

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.

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.