plaintiff "did not have an opportunity to file a motion to certify the class prior to the defendant's tender of settlement to the named plaintiff." *Hoban* at ¶ 21-22, citing *Weiss v. Regal Collections*, 385 F.3d 337 (3d Cir.2004) (proposed class action was erroneously dismissed as moot, even though the named plaintiff did not move for class certification prior to defendant's offer of judgment, where the defendant made offer of judgment less than two months after the complaint was filed and well before plaintiff had a reasonable opportunity to file such motion); *White v. OSI Collection Services, Inc.*, No. 01-CV-1343, 2001 WL 1590518 (E.D.N.Y. Nov. 5, 2001) (mootness doctrine not applied where defendant made an offer of judgment to plaintiff one day after defendant answered in strategic tender of an offer of judgment with the specific purpose of mooting plaintiff's claim prior to class certification); *Schaake v. Risk Management Alternatives, Inc.*, 203 F.R.D. 108, 111 (S.D.N.Y. 1996) (defendant's motion to dismiss a proposed class action as moot following defendant's Rule 68 offer of judgment was denied where the offer was made 32 days after complaint was filed, well before plaintiff could be reasonably expected to file its class certification motion); *Liles v. American Corrective Counseling Services, Inc.*, 201 F.R.D. 452, 2001 WL 769591 (July 2, 2001) (ruling on motion to dismiss proposed class action as moot was not dependent upon whether or not class certification had been filed; "it would encourage a 'race to pay off' named plaintiffs very early in litigation, before they file motions for class certification.) The *Hoban* court

concluded that the plaintiff in that case did not have a reasonable opportunity to file a motion for certification where the defendant had filed a motion to stay class wide discovery and where the defendant filed a motion for summary judgment when the case had been pending for less than three months. *Id.* at ¶ 23.

{¶ 19} Here, where Directions filed its motion to dismiss prior to filing its answer and less than two months after Wilson's complaint was filed, we find that Wilson did not have a reasonable opportunity to file a motion for certification and, further, the class action is not mooted by Directions' clear attempt to 'pick off' Wilson's claim by reimbursing her overdraft fees.

Unilateral transfer of funds into Wilson's account did not render her claims moot.

{¶ 20} Even if Wilson were found not to have pursued class certification with reasonable diligence, precluding an argument that Wilson was "picked off," the question remains whether Directions' unilateral transfer of funds into her account rendered her claims moot. We find that it did not.

{¶ 21} In *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153, 165-166, 136 S.Ct. 663, 193 L.Ed.2d 571 (2016), the United States Supreme Court held that "an unaccepted settlement offer or offer of judgment does not moot a plaintiff's case * * * .") *Id.* at 165. In reaching this conclusion, the court relied on "basic principles of contract law" and adopted the following reasoning:

> 'When a plaintiff rejects such an offer – however good the terms – her interest in the lawsuit remains just what it was before. And so too does the court's ability to grant her relief. An unaccepted settlement offer – like any unaccepted contract offer – is a legal nullity, with no operative effect. As every first-year law student learns, the recipient's rejection of an offer "leaves the matter as if no offer had ever been made. * * * So assuming the case was live before – because the plaintiff had a stake and the court could grant relief – the litigation carries on, unmooted."'

Id. at 162, citing *Genesis HealthCare Corp. v. Symczyk*, 569 U.S. 66, 81, 133 S.Ct. 1523, 185 L.Ed.2d 636 (2013) (Kagan, J., dissenting), quoting *Minneapolis & St. Louis Ry. v. Columbus Rolling Mill,* 119 U.S. 149, 151, 7 S.Ct. 168, 30 L.Ed. 376 (1886). In that case, the court expressly declined to decide whether "the result 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." *Id.* at 165-166.

{¶ 22} In *Williams v. Lakeview Loan Servicing LLC*, --- F.Supp.3d---, 2023 WL 6282829 (S.D. Texas, Houston Div., Sept. 26, 2023), the directly addressed the issue that the Supreme Court refused to decide. In *Williams,* as in the one at hand, the plaintiff received value from the defendant when it "refunded" certain fees, but the plaintiff "played no role in and had no agency over a decision to accept that value in satisfaction

of her claims." *Id.* at *6. Specifically, the defendant "unilaterally applied the refund to [the plaintiff's] mortgage account; without making a settlement offer to counsel; without providing [the plaintiff] a meaningful opportunity to accept or reject the offer before [the defendant] applied the credit to her mortgage account; and without offering [the plaintiff] the choice to receive the funds in any form other than as a credit to her mortgage balance." *Id.* Based on these facts, the court concluded that while the plaintiff "may not have been left 'emptyhanded' * * * she certainly had no control over whether to accept the payment and moot her claims. Despite [the defendant's] vehement assertions to the contrary, controlling precedent does not dictate that a defendant's unilateral decision to deposit funds into an account belonging to the plaintiff successfully moots the plaintiff's claim and deprives the federal court of subject matter jurisdiction." *Id.*

