
STATUTORY INSTRUMENTS

1981 No. 1687

The County Court Rules 1981

ORDER 18

DISCONTINUANCE OF PROCEEDINGS

Notice of discontinuance

1. The plaintiff in an action or matter may, at any time before judgment or final order, discontinue the proceedings wholly or in part against all or any of the defendants thereto by giving notice to the proper officer and to every defendant against whom he desires to discontinue, and the notice to the proper officer shall contain a certificate by the plaintiff that he has also given notice to the defendant.

Effect of discontinuance

2.—(1) Subject to the following paragraphs of this rule and to Order 19, rule 6, and Order 38, rule 3(4), a defendant served with a notice of discontinuance under rule 1 may, unless the court on the application of the plaintiff otherwise directs, lodge for taxation a bill of the costs incurred by him before the receipt of the notice or, if the proceedings are not wholly discontinued against him, his costs so incurred in relation to the part discontinued and, if the costs allowed on taxation are not paid within 14 days after taxation, he may have judgment entered for the taxed costs and the costs of entering judgment.

(2) Where the proceedings are not wholly discontinued against a defendant entering judgment for costs pursuant to paragraph (1), execution shall not issue for such costs, without the leave of the court, before the proceedings are determined.

(3) Discontinuance of any action or matter or a particular claim therein under rule 1 shall not be a defence to subsequent proceedings for the same or substantially the same cause of action; but if any such proceedings are subsequently brought before payment of any costs taxed under paragraph (1), the court may order them to be stayed until those costs have been paid.

Discontinuance of counterclaim

3. Rules 1 and 2 shall apply, with the necessary modifications, in relation to the discontinuance by a defendant of a counterclaim as they apply in relation to the discontinuance by a plaintiff of an action or matter.