

Instructions for the Plaintiff's/Petitioner's Notice of Voluntary Dismissal Form, Proposed Order Form, and Declaration of Service by Mail Form

The Plaintiff/Petitioner, the self-represented individual who started the civil action, may ask the District Court Judge or Judicial Referee to dismiss their case **if all of the following are true:**

1. You're the Plaintiff/Petitioner, the self-represented individual who started the civil action;
2. You don't want to go forward with the civil action anymore; **and**
3. The people you listed as Defendants/Respondents in your case **haven't done any of the following:**
 - Served an answer; **or**
 - Served a motion for summary judgment.

If any Defendant/Respondent in your civil action has already served an answer or a motion for summary judgment, you can't use these forms.

Review [Rule 41 of the North Dakota Rules of Civil Procedure](#).

Step 1: Fill Out the Notice of Voluntary Dismissal Form

Important! When a case is dismissed **without** prejudice, the case **may** be brought again at a later date. A case dismissed **with** prejudice **can't** be brought again.

Top of Form (Caption): Fill in the county, civil case number, and names of the parties **exactly** as they appear on your civil action summons and complaint.

Paragraph 1: Fill in your full legal name.

Paragraph 2: Read carefully.

Paragraph 3: Read carefully. All of the statements **must be true** for each Defendant/Respondent in your civil action.

Date and Signature: Complete the date and signature block.

- Fill in the date you sign this document.
- Sign the signature line.
- Fill in the address, telephone number, and email address. If you have a physical address **and** a mailing address, type or write both addresses using the line provided, and the space below the address line.

Step 2: Fill Out the Proposed Order to Dismiss Form

Top of Form (Caption): Fill in the county, civil case number, and names of the parties **exactly** as they appear on your civil action summons and complaint.

Don't date or sign this document. If the Judge or Judicial Referee decides to dismiss your civil action without prejudice, the Judge or Judicial Referee also decides whether to use your proposed order.

Step 3: Serve Copies of Your Completed Notice of Voluntary Dismissal Form and Completed Proposed Order to Dismiss Form

Make at least two copies of your **completed** Notice of Voluntary Dismissal form and your **completed** Proposed Order to Dismiss form. Keep one copy for your records. You serve the other copy or copies on the Defendant(s)/Respondent(s). You file the originals with the Clerk of Court in Step 4.

Serve the following on each Defendant/Respondent by mail:

- A copy of your completed Notice of Voluntary Dismissal form.
- A copy of your completed Proposed Order to Dismiss.

The person who mailed the envelope(s) fills out the Declaration of Service by Mail Form:

- **Top of Form (Caption):** Fill in **exactly** as it appears in your completed Notice of Voluntary Dismissal form.
- **Name & Mailing Date:** Fill in the full, legal name of the person who mailed the documents. The person may be you, the Plaintiff/Petitioner, as long as you're at least 18 years old. Fill in the date the copies of the documents were mailed.
- **Address Block:** Fill in the full, legal name of the Defendant(s)/Respondent(s). Fill in the address(es) where the copies of the documents were mailed.
- **City/State:** Fill in the city and state from which you mailed the copies of the documents.
- **Date and Signature:** Fill in the date the Declaration was signed and the city, county, state, and country where the Declaration was signed. The person who mailed copies of the document signs the form and completes the lines below their signature.

Service is complete upon mailing.

Step 4: File the Originals of Your Notice of Voluntary Dismissal Form, Proposed Order to Dismiss Form, and the Declaration of Service by Mail Form with the Clerk of Court

File your **original**, completed Notice of Voluntary Dismissal form, Proposed Order to Dismiss, **and** the Declaration of Service by Mail Form with the Clerk of Court.

File with the Clerk of Court in same County where you filed your civil action summons and complaint.

Step 5: The Judge or Judicial Referee Assigned to Your Civil action Reviews Your Notice of Voluntary Dismissal Form

The Judge or Judicial Referee assigned to your civil action reviews your original, completed Notice of Voluntary Dismissal form. If the Judge or Judicial Referee decides to use your proposed order as their own, they sign and date the order.

You receive a signed copy of the order telling you whether the Judge or Judicial Referee dismissed your civil action. Usually, the order is mailed to you.

If the Judge or Judicial Referee dismisses your civil action **without prejudice**, the case **may** be brought again at a later date.

If the Judge or Judicial Referee dismisses your civil action **with prejudice**, the case **can't** be brought again.

If the Judge or Judicial Referee **doesn't dismiss** your civil action, the case continues.

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff/Petitioner,

vs

Defendant/Respondent.

)
)
)
)
)
)
)

Case No. _____

Notice of Voluntary Dismissal

1. The Plaintiff/Petitioner, _____ (name), voluntarily dismisses the above-named civil action without prejudice under Rule 41(a)(1)(A)(i) of the North Dakota Rules of Civil Procedure.

2. Rule 41(a)(1)(A)(i) allows a Plaintiff/Petitioner to dismiss a civil action without a court order by filing a notice to dismiss before any Defendant/Respondent in the action serves an answer or motion for summary judgment.

3. As of the date of this Notice, no Defendant/Respondent in the above-named civil action has served an answer or motion for summary judgment. The Plaintiff/Petitioner hereby dismisses this civil action without prejudice under Rule 41(a)(1)(A)(i) of the North Dakota Rules of Civil Procedure.

Dated _____.

(Signature of Plaintiff)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email Address)

State Of North Dakota

In District Court

County Of _____

_____Judicial District

Plaintiff/Petitioner,

vs.

Defendant/Respondent.

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Case No. _____

Order to Dismiss

1. The Plaintiff/Petitioner in the above-named civil action filed a Notice of Voluntary Dismissal under Rule 41(a)(1)(A)(i) of the North Dakota Rules of Civil Procedure.

2. Voluntary dismissal is appropriate under Rule 41(a)(1)(A)(i) because no Defendant/Respondent in this civil action has served an answer or a motion for summary judgment.

It Is Hereby Ordered:

3. The above-named civil action is dismissed without prejudice and without cost to any party.

Dated _____.

By the Court:

Judge of District Court
Judicial Referee of District Court

In District Court

 Judicial District

Case No. _____

Declaration of Service by Mail

The person serving court documents by mail states:

2. I am at least 18 years of age.

- Notice of Voluntary Dismissal
- Proposed Order to Dismiss

As required by Rule 5(b)(3) of the North Dakota Rules of Civil Procedure, I served a true and correct copy of each of the court documents listed in Paragraph 3 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to the person listed in Paragraph 6.

Date Court Documents Were Served by Mail: _____

6. Person Served by Mail:

Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

7. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature)

(Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email Address)