{¶ 23} The *Williams* analysis comports with Ohio law, which provides that "[a] settlement agreement is a contract designed to terminate a claim by preventing or ending litigation." *Brewer v. Brewer*, 2019-Ohio-4674, 149 N.E.3d 178, ¶ 24 (8th Dist.), citing *Infinite Sec. Solutions, L.L.C. v. Karam Properties II, Ltd.*, 143 Ohio St.3d 346, 2015-Ohio-1101, 37 N.E.3d 1211, ¶ 16. "A settlement agreement, like any other contract, requires an offer, acceptance, consideration, and mutual assent between two or mor parties with the legal capacity to act." *Id.* at ¶ 25, citing *Kostelnik v. Helper*, 96 Ohio St.3d 1, 2002-Ohio-2985, 770 N.E.2d 58, ¶ 16; *Rulli v. Fan Co.*, 79 Ohio St.3d 374, 376, 683 N.E.2d 337 (1997).

{¶ 24} In this case, Wilson kept the money that was deposited into her account, but she did not expressly agree to its return. There was no negotiated agreement, and no explanation of the possible consequences of accepting. As with the plaintiff in *Williams*, Wilson received value from Directions when it "refunded" the overdraft fees, but she played no role in and had no agency over a decision to accept that value in satisfaction of her claims. Directions, in unilaterally depositing the money without notice to Wilson's counsel, bypassed not just Wilson's consideration and express assent, but also that of her attorney. In sum, nothing in this case indicates that Wilson consummated a knowing and voluntary settlement of her claim. Where, as here, a class plaintiff has not voluntarily relinquished her standing, by settlement or otherwise, it is "appropriate that the class action process should be able to 'play out' * * * and [the court] should permit due deliberation by the parties and the court on the class certification issues." *See Weiss v. Regal Collections*, 385 F.3d 337, 347-349 (3d Cir. 2004). Wilson's third assignment of error is found well-taken.

Capable of repetition yet evading review.

{¶ 25} Wilson argues in her second assignment of error that the case is not moot, because the issues it presents are "capable of repetition, yet evading review." Under Ohio law, "a court may rule on otherwise moot questions that are * * * 'capable of repetition, yet evade review.'" *Ottawa Cty. Bd. of Commrs. v. Seckler*, 122 Ohio App.3d 617, 619-620, 702 N.E.2d 495 (6th Dist.1997), citing *State ex rel. Plain Dealer*

Publishing Co. v. Barnes, 38 Ohio St.3d 165, 527 N.E.2d 807, paragraph one of the syllabus. "An issue is capable of repetition yet evading review if the challenged action is too short in duration to be fully litigated prior to its cessation and there is a reasonable expectation that the parties will be subject to the same action again." *State ex rel. Casanova v. Lutz*, 171 Ohio St.3d 319, 320, 2023-Ohio-1225, 217 N.E.3d 781.

{¶ 26} Like Wilson, the plaintiff in *Hoban*, 8th Dist. Cuyahoga No. 84321, 2004-Ohio-6115, challenged the assessment of fees on her account and sought to bring a class action. *Id.* at ¶ 2-3. Also like Wilson, the plaintiff in *Hoban* was refunded the challenged fee after she filed a lawsuit. *Id.* at ¶ 4. In that case, the court concluded that "notwithstanding [the defendant's] reversal of posted charges and blanket assertion that plaintiff would not be responsible for other charges which may be posted in the future, there are serious questions as to whether this dispute is capable of repetition but evading review." *Id.* at ¶23.

{¶ 27} Here, the issue of the lawfulness of Directions' fees under its contract is capable of recurring because Directions has uniform fee practices and the same contractual agreements with all of its customers. In addition, Directions has stated an intent to continue to charge the same fees to Wilson in the future. Because Wilson's dispute with Directions is capable of repetition, the trial court should not have dismissed the case as moot. Accordingly, Wilson's second assignment of error is found well-taken.

{¶ 28} In light of our determination as to Wilson's second and third assignments of error, we decline to address her first and fourth assignments of error -- involving claims for declaratory and injunctive relief and the trial court's denial of relief from judgment, respectively -- as they have been rendered moot.

Conclusion

{¶ 29} The judgment of the Lucas County Court of Common Pleas granting the motion to dismiss is reversed, and Wilson's challenge to the denial of her motion for relief from judgment is dismissed as moot. This case is remanded for further proceedings consistent with this opinion. Appellee is to pay the costs of appeal pursuant to App.R. 24.

