

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ANTHONY SCOTT, et al.,

Plaintiff,

:

Case No. 3:09-cv-147

-vs-

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

:

THOMAS AND KING, INC., etc.,

Defendant.

PARTIAL DISMISSAL ORDER

This case is before the Court on Plaintiffs’ Motion to Dismiss the Complaint as to Plaintiffs Kianna Abrams, Tanela Darby, Frank Hearn, Jeff January, Aaron Scott, and Ricky Stinnett without prejudice (Doc. No. 68).

In the Decision and Order on Defendant’s Motion to Compel (Doc. No. 67), the Court indicated it would dismiss these Plaintiffs upon motion to that effect by May 23, 2010, “on condition that, if they re-file their lawsuit, they pay Defendant’s expenses for preparing for their depositions contemporaneously with any such re-filing.” *Id.* at PageID 2055. Accordingly, the Motion to Dismiss is granted and the claims of these Plaintiffs are dismissed without prejudice, pursuant to Fed. R. Civ. P. 41(a)(2), on condition that, if any of these Plaintiffs re-files the claims made herein, he or she shall at the time of re-filing, reimburse Defendant for the expenses of preparing for his or her deposition in this case. Defendant was directed to file a statement of those expenses by May 23, 2010 (extended to May 24, 2010, by Fed. R. Civ. P. 6), but failed to do so. Any calculation of expenses will this awaited any re-filing.

May 25, 2010.

s/ **Michael R. Merz**
United States Magistrate Judge