

VOLUNTARY DISMISSAL OF A DEFENDANT OR THE CASE

This template was prepared by the Justice & Diversity Center, a nonprofit organization, and is not an official court form. It can be used in civil lawsuits in the Northern District Court of California. This template provides guidance only. Using this template does not guarantee any result.

★ HOW TO GET LEGAL INFORMATION & ADVICE

This template provides general guidance for voluntarily dismissing a defendant or your entire case. Before filing or serving this document, make an appointment for free legal information and advice at one of the Legal Help Centers.

APPOINTMENTS – Based on the courthouse where complaint was filed

- ✪ SAN FRANCISCO, OAKLAND, OR EUREKA-MCKINLEYVILLE
Federal Pro Bono Project | fedpro@sfbbar.org | (415) 782-8982
NOTE: Contact for scheduling only – no legal advice is given when scheduling.
- ✪ SAN JOSE
Federal Pro Se Program | (408) 297-1480
Drop-in hours Tuesday and Thursday from 9:00 a.m. to 4:00 p.m.
280 South 1st Street, 2nd Floor, Room 2070, San Jose

★ UNDERSTANDING LAWS & RULES

The Legal Help Centers (see above) are the best resource for people without lawyers. There are other resources for understanding the laws and rules of the Court:

1. **Handbook for Pro Se Litigants** – The Handbook is a procedural guide for people who are representing themselves. It was prepared by the Court and is available at the Clerk’s Office or on the Court’s website at: <https://www.cand.uscourts.gov/pro-se-handbook/>.
2. **Legal Research Guide for Pro Se Litigants** – The Guide provides information for people who are representing themselves about how to do legal research, like finding statutes and decisions in other cases. It was prepared by the Justice & Diversity Center and is available at the Legal Help Centers and at: <https://www.cand.uscourts.gov/pro-se-litigants/legal-help-center-templates-packets/>.
3. **Federal Rules of Civil Procedure** – These Rules explain the procedures from filing through trial for all civil cases in the federal courts across the country, and are available at: <https://www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf>.
4. **Civil Local Rules** – The Civil Local Rules follow the same numbering as the Federal Rules of Civil Procedure, but generally provide more detail. They apply in this District only, and are available at: <https://www.cand.uscourts.gov/rules/civil-local-rules/>.

★ WHEN YOU MAY FILE A NOTICE OF VOLUNTARY DISMISSAL

Generally, a plaintiff has a right to file a Notice of Voluntary Dismissal at any time before the defendant serves either an answer or a motion for summary judgment. If the defendant you want to dismiss from the case has filed an answer or motion for summary judgment, you cannot use this form. Make an appointment with the Legal Help Center (above).

★ WILL YOU BE ABLE TO RE-FILE AFTER DISMISSING?

This Notice states that the dismissal will be “without prejudice,” which generally means that you are allowed sue again on the same claim if the time to do so (the statute of limitations) has not passed. But if this is the **second time** that you have attempted to sue on this claim (in state or in federal court), filing this Notice will be considered a dismissal “with prejudice,” regardless of the language included in the form. “With prejudice” means you cannot file another lawsuit based on this claim. If you think you may want to re-file the case later, make an appointment at the Legal Help Center before dismissing your lawsuit.

★ HOW TO COMPLETE THE VOLUNTARY DISMISSAL TEMPLATE

1. **Fill in the case information** – On the top of the first page, write your name, address, and check the box for the division to which your case has been assigned. Write in the plaintiff’s and defendant’s names in the middle of the page. Then, write in the case number and the judge’s name.
2. **Review and sign your Dismissal** – Read your Notice of Voluntary Dismissal to make sure it is complete and correct and to confirm that all the blanks are filled in. Sign and date the Notice.
3. **Prepare the Certificate of Service** – Each document that you file must be “served” on each other party, usually by sending it in the mail. A Certificate of Service is a paper that lets the Court know that you served a certain document. To prepare the Certificate, follow the instructions on it. If all parties (including you) are registered ECF filers, you do not need to prepare or file a Certificate of Service.

