

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

Brittany N. Clark, et al.,

Plaintiffs,

v.

**Case No. 3:17-cv-074
Judge Thomas M. Rose**

Cherryhill Management, Inc., et al.,

Defendants.

**ENTRY AND ORDER DENYING MOTION TO DISMISS AS
FRIVOLOUS, ECF 6, AND AWARDING ATTORNEY FEES.**

Pending before the Court is a Motion to Dismiss Case as Frivolous filed by Defendants Cherryhill Management, Inc., Judith V. Negrete, and Michael J. Walsh. (ECF 6). Therein, Defendants request that this Court either dismiss Plaintiffs' Brittany N. Clark and Robert Sammons complaint and sanction them for frivolity. Plaintiffs' response requests that the Court deny the motion and sanction Defendants for a frivolous assertion of frivolity. Because Plaintiffs' complaint states a claim, it will not be dismissed. Because Defendants' assertion of frivolity is frivolous, Plaintiffs' request for sanctions will be granted.

I. Background

Plaintiffs Brittany Clark and Robert Sammons are two former employees of Defendant Cherryhill Management Inc. who were fired under allegedly similar circumstances. Both were approved for intermittent FMLA leave. (Complaint ¶¶14, 22). Cherryhill terminated Sammons