

How to Dismiss Your Case

If You Want to “Cancel” your Case and Have Already Filed a Proof of Service

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| Step 1 | Complete the following forms in blue or black ink: <ul style="list-style-type: none"><input checked="" type="checkbox"/> CIV-110 Request for Dismissal<input checked="" type="checkbox"/> CIV-120 Notice of Entry of Dismissal and Proof of Service<input type="checkbox"/> If the other party started the case or filed a Response, Answer or Cross-Complaint, they have to sign the <i>Request for Dismissal</i>, too. <p>Not all cases can be dismissed for a variety of reasons. Read the back of this form, before filing your Request for Dismissal, for more information.</p> <p>Read Code of Civil Procedure §581 and following sections or see a private attorney for more information about dismissals and how to fill out the forms.</p> |
| Step 2 | Copies: Make 2 copies, in addition to the original. |
| Step 3 <i>It is free to file</i> | File: Turn in the original and copies of the <i>Request for Dismissal</i> to the Clerk’s Office in the courthouse indicated below: If it’s a family law case , you must file at the Family Justice Center Courthouse located at 201 North First Street, San Jose, CA 95113 The Clerk’s Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.scscourt.org or call 408-534-5600 for current office hours. If it is a civil law case you must file at the Downtown Superior Courthouse located at 191 North First Street, San Jose, CA 95113 The Clerk’s Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.scscourt.org or call 408-882-2100 for current office hours. |
| Step 4 | Service: After the filed copies are returned to you: <ul style="list-style-type: none">• Keep for your records—1 filed copy• Serve 1 filed copy of the <i>Request for Dismissal</i> (CIV-110) and an unfiled copy of the <i>Notice of Entry of Dismissal and Proof of Service</i> (CIV-120) on the other party. “Service” means: someone, NOT YOU, who is at least 18 years old, must mail the filed copies to the other party. <p>Whoever serves the forms must complete the <i>Notice of Entry of Dismissal and Proof of Service</i> form (CIV-120) and give it back to you. You must file the original and a copy of this form at the Clerk’s Office. The clerk will file stamp the copy and give it back to you. Keep this copy for your records.</p> |
| Step 5 | Your court case is now dismissed. All orders in your case are now cancelled. You cannot reopen the case. |

Please turn over for important information



WHAT DOES “With prejudice” or “Without prejudice” MEAN?

“With Prejudice” means that you *cannot* file again about this issue.

“Without Prejudice” means you *can* file again about the same issue. Divorces/Legal Separations are dismissed without prejudice.

CAN I REOPEN A CASE AFTER IT’S DISMISSED?

No. You will need to file to open a new case if the case was dismissed “without prejudice.” You will get a new case number and pay a new filing fee. If dismissed “with prejudice” you can’t file again about that issue.

WHAT ARE SOME OF THE REASONS I CAN’T DISMISS MY CASE?

An entire case cannot be dismissed if any of the following exist in the case:

- Judgment
- Spousal support order
- Child support order
- Restraining order or temporary restraining order (TRO); The clerk cannot dismiss a case until after the TRO court date or the TRO is no longer in effect.
- A hearing date

Make sure to get legal advice about the Statute of Limitations (“expiration date”) for your claim before you dismiss your case. If you dismiss your case and decide later to refile you may not be successful simply because you filed again too late.

In some cases the other party in the case needs to sign the Dismissal form, for example if they filed a Response or Answer.

WHY DO I HAVE TO DISMISS A PARTY IN MY CIVIL CASE BEFORE I CAN GET A JUDGMENT?

In a Civil case the Petitioner has often sued “Doe” defendants in addition to “named” defendants. Before getting a final judgment, the “Doe” defendants need to be dismissed. There may be other reasons a party needs to be dismissed. See a private attorney if you have questions.

HOW CAN I GET HELP WITH THE FORMS?

There are a few ways that you can get help with the forms:

- Hire an attorney (**Please note: we cannot help people who have attorneys.**);
- Print forms by going online to the state’s website, (<http://courts.ca.gov/selfhelp>); or Santa Clara County Superior Court’s website at www.scscourt.org and review the self-help information
- Use legal self-help websites and books
- Contact the Self Help Center/Family Law Facilitator’s Office. Please go to www.scscourt.org and click on the Self-Help section of the site for details on how we provide assistance.

Superior Court, County of Santa Clara
Self Help Center/Family Law Facilitator’s Office
201 N. First Street, San Jose, CA 95113

VISIT US ONLINE:

www.scscourt.org
www.courts.ca.gov/selfhelp

EMAIL US:

www.scscourt.org
click “Self-Help” then click “Contact
the Self-Help Center”

CALL US:

408-882-2926

REQUEST FOR DISMISSAL

BLANKS

**THESE ARE THE DOCUMENTS YOU HAVE
TO COMPLETE, COPY, FILE AND SERVE.**

| | | |
|---|----------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>) : ATTORNEY FOR (<i>Name</i>) : SELF-REPRESENTED | TELEPHONE NO.: | FOR COURT USE ONLY |
| Insert name of court and name of judicial district and branch court, if any: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA | | |
| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | | |
| REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Other (<i>specify</i>): | | CASE NUMBER: |

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

- 1. TO THE CLERK:** Please **dismiss** this action as follows:
- a. (1) With prejudice (2) Without prejudice
- b. (1) Complaint (2) Petition
 (3) Cross-complaint filed by (*name*) :
 (4) Cross-complaint filed by (*name*) :
 (5) Entire action of all parties and all causes of action
 (6) Other: (*specify*) :*

on (*date*) :
 on (*date*) :

Date: _____

.....

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

▶ _____
 (SIGNATURE)
 Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-complainant

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

- 2. TO THE CLERK:** Consent to the above dismissal is hereby given.**
- Date: _____

.....

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

▶ _____
 (SIGNATURE)
 Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-complainant

- (To be completed by clerk)*
3. Dismissal entered as requested on (*date*) :
4. Dismissal entered on (*date*) : _____ as to only (*name*) :
5. Dismissal **not entered** as requested for the following reasons (*specify*) :
6. a. Attorney or party without attorney notified on (*date*) :
 b. Attorney or party without attorney not notified. Filing party failed to provide
 a copy to conform means to return conformed copy

Date: _____ Clerk, by _____, Deputy

| | | |
|---|----------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and Address</i>) : | TELEPHONE NO.: | FOR COURT USE ONLY |
| ATTORNEY FOR (<i>Name</i>) : SELF-REPRESENTED | | |
| Insert name of court and name of judicial district and branch court, if any: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA | | |
| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | | |
| NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Other (<i>specify</i>): | | CASE NUMBER: |

TO ATTORNEYS AND PARTIES WITHOUT ATTORNEYS: A dismissal was entered in this action by the clerk as shown on the Request for Dismissal. (*Attach a copy completed by the clerk.*)

Date:

.....
(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

.....
(SIGNATURE)

PROOF OF SERVICE

- I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is:
- I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by mailing them, in a sealed envelope with postage fully prepaid, as follows:
 - I deposited the envelope with the United States Postal Service.
 - I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
 - Date of deposit:
 - Place of deposit (*city and state*) :
 - Addressed as follows (*name and address*) :
- I served a copy of the Notice of Entry of Dismissal and Request for Dismissal by personally delivering copies to the person served as shown below:
Name: _____ Date: _____ Time: _____ Address: _____

- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)

.....
(SIGNATURE OF DECLARANT)

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