

RULE 6
CONSOLIDATION OR HEARING TOGETHER

WHERE ORDER MAY BE MADE

- 6.01** (1) Where two or more proceedings are pending in the same 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.

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

There was sufficient commonality in fact and law to have the cases consolidated. 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.