Dismissal (Nonsuit) of a Pending Civil Matter by the Plaintiff in General District Court

A Plaintiff is permitted to request the court to grant a motion to voluntarily dismiss a case, which in Virginia is called a 'Nonsuit'. A Motion for a Nonsuit is usually made by a Plaintiff before trial, but may be requested at trial until the Plaintiff rests its case. A Motion for Nonsuit may be made in writing or orally (out loud) to the judge.

A Plaintiff may consider a Nonsuit if for example a witness does not show up for trial or the Plaintiff is not ready to present her/his case.

A Plaintiff must get the consent of the adverse party for a Nonsuit if the adverse party has filed a counterclaim, cross claim or third-party claim. Frequently, if the Plaintiff wishes to Nonsuit a case, the adverse party will agree to Nonsuit their claims as well and that will end the case.

If a Nonsuit is granted, the Plaintiff is permitted to bring the action one more time, but the second case must be filed in the same court. A Nonsuit may extend the Statute of Limitations for the filing of the second lawsuit.

Judges will usually not permit a second Nonsuit in a case without dismissing the case completely – meaning that the case is dismissed with prejudice and can never be filed again.

Since a Nonsuit is a legal decision in a case, you may need to obtain legal advice regarding your particular situation.

For legal authority and more information, see Virginia Code § 8.01-380. Dismissal of action by nonsuit; fees and costs.