

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BYRON FLEMING and VICKI FLEMING,

Plaintiffs,

v.

AMERICAN HOME MORTGAGE
SERVICING, INC.,

Defendant.

Case No. 09-cv-348-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the Notice of Dismissal (Doc. 13) without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) filed by plaintiffs Byron Fleming and Vicki Fleming. Rule 41(a)(1)(A)(i) allows dismissal of an action by a plaintiff without a court order at any time before service by an adverse party of an answer or of a motion for summary judgment, whichever first occurs. The defendant has not filed an answer or motion for summary judgment in this case. Because the plaintiffs have an absolute right to dismiss this case at the present time, the Court finds that this action is **DISMISSED without prejudice** and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.**DATED: June 30, 2009**s/ J. Phil Gilbert**J. PHIL GILBERT
DISTRICT JUDGE**