

**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 P.E.I.*, 2020 PECA 13

The Court of Appeal confirmed that a motion for certification should issue. It found the motions judge did not make any error in defining the class, defining the common issues, and defining the preferable procedure. The only error found by the Court was the issuance of a procedural roadmap set out by the motions judge. The Court found it to be a nullity because it was made without notice and without the parties having the opportunity to be heard.

*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 (PEISCTD)

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.