

RULE 13
INTERVENTION

LEAVE TO INTERVENE AS ADDED PARTY

- 13.01** (1) A person who is not a party to a proceeding may move for leave to intervene as an added party if the person claims,
- (a) an interest in the subject matter of the proceeding;
 - (b) that the person may be adversely affected by a judgment in the proceeding; or
 - (c) that there exists between the person and one or more of the parties to the proceeding a question of law or fact in common with one or more of the questions in issue in the proceeding.
- (2) On the motion, the court shall consider whether the intervention will unduly delay or prejudice the determination of the rights of the parties to the proceeding and the court may add the person as a party to the proceeding and may make such order as is just.

LEAVE TO INTERVENE AS FRIEND OF THE COURT

13.02 Any person may, with leave of a judge or at the invitation of the presiding judge, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument.

LEAVE TO INTERVENE IN COURT OF APPEAL

13.03 Leave to intervene as an added party or as a friend of the court in the Court of Appeal may be granted by a panel of the court, the Chief Justice of Prince Edward Island or a judge designated by Chief Justice of Prince Edward Island.

HZPC America v. Skye View Farms & Ano., 2019 PECA 25

The motions judge concluded that as there was an absence of direct interest in the *lis* between the main parties, a motion for leave to intervene as a party could not succeed. The judge also found there was insufficient grounds to warrant adding the proposed intervenor as a party. He concluded there was no impact beyond jurisprudential impact. The Court of Appeal confirmed the findings of the motions judge.

R. v. McInnis, 2018 PECA 27

The Court of Appeal granted intervenor status to the Mi'kmaq Confederacy of P.E.I. as a friend of the court rather than as an added party in a sentencing appeal. The Court

determined the proposed intervenor demonstrated a sufficient interest in the subject matter of the appeal and that it would advance different and valuable insights and perspectives that could further the court's determination of the matter and promote effective adjudication by assuring all matters are presented on appeal. The intervention would not significantly lengthen the appeal proceeding.

Robert Gallant v. Workers' Comp. Bd. (PEI), 2001 PESCAD 9

Canada Post, the appellant's former employer, made a motion to intervene as a party pursuant to Rule 13.01 of the **Rules of Court**. The motion was denied because the intervention at a late stage in the proceeding would unduly delay or prejudice the determination of the rights of the parties, particularly, the appellant.

Simmonds v. Law Society of P.E.I. (1994), 115 Nfld. & P.E.I.R. 50 (PEISCTD)

Although parties were added in this proceeding under Rules 5.03 and 5.04, the court considered the grounds for ordering addition of parties pursuant to Rule 13.01. The Court set forth the factors which apply when seeking to add in parties under this Rule. Generally, where the interests of the plaintiff or the defendant are prejudiced, an order for joinder will not be made. This prejudice cannot simply be the added costs involved when a further party is added. Affirmed on Appeal. See: *Simmonds v. Law Society of P.E.I.* (1995), 125 Nfld. & P.E.I.R. 220 (PEISCAD)