★ FILING & SERVING YOUR NOTICE OF VOLUNTARY DISMISSAL

1. **Copies** – Make three copies. Once you have completed and signed your Notice of Voluntary Dismissal and Certificate (if needed), make three copies of each. On one copy of the documents, write “Chambers” on the top in pen. (If there is more than one plaintiff or defendant, you will also need one additional copy for each of them.) ECF users do not need to include a chambers copy. See Civil Local Rule 5-1(d)(7).
2. **Serve the Notice** – Be sure that the Notice and Certificate are served on each other party. If you are filing electronically, your document is considered served when filed. See Civil Local Rule 5-1(h)(1).
3. **File the Notice** – Deliver or mail the original plus two copies of the Notice and Certificate to the Clerk’s Office at the federal courthouse where the Judge hearing your case is located. The Clerk will take the original and the copy marked “Chambers” of each document. The other copy is for you to keep after it is stamped by the Clerk.

- a. **File by mail** – If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy of each document back to you.
- b. **File electronically** – If you are an electronic filer, follow the instructions for electronic filing, which can be found here: <https://www.cand.uscourts.gov/cases-e-filing/cm-ecf/>.
- c. **Register to become an e-filer** – The registration information to become an e-filer can be found here: <https://www.cand.uscourts.gov/cases-e-filing/cm-ecf/setting-up-my-account/e-filing-self-registration-instructions-for-pro-se-litigants/>.

★ WHAT'S NEXT?

Your case will continue if you dismiss only certain defendants and not your entire case. Continue to follow all Court Orders and deadlines.

★ STAY UP TO DATE

1. **Communications** – Check your mail and tell the Court if you move. You must file a notice with the Clerk right away if your mailing address, email, or phone number changes or you may miss important deadlines, causing you to lose your case.
2. **Tracking** – Keep track of your case. A list of the documents that have been filed, and (usually) the documents themselves can be viewed online. Review the Pro Se Handbook Chapter 7 and contact the Legal Help Center to learn to access documents.
3. **Guidance** – Visit the Legal Help Center for more information about what happens next.

1 Your Name: _____
2 Address: _____
3 _____
4 Phone Number: _____
5 Email Address: _____

6 Pro Se

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9 Division [check one]: San Francisco Oakland San Jose Eureka-McKinleyville

11 _____
12 _____
13 Plaintiff,
14 v.
15 _____
16 _____
17 _____
18 Defendant.

Case No. _____

NOTICE OF VOLUNTARY DISMISSAL OF

[check one]

- THIS ENTIRE CASE**
- ONLY DEFENDANT** [name]

Judge: Hon. _____

20 TO THE HONORABLE COURT, ALL PARTIES AND COUNSEL: I am the Plaintiff in this matter and
21 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), I voluntarily dismiss:

- 22 This entire case.
- 23 Only Defendant [name] _____.

24 Such dismissal shall be without prejudice, with each side to bear its own costs and fees.

26 Date: _____ Signature: _____
27 Print Name: _____

1 **CERTIFICATE OF SERVICE OF DOCUMENT OTHER THAN COMPLAINT**

2 Unless all parties to the case, including you, are electronic filers, you must serve each document you file by
3 sending or delivering it to the opposing side. Complete this form and include it with the document that you
4 file and serve.

5 1. **Case Name:** _____ v. _____

6 2. **Case Number:** _____

7 3. **What documents were served?** Write the full name or title of the document(s)
8 _____
9 _____

10 4. **How was the document served?** Check one:

- 11 Placed in U.S. Mail
- 12 Hand-delivered
- 13 Sent for delivery (e.g., FedEx, UPS)
- 14 Sent via email [if the other party has agreed to accept service by email]

15 5. **Who did you send the document to?** Write the full name and contact information for each person you
16 sent the document.

17 _____

18 _____

19 _____

20 _____

21 6. **When were the documents sent?** _____

22 7. **Who served the documents?** Whoever puts it into the mail, emails, delivers, or sends for delivery
23 should sign, and print their name and address. You can do this yourself.

24 I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

25 Signature: _____

26 Name: _____

27 Address: _____

28 _____