

RULE 6
CONSOLIDATION OR HEARING TOGETHER

WHERE ORDER MAY BE MADE

- 6.01** (1) Where two or more proceedings are pending in the court and it appears to the court that,
- (a) they have a question of law or fact in common;
 - (b) the relief claimed in them arises out of the same transaction or occurrence or series of transactions or occurrences; or
 - (c) for any other reason an order ought to be made under this rule, the court may order that,
 - (d) the proceedings be consolidated, or heard at the same time or one immediately after the other; or
 - (e) any of the proceedings be,
 - (i) stayed until after the determination of any other of them, or
 - (ii) asserted by way of counterclaim in any other of them.
- (2) In the order, the court may give such directions as are just to avoid unnecessary costs or delay and, for that purpose, the court may dispense with service of a notice of listing for trial and abridge the time for placing an action on the trial list.

DISCRETION OF PRESIDING JUDGE

- 6.02** Where the court has made an order that proceedings be heard either at the same time or one immediately after the other, the judge presiding at the hearing nevertheless has discretion to order otherwise.

SEPARATE HEARINGS

- 6.03** On the motion of any party or on its own initiative, the court may order a separate hearing on one or more issues in a proceeding including separate hearings on the issues of liability and damages.

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.

Rilling v. Stewart et al., 2014 PESC 29

The defendant sought an order that the trial be bifurcated such that the hearing on liability shall be held first. The Court so ordered, finding there was significant potential benefit to be gained in time and expense in bifurcating the matter and little, if any, prejudice to any party

by doing so.

McCrimmon v. Hood Estate, 2012 PESC 28

The defendant estate made a motion to consolidate two actions commenced against the estate. Both actions resulted from the same motor vehicle accident. The court did not make an order for the consolidation of the actions but did make an order that the two actions be heard at the same time.

Kelly v. Prince Edward Island (Human Rights Commission), 2008 PESCAD 9

The Court of Appeal confirmed the decision of the motions judge not to bifurcate two matters within the one application for judicial review.

Kee v. MacDonald & Gov't PEI, 2006 PESCTD 35

Motion granted to have two proceedings heard at the same time and before the same judge.

Abegweit Potatoes v. J.B. Read, 2003 PESCAD 24

The best insurance against any possible prejudice from inconsistent verdicts was to have the two proceedings heard together by the same judge with the same evidence on the issues of commonality. There were residual issues not common to each proceeding, which militated against making an order for consolidation of the entire actions.

Metro v. McInnis; McInnis v. Mullin Fortier, 2002 PESCTD 79

The two causes of action were found to be inextricably intertwined and upon consideration of all the factors to be considered on a motion for consolidation, the court concluded an order should issue consolidating the two actions.