

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HERBERT R FOSTER,
Plaintiff(s),
v.
ROBERT ALBRIGHT,
Defendant(s).

No. C-12-01087 (DMR)

**ORDER DISMISSING CASE AND
DENYING REQUEST FOR REFUND OF
FILING FEE**

Plaintiffs, proceeding *pro se*, filed this action on March 5, 2012. [Docket No. 1.] On April 16, 2012, having not yet served Defendant, they filed a voluntary dismissal and moved for a refund of the \$350.00 filing fee. [Docket No. 3.] Pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, Plaintiffs' filing automatically dismisses the action without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(A).

Turning to their motion, Plaintiffs made the decision to file and prosecute this case and pay the mandatory filing fee on their own accord. They have not cited, and the court has not found, any authority permitting, let alone requiring, the Court to refund their filing fee now that they have decided to dismiss the case. Accordingly, Plaintiff's request to return the filing fee is denied. *See Carter v. Dawson*, No. 07-cv-1325, 2010 WL 4603335, at *2 (E.D. Cal. Nov. 1, 2010).

IT IS SO ORDERED.

Dated: April 26, 2012

