

Instructions: 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 certain civil lawsuits in the Northern District Court of California. *This template provides guidance only. Using this template does not guarantee any result in your case.*



HOW TO GET LEGAL INFORMATION AND ADVICE

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



If the case is assigned to a judge in the San Francisco, Oakland, or Eureka federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Bono Project: 415-782-8982



Sign up in the appointment book at either:

450 Golden Gate Ave., 15th Floor, Room 2796, San Francisco or
1301 Clay Street, 4th Floor, Room 470S, Oakland



Email us at federalprobonoproject@sfbbar.org

This email is to schedule appointments only-no legal advice is given over email.



If the case is assigned to a judge in the San Jose federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Se Program: 408-297-1480



Monday to Thursday 9:00 am - 12:00 pm, drop in at

The Law Foundation of Silicon Valley, 152 North 3rd St., 3rd Floor, San Jose

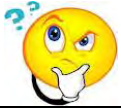
Monday to Thursday 1:00 pm - 4:00 pm, drop in at

280 South 1st Street, 2nd Floor, Room 2070, San Jose



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 ALLOWED TO RE-FILE AFTER DISMISSING?

This Notice states that the dismissal will be “without prejudice,” which generally means that you may sue again on the same claim, if the time to do so has not passed (if 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 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 suit 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 THIS NOTICE OF VOLUNTARY DISMISSAL TEMPLATE

- Fill in the case information.** Fill in all blanks on the first page.
- Review and sign.** Read the entire document to make sure it is clear and complete. Sign and date.
- Prepare the Certificate of Service.** Each document that you file must be “served” on each other party, usually by sending it in the mail. Follow the instructions on the Certificate of Service.
- If you are dismissing only certain defendants, follow all Orders and deadlines.** The case will continue if you dismiss only certain defendants. Continue to follow all Court Orders and deadlines.



FILING AND SERVING YOUR NOTICE OF VOLUNTARY DISMISSAL

1. **Make copies.** Once you the documents are complete, 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 copy for each of them.)
2. **File the Notice.** Deliver or mail the *original plus two copies* of the Notice and Certificate to the Clerk’s Office at the courthouse where the Judge for your case is located. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so the Clerk can send your copy back.
3. **Serve the Notice.** Be sure the Notice and Certificate are served on each party.

1 Your name: _____
2 Address: _____
3 _____
4 Phone Number: _____
5 E-mail Address: _____

6 Pro se Plaintiff

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 Division [check one]: San Francisco Oakland San Jose Eureka

11
12 _____) Case Number: _____
13 _____) **NOTICE OF VOLUNTARY DISMISSAL OF**
14 Plaintiff,) [check one]
15 vs.) **THIS ENTIRE CASE**
16 _____) **ONLY DEFENDANT** [name]
17 _____) _____
18 _____)
19 Defendant.) Hon. _____
20 _____)

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

23 this entire case.
24 only Defendant [name] _____.

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

26 Date: _____ Sign Name: _____
27 Print Name: _____
28

CERTIFICATE OF SERVICE OF DOCUMENT OTHER THAN COMPLAINT

** You must serve each document you file by sending or delivering to the opposing side. Complete this form, and include it with the document that you file and serve.**

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

2. **Case Number:** _____

3. **What documents were served?**

Notice of Voluntary Dismissal

4. **How was the document served?** *[check one]*

Placed in U.S. Mail

Hand-delivered

Sent for delivery (e.g., FedEx, UPS)

Sent by fax (if the other party has agreed to accept service by fax)

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

_____	_____
_____	_____
_____	_____
_____	_____

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

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

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

Signature: _____

Name: _____

Address: _____
