

**IN THE
SUPREME COURT OF PENNSYLVANIA**

IN RE: Amendment of Rule of	:	No. 375
Civil Procedure 230 Governing	:	Civil Procedural Rules
Voluntary Nonsuit	:	Docket No. 5

ORDER

PER CURIAM

AND NOW, this 3rd day of October, 2002, Rule 230 of the Pennsylvania Rules of Civil Procedure is amended to read as attached hereto.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 2003.

NOTE: Bracketed material is deleted.
 Underscored material is added.

Rule 230. Voluntary Nonsuit

(a) A voluntary nonsuit shall be the exclusive method of voluntary termination of an action[,] in whole or in part by the plaintiff during the trial.

NOTE: A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to the plaintiff in different capacities may not [suffer] obtain a voluntary nonsuit as to a defendant primarily liable without [suffering] obtaining a voluntary nonsuit as to all defendants secondarily liable. Rule 2231(e).

(b) A plaintiff [who has rested the case in chief] may not [suffer] obtain a voluntary nonsuit without leave of court upon good cause shown and cannot do so after the close of all the evidence.

Explanatory Comment

Prior to the present amendment, Rule 230 permitted a plaintiff to “suffer” a nonsuit at his or her whim. The exercise of that right for no good reason, e.g., simply because the plaintiff is not satisfied with the progress of the trial, was unfair to other parties to the action and a waste of judicial time and resources. The rule has now been amended to make the right of a plaintiff to “obtain” a voluntary nonsuit subject to the approval of the court “upon good cause shown”.

By the Civil Procedural
Rules Committee

R. Stanton Wettick, Jr.
Chair