

**454.472 Dismissal of cause of action in whole or part.**

- (1) In ruling on a motion under KRS 454.464, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:
  - (a) The moving party establishes under KRS 454.462(1) that KRS 454.460 to 454.478 applies;
  - (b) The responding party fails to establish under KRS 454.462(2) that KRS 454.460 to 454.478 does not apply; and
  - (c) Either:
    1. The responding party fails to establish a prima facie case as to each essential element of the cause of action; or
    2. The moving party establishes that:
      - a. The responding party failed to state a cause of action upon which relief can be granted; or
      - b. There is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the action.
- (2) A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under KRS 454.464 does not affect a moving party's right to obtain a ruling on the motion and seek costs, attorney's fees, and expenses under KRS 454.478.
- (3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under KRS 454.464 establishes for the purpose of KRS 454.478 that the moving party prevailed on the motion.

**Effective:** July 14, 2022

**History:** Created 2022 Ky. Acts ch. 233, sec. 7, effective July 14, 2022.