

## Dismissal Without Prejudice By Plaintiff

State Of North Dakota

In Small Claims Court

County of \_\_\_\_\_

Case No. \_\_\_\_\_

\_\_\_\_\_, v. \_\_\_\_\_  
Plaintiff, Defendant.

1. I am \_\_\_\_\_ (name), the Plaintiff in this Small Claims Court case.

2. The Defendant, \_\_\_\_\_ (name), has not:

- a. Filed an answer;
- b. Filed a counterclaim;
- c. Requested a hearing in Small Claims Court; **or**
- d. Removed the case to District Court.

3. I request that the Small Claims Court dismiss the claim **without** prejudice because:

4. I understand that if the Small Claims Court dismisses this claim **with** prejudice, I cannot bring my claim again.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Plaintiff's Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Email Address)

## Order for Dismissal Without Prejudice

State Of North Dakota

In Small Claims Court

County of \_\_\_\_\_

Case No. \_\_\_\_\_

\_\_\_\_\_,  
Plaintiff,

v.

\_\_\_\_\_.  
Defendant.

The Plaintiff filed a request for Dismissal Without Prejudice by Plaintiff. The Court having considered the request for a dismissal:

### Hereby Orders:

The request for Dismissal Without Prejudice is granted and the Small Claims Court case is dismissed without prejudice.

Dated \_\_\_\_\_

By the Court:

\_\_\_\_\_  
(District Judge or Judicial Referee Signature)

## Declaration Of Service By Mail

State Of North Dakota

In Small Claims Court

County Of \_\_\_\_\_

Case No. \_\_\_\_\_

\_\_\_\_\_, v. \_\_\_\_\_  
Plaintiff, Defendant.

1. I, \_\_\_\_\_ (*name of person mailing documents*),  
state that I am at least 18 years of age, and on \_\_\_\_\_ (*date*), I served  
the **Dismissal Without Prejudice by Plaintiff** and **Proposed Order for Dismissal Without  
Prejudice** in the above entitled Small Claims Court case by placing a true and correct copy of  
each in an envelope addressed to the last known address of each party as follows (*party name  
and address*):

(1) _____	(2) _____
_____	_____
_____	_____
_____	_____

and depositing the envelope, with sufficient postage, in the United States mail in

\_\_\_\_\_ (City), \_\_\_\_\_ (State).

2. I declare, under penalty of perjury of the law of North Dakota, that the information  
contained in this Declaration of Mailing is true and correct.

Signed on \_\_\_\_\_ (*date*) at \_\_\_\_\_ (*city*),  
\_\_\_\_\_ County \_\_\_\_\_ (*state*), \_\_\_\_\_ (*country*).

\_\_\_\_\_  
(*Signature of Person who Mailed Envelope*)

\_\_\_\_\_  
(*Printed Name*)

\_\_\_\_\_  
(*Address*)

\_\_\_\_\_  
(*City, State, Zip Code*)

\_\_\_\_\_  
(*Telephone Number*)

\_\_\_\_\_  
(*Email Address*)

## Instructions For Dismissal Without Prejudice By Plaintiff Form, Proposed Order Form, and Declaration of Service by Mail Form

The Plaintiff, the person who filed the Small Claims Court case, may ask the Small Claims Court to dismiss their case **if all of the following are true**:

1. You're the Plaintiff, the person who filed the Small Claims Court case;
2. You have decided you don't want to go forward with your case anymore; **and**
3. No person you listed as Defendant in your case has done **any of the following**:
  - Filed an answer;
  - Filed a counterclaim;
  - Requested a hearing in Small Claims Court; **or**
  - Removed the case to District Court.

If any Defendant you listed in your case has already filed paperwork, this form **won't work**.

If all of the above statements are true for you, continue with Step 1.

### Step 1: Fill Out the Dismissal Without Prejudice By Plaintiff Form

**Top of Form (Caption):** Fill in the county, small claims court case number, and names of the parties **exactly** as they appear on your Form 2: Claim Affidavit.

**Paragraph 1:** Fill in your full legal name.

**Paragraph 2:** Fill in the name of each Defendant you listed on your Form 2: Claim Affidavit. All of the statements **must be true** for each Defendant you listed on your Form 2: Claim Affidavit.

**Paragraph 3:** Explain why you're requesting the Small Claims Court dismiss your case.

**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.

**Paragraph 4:** Read carefully.

**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 for Dismissal Without Prejudice Form

**Top of Form (Caption):** Fill in the county, small claims court case number, and names of the parties **exactly** as they appear on your Form 2: Claim Affidavit.

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

## Step 3: Serve Copies of Your Completed Dismissal Without Prejudice By Plaintiff Form and Completed Proposed Order for Dismissal Without Prejudice Form

Make at least two copies of your **completed** Dismissal Without Prejudice by Plaintiff form and your **completed** Proposed Order for Dismissal Without Prejudice form. Keep one copy for your records. You serve the other copy or copies on the Defendant(s). You file the originals with the Clerk of Court in Step 4.

**Serve the following on each Defendant by mail:**

- A copy of your completed Dismissal Without Prejudice by Plaintiff form.
- A copy of your completed Proposed Order for Dismissal Without Prejudice form.

**\*\*\*Serve each Defendant. You don't need to serve a copy on yourself.\*\*\***

**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 Dismissal Without Prejudice by Plaintiff form.
- **Name & Mailing Date:** Fill in the full, legal name of the person who mailed the documents. The person may be you, the Plaintiff, as long as you're at least 18 years old. Fill in the date that copies of the documents were mailed.
- **Address Block:** Fill in the full, legal name of the Defendant(s). Fill in the address where the copies of the documents were mailed.
- **City/State:** Fill in the city and state from which you mailed the copies of the document.
- **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 Dismissal Without Prejudice by Plaintiff Form, Proposed Order for Dismissal Without Prejudice Form, and the Declaration of Service by Mail Form with the Clerk of Court**

File your **original**, completed Dismissal Without Prejudice by Plaintiff form, Proposed Order for Dismissal Without Prejudice, **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 Form 2: Claim Affidavit.

**Step 5: The Judge or Judicial Referee Assigned to Your Small Claims Court Case Reviews Your Dismissal Without Prejudice by Plaintiff Form**

The Judge or Judicial Referee assigned to your Small Claims Court case reviews your original, completed Dismissal Without Prejudice by Plaintiff 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 Small Claims Court case. Usually, the order is mailed to you.

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

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

If the Judge or Judicial Referee **doesn't dismiss** your Small Claims Court case, the case continues.