

Rule 229. Discontinuance

(a) A discontinuance shall be the exclusive method of voluntary termination of an action, in whole or in part, by the plaintiff before commencement of the trial.

(b)(1) Except as otherwise provided in subdivision (b)(2), a discontinuance may not be entered as to less than all defendants except upon the written consent of all parties or leave of court **upon motion of any plaintiff or any defendant for whom plaintiff has stipulated in writing to the discontinuance [after notice to all parties]**.

(2) In an action governed by Rule 1042.3, a plaintiff may enter a discontinuance as to a defendant if a certificate of merit as to that defendant has not been filed.

Note: Rule 1042.3 requires the filing of a certificate of merit as to a defendant against whom a professional liability claim is asserted.

(c) The court, upon petition and after notice, may strike off a discontinuance in order to protect the rights of any party from unreasonable inconvenience, vexation, harassment, expense, or prejudice.

Note: Court approval of a discontinuance must be obtained in any action in which a minor is a party, Rule 2039(a), an action for wrongful death in which a minor is beneficially interested, Rule 2206(a), an action in which an incapacitated person is a party, Rule 2064, and a class action, Rule 1714.

A plaintiff who asserts a cause of action ex contractu and joins as defendants persons liable to the plaintiff in different capacities may not discontinue as to a defendant primarily liable without discontinuing as to all defendants secondarily liable. Rule 2231(e).