

1 **Rule 41. Dismissal of actions.**

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3 **(a) Voluntary dismissal; effect.**

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5 ~~(a)~~**(1) By the plaintiff.**

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7 ~~(a)(1)~~(A) Subject to Rule [23\(e\)](#) and any applicable statute, the plaintiff may dismiss  
8 an action [or any party or portion thereof](#) without a court order by filing:

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10 ~~(a)(1)(A)~~(i) a notice of dismissal before ~~the~~ [any](#) opposing party serves an answer  
11 or a motion for summary judgment; or

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13 ~~(a)(1)(A)~~(ii) a stipulation of dismissal signed by all parties who have appeared.

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15 ~~(a)(1)~~(B) Unless the notice or stipulation states otherwise, the dismissal is without  
16 prejudice. But if the plaintiff previously dismissed any federal- or state-court action  
17 based on or including the same claim, a notice of dismissal operates as an  
18 adjudication on the merits.

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20 ~~(a)~~**(2) By court order.** Except as provided in paragraph (a)(1), an action [or any party or](#)  
21 [portion thereof](#) may be dismissed at the plaintiff's request by court order only on terms  
22 the court considers proper. If a defendant has pleaded a counterclaim before being  
23 served with the plaintiff's motion to dismiss, the action may be dismissed over the  
24 defendant's objection only if the counterclaim can remain pending for independent  
25 adjudication by the court. Unless the order states otherwise, a dismissal under this  
26 paragraph is without prejudice.

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28 **(b) Involuntary dismissal; effect.** If the plaintiff fails to prosecute or to comply with these  
29 rules or any court order, a defendant may move to dismiss the action or any claim against  
30 it. Unless the dismissal order otherwise states, a dismissal under this paragraph and any  
31 dismissal not under this rule, other than a dismissal for lack of jurisdiction, improper venue,  
32 or failure to join a party under Rule [19](#), operates as an adjudication on the merits.

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34 **(c) Dismissal of counterclaim, crossclaim, or third-party claim.** This rule applies to the  
35 dismissal of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary  
36 dismissal under paragraph (a)(1) must be made before a responsive pleading is served or, if  
37 there is no responsive pleading, before evidence is introduced at a trial or hearing.

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39 **(d) Costs of previously-dismissed action.** If a plaintiff who previously dismissed an action  
40 in any court files an action based on or including the same claim against the same  
41 defendant, the court may order the plaintiff to pay all or part of the costs of the previous  
42 action and may stay the proceedings until the plaintiff has complied.

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44 **(e) Bond or undertaking to be delivered to opposing party.** If a party dismisses a  
45 complaint, counterclaim, crossclaim, or third-party claim, under paragraph (a)(1) after a  
46 provisional remedy has been allowed the party, the bond or undertaking filed in support of  
47 the provisional remedy must be delivered to the party against whom the provisional remedy  
48 was obtained.

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50 [Advisory Committee Notes](#)

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52 | Effective [May](#)/November 1, 20\_\_~~16~~