Judgment reversed,
and remanded.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Myron C. Duhart, J. _____
JUDGE

Charles E. Sulek, P.J.
CONCUR. _____
JUDGE

Christine E. Mayle, J. _____
CONCURS AND WRITES JUDGE
SEPARATELY.

MAYLE, J.

{¶ 30} I concur in the majority decision, but I write separately to briefly address Wilson's first assignment of error because it provides an additional basis for reversing the trial court judgment.

{¶ 31} In her first assignment of error, Wilson argues that her claims for declaratory judgment and injunctive relief continued to present a live controversy even after Directions deposited funds into her account purporting to satisfy her claim for damages. She insists that Directions violates its written agreement with its members by imposing the complained-of overdraft fees, and she emphasizes that Directions has expressly communicated its intent to *continue* charging such fees. As such, Wilson maintains that declaratory judgment and injunctive relief are still needed to prevent Directions' continued breach of contract and imposition of unlawful fees.

{¶ 32} Directions responds that it "delivered all that Wilson could be awarded." It claims that there is nothing left for the court to restrain or enjoin because Wilson has been fully reimbursed "and fully apprised of her future contractual obligations." It contends that Wilson now has a reasonable understanding of how the fees are assessed, she now knows how to avoid future fees, and the imposition of any future fees "would constitute a self-imposed injury," which would not confer standing for a new claim. In other words, Directions has by no means conceded that its imposition of overdraft fees violates the

agreement, nor does it intend to cease imposing such fees; rather, it places the burden on Wilson to adjust her use of her debit card to avoid future fees.

{¶ 33} In taking this position, Directions mischaracterizes Wilson's claims and ignores the breadth of the relief she seeks here. Wilson does not claim only that she did not understand how fees were incurred under the agreement—she claims that the imposition of the fees *violates* the agreement. She seeks damages for the breach, but she also seeks a declaration that Directions violated the agreement and an injunction prohibiting it from doing so in the future. In its judgment denying Directions' Civ.R. 12(B)(6) motion, the trial court concluded that Wilson's complaint, in fact, stated a claim for breach of contract. If the court were to ultimately find that Directions breached the agreement, Wilson could be entitled to monetary compensation *and* declaratory judgment and injunctive relief. *See* R.C. 2721.04 ("[A] contract may be construed by a declaratory judgment or decree either before or after there has been a breach of the contract."); R.C. 2721.09 ("[W]henever necessary or proper, a court of record may grant further relief based on a declaratory judgment or decree previously granted under this chapter * * *.").

{¶ 34} In *Williams v. Lakeview Loan Servicing LLC,* --F.Supp.3d --, 2023 WL 6282829, *6 (S.D. Texas), the defendants *voluntarily* ceased charging and collecting challenged fees for a time, but declined to stipulate that it would not resume charging the fees. Despite the voluntary cessation, the federal court found that the defendants had not shown that their allegedly wrongful behavior could not reasonably be expected to recur

and determined that it still had power to consider the legality of charging the challenged fees. In fact, courts recognize that even "a defendant claiming that its voluntary compliance moots a case bears the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur." *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 190, 120 S.Ct. 693, 145 L.Ed.2d 610 (2000). To that end, in *Ohio Academy of Nursing Homes, Inc. v. Barry*, 10th Dist. Franklin No. 92AP-1266, 1993 WL 186656, *3 (May 25, 1993), *aff'd,* 71 Ohio St.3d 5, 640 N.E.2d 1139 (1994), the Tenth District recognized that a defendant's voluntary compliance may render an action for declaratory or injunctive relief moot only "if the defendant demonstrates that * * * there is no reasonable expectation that the wrong will be repeated." (Internal quotations and citations omitted.) Consistent with *Friends of the Earth*, it also recognized that this is a heavy burden. Where a defendant fails to present evidence that the wrong will not be repeated, a real controversy continues to exist. *Barry* at *id.*

{¶ 35} Here, of course, Directions has not admitted that its challenged practices violate its contract with Wilson and has not agreed to discontinue the practices. Rather, it has expressed its intention to continue imposing the challenged fees and purports to shift the burden to Wilson to alter her own conduct to avoid future harm. In other words, unless a court interprets the agreement in Wilson's favor and enjoins Directions from applying the terms in a manner inconsistent with the court's interpretation, Directions is

free to—and will—continue to impose the challenged fees. As such, contrary to Directions' assertions, Wilson has not received "all that she asks for," and it is not true that "no order could be made by [the] court that would give her more than she already has * * *." Simply stated, she did not receive complete relief when Directions unilaterally deposited funds into her account. I would, therefore, find that Wilson's claims for declaratory judgment and injunctive relief remain live and provide another reason why this action is not moot.