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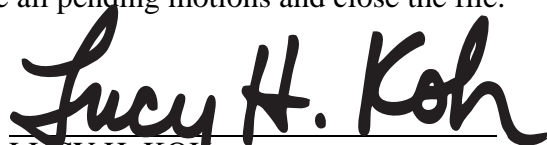
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DONALD ERVING,)	No. C 12-0721 LHK (PR)
)	
Plaintiff,)	ORDER OF DISMISSAL
)	
v.)	
)	
RANDY GROUNDS (Warden))	
)	
Defendant.)	
)	

On February 14, 2012, Plaintiff, a California prisoner, proceeding *pro se*, filed a motion for preliminary injunction which commenced this action. The same day, the Clerk notified Plaintiff that he had not paid the filing fee, nor had he filed an application to proceed *in forma pauperis* (“IFP”). On March 22, 2012, Plaintiff returned the Clerk’s deficiency notice indicating that he wished to voluntarily dismiss the action. Plaintiff may voluntarily dismiss if he files his notice before the opposing party serves either an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1)(A)(i); *U.S. v. Real Property*, 545 F.3d 1134, 1145-46 (9th Cir. 2008) (noting that a plaintiff has an “absolute right” to dismiss his action “without prejudice” only before defendant serves an answer). Accordingly, this action is DISMISSED without prejudice. The Clerk shall terminate all pending motions and close the file.

IT IS SO ORDERED.

DATED: 4/9/12


LUCY H. KOH
United States District Judge