

**RULE 12**  
**REPRESENTATIVE PROCEEDINGS**

**WHERE AVAILABLE**

**12.01** Where there are numerous persons having the same interest, one or more of them may bring or defend a proceeding on behalf or for the benefit of all, or may be authorized by the court to do so.

**MONEY TO BE PAID INTO COURT**

**12.02** Any money payable to or for persons having the same interest under an order in or a settlement of a representative proceeding shall be paid into court unless the court orders otherwise.

*King & Dawson v. Government of PEI, 2019 PESC 27*

On a motion for certification of a proposed class action, the court relied on the direction of the Supreme Court of Canada in *Western Canadian Shopping Centres Inc. v. Dawson*, 2001 SCC 46 that class actions are available whether or not legislation in the province has been passed allowing same. The court allowed the certification and set out in Appendix A “considerations to be applied to determine the availability of class actions and the procedure to be followed by the parties to a class action proceeding in this province”.

*Horne et al. v. Canada (Attorney General)* (1995), 129 Nfld. & P.E.I.R. 109 (P.E.I.S.C.-T.D.)

P.E.I. Supreme Court quoted a Nova Scotia Court of Appeal decision which listed seven requirements to be met before a representative action can be brought:

- (1) Class must be properly defined;
- (2) All members must have a common interest;
- (3) There must be a wrong common to all;
- (4) Damages suffered must be the same to all except in amount;
- (5) The relief sought must be beneficial to all;
- (6) None of the members of the class may have an interest antagonistic to the other members;
- (7) There must be created in the course of the action or as a result thereof a fund or a pool of assets which is isolated and subject to pro rata distribution should the need arise.