

Explanatory Comment

Current Rule 229 provides that a discontinuance is the sole method by which a plaintiff can terminate an action before trial. A discontinuance as to less than all defendants requires written consent of all parties to the action or leave of court. This current rule is incomplete because it does not describe which parties may seek leave of court to enter a discontinuance as to less than all defendants. The Supreme Court has adopted an amendment to Rule 229 to fill this gap. Under the revised rule, leave of court may be sought by any plaintiff or any defendant for whom the plaintiff has stipulated in writing to the discontinuance.

By the Civil Procedural
Rules Committee

Peter J. Hoffman
Chair